

**IN THE SUPREME COURT
OF THE UNITED STATES
October Term 2021**

Case No:

Eleventh Circuit No. 21-10776 NDFL No. 3:19cr117-TKW

SAM JONES, JR.
Petitioner,

vs.

THE UNITED STATES OF AMERICA,
Respondent.

**MOTION TO PROCEED ON PETITION FOR
WRIT OF CERTIORARI *IN FORMA PAUPERIS***

Petitioner Sam Jones, Jr., through undersigned CJA counsel, moves the Court pursuant to Rule 39 of the Rules of the United States Supreme Court, for leave to proceed *In Forma Pauperis* on his Petition for Writ of Certiorari. As good grounds in support of this motion Petitioner states:

Confirmation of Appointment as CJA Appellate Counsel for Sam Jones, Jr.

Petitioner Sam Jones, Jr., was found to be indigent from the outset of these proceedings in the Northern District of Florida, *United States v. Lieba and Jones*, Case No. 3:19cr117-TKW. The record shows that the Federal Public Defender was appointed to represent Sam Jones, Jr. in the District Court by Order of September

12, 2019. Subsequently CJA Attorney Shelley Guy Reynolds was appointed on September 25, 2019, to represent Mr. Jones in the district court proceedings, including a three-day bench trial and sentencing.

After the notice of appeal was filed, on March 23, 2021, Attorney Reynolds' motion to withdraw was granted, and undersigned was appointed to represent Mr. Jones for purposes of his direct appeal. Confirmation of the appointment as counsel on direct appeal for Sam Jones, Jr., is documented by appending at the end of this motion, the Order entered by Hon. T. Kent Wetherell, II, Northern District of Florida, Docket No. 118, in Case No. 3:19cr117-TKW, on March 23, 2021. On that same day, undersigned also was appointed by the Eleventh Circuit Court of Appeals pursuant to the Criminal Justice Act.

Factual and Procedural Background

This is an unfortunate case about a good man, a family man in his 50's, hardworking, kind to all, trying to help a friend in need, learning a difficult lesson the hard way, that **No Good Deed Goes Unpunished.**

The record shows that Sam Jones, Jr. was convicted on methamphetamine-related charges, and was **sentenced to fifteen mandatory years in federal prison.**

Defense counsel, the prosecutor, and the Court all believed and stated on the record, that based on the facts of the case and the character of the defendant, the sentence was excessive. But because it was a mandated minimum term under existing laws for the quantity of drugs involved, the court's "hands were tied," and the prosecutor "lacked discretion" to refuse to file an 851 notice of sentencing enhancement.

The record shows that in 2019 an indictment was returned in the Northern District of Florida charging Alberto Lieba and Sam Jones, Jr., with conspiracy to distribute and to possess with intent to distribute 500 grams or more of methamphetamine in violation of 21 U.S.C. Sections 841(a)(1) and 841(1)(A)(viii), in violation of 21 U.S.C. Section 846. And in July of 2000 Sam Jones, Jr., had been convicted of a serious drug felony, conspiracy to distribute cocaine base and possession of cocaine base with intent to distribute. Mr. Jones served more than 12 months in prison. He was released in April 2005, which was within fifteen years of the alleged August 2019 commencement of the conspiracy charged in Count One. **Count Two** charged Lieba and Jones with possession with intent to distribute 500 grams or more of methamphetamine from August 25 to September 10, 2019, and reiterated the information about Jones' prior conviction.

A jury trial was continued several times due to Covid court closures. A three-day bench trial was held in August 2020, resulting in a judgment finding Jones guilty on both counts. A motion for new trial was filed and was denied.

The parties submitted responses and replies with letters, and photographs, to the presentence investigation report. Jones was sentenced to prison for concurrent mandatory 15-year terms for Counts 1 & 2, and concurrent terms of 10-years' supervised release.

Mr. Jones' financial situation has not improved since the appointment of the Federal Public Defender and CJA counsel by the district court in 2019.

Meritorious Issues Raised in the Petition

The Petition that is filed on behalf of Mr. Jones presents two meritorious questions for this Court's review, including matters that require this Court to exercise its supervisory jurisdiction over a decision of the Eleventh Circuit that departs from essential requirements of law in that it erroneously affirmed the convictions and sentences even though the government manipulated the sentence to the mandated minimum fifteen years for each count by sending cooperating codefendant Lieba into Jones' home with a quantity of methamphetamine that would trigger a 15-year mandatory prison term. The agents sent Lieba into Jones' home for the controlled delivery not with the original one-pound package that Lieba had

in his rolling suitcase. The agents, for no good reason they could explain at trial, gratuitously added an additional one-pound package into the rolling suitcase, ensuring that Sam Jones, Jr., nice guy, family man, and hard worker, would be incarcerated for fifteen mandatory years.

Everyone including the judge agreed that the sentence was excessive, too harsh, unnecessarily punitive for this individual in this case. But the court and the prosecutor also stated that their hands were tied and they had no option. In the interest of justice and fair play, Sam Jones is entitled to relief from this draconian sentence that separates him from his family including four young step-grandchildren that he and his wife/fiancé rescued from foster care, and his job where he was well-liked and he worked hard for 12-hours a day on a residential trash truck to support his family.

The reasons for granting the writ are that his convictions and concurrent mandatory fifteen-year sentences are correctible injustices, and that affirmance by the Eleventh Circuit was an abuse of discretion. In the interest of justice and fair play, the motion for judgment of acquittal and the motion for new trial on grounds of sentencing entrapment should have been granted.

Although apparently no previous case has been reversed for sentencing entrapment, here is a case where it is fully justified. The agents could identify no

reasonable law enforcement purpose for adding that extra package of methamphetamine into the suitcase for the controlled delivery, except to enhance the sentence. Are there not enough people being warehoused in prisons across this country for excessive terms?

This is especially true where everyone including the judge and the prosecutor believed that a fifteen-year prison term was too long. This case cries out for justice, fairness, and reasonableness.

Accordingly, for the foregoing reasons, Petitioner Sam Jones Jr. respectfully prays that this Honorable Court will grant this motion and will allow him to proceed before this Court on Petition for Writ of Certiorari *In Forma Pauperis* through his CJA-appointed appellate counsel.

Respectfully submitted,

Sheryl J. Lowenthal

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Dated: June 27, 2022

The body of this motion contains no more than 1,115 words

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

UNITED STATES OF AMERICA,

v.

Case No. 3:19cr117-TKW

SAM JONES, JR.,

Defendant.

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**ORDER GRANTING TRIAL COUNSEL'S MOTION TO WITHDRAW
AND APPOINTING APPELLATE COUNSEL**

Upon due consideration of trial counsel's motion to withdraw (Doc. 117), it is **ORDERED** that the motion is **GRANTED**, and

1. Shelley Guy Reynolds shall have no further obligation to represent Defendant in this case, and the Clerk shall terminate her as counsel of record for Defendant in CM/ECF.
2. CJA counsel Sheryl Lowenthal is appointed as counsel for Defendant for purposes of appeal.

DONE and ORDERED this 23rd day of March, 2021.

T. Kent Wetherell, II

T. KENT WETHERELL, II
UNITED STATES DISTRICT JUDGE