

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Themba Bernard Sanganza — 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

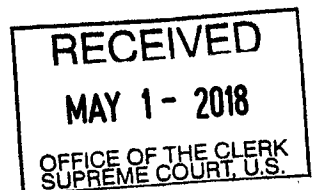
Themba Bernard Sanganza
(Your Name)

FCI Allenwood, P.O. Box 2000
(Address)

White Deer, PA 17887
(City, State, Zip Code)

N/A

(Phone Number)



QUESTION(S) PRESENTED

1. Is it constitutional to hold petitioner in custody without being duly convicted?
2. The United States of America judicial branches are they aware that they are in violation of preamble of United Nations charter by not governing according to the laws and rules prescribed by the United States Sentencing Guideline Manual and the Constitution?

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was January 16, 2018

☒ 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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 for the Fourth Circuit.

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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:

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 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 United States district 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.

☐ 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.

STATEMENT OF THE CASE

Petitioner is challenging the Fourth Circuit Court of Appeals panel unpublished opinion and non-binding precedent because petitioner appealed District Court's final order (ECF No. 56) denying motion to dismiss indictment due to the government's violation of agreement entered on 10-27-2016.

The United States breached the plea agreement by pursuing defendant conduct inside of time charged period the agreement provided immunity for any further prosecution in the Eastern District of Virginia for the specific conduct described in the indictment or statement of facts.

Additionally, petitioner challenged the violation of Federal Sentencing Guideline Manual on relevant conduct 1B1.3, which states the Department of Justice recognizes that plea bargain agreements should reflect the totality of a defendants conduct. The advisory guideline manual lacks the kind of binding legal effect that subjects the United States Federal Courts to Constitutional scrutiny.

Accordingly, the agreement not to further prosecute became void because the government did not honor immunity provision on paragraph 9 of the plea agreement and the stipulation of guideline manual on page 10 that specifies the totality of defendants conduct in plea agreement. This stipulation asserts the opposite of Federal Courts interpretation of 1B1.3 relevant conduct.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment XIII Section 1.

Neither slavery nor involuntary servitude except as a punishment for a crime whereof the part shall be dully convicted shall exist within the United States or any place subject to the jurisdiction.

Amendment V

1678. Government performance or breach of agreement.

Petitioners due process rights were violated by governments failure to fulfill its promise made as part of plea agreement not to prosecute petitioner as to additional conduct stipulated in the indictment or statement of facts since failure affected fairness, integrity and public reputation of judicial proceedings.

TABLE OF AUTHORITIES CITED

	PAGE NUMBER
CASES See e.g; US v. Kashanu, 656 F. 3d 679, 681-82 (7th Cir. 2011)(Order denying motion to dismiss indictment immediately appealable because challenge not frivolous).	
See e.g; Ashcroft v. Iqbal, 556 U.S. 662, 672 (2009)(Order denying qualified immunity immediately appealable under collateral order doctrine because its final).	
See e.g. Handt v. Lynch, 681 F. 3d 939, 942-43 (8th Cir. 2012) (Order denying qualified immunity immediately appealable under collateral order doctrine).	
See e.g; U.S. v. Mchugh, 528 F. 3d, 538, 540 (7th Cir. 2008) (District Court lost jurisdiction to accept ammended complaint because time period to ammend non-clerical errors had elapsed).	

STATUTES AND RULES

Pursuant to 28 U.S.C. §1291 (2012) docketing of appeal No. 17-7011 by the Court of Appeals "divests" the District Court of Jurisdiction. In particular under this statute Fed. R.C.P. 28 U.S.C. §1291 (2012) is proper because this appeal was from a final judgement of order ECF No. 56.

In general these rules govern the procedure in all criminal proceedings in the United States District Courts, the United States Court of Appeals, and the Supreme Court of the United States.

OTHER

Pursuant to U.S.S.G. § 1B1.8 no truthful information that the defendant provides under this agreement will be used to determine applicable guideline range, except as provided in Section 1B1.8(b).

REASONS FOR GRANTING THE PETITION

1. The District Court provided a mechanism for the immediate appeal of its order;
2. An order denying qualified immunity can be immediately appealed under collateral order doctrine because its final;
3. Petitioner was granted immunity by the Executive branch for any further prosecution;
4. The Supreme Court of the United States must preserve the Declaration of Independence by upholding the integrity of judicial procedures, assent to the laws of the most wholesome and necessary for the public good;
5. Petitioner is being held in custody without being fully convicted;

Petitioner requests this Supreme Court to acquit petitioner and dismiss indictment upon breach of agreement.
I respectfully request that this Court to grant this petition.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 4/19/2018