

22-7451
No. 22-14186

FILED
JAN 06 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

BENNIE RIVERA — PETITIONER
(Your Name)

vs.

UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES DISTRICT COURT MIDDLE DISTRICT FLORIDA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

/s/ Bennie Rivera
(Your Name)

Allenwood Low Complex, P.O. Box 1000
(Address)

White Deer, Pennsylvania 17887
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

DID JUDGE JOHN ANTON II, UNITED STATES DISTRICT COURT JUDGE
ABUSE HIS DISCRETION WHEN HE DENIED THE PETITIONER'S MOTION
IN PURSUANT TO THE FIRST STEP ACT OF 2018 AND THE FAIR
SENTENCE ACT OF 2010 SECTION 404 (B) WITHOUT HEARING IT ON
THE MERITS?

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:

Jonathan E. Rose, Juliann Welch, Ryan Thomas Truskoski, Danli Song, Ismael Solis, Jr., Laura Cruz, James D. Mandolfo, Roberta J. Bondnar, Bruce S. Ambrose, Maria Guzman, Patricia A. Willing-FLU, Ranganath Manthripagada, and Vicent Chiu.

RELATED CASES

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

CONCEPCION V UNITED STATES, 142 S. Ct. 2389; 213 L.Ed 2d 731--3,10,13,14, 2022; and DORSEY V. UNITED STATES, 183 L.Ed2d 250 (2012). 15,20,21,22. 5,6,12,25.

STATUTES AND RULES

18 U.S.C. Section 3582 (C)(1)(A), First Step Act, Section 404 (B) Fair Sentence Act of 2010.

OTHER

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 _____ 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[] is unpublished.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 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,
[X] is unpublished.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 _____.

[] 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: _____, 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 Correct petition(date) on 1-20-23 (date) in Application No. 22 A 14186.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

And 28 U.S.C Section 2102 (e). In pursaunt to Rule 11-- Rules of the Supreme Court, the Petitioner seeks to have his Petition before judgment is entered--in the Court of Appeals--because the District Court has not been following the Supreme Court's Mandate--in regard to--Concepcion.

[] 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

Constitutional Amendment V. right of due process of law,
18 U.S.C. Section 3582 (C)(1)(A)--First Step Act--of 2018,
Fair Sentence Act--of 2010, Section 404 (B),
Covered Offenses--21 U.S.C. section 841 (b)(1)(A), and
section 841(B)(1)(B), and finally,
21 U.S.C. Section 851 (a).

STATEMENT OF THE CASE

I the Petitioner had filed a new Motion for compassionate relief upon new grounds--that were unbeknowning to me, as to my other motions that were previously filed, concerning covered offenses for prior sentence--that has been imposed--before 2010, and which was recognized--in pursuant of the Fair Sentence Act--of 2010, and the First Step Act--of 2018, however, my Motion was denied without being heard on the merits, and was rubbered stamped. The motion was denied on 11-21-22. And I the Petitioner had showed the lower United States District Court--that he did have a substantial claim, and that he is entitled to relief.

Moreover, I the Petitioner was enhanced--upon a prior offense, in which the law has--since changed. I the Petitioner was enhanced, in regard to 21 U.S.C. Section 851 (a), for Five--(5) grams of crack cocaine, however, the U.S. Sentence and the Fair Sentence Act, has raised the level--from Five grams to 28 grams of crack cocaine, and 28 grams, to 280 grams, and when one submitts a motion for relief, the Judge is to consider those new changes in the, and make a specific finding, as to those facts, as if they were in affect, at the time of the orginal sentence, but he has failed to do so.

REASONS FOR GRANTING THE PETITION

This Honorable Court must hear my Petition, so that the manifested injustice could be surfaced, and to give me a chance of being heard on my new claims, as law and justice--so requires.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Bennie C Rivera

Date: March, 14, 2023