

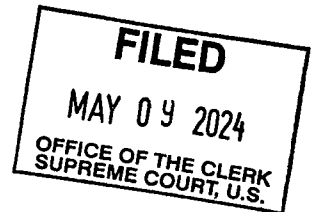
No. \_\_\_\_\_

**23-7504**

**ORIGINAL**

IN THE

SUPREME COURT OF THE UNITED STATES



SERGIO ANTONIO HOOD — PETITIONER  
(Your Name)

vs.

LINDA JULIE MCNAMARA "et al" — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

SERGIO ANTONIO HOOD  
(Your Name)

P.O. Box 3900/Victorville (USP)  
(Address)

Adelanto, CA 92301  
(City, State, Zip Code)

Prison Number Do Not Know it  
(Phone Number)

## QUESTION(S) PRESENTED

- 1.) Under the Fifth and Sixth Amendments, other than the fact of a Prior Conviction, any fact that increases the Penalty for a Crime beyond the Prescribed Statutory maximum must be Submitted to a Jury, and Proved beyond a reasonable doubt instead of A Judge at Sentencing. My Fifth and Sixth Amendment Right Are Violated.
- 2.) My Three (MDMA) X-Pills that was sold to the same undercover office At the same Gas Station on March 1, 2011 / March 2, 2011 / June 21, 2011 under (one indictment) was not done on different occasions from one another. March 1 and March 2 is A Continuous event. (ACCA) See My Brief for this case NO. 21-13903 for Proof of what My Argument point that matters.
- 3.) My Attorney Trial Attorney is ineffective because he never let me know what I was fully potentially facing before I went to Trial. I never knew anything about the (ACCA) 924(e) until My PSI came back After I lost Trial.

## 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

- United States District Court for the Middle District of Florida.  
D.C. Docket NO. 8:20-cr-00383-CEH-AEP-1  
Sentence Date: October 26, 2021
- United States Court of Appeals for the Eleventh Circuit  
2024 U.S. App. Lexis 3982  
NO. 21-13903 Non-Argument Calendar  
February 21, 2024 Filed

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2024 U.S. App. Lexis 3982 No. 21-13903 Non-Argument Calendar  
February 21, 2024 Filed

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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 \_\_\_\_\_; 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,  
☐ 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 February 21, 2024.

☒ 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 \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No.   A  .

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).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- (Fifth Amendment Jury Trial rights,)
- (Sixth Amendment Jury Trial rights.)
- (Second Amendment Constitutional Rights)

- 1.) Erlinger V. United States Case No. 23-370 (oral argument March 27, 2024)
- 2.) Wooden V. United States 595 U.S. —, 142 S.Ct 1063 212 L. Ed. 2d 187 (2022)
- 3.) United States V. Lewis Case No. 20-7617 (April 4, 2022 Decided)
- 4.) United States V. Williams Case No. 20-7798 (April 4, 2022 Decided)
- 5.) Bruen V. NY State Rifle & Pistol Assn (2022)



## STATEMENT OF THE CASE

SEE Attachments ON  
Exhibit 1

My fifth and Sixth Amendment Constitutional Right was Violated because when the Government file my case he or she never put the 924(e) Provisions (ACCA) in my indictment to give me a fully View of what I am facing to give me a Choice to Plea guilty or take it to Trial. The Government his self said that They office did not think that I was an (ACCA) defendant in my Sentencing Transcript. I went from 0 To 10 to 15 to Life and I took it to Trial because my 18 USC 922(g)(1) and 924 (a) (2) only carry 10 years Max. If I knew I was facing 15 to Life in Prison I would of Plea out with a 11(C)(1)(C) deal to get it over with because I know I didnt do this crime. During my whole case and even Threw Trial I was Not Aware of the (ACCA) at all. My lawyer never told me anything about I was Facing the (ACCA) Provisions. After I lost Trail and my (PSI) came back that is When I found out about the (ACCA). Even the Government Agree that they did not file my case as a 924(e)(ACCA). That Violate my Fifth Amendment Constitutional Rights. Also Due to Erlinger v. US My Sixth Amedment Constitutional Right was Violated because the Judge was the Judicial Fact-Finding and decided that I was eligible for the (ACCA). I Argue that ~~A Jury~~ <sup>instead</sup> of A Judge Must find the facts that I Qualify for a (ACCA) Sentence. (Apprendi v. US) (2000) I went to Trail on June 1 Threw June 8, 2021. I got Sentence on October 26, 2021 and I Put in a Notice of Appeal to the Eleventh Circuit on November 8, 2021 and I raised all these issues that I have in this Petition to the Supreme Court. A federal Grand Jury Returned a Three-Count indictment charging me with: (Count 1) Possession of ammunition 1 shell casing Violation of 18 U.S.C 922(g)(1) and 924(a)(2) (Count 2); Obstruction of Justice in Violation of 18 U.S.C. 1503 and 2 and tampering with a witness Violation 1512 (b) (2). Lastly Now I am at this point to the Supreme Court to hear my case to take the (ACCA) Away from my case. I was Sentence to 21 years and 10 months (262) and 5 years of Supervised Release. Plus I got 12 months consecutive for supervised release Violates Plus the Courts Connection the One Shell casing that they got out the Streets to a aggravated Assault with a Deadly weapon that got dismiss in Tampa in State Court on the same crime I'm doing time for the shell casing. No Firearm in my case or Ammo that never found on me or my car or piece. I didnt do this crime. never check me for Gunpowder (4) and I told them to and they didnt do it. never place me at the crime scene. My phone shows I'm at my brother house. never at the Shooting location. My state case for this matter The "Aggravated Assault" was dismiss and I only was Charge with Trespassing.

## REASONS FOR GRANTING THE PETITION

The reasons for this Court to Grant the Petition and my Compelling reasons is, This Court has granted writ of Certiorari in (2 case's) that I have in my brief that They Both had *Wooden v. United States* (2022) issue's that they drug Sells was not Committed on Separate and diffent Occasions. These cases I have cited they sold drugs longer Days then me and this Court Remand there case's back to the district Courts in light of *Wooden v. US* (2022). The Eleventh Circuit of the Court of Appeal never Address those 2 case's that I had in my brief at all. The Appeal's courts decline to Remand my case because they said I sold drugs a Day or more apart from each other. Willie Lee Lewis sold drugs on Aug 31, 1990 Sept 14, 1990 and Sept 18, 1990 (11th Cir Fla) Furthermore the other case where Mr. Christopher R. Williams sold drug on July 25, 2000, July 27, 2000 and Aug 1, 2000. This is the same as my case I sold X-Pills on March 1, 2011, March 2, 2011 and June 21, 2011. March 1 and March 2 is one continuous occasion even the Government recognize that in my (2012) brief for the Court of Appeals. (No. 12-11713) February 8, 2013 Decided. Case No. for the District Court - 8:11-cr-00453-JSM-TGW-1. Another issue in your Courts is that 5th and 6th Amendment Jury trial rights Violates our Constitutional Rights. *Erlinger v. US* No. 23-370 The lower court is erroneous because it Conflicts what the Supreme Courts has Decided in *Lewis v. US* 11th Cir and *Williams v. US* 8th Cir. So I pray that this Court Grant my Petition because the Appeal Court of the 11th Cir was in error for not Remand, Vacate my case back to the district Courts. Lastly plus 18 U.S.C 922(g)(1) is UnConstitutional because it can not Pass Brven Muster. I am an American Citizen and I have A right to bear Arms and Ammunition because I am protected by the 2nd Amendment. Felon are not excluded from "the People" in the text of the 2nd Amendment no where in the history says that. Thank you!!! I am not A Lawyer I did the best I could to write this out,

\*Note: The (ACCA) is unjust because the Courts are taking one case number with 4 or 5 counts and splitting the case up like it is 5 or 4 different case's. I sold X-Pills to the same undercover on 3 different dates. I didn't get Arrest 3 different times or have 3 different case number or 3 different sentences. Plus March 1 and March 2 of 2011 was at the same gas station, same undercover same pack of X-Pills. The Government his self said the 40 pill sell began on March 1, 2011 and continue to March 2, 2011. March 1 was 10 sample pills that I sold to them and they wanted them to look the deal in because I didn't have all the pills on me at that time. So the deal is not complete until the 40 pills was sold. So March 1, 2011 and March 2, 2011 is one event. A 'continuous event' that extended to the next day.

Lastly My Trial Attorney is ineffective he never let me know from the beginning of my case to the end of my trial that I was facing the (ACCA) 924(c) I was not aware of the (ACCA) 15 to Life until I lost trial and my P.S.I came back. I thought I was "only" Facing 0 to 10 years in prison 922(b)(1) that's it, The Government not one time file my case as a (ACCA) 924(c) defendant. The Government also Admitted that they did not think that I was an (ACCA) defendant. I would of to an 11(C)(1)(C) Plea deal if I knew I was facing 15 to Life 924(c). I have to know what I am facing fully that is my Constitutional Rights. I Also told my Appeal Attorney to put this Issue in my Direct Appeal but he did not do it. Plus he never gave me or got with me on a legal call to go over my Direct Appeal but he did not do it. Plus he never gave me nor got with me on a legal call to go over my Direct Appeal. I would of took a Plea and not go to Trial If I knew I was facing 15 to Life. That falls on my Attorney and the Government.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: MAY 09, 2024