

No. 17-6898

IN THE SUPREME COURT OF THE UNITED STATES

CHAD ALAN CREWS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

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Petitioner was convicted in 2006 of conspiracy to distribute methamphetamine, in violation of 21 U.S.C. 841(a)(1) and 846. Judgment 1. Because he had a prior felony drug conviction, petitioner was subject to a 20-year mandatory minimum sentence under 21 U.S.C. 841(b)(1)(A)(viii). See Presentence Investigation Report ¶ 93. Petitioner received a sentence of 228 months, however, because the government moved for a reduction below the mandatory minimum based on his substantial assistance to law enforcement. Pet. App. 3-4; see 18 U.S.C. 3553(e); Fed. R. Crim. P. 35(b).

In 2014, the U.S. Sentencing Commission retroactively lowered the advisory Sentencing Guidelines ranges for most drug offenses. See Sentencing Guidelines App. C Supp., Amends. 782, 788 (Nov. 1, 2014). Petitioner then sought a further sentence reduction under 18 U.S.C. 3582(c)(2), which authorizes a sentence reduction “in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the” Commission.

The district court held that petitioner was not eligible for a sentence reduction under Section 3582(c)(2) because the “drug guideline range” lowered by the Commission “did not serve as a foundation for either [petitioner’s] original sentence or the sentence imposed following the government’s” substantial-assistance motion. Pet. App. 5. The court reviewed the record of the earlier sentencing proceedings and explained that petitioner was initially sentenced “based on the statutorily-required 240 months” and then received a lower sentence “purely based on the substantial assistance provided, not the defendant’s drug guidelines range.” Id. at 5-6.

The court of appeals affirmed in a memorandum opinion relying on its recent decision in United States v. Rodriguez-Soriano, 855 F.3d 1040, 1045-1046 (2017), petition for cert. pending, No. 17-6292 (filed Oct. 6, 2017). Pet. App. 1-2.

On December 8, 2017, this Court granted a petition for a writ of certiorari to consider whether criminal defendants in petitioner's position are eligible for sentence reductions under Section 3582(c)(2). See Koons v. United States, No. 17-5716 (oral argument scheduled for Mar. 27, 2018). The government subsequently recommended that this Court hold the petition for a writ of certiorari in Rodriguez-Soriano pending the decision in Koons, and it appears that the Court has done so. The same approach would be appropriate here, given that the decision below relied on Rodriguez-Soriano and that petitioner presents the same question at issue in Koons.

Because this Court's decision in Koons will bear directly on the proper resolution of this case, the petition for a writ of certiorari should be held pending the Court's resolution of Koons, and then disposed of as appropriate in light of the decision in that case.*

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* The government waives any further response to the petition unless this Court requests otherwise.