

No. _____

ORIGINAL

24-7503

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
APR 04 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

BRADLEY J. HARRIS — PETITIONER
(Your Name)

VS.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEAL FOR THE FIFTH DISTRICT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Bradley J. Harris, Fed Reg No. 55436-177

(Your Name)

Federal Prison Camp Montgomery
1001 Willow Street

(Address)

Montgomery, AL 36112

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Whether the Fifth Circuit erred in affirming the district court's denial of a sentence reduction under Amendment 821 despite procedural errors, including the use of an erroneous probation worksheet containing factually incorrect information, as well as the district court willfully ignoring the Petitioner's initial motion filed on February 7, 2024.
- 2) Whether the district court's blanket exclusion of offenders with specific enhancements contradicts the discretion provided to the Court for sentence reductions under 18 U.S.C. 3582(c)(2) contradicting established precedent from Dillon v. United States and United States v. Torres-Aquino.
- 3) Whether the district court erred by denying Petitioner's motion for sentence reductions without considering the factors set forth in 18 U.S.C. 3553(a), despite the clear mandate of Dillon v. United States and United States v. Bravo, requiring court to weigh applicable policy statements and exercise discretion.
- 4) Whether the Government's own Motion for Downward Departure Pursuant to USSG 5K1.1, which acknowledged specific offense levels of 33, 34, and 35 as well as guideline ranges for the Petitioner, and as referenced the Rule 11(c)(1)(C) plea agreement, highlights the existence of discernible errors in the probation worksheet that the district court relied on in denying the Petitioner's motion.

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

Dillon v. United States, No. 09-cv-200, U.S. Supreme Court.
Decided June 17, 2010.

United States v. Torres-Aquino, No. 02-2075, U.S. Court of Appeals for the Tenth Circuit. Decided July 2, 2002.

United States v. Bravo, No. 97-5575, U.S. Court of Appeals for the Eleventh Circuit. Decided February 11, 2000.

United States v. Johnson, No. 08-5667, U.S. Court of Appeals for the Sixth Circuit. Decided May 5, 2009.

Suprenant v. Rivas, No. 04-2285, U.S. Court of Appeals for the First Circuit. Decided September 9, 2005.

Sandin, No. 93-1911, U.S. Supreme Court, Decided June 19, 1995.

Townsend v. Burke, No. 542, U.S. Supreme Court, June 14, 1948.

Pepper v. United States, No. 09-6822, U.S. Supreme Court, Decided March 2, 2011.

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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

[X] 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 February 20, 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

The relevant Constitutional and Statutory Provisions Involved are:

- Fifth Amendment to the United States Constitution (Appendix D)
- Fourteenth Amendment to the United States Constitution (Appendix E)
- 18 U.S.C. 3582(c)(2) - Modification of an imposed term of imprisonment (Appendix F)
- Amendment 821 to the United States Sentencing Guidelines (Appendix G)
- 18 U.S.C. 3553(a) Sentencing Factors (Appendix H)
- Federal Rules of Criminal Procedure 11(c)(1)(C) (Appendix I)

STATEMENT OF THE CASE

On or about February 7, 2024, Petitioner filed an initial motion for sentence reduction resulting from Amendment 821 of the Federal Sentencing Guidelines pursuant to 18 U.S.C. 3582(c)(2) in the United States District Court for the Northern District Texas, Dallas Division, Case No.: 3:17-CR-00103-M(1). This motion consisted of eleven pages including exhibits, and specifically requested that the Court order the Government to show cause and explain why the Petitioner would not be entitled to the relief requested. Rather than ruling or commenting on this initial motion, the district court responded by the court clerk mailing the Petitioner a blank copy of a standard motion template, which was subsequently filed by the Petitioner and later denied.

Additionally, the district court's denial relied on a probation worksheet containing factually incorrect information including Petitioner's proper offense level, guidance range, and existence of a Rule 11(c)(1)(C) plea agreement, all of which were referenced in the Government's Motion for Downward Departure Pursuant to USSG 5K1.1 as well as blanket ineligibility for the zero-point offender relief due to the existence of a vulnerable victim enhancement under USSG 3A1.1(b)(2). These errors demonstrate that the district court's denial of relief was based on inaccurate information and procedural errors. Petitioner was not given notice or an opportunity to correct these errors before the district court ruled.

On appeal the Fifth Circuit summarily affirmed, concluding that Petitioner was categorically ineligible under the plain language of USSG 4C1.1(a)(9), despite that nowhere in Amendment 821 of the Federal

Sentencing Guidelines does it state that the mere existence of any of these factors are disqualifying to a Defendant thus superseding the discretion provided to the district court for sentence reductions under 18 U.S.C. 3582(c)(2), and making individuals wholly ineligible for the 2-level decrease. This categorical exclusion contradicts the statutory discretion granted to district courts under Dillon v. United States, which emphasizes that a court must consider the factors set forth in 18 U.S.C. 3553(a) and applicable policy statements before deciding whether a sentence reduction is appropriate.

Furthermore, United States v. Torres-Aquino, held that blanket exclusions conflict with the discretionary authority provided by 18 U.S.C. 3582(c)(2), while United States v. Johnson, reaffirmed that courts must apply discretion on a case-by-case basis, not through categorical denials.

REASONS FOR GRANTING THE PETITION

1) The Decision Conflicts with Fundamental Due Process Principles

The Fifth and Fourteenth Amendments prohibit the government from depriving a citizen (including prisoners) of life, liberty, or property without due process of law. *Surprenant v. Rivas* at 16, *Sandin* at 483-84.

The district court failing to consider the Petitioner's initial motion and its reliance on incorrect factual findings violated Petitioner's right to due process under the Fifth Amendment and Fourteenth Amendment to the United States Constitution. The district court overlooked Petitioner's initial motion and based its denial on a subsequent standard motion template, disregarding substantive arguments and evidence presented in the original eleven-page filing.

Additionally, the district court relied on an erroneous probation worksheet. Petitioner was denied the opportunity to challenge material errors in the probation worksheet before the district court made its decision. The factually incorrect information in the worksheet was contradicted by the Government's own sealed Motion for Downward Departure Pursuant to USSG 5K1.1. This Court has held that sentencing decisions must be based on accurate information, *Townsend v. Burke* at 741. The Fifth Circuit's refusal to remand for correction of these errors contravenes this precedent.

2) The Categorical Exclusion Under USSG 4C1.1(a)(9) Raises Constitutional Concerns

Amendment 821 aims to remedy excessive sentences by granting relief to zero-point offenders. Petitioner is a zero-point offender, and arguably was excessively sentenced as the Government's own

sealed Motion for Downward Departure Pursuant to USSG 5K1.1 asks for a sentence by the district court not to exceed 120 months. Petitioner was sentenced to 159 months.

The blanket exclusion of offenders with a vulnerable victim enhancement along with any of the other aggravating factors under USSG 4C1.1 without consideration of the nature of the offense, an individual's criminal history, or the individual's post-sentencing conduct, contradicts the principles of individualized sentencing established in Pepper v. United States. It also contradicts the statutory discretion granted under 18 U.S.C. 3582(c) for sentence reductions based on guideline amendments. This court should grant certiorari to resolve whether such categorical exclusions violate due process, the principles of individualized sentencing, and the statutory discretion afforded district courts under 18 U.S.C. 3582(c).

Judicial discretion is required under 18 U.S.C. 3582(c)(2). Consistent with Dillon v. United States, and United States v. Bravo, district courts are required to exercise their discretion based on applicable policy statements and individualized analysis. Blanket exclusions violate this mandate.

3) The Lower Courts' Errors Have Significant Consequences for Sentence Reduction Jurisprudence

This case presents an important issue of federal sentencing law with broad implications for defendants seeking relief under Amendment 821 or other amendments to the Federal Sentencing Guidelines. This district court's failure to consider an initial motion and its erroneous reliance on a flawed worksheet, coupled with the Fifth Circuit's summary affirmance, establishes a dangerous

precedent. The procedural failures in this case merit this Court's review.

4) The Government's Motion for Downward Departure Confirms the Existence of Procedural Errors

The Government's sealed Motion for Downward Departure Pursuant to USSG 5K1.1 acknowledged the Petitioners correct offense level, guideline range, and the existence of a Rule 11(c)(1)(C) plea agreement, highlighting the existence of discernible errors in the probation worksheet. This document serves as compelling evidence that the district court relied on erroneous information in denying the requested sentence reduction.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Bradley J. Harris
Date: 5-28-25