

NO: 23-6452

Supreme Court of The United States
1 First Street, N.E.
Washington, DC 20543-0001

Shannon R. Thomas
Petitioner

V.
United States

Respondent

Case NO: 4:16-cr-00143-DGK-1

Petition for Rehearing to the
Supreme Court of The United States

Shannon R. Thomas pro, se is humbly At the Mercy of The Honorable & Respectable Supreme Court of the United States ASKING for a Rehearing on and under penalty of perjury (28. U.S.C. Section 1746; 18 U.S.C. 1621) on merits that:

Ground #1, District Court lack jurisdiction Applying 924 (C)(1)(C) to petitioner At Sentencing in 2019 After First Step Act of Dec 21, 2018 by Congress "Clarification" of how to Apply (C)(1)(C).

On October 8, 2019, the Honorable Judge D. Greg Kays for the District Court of Western District of Missouri Sentence Petitioner to Life on the last 18. U.S.C. Section 924 (C)(1)(A)(ii), (C)(1)(C) and 2, to run consecutive to All other Nine or remaining Nine 924 (C)(1)(A)(ii), (C)(1)(C) and 2 that **is** ran Consecutive and Stack to and on one another for a total of 63 yrs beeing each of the nine branishing counts carry 7 years. The New Law the First Step Act of Dec 21, 2018 403 Title "Clari-

"Clarification" Clarifying how to apply the once misinterpret, gross misapplied or use of the 924(C)(1)(C) penalty enhancement charge. Petitioner do not and did not qualify or fall under the use of the (C)(1)(C) penalty Enhancement while getting sentence in October of 2019 After the Clarification by Congress in the First Step Act (FSA) of Dec 21, 2018. Petitioner never been convicted of a 924(C) charge or offense prior to his now conviction. The petitioner did not murder or manslaughter anybody, nor did he get caught with a machinegun, or a destructive device, ~~ore~~ equipped with silencer or firearm muffler, or anything in that nature. Petitioner Respectfully Assert that District Court Judge D. Greg Kays grossly and egregiously over step his boundaries set by Congress. And lack jurisdiction as a District Court Judge charging petitioner with (C)(1)(C) 924(C) penalty enhancement and stacking his 924(C)(1)(A)(i), (C)(1)(C) and 2 charge and offense cause only Congress elected representatives (The Honorable & Respectable Supreme Court of the United States) have the right to, and power to write New Federal Criminal Laws and how to apply the law not District Court's. The term "Clarification" used by Congress to describe section 403 of FSA generally define as "to make clear, to free of confusion, to make understandable, or to become clear (Merriam-Websters Collegiate Dictionary 228pg (11th ed 2005). Clarification of the language in section 924(C)(1)(C) prior to FSA Dec 21, 2018 was either unambiguous, but was misapplied and interpret or it contain a vagueness resulting in a misinterpretation that required Congress to use the power "Only" they have to set straight with "Clarification" on how to use the 924(C)(1)(C) penalty Enhancement charge. After Congress FSA Clarification of the usage of 924(C)(1)(C) penalty Enhancement offense of Dec 21, 2018, Petitioner Oct 8, 2019 sentence of the usage of the (C)(1)(C) cause a miscarriage of justice and a infringe upon Organic Law set by the Honorable and Respectable Congress Supreme Court of the United States, which allow or afford Petitioner protection (ie his Constitutional Rights 5th, 6th & 14th Amendments, Creating a highly unusual case and Extraordinary and

Compelling Reasons & Circumstance.

Petitioner Respectfully Assert that he stand putative under Constitution as a victim of injustice under oath; therefore tendering Petitioner Actual, Factual & Legally innocent. Cause there is no factual Law basis evidence for petitioner 924(C)(1)(C) charges and offenses that he is serving out a Life plus 63 yrs sentence that is egregious and extraordinary. Because he is Actually, Factually & Legally innocent of the offense or Respectfully said another way Petitioner stands convicted of a charge/offense that does not exist, do to it being used other than how Congress Clarify and establish it Usage. "please See Reyes Requena v. United States, 243 F. 3d 893, 904 (5th Cir 2001) (recognizing that a defendants claims ~~of~~ ~~an~~ ~~Actual~~ that "he had been imprison for non-Criminal Conduct" counts as a claim of Actual Innocence. Ultimately, if the Courts finds that: "The sentence imposed was not Authorized by Law or otherwise open to collateral Attack, or that there has been such a denial of infringement of the Constitutional Rights of the prisoner to render the judgement vulnerable to collateral Attack the Courts shall vacate and set aside the judgement & shall discharge the prisoner or ~~sen~~ resentence him or grant a new trial or correct the sentence as it may Appeal Appropriate. It's a disparity in sentence he was suppost to receive and is able to receive provide extraordinary and compelling reason for a sentence reduction and or compassionate release. Neither trial nor Appellate Counsel brought this discrepancy to the Attention ~~of~~ the courts who Petitioner is depended on since he did not go to Law school and did not know anything about Criminal Law and was a Layman.

Consequently; Petitioner stands convicted and imprisoned under a statutory provision unauthorized by Congress, as Section 924(C)(1)(C) only Applies to recidivist offenders. According to FSA 403(a)(b); with Deal v. United States, 508 U.S. 129, 138-46 (1993) (Stevens, Blackmun, and O'Connor, JJ, dissenting); and Thomas W. Hutchison, Supreme Court Decisions and Statutory changes Affecting The Federal Sentencing Guidelines, Federal Sentencing Guideline Manual,

Vol. 1 (2021 ed) p. xix. To Respectfully State it distinctly since Congress Amended section 924(C)(1)(C) to Apply only to repeat Offenders in a subsequent judgment in the FSA of Dec 21, 2018 and Petitioner got sentence Oct 8, 2019 the District Court Lack jurisdiction Under this ~~sub~~ subsection, rendering the Judgement to Counts 3, 9, 11, 17, 19, 21, 23, 29, 31, and 35 void. Also you can see please Pavis v. United States, 417 U.S. 333, 346 (1974) (a subsequent interpretation of the statute, under which he was convicted establishes that his conviction was invalid).

Ground #2, The underlying declining health of Petitioner Mother Who need him to be her Caregiver and overseer of Sibling and Children.

Petitioner is the youngest of his Mother Three children. Petitioner have two maternal older sisters who both suffer and suffering from Mental & Physical diseases and illnesses. Petitioner mother is the caregiver and overseer of her two oldest children and of her oldest or first born daughter two children and great grandchild. Now Petitioner mother is in need of her son to be her caregiver being she is getting up in age and just had a fairly new heart open-heart surgery to unclog her 41 Arteries. His mother stay in and out of the hospital do to different underlying health issues & diseases such as COPD, lung infection, diabetes problems, blood pressure dropping & Covid-19. She is still awaiting another or additional open-heart surgery she just waiting for enough time to go by to unclog two of her Arteries that got ~~back~~ back clogged up. Petitioner immediate family need him to be free to be there to care for them. All can be proving by medical records and Dr's. Falling under the pursuant 18 U.S.C. Section 3582 (c)(1)(A) family circumstance, family member need an alternative caregiver do to incapacitated without having one; and "other reasons" as determined by the BOP U.S. S.G. section 1B1.13 and the Change in law.

Ground #3, Safety and Protection, Petitioner was expose to danger While in the Custody of Federal Bureau of Prisons and then was deny Efficient & Adequate Medical Care.

Petitioner had to fight for his life in a Federal prison secured

Cell with another Federal inmate here where he is still housed at. Petitioner received multiple stab wounds to Head, Face, & Body. (That was wrote up as a fight). Then he was neglected Adequate efficient medical care once returned from outside Hospital with Doctor orders on how to care for his wounds & injuries. Rendering Cruel and unusual punishment & ~~deliberate~~ deliberate indifference. Now petitioner do to Stables left in his head that got infected and in his body for months. petitioner now suffer from Scarring to Head & Body, he is photophobia, he have headaches & migraines that can lead to seizures. (please see program statement Safety & Protection and medical Care, violation of petitioner 8th Amendment while in Federal Custody ~ Duty of Care under Federal Statute 18, U.S.C. 404.2 (A)(B)). Also please see Civil law suit Case: Shannon R. Thomas v. Antonelli, et al. case NO: 5:22-cv-00496-PBG-PRL. Falling under 18, U.S.C. 3582 (c) (1)(A), BOP U.S.S.G. section 1B1.13 and the change in law Extraordinary and compelling reasons set by Congress.

Ground #4, Post-Rehabilitation

Petitioner have strived hard and successful to change his way of thinking and use of Drug to now he said he can be proud the look in the mirror and be proud to see what he see that used to be so ugly do to his ugly poor choices and decisions, and Actions. Petitioner personal growth and milestones is not only back by his Certificate in degrees in a wide ~~per~~ ranch of Programs in different Areas of life. Nor is it back only by the New Law abiding citizen that he know & feel he is, Now that he love GOD & himself. But it is also back by Officials in the Field of psychology human behavior, manipulation behavior, criminal behavior, deceitful behavior, and intentions. These Officials are Doctor Doctors and Specialists that have been Observing & monitoring, teaching and guiding him for the last two and a half years continuously. While petitioner have been a active participant by BOP rating a 80% recidivism prevention program "The Change Program". Petitioner presented in his writ of Certiorari petition. Tittle Assortment of Certificates and Degrees including his GED he Attained in 2022 while being a active member in one of the Most

Biggest programs by BOP ratings for criminal change that that petitioner say he can attest to by the new way of thinking and change he feel and know and see within himself. Also he presented under the same Title, Statements & Progress Reports from Drs & Specialists and Good teams where they Acknowledge and praise and give him motivating & positive feedback to stay focus and continue to rehabilitate whole heartily. Drs and Specialists express individually within the reports his total change for ~~Rehab~~ Rehabilitation, his thinking & behavior screams. Mentor, a model of Appropriate behavior and that he serves as a positive role model and he provide useful positive feedback to others and stand up for what is right when others do not want to. He also is a part of the Welcoming Committed and help facilitate morning meeting and welcome new community member letting them know what is expected of them, the rules, and motivating to change or continue to go in & out of prison and down a dark road. Petitioner is also a Facilitator for "Healthy Resolve Drug Abuse Resolution" program and course. It deal with Identifying the "exact Nature" of the problem the Addicted suffer from. The course touch on in the deal with Mental (thinking), the physical (body), and the Spiritual (Spirit) & (Soul). Petitioner now fairly newly Also completed another major program that he said he Loved which is the Threshold Program. Right along with completing Parenting Skills for in Prison and Beyond, Resumé Job building Course and a career and Re-entry Courses to guarantee success once relief is granted. The Challenge Program by BOP ratings states that those who successfully complete the program 80% do not recidivise in come back to prison. But instead become good citizens with good productivity.

Petitioner pattern ~~Score~~ number is supporting evidence as well that he have rehabilitated. His pattern score number is a negative and low number According to BOP's calculations, He basically have a calculation of "NO RISK" of "Recidivism" which support that he is Actually & Factually NO danger or threat to himself, Society or community. That The Supreme Court held that Evidence of Post Sentencing Rehabilitation may

be "highly relevant" to "Several of the section 3553(a) Factors the Congress has expressly instructed district Courts to consider at sentencing". All above Factual, Actual & Legal merits fall under in this motion under 18, U.S.C. 3582 (e)(1)(A) compassionate Release / Sentence Reduction as U.S.S.G. Section 1B1.3 Extraordinary & Compelling Reasons and "Other" and the changes in law that should of Applied to petitioner at his sentencing. All Grounds individually and in combination, constitute "Extraordinary & Compelling Reasons for Sentence reductions & Compassionate Release and relief.

The correct interpretation of section 3582 (e)(1)(A) based on the text, statutory history and structure, and consideration of Congress's ability to override any of the commissions policy Statements at anytime... - is that when a defendant brings a motion for sentence reduction the Amend provision the courts can determine whether any extraordinary and compelling reasons "other" than those delineated in U.S.S.G. Section 1B1. cmt. n. 1. (a)(C) warranting granting relief. (And please see, Concepcion v.

In closing Petitioner have develop healthy Skill sets for a bright future free of any type of crime. He States he have a new mind, heart, body, Spirit, & Soul thanks to the GOD the Honorable & Respectable Supreme Court of the United States Swear in by. Also thanks to All the Courts and Law enforcement for saving and helping to get a once lost Drug addicted off the streets to be held accountable, Thank to the BOP, education and vocational Training, The Challenge Program and Drs & Specialists in the program and out, here at Coleman U.S.P. #1. Thanks to my family who is a supportive factor in his life and re-entry plan home plan that have he have and Safety net to prevent recidivism. Petitioner have great family support and chance for employment other from the fact that he will be his Mother caregiver which is more of a psyc income than tangible income. Also if granted by The Supreme Court the court can order additional terms of Supervised release as set forth to ensure public safety such as strict probation, halfway house or house confinement, and outside Classes and programs to be complete.

Conclusion

In Summary the lower courts conflicted with Congress decision and law on multiple Accounts by not exercising their power granted to them by the Supreme Court / Congress / Higher Table. Within Petitioner sentencing phase and nor doing his Sentence being served out once they was aware of the Injustice and Lack of Jurisdiction infringe or forced upon petitioner. The lower Courts extensively departed from the usual and accepted course of Judicial-proceedings and sanctions to where it is a dying need and call for the exercise of the Supreme Court Supervisory power to return and ~~store~~ restore Justice for All.

Thank you.

Dated: 3-24-2024

Respectfully Submitted

Shannon R. Thomas

Shannon R. Thomas

CERTIFICATE OF SERVICE

I, Shannon Ray Thomas do hereby declare under penalty of perjury that the foregoing motion requesting A Rehearing in the 23-6452 entitled case on the Grounds with merit herein is True and Correct and was given to an employee at United States Penitentiary Coleman #1, on this 24 day of March, 2024 to the:

The Clerk of The Supreme Courts of the United States.

Prose: Shannon Ray Thomas
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