

17-6941 ORIGINAL

No. _____

Supreme Court, U.S.
FILED

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IN THE

SUPREME COURT OF THE UNITED STATES

ANTONIO JERMAINE MOORE — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Antonio Jermaine Moore #52210-056
(Your Name)

FCC-Coleman-Medium P.O. Box 1032
(Address)

Coleman, Florida 33521-1032
(City, State, Zip Code)

N/A
(Phone Number)

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SUPREME COURT, U.S.

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:

QUESTION(S) PRESENTED

Whether Petitioner's United States Sentencing Guidelines Section 3A1.2(c) (1)/2K2.1(a)(2)/2K2.1(a)(2)(8), and Petitioner's state priors for which he was unconstitutionally enhanced for, violated his Fifth, Sixth and Eighth Amendment rights. And whether Hill v. Florida, 134 S. Ct. 1986 (2012); and McWilliams v. Dunn, 16-5496 U.S. Supreme Court Cite affected the Petitioner's involuntary, unintelligent and unknowing plea according to Class v. United States, 16-424, U.S. Supreme Court Cite.

(See Argument One)

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JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 22, 2017.

☒ 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).

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STATEMENT OF THE CASE

Petitioner pled guilty to an indictment charging him within his plea agreement with Title 18 U.S.C. § 922(g)(1); § 924(c), possession of a firearm in furtherance of a drug trafficking offense. Petitioner pled guilty involuntarily and was sentenced to 264 months in a United States Federal prison, based on Title(s) 18 U.S.C. § 922(g)(1), 924(c) and Title 21 U.S.C. § 846. Petitioner filed a Title 28 U.S.C. § 2255 Motion and was denied all the way through the appeals stages, and now pursues this Writ of Certiorari all the way all the way to the United States Supreme Court.

REASONS FOR GRANTING THE PETITION

Petitioner understands that the United States Supreme Court does not have to hear this case because the court has discretion to hear whatever cases it deems appropriate. However, Petitioner is requesting that this case be heard based on Dimaya v. Sessions, U.S. Supreme Court Cite 15-1498 case. Because Petitioner like so many other Americans were unconstitutionally enhanced based on violations of his Fifth Amendment right to due process, his Sixth Amendment rights to the element clause to a jury determination beyond a resonable doubt, and his Eighth Amendment rights to cruel and unusual punishment based on unconstitutional enhancements that violate his due process rights no to be unconstitutionally enhanced without a jury determination. Petitioner therefore, hopes and prays that this case will be accepted by this Honorable Court. Petitioner therefore states the following argument.

ARGUMENT ONE

WHETHER PETITIONER'S UNITED STATES SENTENCING GUIDELINES
SECTIONS 3A1.2(c)(1)/2K2.1(a)(2)/2K2.1(a)(2)(8),
AND PETITIONER'S STATE PRIORS FOR WHICH HE WAS
UNCONSTITUTIONALLY ENHANCED FOR, VIOLATED HIS
FIFTH, SIXTH AND EIGHTH AMENDMENT RIGHTS.
AND WHETHER HILL v. FLORIDA, 134 S. Ct. 1986 (2012);
AND McWILLIAMS v. DUNN, 16-5496 U.S. SUPREME COURT CITE
AFFECTED THE PETITIONER'S INVOLUNTARY, UNINTELLIGENT AND
UNKNOWNING PLEA ACCORDING TO CLASS v. UNITED STATES
16-424, U.S. SUPREME COURT CITE.

1. Petitioner states that he was unconstitutionally enhanced based on U.S.S.G. § 3A1.2(c)(1)/2K2.1(a)(1)/2K2.1(2)(a)(8), based on a crime of violence, for which Petitioner never committed any acts of violence in regards to these unconstitutional enhancements, that were not determined by a jury and/or beyond a reasonable doubt. These unconstitutional enhancements violates and dictates the court opinions of Welch v. United States, 136 S. Ct. 1257 (2016); Mathis v. United States, 136 S. Ct. 2243-2248 (2016); Dimaya v. Sessions, U.S. Supreme Court Cite 15-1498 ; Townsend v. Burke, 334 U.S. 736 (1948); Glover v. United States, 531 U.S. 198-203 (2001); United States v. White, 531 U.S. 225-229 (2001); Hill v. United States, 368 U.S. 424-429 (1962); and Davis v. United States, 417 U.S. 333-346 (1992).

2. Petitioner's enhancements also violate Molina-Martinez v. United States, 136 S. Ct. 1338 (2016); Alleyne v. United States, 133 S. Ct. 215 (2013); Booker v. United States, 543 U.S. 220 (2005); Apprendi v. New Jersey, 540 U.S. 466 (2000). All of these cases verify that Petitioner was unconstitutionally enhanced for U.S.S.G. Sections 3A1.2(c)(1)/2K2.1(a)(1)/2K2.1(2)/2K2.1(2)(a)(8), in violation of Petitioner's Fifth, Sixth and Eighth Amendment rights. See also, Schlup v. Delo, 513 U.S. 295-298 (1995).

3. Petitioner's Fleeding and Eluding state priors also violate Johnson

v. United States, 130 S. Ct. at 1269 (2010); Johnson v. United States, 135 S. Ct. 2551 (2015); Dimiya v. Sessions, supra, and Welch v. United States, supra. Petitioner is presently serving a unconstitutional sentence based on violations of the above stated cases, nor was there any Shepard documentation presented to the court in regards ^{to} ~~to~~ Petitioner's state predicates that were used ~~to~~ unconstitutionally enhance him in violation of his Fifth Amendment rights to his Shepard documentation, and to a Descamps v. United States, 133 S. Ct. 2275-2283 (2013), divisible or indivisible element approach and to a Mathis element approach, concerning Petitioner's state priors for Fleeing and Eluding. Which had absolutely nothing to do with any injuries to anyone at all. Nor were there any injuries for the enhancements of U.S.S.G. Section 3A1.2(c)(1), nor was there any injury or violence for any of the 2K2.1(a)/2K2.1(2)(a)(8) enhancements.

4. The Lower Court only decided to apply the enhancement after the Petitioner had already pled guilty, and it was not part of the plea agreement at all. Thereby violating United States v. Class, 16-424 U.S. Supreme Court Cite in regards to the plea, which made the plea involuntary unintelligent and unknowingly. Because Petitioner was unconstituionally enhanced based on state priors, and U.S.S.G. Sections enhancements that he never agreed too.

5. Petitioner is also suffering from a very low I.Q. level of below 60, and abnormal behavior, yet he was never given a mentally ill evaluation of his mental illness. McWilliams v. Dunn, 16-5294 U.S. Supreme Court Cite: Ake v. Oklahoma, 470 U.S. 68,83 (1985); Moore v. Texas, 15-797, U.S. Supreme Court Cite; Atkins v. Virginia, 536 U.S. 304 (2002); Florida v. Hill, 134 S. Ct. 1986 (2014); and Vost v. United States, 88 F.3d 587-591 (8th Cir. 1996). Petitioner Should have been mentally evaluated based on his level of retardation.

6. Jurist of reason would stipulate that this case deserved to have

went further encouragement and to proceed further. Because Petitioner made a substantial showing of the denial of his constitutional Fifth, Sixth, and Eighth Amendment rights under the United States Constitution. Miller El v. Cockrell, 537 U.S. 322-336 (2008); Buck v. Davis, 137 S. Ct. 759-774 (2017); Barefoote v. Estelle, 463 U.S. 880-893, N.4 (1982); Ternard v. Dretke, 542 U.S. 272-282 (2004); Slack v. McDaniels, 529 U.S. 474-484 (2000). Jurist of reason would stipulate that Petitioner's substantial rights under the Constitution were violated and that this proceeding deserved further development. Jurist of reason would also stipulate that this case deserved further encouragement because he pled to Base Offense Level 32, Category four (4), yet he was sentenced to a Category four (4) Base Offense Level ⁴¹~~41~~. Petitioner's plea was therefore involuntary , unintelligent and unknowing based on violations of his plea agreement. And therefore, Class v. United States, should be considered in this case as well as Padilla v. Kentucky, 130 S. Ct. 1476 (2010); and Missouri v. Frye, 132 S. Ct. 1399 (2012); Lefler v. Cooper, 132 S. Ct. 1376 92012); Lee v. United States, 16-327 U.S. Supreme Court Cite, and Hill v. Lockhart, 474 U.S. 42-52 (1985). jurist of reason would have stipulated that Petitioner's plea agreement was violated in accordance with Santobello v. New York, 404 U.S. 257 (1971).

7. A Certificate of Appealability should therefore have been granted in his case, and the plea appealed without any plea restrictions. See Class v. United States, supra; Mathis, Descamps, Johnson and Dimiya v. Sessions, supra.

Petitioner hopes and prays that this Writ of Certiorari will be granted based on all of the above stated reasons to the Honorable Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Arthur J. Gorman, Jr.

Date: 11-10-17