

No. \_\_\_\_\_

**21-5749**

**ORIGINAL**

IN THE  
SUPREME COURT OF THE UNITED STATES

**Krishna Mote, Petitioner**

Vs.

**United States of America-Respondents**  
( List of Parties)

Supreme Court, U.S.  
FILED

**SEP 20 2021**

OFFICE OF THE CLERK

Third Circuit Court of Appeals

( name of Court that Last ruled on Merits of my case.)

**PETITION FOR WRIT OF CERTIORARI**

Krishna Mote

Schuylkill Prison Camp P.O. Box 670

Minersville, Pa. 17954

(2)

**RECEIVED**

**JUL 27 2021**

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

QUESTIONS

(1) Whereas can a Court of Appeals implicate a statement by the Middle District Court on assumption to rectify the Statement?

(2) Whereas does the fifth Amendment Due process of Law allow Courts to change decisions to deny Petitions.

(3) Whereas When the District Court dismissed an indictment without Prejudice, and re-indict the Petitioner in 2011 under a new act ( Fair Sentencing Act) and sentenced the Petitioner under a new sentencing Guildline enhancement §2D1.1(B)(12) that didnot exist during the alleged Covered Offence in 2007, Does this create an Ex Post Facto Problem.

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### Cases

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United States v Johnson 737 f.3d 444, 446 (6th. cir. 2013)

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United States v Cook 550 Fed. Appx. 265 (6th. cir. 2014)

United States v Jacobs 919 f.2d 10 (3rd. cir. 1990)

Bradley v School Bd of Richmond 416 US 696, 711 40 L. ed. 2d. 476, 94 S. Ct. 2006 (1974)

### Federal Statutes

21 U.S.C. §846

21 U.S.C. §841(B)(1)(A)(iii)

21 U.S.C. §841(a)(1)

18 U.S.C. §2

18 U.S.C. §3161

The Fair Sentencing Act of 2010 sought to address among other things conduct "generally described in 21 U.S.C. §856 which criminalized the maintenance of a premises used for drug manufacturing or distribution see United States v Jones 778 F.3d 375, 384 (1st cir. 2015). To this end the act directed the Sentencing Commission to amend the United States Sentencing Guidelines to add an enhancement for defendants engaged in such activity see United States v Johnson 737 F.3d 444,446 (6th cir. 2013) The Commission added §2D1.1(B)(12) for a two-level increase for a defendant who maintained a premises for the purpose of manufacturing or distributing a controlled substance for the enhancement to apply. The 2011 version of the guidelines manual included lower guidelines ranges for some crack cocaine offenses, but it also added two new sentencing enhancements that didnot exist in the 2007. In 2011 the version of §2D1.1 two levels for the defendants use or threat of violence §2D1.1(b)(2) and two levels for maintaining a premises for the purpose of distribution a controlled substance §2D1.1(b)(12). A District Court's decision to apply these sentencing enhancements, there by increasing a defendant's sentence for an offense committed before the enhancement took effect would create an Ex post Facto problem see Peugh v United States 133, S. Ct. 2072, 186 L. ed. 2d. 84 (2013) also see United States v Cook 550 Fed. Appx. 265 (6th. cir. 2014). Citing United States v Jacobs 919 F.2d 10 3rd. cir. 1990. In Jacobs an Opinion by Honorable Justice Cowen stated" the issue before us is whether the District court should have applied the classification statute in effect at the time of sentencing or the statute in effect at the time the offense was committed, The general rule, as developed at common law requires a Court to apply the law in effect at the time it renders its decision, unless doing so would result in manifest injustice or there is statutory direction or legislative history to the contrary.

see Bradley v School Bd of Richmond 416 US 696, 711 40 L. ed. 2d 476 94 S. Ct. 2006 (1974). On April 4, 2007 the Petitioner was indicted with co-conspirators (allegelly) on charges of conspiracy to distribute 50grams of crack cocaine and 500grams of powder cocaine. The Middle District Court dismissed that indictment without prejudice, due to a Speedy Trial violation. The Petitioner was charged under the statute 21 U.S.C. §841(b)(1)(a)(iii) (April 2007 indictment) In 2010 the Fair Sentencing Act MODIFIED the statute 841(a)(1) that changed the effect of lowering the 100-to-1 crack-to-powder ratio to 18-to-1. And other words 50grams of crack and 500grams of cocaine powder went from 10years to life (under 841(b)(1)(a)(iii) to 5 to 40years. The District Court was aware of this change, and so was the Petitioner Attorney who submited the motion argueing a Speedy Trial violation. The plan was for the District Court to grant the motion for a speedy trial violation not because of the Due process of Law or to protect the Petitioner's Constitutional rights, but to re-indict the Petitioner under the Fair Sentencing Act for the same alleged covered offence in 2007 but raise the Quantity to 280grams of crack and 500 grams of powder to trigger the 10years to life, giving the Petitioner a Mandatory Life sentence.

see United States v Dixon 648 F.3d 195 3rd. 2011. The Petitioner submited his §2255 motion argueing that said action by the Middle District court was an Ex Post Facto violation. The Government stated in his responds to the Petitioner §2255 motion Quote "first, as noted above, Mote's sentence in this case was not determined by the Fair Sentencing Act or by the Sentencing Guidelines. He received a Mandatory Life sentence Pursuant to 21 U.S.C. §841(a)(1) and (B)(1)(A) 846 and 851. see Appendix-B exhibit-B. The Middle District Court agreed with the Government and Denied the Petitioner §2255 and stated Quote" Thus the life sentence was not the result of a finding that defendant was a career offender, nor

Court of Appeals made an unappropriate evaluation in judgment by covering up the prejudicial actions of the Middle District Court. (5)-5

#### REASON FOR GRANTING WRIT OF CERTIORARI

The Middle District Court, and the Third Circuit Court of Appeals denied the Petitioner Rights to Due Process of Law that was ordained by the Founding Fathers for the citizens of the United States of America under the fifth Amendment. On the record show that on November 10, 2014 the Government stated" that the Petitioner sentence was not determined by the Fair Sentencing Act, and on December 29, 2014 the Middle District Court denied the Petitioner §2255 and stated" the Fsa didnot affect the Petitioner sentence. However whén the Petitioner applied for the First Step Act on November 6, 2019 the Petitioner argued that he is eligible for the First Step Act due to not being sentenced under the Fair Sentencing Act. That motion was denied by the Middle District Court On March 12,2020. In the District Court Order stated" the Petitioner was already sentenced in accordance with the Fair sentencing Act. And The Third circuit court of Appeals Affirmed. This is an example of the Court abuse of discretion, and the Petitioner Due process of Law has been placed on a see-saw of injustice and Prejudice. The Petitioner pray that this Honorable Court will look into this matter and G.V.R. this action back down to the lower Court to remove the Prejudice, and to signify the integrity of the law.

IN THE  
SUPREME COURT OF THE UNITED STATES

Krishna Mote  
Petitioner

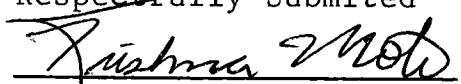
Vs

United States of America  
Respondents

Petition for Writ of Certiorari

Appendix-A

I Krishna Mote state" that the following is enclosed, the judgment of The Middle District Court, and The Third Circuit Court of Appeals Judgment and En Bac.

Respectfully Submitted  
  
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