

No. 17-8273

IN THE
SUPREME COURT OF THE UNITED STATES

ROGER BROWER - PETITIONER

VS.

STATE OF MICHIGAN - RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
Michigan Supreme Court

MOTION FOR REHEARING

NOW COMES Petitioner, Roger Brower, requesting the COURT to grant him a rehearing on his Petition For A Writ Of Certiorari, stating the following in support:

1) Petitioner filed a petition for a writ of certiorari and on May 31, 2018 he received a letter dated "May 29, 2018", from a clerk of the Court, "Scott S. Harris" stating that, "The petition for a writ of certiorari is denied." There was no order with the letter.

2) Petitioner is seeking the Court to grant him a rehearing on his petition for certiorari pursuant to Supreme Court Rules 44.2; 10(a), (b), and (c).

3) The first ground for rehearing is that the Court should consider

and rule, for the first time, whether or not, because of the Court's ruling of Montgomery v. Louisiana, 577 U.S. ___, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016), in which it reevaluated Teague v. Lane, 489 U.S. 288, 109 S.Ct. 1060, 103 L.Ed.2d 334 (1989) to permit the Court's rulings to be applied retroactively if it has both a substantive and a procedural component. Montgomery, at 577 U.S. ___, 136 S.Ct. 734-735, adds a third standard to Teague, when considering whether to apply its rulings retroactively.

4) Before the Court's ruling in Montgomery, if there was both a substantive component, and a procedural component in its rulings, the court's have been treating them as procedural only, because Teague only permitted an either/or category of the cases at issue, when addressing the question of retroactivity. Teague at 489 U.S. 307-308, 316, 109 S.Ct. 1073-1074.

5) Alleyne v. United States, 570 U.S. 99, 133 S.Ct. 2151, 186 L.Ed.2d 314 (2013), which Petitioner is seeking to apply retroactively, has both a substantive and procedural component, as Petitioner claimed in his petition for a writ of certiorari.

6) The Court has never made a ruling in which it discussed whether or not Alleyne has a substantive component, and therefore can be applied retroactively, based on its ruling in Montgomery.

7) Another ground on which the Court may grant rehearing is that there is a conflict in the circuit courts whether or not Alleyne constitutes a new rule of constitutional law, and therefore, possibly substantive, or whether it is simply a procedural rule. See Simpson v. United States, 721 F.3d 875, 876 (7th Cir. 2013); In re Payne, 733 F.3d 1027, 1029 (10th Cir. 2013); In re Mazzie, 756 F.3d 487, 490-491 (6th Cir. 2014).

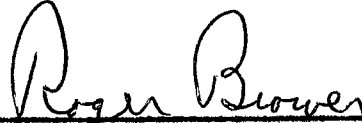
8) The Court may grant Petitioner his petition for a writ of certiorari because his issue presented in the petition fulfills Supreme Court

Rules 10(a), (b), and (c).

REQUESTED RELIEF

WHEREFORE, for the preceding reasons, Petitioner requests the COURT to grant him the following relief: A) Grant his motion for rehearing, and review his petition for a writ of certiorari on the merits; and/or grant him any other relief the COURT deems appropriate.

Respectfully submitted;



Roger Brower #180003

In Propria Persona

G. Robert Cotton Correctional Facility

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June 13, 2018