

Case No. _____

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2017

STEPHEN TELEMAQUE,
Petitioner,

vs.

CORRECTED
MOTION TO PROCEED
IN FORMA PAUPERIS

THE UNITED STATES OF AMERICA,
Respondent

_____ /

Petitioner Stephen Telemaque, through his CJA appellate counsel and pursuant to Rule 39 of the Supreme Court Rules moves this Court for leave to proceed with the present petition *in forma pauperis*, and states:

Petitioner Stephen Telemaque comes to this Court having pleading guilty and having been convicted of one count of conspiracy to possess with intent to distribute narcotics, specifically ethylone (street name Molly). He was sentenced to prison for 180 months. Three meritorious reasons are presented in support of granting the writ.

First Reason: The Eleventh Circuit reversibly erred when it refused to find that the district court erred and abused its discretion in denying Telemaque's motion to withdraw his guilty plea, once he realized that his agreement was based upon an erroneous, mistaken ratio that was used to calculate sentencing guidelines for ethylone.

Second Reason: The plea agreement was based upon a mutual mistake and thus was voidable. The appeal waiver portion of the plea agreement was neither valid nor enforceable because the entire plea agreement was founded upon the mistaken and erroneous premise that the correct ratio for ethylone to marijuana was 1 to 500, whereas other judges in the district used different, more lenient ratios to calculate drug quantity.

Third Reason: The sentence was unreasonable, excessive, unduly harsh, and illegal not only because: (1) it was calculated based upon an incorrect, erroneous ratio for the substance ethylone (street name Molly); but also because (2) imposition of an upward variance to 180 months from the advisory range of 108 to 135 for injuries to officers resulted in improper double-counting where Telemaque already received a six level upward adjustment for said injuries. To impose an upward variance was unfair and was impermissible double-counting.

This Court should exercise its supervisory jurisdiction over the United States Courts and correct any or all of these unfair, unjust rulings.

Mr. Telemaque had CJA counsel in the district court, and the undersigned was appointed to represent him for purposes of appeal. Mr. Telemaque's financial status has not improved during his incarceration that began at the outset of this case he is still proceeding through court-appointed counsel. Accordingly

Stephen Telemaque respectfully requests that he be permitted to proceed with this petition in this Court *in forma pauperis* in light of his continuing indigence and his proceeding through CJA counsel on appeal.

Therefore, Petitioner respectfully prays that this Honorable Court will grant him leave to proceed on petition for writ of certiorari *in forma pauperis*, waive the filing fee, waive the requirement for 40 printed copies of the petition, and accept eleven copies of the petition in typewritten form, that are, or soon will be, submitted together with this motion.

Respectfully submitted,

/s/ *Sheryl J. Lowenthal*

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Dated: November 25, 2017

Electronically filed separately with Clerk of Court on November 28, 2017.
This document will be sent to the Solicitor General via E-Mail to:
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