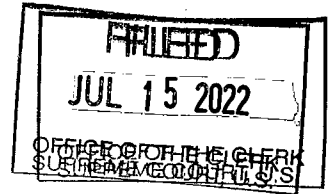


22-7582
No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Rodolfo Cuellar, Jr. — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Rodolfo Cuellar, Jr.
(Your Name)

P.O. Box 2099
(Address)

Pollock, LA 71467
(City, State, Zip Code)

None
(Phone Number)

QUESTION(S) PRESENTED

1. MOTION For Reduction of Sentence Pursuant To 404 OF THE FIRST STEP ACT, And Pre-Booker Issues. CORRECTION OF INCORRECT Drug CALCULATION AND CORRECTION OF A Sentence Above.
THE STATUTORY Maximum AUTHORIZED by Congress.
2. Mr. Cuellar could not be sentenced to life under 21 U.S.C. § 861 because he did not have any prior drug convictions.
3. Mr. Cuellar contends that he is entitled to be resentenced when the Fifth Circuit Court of Appeals vacated the judgement of 28 U.S.C. § 924(C).

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:

RELATED CASES

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

OTHER

Table of Authority

Cases	Page number
Bailey v. U.S. 116 S.Ct. 501 (1995) and 516 U.S. — 58 (1995)	Page 16
Apprendi v. New Jersey 530 U.S. 466, 147 L.Ed.2d 435 (2000)	Page 16
Blakely v. Washington, 542 U.S. 296, 159 L.Ed.2d 403 (2004)	Page 6
Booker v. U.S. 543 U.S. 220, 160 L.Ed.2d 621 (2005)	6-12-20
U.S. v. MARES 402 F.3d 511, 518 (5th cir), 126 S.Ct. 43, 163 L.Ed.2d 76 (2005)	Page 6
Crawford v. Washington, 541 U.S. 36, 158 L.Ed.2d 171 (2004)	Page 10
U.S. v. Castellanos 904 F.2d 1490, 1495 (11th cir, 1990)	Page 10
U.S.S.B. 6A1,3;	
U.S. v. Griffin, 945 F.2d 378-82 (11th cir 1991)	Page 11
504 US, 917, 112 S.Ct. 1958, 118 L.Ed.2d 561 (1992)	
U.S. v. Query 928 F.2d 383, 384-58 (11th cir 1991)	Page 11
U.S. v. Miele 989 F.2d 659, 665 (3rd cir 1993)	Page 11
Lester v. Flournoy 909 F.3d 708, 715 (4th cir)	Page 12
Meadows U.S. 2019 U.S. dist Lexis 113809	Page 12
Moore v. U.S. 871 F.3d 72, 82 (1st cir 2019)	Page 12
Cross v. U.S. 892 F.3d 288, 294 (7th cir 2018)	Page 12
Dimaya, 138 S.Ct. 1204, 1223 (2018)	Page 12
DAVIS, 138 S.Ct. 1319, 1323 (2019)	Page 12
U.S. v. Blood 435 F.3d 612, 630 (6th cir 2006)	Page 13
U.S. v. Oliver 397 F.3d 369, 378 (6th cir 2005)	Page 13
U.S. v. Edwards 2019, U.S. List Lexis 146571 (7th cir 2019)	Page 13
U.S. v. Clark 816 F.3d 359, 360 (5th cir 2016)	Page 16
U.S. v. Bass 104 F. Appx 997, 11000 (5th cir 2004)	Page 16
U.S. v. Shui 825 F.2d 1111, 1114 (7th cir 1987)	Page 16

Table of Authorities

CASES	Page number
U.S. V, HARVEY 2016 U.S. dist Lexis 181047	17
U.S. V, CURRY 2018 U.S. dist Lexis 60560	17
U.S. V, WALKER 768 Fed Appx 877 (5TH cir)	17
U.S. V, Rosales Mireles 201 L. Ed 2d 385, 390	17
U.S. V, Olano 507 U.S. 725, 732, 737 (1993)	18
U.S. V, Rodriguez 398 F3d 1291, 1298 (11TH cir 2005)	18
U.S. V, Infante 404 F3d 376, 394 (5TH cir 2005)	18
U.S. V, Camacho-Ibarra 410 F3d 1307, 1315 (11TH cir 2005)	18 Page
U.S. V, DUNCAN 400 F3d 1297, 1301 (11TH cir 2007)	18
U.S. V, MANGROO 504 F3d 1350, 1353, (11TH cir 2007)	18
U.S. V, Perez 661 F3d 568, 583 (11TH cir 2011)	18
Rule 29(c) and Houston v. Lack 487 U.S. 266 (1988)	23-24

Statutes AND Rules

21, U.S.C § 846	Page	3 and 4
21, U.S.C § 841(a)(1)	Page	5
21, U.S.C § 841(b)(1)(a)	Page	5-15-19
21, U.S.C § 841(b)(1)(c) and (b)(1)(B)	Page	5-13
U.S.S.C. § 201.1,1	Page	6
21, U.S.C § 861(a)(1)	Page	4-5-13-14
21, U.S.C § 861(b)	Page	4-5-13-14
21, U.S.C § 861(e)	Page	4-5-13-14
21, U.S.C § 843(b)	Page	4
18, U.S.C § 924(c)(1)	Page	3-5-16
18, U.S.C § 2	Page	4
5th Amendment	Page	15-20
6th Amendment	Page	10-15-19-20-21
Rule 52(b)	Page	17-
Rule 35(a)	Page	17-

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 A to the petition and is

☐ reported at See Appendix A on Back of; or, Motion
☐ 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,
☐ 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.

1. a

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Aug. 16, 2021.

☐ 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 90 day extension (date) on March 24, 23 (date) in Application No. A. Letter USCA 20-10182

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

☐ 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).