

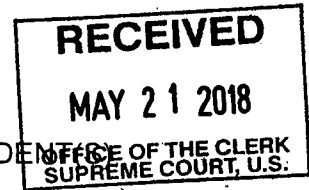
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Jerimiah Quinn — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT



ON PETITION FOR A WRIT OF CERTIORARI TO

Eighth Circuit Court of Appeal
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jerimiah Quinn # 12646-030
(Your Name)

P.O. Box 4000
(Address)

Springfield, MO. 65801-4000
(City, State, Zip Code)

(417) 862-7041
(Phone Number)

QUESTION(S) PRESENTED

1. Does the rule of preclusion being used as a procedural bar to prevent a ruling on the merits of a properly raised claim in a timely first time § 2255 Motion equate to a quintessential 'miscarriage of justice'?
2. Is this Court's holding in Massaro V. United States, 538 U.S. 500 (2003) good law in the Eighth Circuit?

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:

Eighth Circuit Court of Appeal

United States District Court
Southern District of Iowa
Central Division

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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☒ is unpublished.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 B 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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 27, 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitutional Fifth Amendment Right to Due
Process of Law

United States Constitution Sixth Amendment Right to Effective
Assistance of Counsel.

STATEMENT OF THE CASE

I. Procedural History

On November 18, 2010, the grand jury for the Southern District of Iowa returned a six count indictment charging the petitioner with conspiracy to distribute at least twenty-eight grams of cocaine base and five counts of distribution of cocaine base. United States v. Jeremiah Quinn 3:10cr00100 (S.D. Iowa) at Dkt. No. 1. The petitioner pled not guilty to all six counts in his initial appearance before the court on December 7, 2010. [Dkt. No. 6]. A federal public defender was appointed to represent petitioner December 9, 2010. [Dkt. No. 19]. A change of plea hearing was held May 27, 2011, where petitioner pled guilty to count one. [Dkt. No. 46]. Pursuant to a plea agreement, counts two through six were dismissed. [Dkt. No. 48].

A draft presentence investigation report was filed July 11, 2011. [Dkt. No. 54]. The petitioner filed three pages of objections to the presentence investigation report. [Dkt. No. 61]. The final presentence investigation report was filed September 21, 2011. [Dkt. No. 66].

The petitioner was sentenced on September 30, 2011. [Dkt. No. 72]. He was sentenced to 188 months incarceration on count one. He was given a four year term of supervised release and ordered to pay a \$100 special assessment. [Dkt. No. 72]. The petitioner appealed October 12, 2011. [Dkt. No.

75]. On March 14, 2012, the Eighth Circuit affirmed this court's September 30, 2011 judgment [Dkt. No. 87].

On or around June 10, 2013 Petitioner timely filed his first time 28 U.S.C. § 2255 Motion in the district Court. Petitioner inartfully argued that trial counsel was ineffective for failing to investigate the validity of his prior state convictions.

The district Court, some '14' days after Petitioner filed his § 2255 Motion without issuing a show cause order to the government, dismissed his motion. See: Appendix C. As shown, the district Court also denied Certificate of Appealability.

Petitioner on or around Oct. 25, 2017 filed Independent Action for Relief from Judgement Pursuant to Rule 60(d) Fed. Rule of Civil Procedure raising the district court misapplied the procedural rule of 'liberal construction' of pro-se filings, and mis-applied the procedural rule, ie. rule of preclusion. See: Appendix D.

The district Court, on Nov. 28, 2017, denied Petitioner's Motion. (See: Appendix B). The Petitioner timely filed a notice of Appeal and the Eighth Circuit Court of Appeal affirmed on March 27, 2018 (Appendix A).

REASONS FOR GRANTING THE PETITION

Petitioner was denied his procedural due process right to receive a full and fair review of his ineffective assistance of counsel claims in his § 2255. Should this Petition be granted, Petitioner would then receive a full panoply of due process rights or at bare minimum a ruling on the merits of his § 2255 claim. Petitioner was erroneously enhanced to a career offender sentence, without said enhancement Petitioner would have received a much shorter prison sentence which equates to a miscarriage of justice at this time.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jeremiah Quisenberry

Date: 5-10-18