

06/07/2021

21 - 5271

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

PAUL SURINE — PETITIONER
(Your Name)

vs.

U. S. A. — RESPONDENT(S)

FILED
MAY 19 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

PAUL SURINE
(Your Name)

ALLENWOOD LSCJ
(Address)

PO Box 1000
(City, State, Zip Code)

WHITE DEER, PA 17887
(Phone Number)

RECEIVED
MAY 26 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

FROM: 14126067
TO: Abbey, Celestine
SUBJECT: Supreme Court
DATE: 07/17/2021 05:20:18 PM

QUESTIONS PRESENTED

The most important question to be resolved by the US Supreme Court is if Petitioner Paul Surine and others in his own situation should be given a reduction of sentence according to the provisions of the First Step Act.

Both the District Court and the Appellate Court decided against petitioner using wrong standards contrary to the word and spirit of the law enacted by Congress and the subsequent jurisprudence of most circuit courts.

Both the District Court and the Appellate Court failed to use the facts presented by petitioner that were supposed to be used in deciding the case. The First Step Act made retroactive in section 404 a reduction of sentence about convictions under crack laws. The 404 section should stand by itself and not be used with wrong facts that aren't true to deny the petition for reduction of sentence.

The First Step Act made retroactive the new measure of drugs according to the sentencing guidelines making crack 18 to 1 as compared to cocaine. Petitioner is clearly subject to this section and his sentence should have been reduced accordingly.

Also various circuits agree that if the maximum or average sentence of crack cocaine convictions are lower than when petitioner was sentenced because of a change in the guidelines. When petitioner was sentenced the guidelines were from 10 years to life for a conviction but today it would have been from 5 to 40 years. According to the jurisprudence of the majority

of circuits the First Step Act allows for a reduction of sentence based on that disparity of sentence. The District Court should have considered this in looking at the petition of petitioner and failed to do it.

There is also jurisprudence of the majority of circuits in which an error in the quantity and amount of drugs that was in the indictment to the one that defendant was found guilty of should be corrected using the Provisions of the First Step Act. Petitioner was found guilty of 50 grams or more of drugs when his indictment did not give any weight for the drugs thus making it illegal to find petitioner guilty for an amount not contained in the indictment.

The District Court failed to use the factors of the First Step Act as related to age, health, recidivism probability, and conduct in prison to decide about giving him a reduction of sentence just concentration on the "danger for the community" standard for a very old crime.

06/07/2021

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix 1 to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix 2 to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 03/24/2021.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

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TRULINCS 14126067 - SURINE, PAUL - Unit: ALF-L-B

FROM: 14126067
TO: Tucker, Rebecca
SUBJECT: Certiorari
DATE: 05/18/2021 12:07:23 PM

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 404 of the First Step Act (PL 115-391) Section 404 (b)

5th amendment to US Constitution (Due process clause).

US v. Easter 875 F3rd 318 (3rd Circuit 2020)

STATEMENT OF THE CASE

Case considered by US Circuit Court for the Third Circuit on a record from the US District Court for the District of Middle Pennsylvania.

Petitioner appealed denial of his Motion for a sentencing reduction and sentencing hearing pursuant to section 404 of the First Step Act.

The appellate Court decided the case using abuse of discretion standard, deciding that the District Court used its discretion in denying the Petition.

The US District's motion by appellant was not based on the facts about his health, age, etc. that District Court used to decide the case, but on the grounds of section 404 of FSA that made retroactive the reduction of sentence without any other issues that could have granted reduction. The 404 section should stand by itself and this was the question presented by Petitioner, but both the District Court and the Appellate Court ignored to solve the issue.

REASONS FOR GRANTING THE PETITION

There has been different decisions by different Circuit courts regarding the extend of the retroactivity and to whom it should apply. This Court should solve the differences by making a decision applicable to all Circuits and defendants looking for redress based on 404 section of the FSA based on the due process clause of the US Constitution.

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TRULINCS 14126067 - SURINE, PAUL - Unit: ALF-L-B

The reduction of sentence based on procedural grounds have bee also upheld in the case of

US v Urich N Dakota District 2021) and followed by most Circuit Courts.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

PAUL SORINE

Date: 05-19-2021
