

21 - 5565

SUPREME COURT OF THE UNITED STATES

VS.

FILED
AUG 18 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

United States District Court for the Southern District of Ms. S. Division
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

Fortrell Latrae Sain

(Your Name)

Federal Correctional Complex (Medium)
P.O. Box 5000

(Address)

YAZOO City, MS, 39194

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

I. Whether the defendant was denied the opportunity to fully cross-examine the key Government witness.

II. Whether remand is required to determine if the government violated its discovery violations and, if so, whether this deprived the defendant of a fair trial.

III. Whether the court erred in sentencing the defendant because:
(a) governmental sentencing entrapment or sentencing factor manipulation violated due process by inflating the amount of drugs attributable to the conspiracy, or (b) for failure to reduce the defendant's guideline range for his minimal or minor role in the offense, or (c) imposing the fine

IV. Whether the defendant's trial counsel provided ineffective assistance of counsel in failing to raise the above issues and in failing to insure that the record was sufficiently developed to establish the violations discussed herein.

I. Was the defendant denied The opportunity to fully cross-examine Government's key witness?

II Is a Remand required to Determine if the Government's Discovery violations deprived the defendant of a fair trial.

III Did the trial Court ERRE in sentencing the defendant?

A. Did the Government's Sentencing Entrapment or Sentencing Factor manipulation violate due process?

B. Did the trial Court Clearly ERRE By Failure To Reduce The Guideline Range for Defendant's Minimal or Minor Role?

C. Did the Court ERRE in imposing the fine?

IV. Did the defendant's trial Counsel Fail to Object sufficiently to the Discovery violations and limitations on cross-examination or fail to insure that the record was sufficiently developed to establish the violations discussed herein, therefore constituting ineffective assistance of counsel?

Conclusion

Certificate of service

Certificate of compliance

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:

- 1) Fortrell LaTrae Sain, Defendant/Appellant
- 2) Michael Hurst, U.S. Attorney, Southern District of Mississippi
- 3) Shundral Hobson Cole, Asst. U.S. Attorney, Southern District of Mississippi
- 4) Kathleen Rose Van Buskirk, Asst. U.S. Attorney, Southern District of Mississippi
- 5) Gaines H. Cleveland, Asst. U.S. Attorney, Southern District of Mississippi
- 6) Steven N. Eckert, former counsel for Defendant/Appellant
- 7) Hon. Louis Guirale, Jr., U.S. District Judge, South District of Ms, Southern Division

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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 A to the petition and is

- ☒ reported at United States District Court of Appeals for 5th Cir.; 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 _____ 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 JUL 15, 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: July 7, 2021, 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

A. Procedural History

Mr. Sain was charged in a single count indictment with conspiracy to possess with intent to distribute five kilograms or more of cocaine in violation of 21 U.S.C. § 846 in the Southern District of Mississippi, ROA. 131; DRE. 3.

Following a jury trial, Mr. Sain was convicted. He was sentenced to serve 210 months in prison, five years of supervised release, to pay a \$10,000 fine and to pay a special assessment of \$100. ROA. 95; DRE. 4. A timely notice of Appeal was filed. ROA 103; DRE. 2.

REASONS FOR GRANTING THE PETITION

- 1) The petition should be granted due to the defendant not be afforded an opportunity to cross examine key witnesses.
- 2) The petition should be granted because the defendant believes the government was in violation and denied him the right to a fair trial.
- 3) The petition should be granted due to defendant believing the court erred in sentencing.
 - A) The government's sentencing entrapment or sentencing factors manipulates and violates due process.
 - B) Trial error by failure to reduce the guideline range for the defendant's minimal or minor role.
- 4) The petition should be granted because counsel was ineffective for failing to object sufficiently to the discovery violations and limited cross examinations. Also counsel's failure to insure that the records were sufficiently developed to establish the violation.

5) The petition should be granted due to Government's bias and prejudice actions that caused an UNFAIR Trial

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

FORTRELL LATRAE SAIN

Date: August 18, 2021