

21-5250  
IN THE

SUPREME COURT OF THE UNITED STATES

APRIL TERM, 2021

ADALBERTO MARTINEZ-RAMIREZ

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the United  
States Court of Appeals for the Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

Proceeding PRO SE

RECEIVED

JUN 22 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ORIGINAL

FILED

JUN 11 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

QUESTION PRESENTED

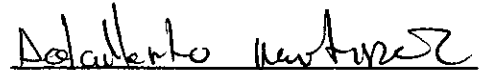
1. Whether this Court should grant Certiorari because the Eighth Circuit opinion overlooked the binding precedent set forth in U.S. v. Miller when determining whether the facts and evidence establish that Martinez did not content his buyers or their resale and was not a Leader or organizer as defined by §3B1.1(a)

LIST OF PARTIES & DISCLOSURE STATEMENT

The parties to the proceeding in the 8th Circuit include Petitioner, Adelberto Martinez-Ramirez, and Appellee United States of America.

Petitioner, Adelberto Martinez-Ramirez is Represented PRO SE of FCI Pekin, PO BOX 5000, Pekin, Illinois 61555.

Neither party has any other intrest nor represents any other party or intrest in these proceedings.

  
Adelberto Martinez-Ramirez

## TABLE OF CONTENTS

	PAGE
QUESTIONS PRESENTED.....	<u>i</u>
CERTIFICATE OF INTEREST.....	<u>ii</u>
TABLE OF CONTENTS .....	<u>iii</u>
TABLE OF AUTHORITIES.....	<u>iv</u>
OPINIONS BELOW.....	<u>1</u>
JURISDICTION/STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED.....	<u>2</u>
STATEMENT OF THE CASE.....	<u>3</u>
REASONS FOR GRANTING THE PETITION.....	<u>4</u>
CONCLUSION.....	<u>6</u>

TABLE OF AUTHORITIES

CASES

United States v. Miller, 91 F.3d 1160; (8th. Cir 1996)

IN THE  
SUPREME COURT OF THE UNITED STATES  
APRIL TERM, 2021

---

ADALBERTO MARTINEZ-RAMIREZ

Petitioner,

v.

UNITED STATES OF AMERICA

Respondent.

---

On Petition for Writ of Certiorari to the United  
States Court of Appeals for the Eighth Circuit

---

PETITION FOR WRIT OF CERTIORARI

---

Petitioner, ADALBERTO MARTINEZ-RAMIREZ, respectfully prays that a writ of certiorari issue to review the judgement of the United States Court of Appeals for the Eighth entered in this case on March 15, 2021.

OPINIONS BELOW

The Opinions of the United States Court of Appeals appears at Appendix A to the Petition and is Reported at United States v. Adalberto Martinez-Ramirez, Eighth Cir 8:18-cv-00490-RFR/20-2561.



## JURISDICTION

The Eighth Circuit Opinion denied the Petition for Hearing on March 15, 2021 (APP.A) Jurisdiction of this Court is Invoked Pursuant to 28 U.S.C. §1254(1).

## STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution states as follows:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life and limb, nor shall be compelled in any criminal case to be a witness against himself, nor deprived of life, liberty, or property, without due process of the law; nor shall private property be taken for public use without just compensation.



### STATEMENT OF THE CASE

The Government contended that Adalberto Martinez-Ramirez ("Martinez") was the Organizer/Leader of an extensive drug enterprise. Martinez has contended from the beginning that he was indeed culpable for Distribution of a Controlled Substance but was NOT, in fact, and Organizer of others involved. Martinez Plead GUILTY to the Counts of Drug Conspiracy and Money Laundering, and after hearing testimony the Court sentenced Martinez to 324 Months Imprisonment.

### Evidence at Sentencing Hearing

DEA Agent Travis Ocken testified that Alejandra Alvarez-Romero was a customer of Martinez. (Tr Vol. 1, pg. 17). Agent Ocken also testified that Rosolina Chaidez-Avila ("Avila") was obtaining a Controlled Substance from Martinez. (Tr. Vol. 1, pg. 18).

Under Direct, Avila testified that Controlled Substances would be purchased and paid for at time of purchase. (Tr Vol. 1, pg. 74-75). Avila also testified under cross that she would purchase Controlled Substances from someone other than Martinez. (Tr Vol. 1, pg. 79). Also under cross Avila testified that Brenda and Rafael Garcia both worked for her in varying capacities. (Tr Vol. 1, pg. 82). Additionally, and also on cross, Avila testified and clarified that she did not work for Martinez and Reiterated that her relationship with Martinez was merely a Customer. (Tr Vol. 1, Pg. 83-84).

### REASONS FOR GRANTING THE PETITION

Writ of Certiorari should be GRANTED because the Eighth Circuit's Opinion overlooks the principles established by this Honorable Court in Miller v. United States, (91 F.3d 1160 [1996]). In regards to error in application of §3B1.1(a). Martinez argues, and evidence presented at sentencing confirms, that Martinez had no DIRECT or INDIRECT role in the resale of Controlled Substances bought from him.

Martinez was not an "Organizer" or "Leader". Although Martinez sold quantities of Methamphetamine, there is no evidence that Martinez had any involvement in the resale. Evidence at Sentencing clearly demonstrates this fact on many levels. Under Direct Examination, Romero testified that she initially contacted Martinez to purchase Methamphetamine. Martinez did not recruit Romero. (See Tr Vol. 1, pg 41). Secondly, under cross, Romero testified that Martinez was not her only supplier. (Tr Vol. 1, pg 52-53). These two pieces of testimony clearly demonstrate nothing more than a "Buyer-Seller" Relationship and that Martinez did not DIRECTLY or INDIRECTLY "Manage" Romero as to where to sell said Methamphetamine.

Next, we must look at the Relationship between Martinez, the Petitioner, and Chaidez-Avila ("Avila"), another 'Customer'. Under Direct Avila testified that she would contact Martinez to purchase drugs (Tr Vol. 1 pg. 69). Further Avila would direct Martinez as to who or where to deliver said Methamphetamine. Additionally, on direct, Avila testifies to paying for the Methamphetamine up front, making profit from the sale, as well as arranging her own employees in the form of her son and daughter. (Tr Vol. 1 pg. 73-75). Lastly, Avila testifies under cross that she did NOT work for Martinez and was also obtaining quantities of Methamphetamine from other sources. (Tr Vol. 1 pg. 83)

The Government contends that the above mentioned four people were led or organized by Martinez. The argument falls short. Romero and Avila were Customers but NOT controlled by Martinez. In Fact BOTH testify to initiating contact with Martinez

for Methamphetamine, not Martinez contacting them to sell. Additionally, Rafael and Brenda Garcia were, by TESTIMONY, working for Avila. (Tr. Vol. 1 pg. 69-71).

The Court clearly erred when applying §3B1.1(a) to this case. Although Martinez sold large enough quantities of Methamphetamine that it is reasonable to infer that he knew drugs were being resold, Martinez did NOT have any involvement in the resales.

Lastly, Martinez contends that the District Court should NOT have applied a 4 Point Enhancement under §3B1.1(a) since Martinez had NO Control of his Customers after he sold them Methamphetamine.

CONCLUSION

Using United States vs. Miller as the Standard for the Eighth Circuit, a Writ of Certiorari should be granted.

Respectfully Submitted,

Adalberto Martinez  
Adalberto Martinez-Ramirez

6/10/21  
Date