

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

James Bernard Jones Jr. 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 Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

James Bernard Jones, Jr.
(Your Name)

2680 HWY 301 South / FSL Jesup
(Address)

Jesup, Georgia 31599
(City, State, Zip Code)

UNKNOWN
(Phone Number)

QUESTION(S) PRESENTED

Does denying petitioner, (James Bernard Jones, Jr), a 2 pt reduction based on retroactive amend 782 "All Drugs minus 2" deny petitioner constitutional due process rights (5th amendment), 8th amendment right to benefit from the change of law and equal protection, (14th amendment), of the law having received a 3 level reduction/variance for acceptance of responsibility and this court's determination a career offender is a guideline sentence, (Beckles Supra!), and the sentencing commission clearing up any and all ambiguity with the special circumstances in policy statement 1B1.10(e) along with 3553(f)(5)?

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:

Southern District of Georgia
Savannah Division
Judge William T. Moore
P.O. Box 8286
Savannah, Georgia

United States Court of Appeals
For The Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

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OTHER

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 & B to the petition and is

☒ reported at unknown; 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☐ is unpublished.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 C to the petition and is

☒ reported at unknown; 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☐ is unpublished.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 11/22/17 & 1/11/18.

☒ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing ^{consideration} was denied by the United States Court of Appeals on the following date: January 11, 2018, 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

5th Amendment Due Process
8th Amendment Ex Post Facto Clause
14th Amendment Equal Protection of the Law

Federal Constitution 5a 5b Article I §§ 9 & 10

Federal Policy Statement 1B1.10(a)(e)

STATEMENT OF THE CASE

On March 31, 2010 after determining petitioner was induced by the agent/confidential informant, petitioner was attributed to distribution of Powder instead of Crack cocaine that resulted in a base offense level of 15 criminal history category IV instead of 26.

However, the court adopted probation officer/government findings in the psr of strong arm robbery Florida Battery on Law enforcement Officer as 2 violent priors for career offender guideline enhancement, increasing the base offense level from 15 to 32 criminal history category VI a sentencing range of 210 to 242 months. The court also accepted the governments recommendation for acceptance of responsibility and reduced/varied/departed 3 levels to base offense level 29 criminal history category VI, a new sentencing guideline range of 151 to 188 months, ultimately imposing a 160 month career offender guideline sentence.

REASONS FOR GRANTING THE PETITION

Because of the supreme courts' holding in *U.S. v. Beckles* 137 S.Ct. 886 a career offender is a guideline sentence, petitioner refiled a 3582(c)(2) motion where both the district court and the 11th Cir court of appeals failed to recognize and/or accept that an earlier decision does not have preclusion effect when the factual or legal circumstances has changed. (see *U.S. v. Escobar-Urrego* 110 F 3d 1556-61 (11th Cir. 1997)).

In accordance with Federal Constitution 5(a) 5(b) Art I 9, 10 petitioner is entitled to consideration of amendment 782 "ALL DRUGS MINUS 2", this honorable court, the supreme court, having determined a career offender sentence is a guideline sentence, (*Beckles Supra!*), along with the sentencing commission clearance of ambiguity in policy statement 1B1.10(e) and the equal protection clause of the 14th amendment, treating all the same by law. (8th Amendment Ex Post Facto)

The prohibitions on Bills of Attainder in Art I 9 and 10 of the federal constitution prohibits legislatures from singling out disfavored persons and meting out summary punishment for past conduct. 5(a) 5(b). In the instant case, even though amendment 782 is specific "ALL DRUGS Minus 2" petitioner is denied the 2 point reduction in the guideline sentencing structure because of petitioners' past convictions of strong arm robbery and Florida Battery on law enforcement Officer. (*Lynce v Mathis* 137 Led 2063, 519 U.S. 433), the 5th amendment guarantees due process of the law.

Because the sentencing commission cleared up the ambiguity by amending the commentary in policy statement 1B1.10(e) that provides that the "applicable guideline range" means the offense level and criminal history category determined pursuant to 1B1.1(a) which is determined before any departure/variance/reduction provision in the guideline manual or "ANY Variance/Departure/reduction", which ~~includes~~ includes career offenders and obtained departure or any variance, (please see commentary to policy statement 1B1.10(e)), where as in this case petitioner received a 3 level departure/variance/reduction for acceptance of responsibility from base offense level 32, criminal history category VI as a career offender to base offense level 29, criminal history category VI, referring to the operation of another "statutory provision" (CCA) implicitly confirming the sentencing commissioner contemplated defen-

dants, (like petitioner), who was sentenced below his applicable minimum guideline range, that clearly was 32 before the 3 level variance/departure/reduction for acceptance of responsibility. (U.S. v. Wren 706 F.3d, In re sealed case D.C. Cr. No. 12-3012 7/2/13)

Although petitioner did not receive departure/variance/reduction for substantial assistance in the prosecution of others, petitioner did receive a 3 level variance/departure/reduction for acceptance of responsibility in accordance with 3553 (f) (5) which provides an exception (5c1.2 Guidelines Manual Nov 1, 2015):

... no later time of sentencing hearing the defendant has truthfully provided to the government all information and evidence the defendant has concerning the offense or common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

Petitioner has met the above requirement and policy statement and the amendment are both synonymous, "ALL Drugs" and "ANY variance, when determining and applying the amendment, where it is policy throughout the bureau of prisons and Department of Corrections all over the country that no inmate can be treated any different from another inmate. (Please see GOMEZ v SINGLETARY, 733 So2d 499; 500-02 (Fla 1998). The entire prison system of the FBOP is based on a sentencing guideline structure used for every convicted inmate and any changes in the sentencing guideline structure that affects one must affect all, (Ex Post Facto Clause of 8th Amendment), as the Federal constitution is specific prohibiting legislatures from singling out disfavored inmates, [Lynce v Mathis 519 U.S. 433; Gomez v Singletary Supra], the bureau of prisons, the federal government and/or its officials cannot do for one what it cannot do for all inmates, having used the same guideline sentencing structure and policy statement to determine what the court deems an appropriate, legal and fair sentence.

It is the 3 point variance/departure/reduction for acceptance of responsibility in this case that triggers the eligibility for reduction under 3582(c) (2) that is in conjunction with policy statements U.S.S. 6 B1.10 (a) (c) and sec 3553 (f) (5) as well -

as the constitutional violations of the 5th 8th 14th amend-
ments as well as Art. I 9 and 10 of the federal constitution
singling out petitioner with different treatment while
being under and subject to the ^{same} laws, rules and policy
statements.

Petitioner also points out both the district court and appeals
court failed to address post sentencing conduct in either filing
without considering this honorable courts' holding in Pepper
Supra. Petitioner also asks this honorable court to apply the
less stringent standard accorded pro se litigants held in Haines
V Kerner U.S. 519, 92 S.Ct. 594 (1972), and also if it deems appli-
cable apply the rule of lenity as petitioner is serving still a 160
month sentence for less than an ounce of powder cocaine.

CONCLUSION

Petitioner prays this court grant this certiorari issuing an order
to apply amendment 782 "ALL DRUGS MINUS 2" reducing petitioners
base offense level from 29 to 27, sentencing Petitioner within the
guidelines of 130 to 162 months. 139 months would be consistent with previous range.
The petition for a writ of certiorari should be granted.

Respectfully submitted,

James B. Jones Jr.
JAMES B. JONES JR. 14603-021
FSL Jesup
2680 HWY 301 South
Jesup, GA 31599
Date: February 15, 2018

Un-Notarized Oath

I, James B. Jones, Jr, on this 15th day of February,
2017, do hereby declare under the penalties of perjury the
information here in is true and correct to the best of
my knowledge.

James B. Jones Jr.
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Jesup, Ga. 31599