

IN THE SUPREME COURT OF THE UNITED STATES

BROWN, TERRANCE NATHANIEL, JR.
Petitioner

VS.

United States of America

No. 24-5117

PETITION FOR REHEARING FOR WRIT OF CERTIORARI

Here comes petitioner Terrance Nathaniel Brown, Jr., by pro se litigant Brown, moves this Honorable United States Supreme Court with a Petition for re-hearing for Writ of Certiorari.

Respectfully Submitted:

by: Terrance N. Brown, Jr.
pro se litigant
Terrance N. Brown, Jr.
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QUESTIONS PRESENTED FOR REVIEW :

- A.) Whether petitioner Brown's appellate counsel was ineffective for failing to challenge Brown's conviction and sentence based on a general verdict.
- B.) Whether Brown's 6th Amendment right to a jury trial and 5th Amendment right for due process was violated when the court relied on judicial fact finding to determine a statutory maximum sentence.

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Appendix C - Petitioner's Sentencing Transcripts.
93 pages.

Appendix D - Docket Sheet
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Appendix E - Motion for Informa Pauperis
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STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

Amendment 5 Criminal actions—Provisions concerning—Due process of law and just compensation clauses.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private be taken for public use, without just compensation.

Amendment 6 Rights of the accused.

In all criminal prosecutions, the accused shall enjoy the right to a speedy trial and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witness in his favor, and to have the Assistance of Counsel for his defence.

To: Supreme Court Justice's,

Comes now, Terrance Nathaniel Brown, Jr. Petitioner and Pro Se Litigant, respectfully moves this Honorable United States Supreme Court in "Good Faith" and not for delay, for petition for rehearing with brief and distinct grounds limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

FACTS OF THE CASE :

- 1.) On August 27, 2015, A undercover narcotics detective, with the Norfolk, Virginia Gang Task Force, contacted petitioner, Terrance Nathaniel Brown, Jr. and asked if he could meet up with Brown and purchase cocaine. Petitioner Brown had not previously heard from this undercover agent prior but Brown informed him that petitioner did not sale cocaine. The undercover persisted, stating that petitioner must have something Brown could sale him. Petitioner Brown ended up selling this undercover officer 2 grams of marijuana and 9 Klonopin tablets (prescribed to Brown) for \$40.00.
- 2.) On August 28, 2015, Petitioner Terrance Nathaniel Brown, Jr. was taken off the streets of Norfolk Virginia by narcotics Agents and was thrown in a van on Virginia Beach Blvd. While in the van on this day, the undercover agent from the day before as well as several other Agents proceeded to strip petitioner down, while Brown was handcuffed and layed on his stomach. The Agents recovered 19 grams of marijuana and 16 prescribed tablets and booked petitioner Brown at Norfolk City jail.
- 3.) On October 26, 2016, the government file an R.i.c.o. conspiracy indictment against Petitioner Terrance Nathaniel Brown, Jr., with the United States District Court for the Western District of Virginia, Roanoke Division & Charlottesville.
- 4.) November 15, 2016, Petitioner Brown was taken from Norfolk City jail, where he was pending prosecution for the 21 grams of marijuana, was transferred to Central Virginia Regional jail, located in Orange, Virginia.
- 5.) November 18, 2016, petitioner Brown appeared for his initial hearing in front of Judge Joel C. Hoppe. During this hearing Petitioner Brown told the court that Brown did not understand why he was being forced against his will to come out Charlottesville and Brown had not traveled their prior.
 - the court informed petitioner that when the government concluded with Brown, the court will make sure Brown returns to the Eastern District of Virginia, where Brown resides.

- the court appointed petitioner Brown to Killis T. Howard as counsel for Brown.
 - Attorney Howard informed Brown and petitioner's family that it would be in petitioner's best interest to work with the government. For these conflicting reasons Brown Motioned the court for a new attorney.
- 6.) On 1/30/2017 petitioner Brown Motioned the court to be appointed new counsel.
 - 7.) On 1/31/2017, the court granted Brown's motion for counsel.
 - 8.) On 2-1/2017, the court appointed Dana R. Cormier to represent Petitioner Brown.
 - 9.) On 2/24/2017, Brown filed his second motion for change of Venue.
 - 10.) On 3/7/2017, the court transferred the case from Charlottesville to Roanoke, both located in the Western District of Virginia.
 - 11.) On 3/8/2017, Attorney Cormier filed a motion to withdraw from the case for reasons unknown.
 - 12.) On 3/24/2017, the court appointed Attorney Paul G. Beers to represent Brown.
 - Attorney Paul Beers had the same mindset as Brown's first attorney on this case, Killis. He believed that Brown's best decision is to work with the government. Attorney Beers also informed Petitioner Brown of his very close relationship with Chief Judge Michael F. Urbanski and his personal knowledge about Judge Urbanski's dislike of gang members. Attorney Beers told Brown that the last thing that Judge Urbanski would allow in his courtroom were to see gang member acquitted of anything. For these reasons, Petitioner Brown wanted new counsel and wanted to be placed in front of a new Judge.
 - 13.) On 7/13/2017, Petitioner Brown Motioned the Court for a change of Venue, Appointed new Counsel and to be placed in front a different Judge.
 - 14.) On 7/19/2017, During a motions hearing, the court denied petitioner Brown's motion and forced Brown to proceed with Attorney Beers. At that time Petitioner Brown exercised his 6th Amendment right to proceed pro se.
 - 15.) On 9/1/2017, During the last Motion hearing before trial, all parties Joint for Rule 21 Motion to Transfer Case to the Eastern District of Virginia. All four defendants going to trial on this case as well as the government agreed that trial was more appropriate in Norfolk, Virginia, in which all crimes alleged against the petitioner took place.
 - 16.) On 9/4/2017, the court Denied both parties Joint motion for change of Venue.

- 17.) On 9-12-2017, petitioner Brown proceed to trial as a pro se defendant without stand by counsel. During the duration of trial the government informed the jury that Brown was charged with 6 Counts on the indictment, which were:
- R.i.c.o. conspiracy 18 U.S.C. § 1962(d)
 - Conspiring to distribute and possess with intent to distribute heroin, cocaine, cocaine base and marijuana. 21 U.S.C. 841 and 846
 - two counts of violent crime in aid of racketeering. 18 USC 1959(a)(3)
 - two counts of using a firearm during a crime of violence 18 USC 924(c).

18.) On October 2, 2017, after the government rested its case against Petitioner, Brown filed a Rule 29 Motion of Acquittal on all Counts, based off insufficient evidence and improper Venue. The court granted petitioner's Motion of Acquittal, but for only four counts as to the two violent acts and the two fire-arm counts, but decided to send the Rico Conspiracy and drug conspiracy counts for the jury to decide. Even though the R.i.c.o. Conspiracy Count was only a special Verdict for that stipulated enhancements that defined the exact criminal violation as the in aid of racketeering counts the court threw out.

19.) On 10-9-2017, after 3 days of deliberating and given the Allen charge by the court, the jury found Brown Guilty on Count 2 of the indictment: Conspiring to distribute and possess with intent to distribute heroin, cocaine, cocaine base and marijuana. On a General Verdict Form and was Deadlock on the R.i.c.o. Conspiracy Count One.

20.) At the Conclusion of trial, the court transferred the Case as to Count One, Rico Conspiracy to the Eastern District of Virginia, and scheduled a sentencing hearing as to Count 2 Drug Conspiracy to be back heard in the Western District of Virginia.

21.) On May 1, 2020, Petitioner Terrance Nathaniel Brown, Jr., was sentenced to 240 months imprisonment; five years supervised release. Probation to follow.

Note:

- Petitioner Brown proceeded through trial and sentencing without standby counsel.

22.) On May 1, 2020, The Fourth Circuit Court of Appeals majority affirmed Petitioner Brown's conviction and sentence, finding that even if it was clearly erroneous to include Owens' sales as relevant conduct, it was unnecessary to resolve the issue because the court would have imposed a 240-month sentence regardless of the guideline calculations and "any error was ultimately harmless."
- Circuit Judge, THACKER, dissenting, in part: Appendix A.

23.) Appellate Counsel, attorney Paul Beers withdrew from the case with the Fourth Circuit, find No Merit in going forward with any constitutional claims on behalf of Petitioner.

24.) On January 28, 2022, Petitioner Brown filed a timely motion pro se, under 28 U.S.C. § 2255 attacking his conviction and sentence. Amongst Brown's arguments, Petitioner argued:

- 1.) Appellate counsel was ineffective for failing to confer with Brown regarding the appeal and raise appropriate claims.
- 2.) Appellate counsel was ineffective for failing to challenge Brown's conviction and sentence based on a general verdict.
- 3.) Appellate counsel was ineffective for failing to challenge Brown's conviction and sentence based on Improper Venue.

25.) On July 31, 2023, the district court denied petitioner Brown's Motion "2255"

26.) Petitioner Brown appealed to the Fourth Circuit pro se and eventually Amended by Attorney Matthew Robinson, seeking C.O. 2.

PETITIONER ARGUED THAT:

- 1.) Petitioner Brown's sentence of 240-months imprisonment exceeds the statutory maximum under 21 U.S.C. § 841(b)(1)(D). Therefore, Appellate counsel was ineffective for failing to challenge Brown's conviction and sentence based on a general verdict.
- 2.) Petitioner's rights to due process and a jury trial was violated when the court enhanced Brown's sentence based on conduct Brown was acquitted of by jury.

- 27.) On May 23, 2024, The Fourth Circuit denied Brown's C. O. A.
- 28.) On July 15, 2024, Petitioner Brown filed a Writ of certiorari and motion for leave to proceed in forma pauperis with this Court. "In forma pauperis" App. B.
- 29.) On July 30, 2024, the government filed a motion to waive its rights to respond to petitioner Brown's writ of certiorari petition.
- 30.) On September 30, 2024, petitioner's Writ of certiorari petition was DISTRIBUTED for Conference.
- 31.) On October 8th, 2024, this Court Denied petitioner Brown's Writ of Certiorari petition, With-out OPINION.

REASONS FOR GRANTING PETITIONER BROWN'S PETITION FOR REHEARING

Under Supreme Court Rule 10, the Court will review a United States Court of Appeals decision for compelling reasons. A compelling reason exists when "a United States court of Appeals has entered a decision ^{in conflict} of another United States court of appeals on the same important matter; "in conflict"

- For the Fourth Circuit Court of Appeals Not to at minimum remand petitioner Brown to the district court to be sentenced for the least-punished object on a general verdict form, is going against the Fourth Circuit's applicable precedent that already been established. See Quicksey, 525 F.2d at 340-41) "Quicksey, is consistent with the view expressed by this Court in Edwards.

has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power." S. Ct. R. 10(c).

In the instant case, Petitioner Brown made several challenges demonstrating, at minimum, a substantial showing of the denial of Brown's constitutional rights. Petitioner Brown's rights to effective assistance of counsel was violated during trial and sentencing when Brown was denied stand by counsel, while Brown acted as a pro se defendant.

- During the first day of petitioner Brown's jury trial in the Western District of Virginia, the Court informed Petitioner Brown's stand by counsel, Attorney Paul C. Beers, that the Court felt as though Petitioner Brown no longer needed his assistance for trial and refuses to pay Attorney Beers for doing nothing. So from 9-12-17 through sentencing on May 1, 2018, Petitioner Brown proceeded through trial and sentencing without the benefit of having any standby counsel assistance.

Petitioner Brown's rights to effective assistance of counsel was violated on appeal when the Fourth Circuit denied his motion to be appointed new counsel for conflicting issues as well as traveling issues.

- During Petitioner Brown's direct appeal, Brown was preparing to be re-tried in the Eastern District of Virginia. The Court appointed Att. Paul Beers on Brown's appeal and Att. Beers is located in the Western District of Virginia. Att. Beers was unable to visit with Brown throughout the whole appeal process to discuss Brown's appeal in Brown's presence nor video visit. Petitioner Brown had been advocating for BEERS to be off his case since discovering that BEERS rather for Brown to work with the government pre-trial. Att. Beers still managed to help the government out by not challenging the correct issues that would bring Brown Justice, against the Petitioner's order to do so.

Petitioner Brown's right to effective assistance of counsel was violated on appeal when Brown's appellate counsel failed to challenge Brown's conviction and sentence on a general verdict.

Additionally, Petitioner's right to due process and a jury trial was violated when the court enhanced Brown's sentence based on judicial fact findings, never admitted by Petitioner nor found by the jury. In refusing to issue certificate of appealability on these claims and sanction the district court's decision to dismiss Petitioner's § 2255 motion despite the obvious and apparent violations of Petitioner's due process and effective assistance of counsel, calls for an exercise of this Honorable Supreme Court's supervisory power under S.Ct. R. 10(a).

Therefore, Petitioner Brown would like to ask this Court for a re-hearing, to "please" look at Brown's case and grant Writ of certiorari in the name of justice, with respect to the following claims.

QUESTIONS UP FOR REVIEW :

- 1.) Whether Petitioner's appellate counsel was ineffective for failing to challenge Brown's conviction and sentence based on a general verdict, and
- 2.) Whether the district court abused its discretion when it relied on judicial fact finding to determine a statutory maximum sentence, and is that a violation to Brown's rights to a jury trial.

Only a jury, acting on proof beyond a reasonable doubt, may take a person's liberty. That promise stands as one of Constitution's most vital protections against arbitrary government.

This Court has stated that, "a conviction based on a general verdict is subject to challenge if the jury was instructed on alternative theories of guilt and may have relied on an invalid one."

In the instant case, Petitioner Terrance Nathaniel Brown, Jr., avers that he was found guilty on a general verdict form for violation of drug conspiracy 21 U.S.C. Sect. 846, which the jury instructions did not distinguish what specific substance(s) the petitioner was convicted of transporting, or the weight of the drug that Brown should have lawfully been responsible for. The penalties for all such conspiracies are determined by § 841(b). But this section does not set any concrete, maximum sentence for all violations involving a particular drug; instead, the maximum sentences vary with the type and amount of drug in question. Accordingly, to determine the applicable maximum sentence for any defendant, the district court first had to determine how much of any drug could be attributed to that defendant. See Edwards, 118 S. Ct. ("It is the government's responsibility to seek special verdicts.")

The government has the burden to prove each element it seeks penalties on and the government was obligated to request a special verdict for petitioner Brown's drug count as it did for Brown's Codefendant Jennings. See Barnes, 158 F.3d at 672.

In Rhynes, which was decided prior to Brown's sentence and conviction, the Fourth Circuit held that "a general verdict which failed to specify the objects of a drug conspiracy" prohibited the district court from imposing a sentence in excess of the statutory maximum for the least-punished object on which the conspiracy conviction could have been based. (Rhynes, 196 F.3d).

How can this case be any different than the precedent the Fourth Circuit upheld in the Rhynes case.

Ineffective Assistance of Counsel is demonstrated upon a showing of (1) deficient performance by Counsel; and (2) that the deficiency prejudiced the defendant. Strickland v. Washington, 466 U.S. 668, 687, 80 L.Ed 2d 674, 104 S.Ct. 2052.

Performance is deficient if it falls below an objective standard of reasonableness, which is defined in terms of prevailing norms. Id., at 688, 80 L.Ed 2d 104 S.Ct. 2052.

In the instant case, the jury was never instructed that a conspiracy conviction could be based only upon a finding that there was a conspiracy to distribute Heroin, Cocaine, Cocaine base and marijuana. And the evidence was not sufficient enough to support a finding that Brown conspired to distribute all four substances.

In this case, the conviction may have been based on conspiracy to distribute either; heroin, cocaine, cocaine base, or marijuana. Thus, no defendant could be sentenced for more than the statutory maximum for the least-serious, single-drug conspiracy of which the defendant may have been convicted. See United States v. Dale, 178 F.3d. As petitioner Brown points out, the least-punished object of Brown's conviction was marijuana, which results in a statutory maximum of five years for an unspecified quantity. (Brown Does Not have any prior Felony Drug convictions)

Futhermore, Petitioner Brown's appellate counsel failed to inform the Fourth Circuit Court of Appeals in legal argument that the jury was never provided a copy of the superseding Indictment, and that the government never specified to the jury that the petitioner was responsible for a said quantity. The Fourth Circuit determined that a jury, rather a "trial court" must determine the threshold drug quantity used to establish a defendants statutory sentencing range under § 841(b). See United States v. Promise, 255 F.3d (4th Cir. 2001) + United States v. Collins, 415 F.3d (4th Cir. 2005). This error by petitioner Brown's appellate counsel in not arguing the specific substance and quantity not having been found by a jury of Brown peers under Apprendi, amounted to a miscarriage of justice that seriously affected the fairness, integrity and public reputation of the judicial proceedings.

Based upon the court's evaluation of the presentence report on in this case pre-trial report and Agent Farr's testimony at Brown's sentencing, the district court then determined

that Brown was responsible for both distribution of Cocaine and marijuana, when having never instructed the jury to a specific substance.

A Party whose counsel is unable to provide effective assistance on direct appeal, is in no better position than one who has no such representation at all. At first appeal as of right, therefore, is not adjudicated in accord with due process of law if the appellant does not have the effective assistance of an attorney. "The promise of Douglas v. California, 372 US 352, 9 L.Ed 2d 811, 83 S.Ct. 814, that a criminal defendant has a right to counsel on his first appeal as of right - like the promise of Gideon v. Wainwright, 372 US 335, 9 L.Ed 2d 799, 83 S.Ct. 792, 23 Ohio Ops 2d, 258, 93 ALR 2d 733, that a criminal defendant has a right to counsel at trial - would be futile gesture unless it comprehended the right to effective assistance of counsel." See, Evitts v. Lucey, 469 U.S. 387, 83 L.Ed 2d 821, 103 S.Ct. 830.

Under § 84(b)(1)(c), that judicial fact finding triggered a new punishment in the form of a prison term up to 20 years; so just like the facts the judge found at the defendant's sentencing hearing in Alleyne, the facts the judge found here in this case increased "the legally prescribed range of allowable sentences" in violation of the Fifth and Sixth Amendments. In this case, that meant that Petitioner Brown faced up to 20 years in prison instead of no more than five. "Statutory maximum sentences depend on drug amounts disclosed by the facts of the case."

During the sentencing phase the court attributed another defendant, i.e., Corey Owens, drug quantity of cocaine and marijuana to Brown, in the absence of the jury and the government was only asking for the marijuana quantity. See. United States v. Jones, et al., 5/1/18, SENTENCING, Brown. Pg. 49, Lines 11-21.

- 16- The Court: Okay, How do you get there?
- 17- Mr. Hoffman: Its just what Special Agent Furr did
- 18- I think that, based on some of the evidence, that
- 19- You've heard today, the Court should hold defendant
- 20- Brown responsible for the drug distribution of Corey
- 21- Owen, Specifically the marijuana.

Petitioner Brown's appellate counsel did not raise legal arguments pertaining to case law established in Apprendi v. New Jersey, on the type of drugs transported and the jury not pointing to a specific quantity.

Although quantity was peripheral in argument before the Court, the question that the jury had the responsibility of determining both the substance of transport and specific quantity wasn't presented in proper form to allow the court to review the legal argument. Petitioner Brown's appellate counsel's failure to argue drug substance and quantity under plain error amounted to deficient performance and a violation of Brown's due process. Nor did the absence of a jury's finding beyond a reasonable doubt only infringe the rights of the accused, it also divested the "people at large" the men and women who make up a jury of a defendant's peers of their constitutional authority to set the metes and bounds of judicially administered criminal punishment. (Blakely, 542 U.S. 293)

A Judge cannot go beyond identifying the crime of conviction to explore the manner in which the defendant committed that offense. A Judge can do no more, consistent with the Sixth Amendment, than determine what crime, with what elements, the defendant was convicted of.

In the instant case, during Petitioner Terrance Nathaniel Brown, Jr.'s sentencing hearing, The Judge and probation officer was fully responsible for deciding Brown's sentence.

Petitioner Brown was sanctioned for several enhancements at sentencing.

- 1- the court ruled that acquitted conduct was relevant conduct for purposes of sentencing.
- 2- three level enhancement for leadership role,
- 3- two level enhancement for distributing narcotics into a correctional facility,
- 4- carrying guns in the conspiracy (2)
- 5- using violence in the conspiracy (2)
- 6- Corey Owens marijuana and cocaine quantity.

Under our constitution, "a finding of fact alters the legally prescribed punishment so as to aggravate it" that finding must be made by a jury of the defendant's peers beyond a reasonable doubt. S. Ct.

Petitioner Brown called Corey Owens to testify at Brown's sentencing hearing, and Owens testified under oath that Owens had never been a subordinate of Brown's, he was not obligated to listen to Brown, Owens had never seen Brown sell drugs and the reason Owens plead out, Owens stated "he didn't want to take the chance of going to trial, stating "I'm pretty sure that the government knows that I didn't sell 500 grams of cocaine, but I was told that that's -- that was the amount in the whole case -- this is from

my lawyer - that the amount of the overall case, that's what I was pleading out to. See. U.S. v. Jones, et al. 5/1/18, SENTENCING, Brown, pg. 8.

The Court declared Corey Owens not credible, but at the same hearing the Court allowed Agent Farr to testify about information Farr had received from Owens involving Petitioner. See. Sentencing, Brown. pg. 33, Lines 21-25.

Agent Farr also testified that during a prior interview with Corey Owens, Owens informed Farr that Owens didn't know anything about Brown's drug activity. See. SENTENCING, Brown. pg. 38, Lines 2-10.

Not to mention, the Probation officer stated that she attributed Corey Owens drug quantity to Brown based off of Corey Owens factual Summary, that was never introduced at trial to the jury the trier of facts. See. Sentencing, Brown. pg. 56, Lines 17-25 & pg. 57, Lines 1-14, but its one thing very important point that Probation Officer failed to take notice about Owens factual Summary and that's Owens time-line within such document. See. Sentencing, Brown. pg. 12, Lines 4-16, and also during this hearing, Agent Farr takes petitioner out the scope of Owens Factual Summary. See. pg. 27, Lines 2-13. This would explain why the Probation Officer could not point to nothing in evidence that would place Brown and Owens in concert together selling narcotics. See. Sentencing, Brown. pg. 59. Lines. 18-25, pg. 60, Lines 1-25, pg. 61. Lines 1-25.

Nevertheless, the Judge expressed throughout sentencing his decision to sentence Petitioner to the maximum penalty regardless of what rendered during the sentencing hearing which is duly prejudicial. See. Sentencing, Brown. pg. 9, Lines 1-4, pg. 10. Lines 17-25. pg. 11. Lines 1-11.

The Judge did Not attribute Corey Owens drug weight to Corey Owens nor Anthony Day, and Day testified that he sold to both Brown and Owens. See. Sentencing, Brown. pg. 47. Line 11-15, therefore petitioner Brown received an "unwarranted sentence for disparities among defendants with similar records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a).

The Courts have pondered whether a higher standard of proof should apply where the government uses the sentencing hearing to retry a substantive offense. Celebrating whether higher standard might apply where enhancement overwhelms the sentence. In light of Blakely and Booker (see § 501, Sentencing in Federal Criminal Cases, supra), the issue of the standard of proof where the enhancement overwhelm the sentence may be an open one. (cf. United States v. Pimental, 367 F. Supp. 2d 143 (D. Mass. 2005) (distinguishing Sixth Amendment Booker analysis from Fifth Amendment Due Process issues, and holding that in certain circumstances standard of proof beyond a reasonable doubt must logically be applied). United States v. Reuter, 493 F.3d. 792, 793 (7th Cir. 2006), suggests that Booker has rendered this discussion academic. It held that the § 3553(a) factors

are broad enough to allow the judge to dip below the guideline range if he is justifiably reluctant to impose a sentence which rests entirely on a finding of fact supported by a mere preponderance of the evidence. Accord, United States v. Horne, 474 F.3d 1004, 1007 (7th Cir. 2007). A sentence based almost entirely on the civil standard of proof may not promote respect for the law, which is a factor included in § 3553(a)(2)(A). Reuter, 463 F.3d at 793. see. also United States v. Hurn, 496 F.3d 784, 788-89 (7th Cir. 2007) (acquitted conduct used to compute sentence under clear and convincing standard in which would bring up the United States Sentencing Commission decision regarding Acquitted Conduct. The Sentencing Commission had much to decide about Acquitted Conduct, indicating that it was not to be considered as part of relevant conduct, see. USSC 1B1.3(c)

In the instant case the new law involving Acquitted Conduct in which came into effect 3 days ago would be substantial and of controlling effect that would fit the criteria for this Court to intervene and correct the Petitioner's Sentence.

Conclusion

Wherefore, based on the above mentioned, Petitioner Bowe, Jr. humbly moves this honorable Supreme Court in "Good faith" and not for delay, to please consider Brown Petition for rehearing and look at Brown's case as Petitioner avers his rights were violated according to the 6th and 5th Amendments. Thanks in advance for your time and efforts in this matter.

Respectfully Submitted:

By: Terence N. Brown Jr.
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Three Rivers, TX 78071

CERTIFICATE OF SERVICE

I, Petitioner Terrance Nathaniel Brown, Jr. hereby certify that the grounds mentioned in the above Petition for rehearing are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented, I also certify that the above Petition for rehearing is presented in good faith and not for delay and that on the 5th day of November, 2024, a true and accurate copy of the foregoing Petition for rehearing and the following appendix were sent via U.S. postal mail to the honorable United States Supreme Court Clerk's office to be filed in the above case and forwarded to all parties involved.

By: Terrance N. Brown, Jr.
Pro Se litigant Terrance N. Brown, Jr.
Federal No. 21SM4-084
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"I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct, Executed on: November 5, 2024."

By: Terrance N. Brown, Jr.
Terrance Nathaniel Brown, Jr.

**Additional material
from this filing is
available in the
Clerk's Office.**