

11/18/2024

24-6210
No. _____

FILED
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OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Kareem Roderique — PETITIONER
(Your Name)

vs.

U. S. A. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, Second Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Kareem Roderique
(Your Name)

131, Allenwood Hwy, P.O. Box 1000
(Address)

White Deer, Pa. 17887-1000
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. COULD THE PETITIONER KAREEM RODERIQUE'S ATTORNEY PRESENT THAT THERE WAS A CIRCUIT SPLIT ON THE APPLICATION OF THE INTERPRETATION OF THE CAREER OFFENDER GUIDELINES COMMENTARY THAT SPECIFICALLY APPLIED TO INCHOATE OFFENSES UNDER CONTROLLED SUBSTANCE OFFENSES?

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

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OTHER

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 Case: 24-1386; 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[] is unpublished.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 B, C, D to the petition and is

reported at Case 1:21-cv-00056-JPL; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from state courts: N/A.

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[] is unpublished.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[] is unpublished.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 10/17/2024.

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**: N/A.

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

STATEMENT OF THE CASE

The Petitioner, Kareem Roderique's attorney should have presented the claim that there was a circuit split about the application of the interpretation of the career offender guidelines commentary that specifically applied to Inchoate Offenses under controlled substance offense because, the effect of the commentary had controlled the guidelines by principles of administrative law.

In Stinson v. United States, 508 U.S. 36, 113 S.Ct. 1913, 123 L.Ed.2d 598 (1993), the Supreme Court considered how to classify the commentary to the sentencing guidelines and whether and when it should be given binding interpretive effect.

Now, the deference from Stinson, *supra*, was revisited in the Supreme Court's decision in Kisor v. Wilkie, 139 S.Ct. 2400, 204 L.Ed.2d 841 (2019). Kisor instructs that a court must carefully consider the text, structure, history, and purpose of a regulation, in all ways it would if it had no agency to fall back on.

REASONS FOR GRANTING THE PETITION

The reason for granting the petition is because the judge's lodestar must remain the law's text. Therefore, the most powerful argument in favor of challenging the Petitioner Roderigue's sentence was a Textual One because the Conspiracy to Distribute and Possess with Intent to Distribute drugs were Circuit Adversarial stemming from the interpretation of the text of section WBI.2(b) at the time of Roderigue's sentencing.

The reason for granting the petition is because the damaging error that counsel caused was to not raise the textual argument referred to above in reference to his instant offense of Conspiracy that classified him as a Career Offender which resulted in an enormous term of imprisonment difference between Career Offender- Base Offense level 34-Category VI at 262 to 327 months and Non Career Offender- B.O.l.-31-Cat. II at 135 to 168 months.

The Petitioner Roderigue has established his claim of ineffective assistance of counsel under Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed. 2d 674 (1984) in the both areas of necessity, serious error and reasonable probability are both shown here by the petitioner Roderigue.

The Seminole Rock Court spoke to the fact that based upon the aforesaid scenario that the Sentencing Reform Act itself commands compliance with the Guideline. citing 18 U.S.C. § 3553(a)(4)(b), thus, the petitioner, Roderique is requesting relief in the form of the granting of this petition for Writ of Certiorari in order to obtain a certificate of Appealability for the purpose of being placed in the proper categorizations of Base Offense level, 31, Category, III yielding a term of 135 to 168 months instead of B.O.L., 34, Cat., VI = 262-327 months.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

KR

Date: November 26, 2024