

SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK

CASE NO: 23-7284

NEAL MERRELL WALKER  
Petitioner

Vs.

UNITED STATES OF AMERICA  
Respondent

PETITION FOR REHEARING

Before this Honorable Court comes Neal Merrell Walker. Walker is a pro-se litigant, with a timely filed petition for rehearing as ordered by Supreme Court of the United States on July 12, 2024.

Walker notifies this Court with Exhibit - A of the date with which he received the order from the Court and that he has 15 days from that date received to comply with rule 44 of the rules of this Court. Walker asserts that the order by the Supreme Court was stamped by the mailroom office here at F.C.I. Jesup upon receipt on July 26, 2024 and was delivered to Mr. Walker on that date. Ground one: Denied without an explanation or opinion:

Walker asserts that his fifth amendment right to due process of law had been violated where this Court failed to put him on notice upon an opinion or explanation as to why his petition for certiorari was being denied, specifically on his claim of actually innocent which he will fully make an argument for in his next ground. Walker argues that he has a fifth amendment right under the United States Constitution to be on notice by explanation or an opinion as to why each and every ground or claim alleged is being denied without an explanation or opinion. "Controlling Effect":

Ground two denial of actually innocent claim:

Walker asserted in his writ of certiorari and now again in a petition for rehearing that he is "actually innocent" and he respectfully asks this court, what was its reason for denying his actually innocent claim when "own it face" he is actually and factually innocent of the substance Florida charged in the indictment, because once the substance named in the indictment was sent to the laboratory for testing and that substance did not come back as the substance charged in the indictment. The substance that was supposed to have been flocka came back from the laboratory testing as a substance named (a-piHp), a substance that was not a controlled substance offense at the time of the charging indictment for conspiracy nor was that substance listed as a controlled substance offense on D.E.A. Federal Controlled Substance List, listed as a controlled substance offense during the time of Walker's arrest, charge, and indictment.

Therefore, Walker is actually and factually innocent of committing any crime against the state or the United States and being that the substance did not come back from the laboratory as the substance charged in the indictment, not as a substance listed as a controlled substance offense, on the Federal D.E.A.'s controlled substance list, Walker is actually and factually innocent of committing a crime at the time of his charging indictment for conspiracy. Walker was indicted on April 13, 2021, the substance (a-piHp) was not listed as a controlled substance, the substance (a-piHp) wasn't listed as a drug under title 21 until January 22, 2022, months later after Walker's original charging indictment. See Controlling Effect: (Citing) *Miller v. Florida* 482 U.S. 432 430 96 L.Ed.2d.351 107 S.Ct. 2446 (1987) (Holding that application of state sentencing statues not in effect when defendant committed his offense violates ex-post-facto provision). See *United States v. Jackson* 37 4th 1294 (11th Cir 2022)(Jackson was vacated and remanded because the substance Iflupone was not a controlled substance listed under Federal law when Jackson committed his 922(g) firearm possession offense.

Walker asserts that his case is identical to both Jackson and **Miller v. Florida**, where he too was convicted and sentence for the substance (a-piHp) that at the time was not listed under Federal law when Walker committed his conspiracy offense and for the reasons set forth in this "petition for rehearing". Walker respectfully asks this Court to vacate and remand with instruction to release him immediately due to facts within the record that he was actually and factually innocent of committing a crime during the time of his conspiracy and indictment and he asks this Court to go with its ruling in precedent Controlling Effect case by the Supreme Court in **Miller v Florida**.

#### CONCLUSION

For the reasons stated above, Walker asks this Court to vacate his sentence and conviction and remand with instruction to release him immediately due to facts and evidence within the record that Walker had not committed a criminal offense during the time of his conspiracy.

Neal Merrell Walker

Neal Merrell Walker

#### CERTIFICATE OF SERVICE

I, Neal Merrell Walker, I.D. No: 39561-509, hereby certify under penalty of perjury that the petition for hearing is presented in good faith as to grounds one and two and that all statements made are true and correct and that this petition for rehearing has been placed in the foregoing mail for filing on the date stated below. Walker certifies that all statements are true and correct.

DATE: 8 / 7 / 2024

Neal Merrell Walker

Neal Merrell Walker

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