

24-6810

No. _____

ORIGINAL

FILED
JAN 21 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

FAOUZI JABER — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SECOND CIRCUIT COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

FAOUZI JABER
(Your Name)
P.O. Box 6000
Reg. No. 75840-054
FCI - Gilmer

(Address)

Glenville, WV 26351

(City, State, Zip Code)

N/A
(Phone Number)

RECEIVED
JAN 30 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

WHETHER THE PETITIONER WAS DENIED PROCEDURAL DUE
PROCESS WHEN THE LOWER COURTS ENTERED RULING DISMISSING
HIS CLAIM WITHOUT PROVIDING HIM AN OPPORTUNITY TO SUBMIT
LEGAL ARGUMENTS IN SUPPORT THEREOF?

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

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	6
CONCLUSION.....	8

INDEX TO APPENDICES

APPENDIX A Order from Second Circuit Court of Appeals
dated January 6, 2025

APPENDIX B Order from U.S. District Court for S.D.N.Y.,
dated July 17, 2024

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

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 is unpublished.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 "B" 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 is unpublished.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 is unpublished.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 January 6, 2025

- 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'S DUE PROCESS CLAUSE, AND

**FIRST AMENDMENT'S CLAUSE ENTITLING CRIMINAL DEFENDANTS
A RIGHT OF ACCESS TO THE COURTS**

STATEMENT OF THE CASE

Following publication and adoption of Amendment 821 by the United States Sentencing Commission, and its application to the Sentencing Guidelines, the petitioner - Faouzi Jaber, filed a motion for sentence reduction under Part B thereof. Petitioner had "zero" criminal history points. Therefore, he qualified for a sentence reduction of at least two points. Petitioner was convicted of an inchoate offense because it was a non-violent conspiracy. Thus, no reason existed for denying a sentence reduction, especially with his prison record demonstrating he has been a model prisoner.

Initially, the Government filed no opposition to the petitioner's motion, but, when a motion was made to consider that failure as a concession to the merits of the motion, a response was then submitted. Therein, instead of addressing the merits of the motion, the Government merely recounted that Faouzi Jaber had entered a guilty plea to a conspiracy. Petitioner's attempt to submit a Reply was an exercise in futility since the district court judge refused to even consider the facts surrounding events leading to petitioner's indictment, extradition, and conviction. Its Order of June 26, 2024, applied the wrong law and facts by using the standard governing "compassionate release" motion, and not motions filed pursuant to Amendment 821 of the Guidelines.

The aforesaid Order reads: "Jaber has not met his burden of establishing extraordinary and compelling circumstances." The Order further recited that the factors under 18 USC § 3553(a), continue to "militate overwhelmingly in favor of denying the defendant's motion." Id. It then recited some of the facts surrounding petitioner's underlying offense. At no point did the court's Order address the merits of reducing petitioner's sentence pursuant to Amendment 821.

Petitioner took an appeal to the Second Circuit Court of Appeals. Petitioner was denied an opportunity file a brief in support of his motion by the appeals court when it summarily denied the appeal on January 17, 2025. The dismissal Order reads: "Upon due consideration, it is hereby ORDERED that the motion is DENIED and the appeal is DISMISSED because it 'lacks an arguable basis either in law or in fact.'" Order, of January 6, 2025. This Order was entered prior to the court providing Faouzi Jaber the right to submit legal briefs on his behalf. Thus, it is obvious that the lower court's harbor an animus against individuals of a foreign country who are extradited to the United States, and then forced to defend themselves in a language and system totally alien to their heritage.

REASONS FOR GRANTING THE PETITION

Petitioner - Faouzi Jaber, has been denied procedural due process through being deprived of an opportunity to not only present legal arguments in support of his motion for a sentence reduction, but through the lower courts' using an incorrect standard and law to deny his motion for a sentence reduction. Faouzi Jaber had "zero" criminal history points as he had no prior criminal arrests, convictions, or sentences of imprisonment. Therefore, Amendment 821 Part B, entitled him to a sentence reduction from the fifteen years imprisonment imposed herein. However, instead of addressing the merits of the motion, the lower courts summarily denied petitioner's aforesaid motion because of subjective factors harbored by the judges of the lower courts, and not because of objective factors contained in the legislative enactments.

Similar procedures were not allowed in Hurles v. Ryan, 706 F.3d 1021 (9th Cir. 2010), where the district court judge refused to allow the petitioner an opportunity to develop evidence in support of his claim, yet, dismissed the motion because Hurles "offered no factual evidence to support his allegations." Id. at 1037. (The court proceeded to find that "an unreasonable determination of the facts" was made by the lower court in denying Hurles's claim when it afforded him

no opportunity to present evidence. Id. (citing Perez v. Rosario, 459 F.3d 943, 950 (9th Cir.2006)). In those situations, no deference is accorded, and a presumption of unreasonableness attaches to the court's ruling. Id.

The record in this proceeding clearly demonstrates that the lower courts harbored a judicial bias against Faouzi Jaber due to his nationality and status as a federal prisoner. Constitutional rights accorded American citizens were discarded in this case. During the sentencing proceeding, a comment was made by the presiding judge expressing her desire to give Faouzi Jaber a stiffer sentence, but, unfortunately, the statutory maximum prevented that. Her aforesaid comment was in direct contradiction of statements made at Faouzi Jaber's "Change of Plea" hearing when she hesitated to accept the Government's view of the events leading to Jaber's arrest because of errors occurring in the translation of three or four different languages that resulted in Jaber's arrest. The final version was a product of a government agent's subjective beliefs rather than what was actually said in a recorded conversation that was spoken in Spanish, Arabic, and French. The judge now refuses to give Jaber procedural due process, or to order a government agent to return her theft of Eight Million Dollars from Faouzi Jaber.

Amendment 821 Part B authorizes a reduction in the sentence of imprisonment, however, the lower courts have refused to consider the law and facts governing this case by summarily dismissing any motion the petitioner makes in support of a sentence reduction, contrary to the First and Fifth Amendments.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature consisting of a stylized, cursive initial 'J' or 'L' followed by a surname, all written over a single horizontal line.

Date: January 20, 2025