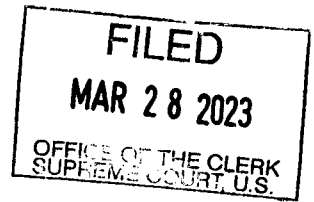


22-7223

ORIGINAL

SUPREME COURT OF THE UNITED STATES
DOCKET NO. _____
OCTOBER TERM, 2022



RAYMOND CHARLES LEE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

RAYMOND CHARLES LEE, PRO SE

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QUESTION PRESENTED

WHETEHER THIS CASE SHOULD BE REMANDED FOR COMPLIANCE
WITH CONCEPCION V UNITED STATES, 142 S.T. 2389 (2022)

TABLE OF AUTHORITIES

Apprendi v New Jersey, 530 U.S. 466
(2020).....

Concepcion v United States, 142 S.Ct. 2389
(2022).....

Jackson v United States, ___ U.S. ___ (S.Ct. Oct. 3,
2022).....

United States v Jackson, 995 F3d 1308 (11th Cir.
2020).....

United States v Jackson, ___ F4th ___ (11th Cir., Feb. 13,
2023).....

JURISDICTIONAL STATEMENT

The Court of Appeals below had jurisdiction over this matter pursuant to 28 U.S.C. Section 1291. The District Court had jurisdiction over this matter pursuant to 18 U.S.C. Section 3231.

OPINION BELOW

The Opinion of the District Court below denying the petitioner's motion under Section 404 of the First Step Act ("FSA") is herewith submitted. The Opinion of the United States Court of Appeals for the Eleventh Circuit affirming the District Court's decision is also herewith submitted.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 404 of the FSA.

There are no constitutional provisions implicated in this appeal.

STATEMENT OF THE CASE

The District Court ruled that the petitioner was not eligible for a sentence reduction under Section 404 of the FSA because his offense conduct involved 654 grams of crack cocaine. The petitioner argued in the Court of Appeals that this Court's ruling in *Concepcion v United States*, *supra*, required the District Court to consider intervening changes in the law with respect to how the threshold quantity of crack charged in an indictment determines the statutory sentencing range in the context of a motion under Section 404 of the FSA. The Court of Appeals affirmed based on its prior case law. See *United States v. Jackson*, 995 F3d 1308 (11th Cir. 2020), vacated and remanded by *Jackson v United States*, ___ U.S. ___ (S.Ct., Oct. 3, 2023); opinion reinstated on reconsideration sub nom. *United States v Jackson*, ___ F4th ___ (11th Cir., Feb. 3, 2023). This petition ensued.

REASONS FOR GRANTING THE WRIT

This Case Should be Remanded for Compliance with Concepcion v. United States, supra.

This Court's decision in Concepcion makes it unmistakably clear that district courts have the authority to consider intervening changes in the law, like those brought by Apprendi v New Jersey, 530 U.S. 466 (2000), in deciding motions under Section 404 of the FSA. The contrary decision by the Court of Appeals below in failing to follow Concepcion requires that this case be remanded for compliance with this Court's opinion in Concepcion.

CONCLUSION

The order of the Court of Appeals below should be vacated and remanded for compliance with Concepcion.

Respectfully submitted,


RAYMOND CHARLES LEE, Pro Se