

IN THE SUPREME COURT OF  
THE UNITED STATES

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No. 22-6448

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RICKY THOMPSON,  
Petitioner,

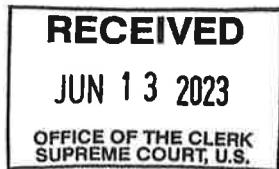
v.

UNITED STATES OF AMERICA,  
Respondent,

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On petition for a Writ of Certiorari to the United States  
Court of Appeals for the Eleventh Circuit.

Incarcerated Pro-Se Litigant: Johnathan Bedgood  
By: Donald Green  
For: Rickey Thompson



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MEMORANDUM OF LAW FOR PRO-SE PETITIONER  
RICKY THOMPSON IN OPPOSITION TO  
THE SOLICITOR GENERAL'S OPPOSITION

COMES NOW, Rickey Thompson, Petitioner files this Response in regards to the Solicitor General's Response. The Petitioner is a layman of the law and unskilled in legal drafting as that of an attorney, he therefore requests that this Response be construed in a "liberal" manner according to a matter of law.

Haines v. Kerner, 404 U.S. 519 (1972).

PETITIONER'S RESPONSE ARGUMENT

The sentencing Judge did not consider properly reviewing 18 U.S.C. §3553(a)(1), under sub-topic 'Imposition of a sentence' when determining the Petitioner's sentence, because of a few factors; (1) It has been claimed that Petitioner was a

criminal, (2) and that Petitioner was a danger to society. §3553(a)(1), states: "the court shall impose a sentence sufficient but not greater than necessary to comply with the purpose set forth in Paragraph (2) of this section. The court determines the particular sentence to be imposed and shall consider: (1) The nature and circumstance of the offense and the history and characteristics of the Defendant. There are no criminal records in the judicial system that deems Petitioner to be of a violent bad character, nor is there any criminal history of Petitioner providing as a career criminal and a danger to society. (Career Criminal (1) definition.)

The district court judge overlooked the circumstances of the offense before sentencing Petitioner by not considering the lack of substantial evidence for which;

- (1) A firearm was never found on or in Petitioner's possession.
- (2) The firearm the government claimed to have been brandished did not bear any DNA Forensic or Fingerprints from the Petitioner.
- (3) The district court judge lacked consideration for the Petitioner and showed prejudice towards the Petitioner by not keeping the witnesses in the United States that Petitioner wanted and intended to prove as a fact that what the prosecution's key witness stated was all a lie and did not happen as he stated. Petitioner's witnesses were all deported back to their country before Petitioner's trial.

- (4) No drugs were found in or on Petitioner's possession at the time of his arrest.
- (5) The district court judge did not consider this most important fact, that the prosecution's only evidence (witness) may have been bribbed and coached or instructed to testify against the Petitioner to gain or benefit Residential status in the United States; as his sole purpose was to be legally migrated to the United States.
- (6) The district court judge did not consider these few circumstances of this offense before sentencing Petitioner. To further prove that Petitioner is not, nor will be a danger to society, Petitioner makes mention of §3553 Imposition of a sentence in section (a)(2)(b) and (d) that states; (2) The need for the sentence imposed (b) To afford adequate deterrence to criminal conduct (d) to provide the defendant with needed educational or vocational training, medical care or other correctional treatment in the most effective manner.

Petitioner has been incarcerated now going on 17 years. When Petitioner first came to prison, he came with a criminal score point of 46. Petitioner is now at a score of '8'. Petitioner has learned to read and write. Petitioner has been programming and maintaining his character of good behavior. Petitioner's prison record will truly prove that he is of good character and that the sentencing given to him was unjustifiable. Petitioner is a family man and documents will and would show and verify that

Petitioner owns his own fishing boat. Petitioner is a man of God and attends church on a regular basis and in the prison yard services as well. Petitioner has his own business and has been married for 28 years with three kids and a grandmother. There are no substantial criminal history records revealing that the Petitioner truly is or would be a danger to society.

(7) The time frame between Petitioner and his co-defendant were completely different in which Petitioner's co-defendant was given a more reasonable sentence and Petitioner on the other hand was given an unfair sentence.

(8) The district court judge gave Petitioner an "Allen Charge," after the jury was undecided on two occasions with a verdict for Petitioner's case.

INEFFECTIVE ASSISTANCE OF COUNSEL GROUNDS  
THAT COUNSEL CONSTANTLY MADE FOR PETITIONER'S  
EXTRAORDINARY AND COMPELLING REASONS FOR RELEASE

(1) Statements from the Court of Appeals, state that Petitioner pled guilty. Petitioner did not plead guilty. When the judge asked Petitioner of his plea, Petitioner tried to explain to the judge that he was only pleading to an "illegal entry" charge, as that was all the Petitioner was guilty of. Petitioner's counsel failed and refused to intervene on Petitioner's behalf to properly address Petitioner's explanation as Petitioner would have mentioned to him at an earlier occasion. As a result, the judge upon his own discretion; determined that Petitioner was pleading guilty for all of the charges against him. At that time, Petitioner wanted to explain that he could not read and barely could write.

(2) Counsel refused to maintain direct arguments to prove that the prosecution's key witness was bribed and instructed to testify against Petitioner for Residential status or benefits like Petitioner had told his counsel.

(3) When the autopsy personnel was caught in a lie on the stand, counsel failed to properly address this to the court. Counsel also failed to request the summons of the physician who initially did the autopsy and report.

(4) Counsel failed to request the summons of Petitioner's arresting officer to come to court, who could have been cross examined to determine and confirm whether or not any drugs or firearm were found on or in Petitioner's possession at the time of Petitioner's arrest like Petitioner had requested counsel to do.

(5) Counsel most importantly failed to request for the court and / or district court judge to order a hold on the witnesses that were deported, who would have been credible witnesses on Petitioner's behalf.

Counsel was simply totally ineffective in Petitioner's case and failed to represent Petitioner adequately and sufficiently as a counsel who was supposed to be protecting Petitioner's rights , rather than waiving them away and prejudicing the Petitioner; and causing the Petitioner to be incarcerated for the rest of his natural life, without any possibility of ever being released for crimes that he was simply "INNOCENT" of as stated above.

FINALLY

Petitioner states to this Honorable Court that according to

Taylor v. United States, 142 S.Ct. 2015(2022); Borden v. United States, 141 S.Ct. 1817(2921); Davis v. United States, 139 S.Ct. 2319 (2019); and Johnson v. United States, 135 S.Ct. 2551 (2015), if the Petitioner were sentenced today; he would not have multi-life terms and he would not have the sentence he is presently serving according to as well the First Step Act, in regards to "stacking," in which was amended by the First Step Act of 2018, December.

Petitioner would not be serving multi-life terms for 8 U.S.C. §1324(a)(1)(A)(ii),(V)(I) and (V)(II), 8 U.S.C. §1324(a)(1)(B)(iii) and (B)(iv), 8 U.S.C. §1326(a) and (b)(2), 18 U.S.C. §924(a)(1)(A)(i) and (ii), 18 U.S.C. §1111, 21 U.S.C. §952(a), 21 U.S.C. §960(b)(1),(b)(2), and (b)(4), 21 U.S.C. §963.

According to Davis, conspiracy, attempt, solicitation, and aiding and abetting are not violent offenses. According to Taylor, attempt, conspiracy, solicitation and aiding and abetting are not violent offenses. According to Borden, Petitioner did not intentionally, deliberately, nor commit with specific conduct and attempt murders, nor any murders at all, nor conspiracy to murder, nor did he aid and abet any murders at all with recklessness; nor did Petitioner cause the death purposely of anyone at all. In addition, Petitioner never used a Title 18 U.S.C. §924(c)(1)(A)(i) to commit any crime at all. Petitioner therefore, cites Davis, Taylor, and Borden as extraordinary and compelling reasons for his release, if he were to be sentenced today. These are extraordinary and compelling reasons for the Petitioner's release, as he has already stated throughout this Response, especially in regards to; Taylor, Davis,

and Borden, Supra. and now Concepcion v. United States, 142 S.Ct. 2389 (2022), this Honorable Court under these Extraordinary and Compelling reasons does have the discretion to reduce the Petitioner's sentence under §3582(c)(1)(A)(i) in regards to Section 1B1.13.

Petitioner states that according to Concepcion, 142 S.Ct. at 2397, that this United States Supreme Court explained that; in adjudicating a motion under Section 404 of the First Step Act, a district court "may consider other intervening changes" of law or fact, beyond the changes made by those sections of the Fair Sentencing Act. Concepcion, 142 S.Ct. at 2396.

The First, Fourth, Ninth and Tenth circuits have taken the view of Concepcion's view that intervening changes in the law can form part of an "individualized assessment" of whether "Extraordinary and Compelling reasons" exist in a particular defendant's case. United States v. McCoy, 981 F. 3d 271, 286 (4th Cir. 2020); see United States v. Ruvalcaba, 26 F. 4th 14, 28 (1st Cir. 2022); United States v. Chen, 48 F. 4th 1092, 1097 -1098 (9th Cir. 2022); United States v. McGee, 992 F. 3d 1035, 1047-1048 (10th Cir. 2021). These circuits have held; that mere fact that a defendant might receive a lower sentence if the defendant were sentenced today "cannot, standing alone, serve as a basis for a sentence reduction." In Petitioner's case in point, all of the above stated reasons in this response is a basis for Extraordinary and Compelling reasons for Petitioner's release.

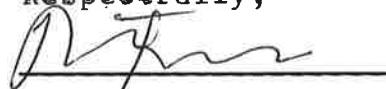
Petitioner's reasons under his Extraordinary and Compelling reasons for release are all set forth in Petitioner's above

stated Section 3553(a) 1-8 facts to the extent that they are  
applicable to the Extent that Petitioner should receive  
Compassionate Release based on his above stated Section 3553(a)  
1-8 factors.

CONCLUSION

Petitioner's Writ of Ceriorari should be accepted by this  
Honorable Court, based on all of the above stated reasons in  
this response.

Respectfully,



Date: 5/30/2023