

UNITED STATES SUPREME COURT

ERIC JUNOD,
Petitioner,

v.

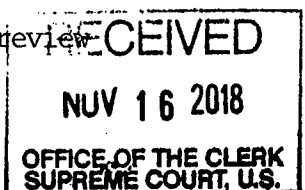
Case No. 17-9433

UNITED STATES OF AMERICA,
Respondent.

CERTIFIED AND VERIFIED AMENDED MOTION FOR RECONSIDERATION

Now comes the Petitioner, Eric Junod, Pro Se, ("Junod"), for his Certified and Verified Amended Motion for Reconsideration, and, in support thereof, states as follows:

- 1) On October 17, 2018, Junod filed his Motion for Consideration following the Court's denial of Junod's Petition for Writ of Certiorari.
- 2) The Court received Junod's reconsideration motion on October 26, 2018. The filing was, therefore timely pursuant to Supreme Court Rule 44.
- 3) On October 26, 2018, Clerk Duggan delivered the attached letter to Junod outlining specific filing defects which would need to be cured, no later than on November 10, 2018. See copy of October 26, 2018 letter, attached hereto as Exhibit A.
- 4) Supreme Court Rule 44 requires that the Petitioner "briefly and distinctively state its grounds and must be accompanied by a certificate stating that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.
- 5) Junod respectfully submits that following the filing of his Direct Appeal in the instant matter (and following Junod's filing for Certiorari review



on May 22, 2018, the Rosales-Mireles case was decided approximately one month later), on June 18, 2018, this Honorable Court issued its decision in Rosales-Mireles v. United States, 585 U.S. (June 18, 2018). In Rosales-Mireles, the Court held that "a miscalculation of a Guideline sentencing range that has been determined to be plain error and to affect a defendant's substantial rights calls for a court of appeals to exercise its discretion under Rule 52 (b) to vacate the defendant's sentence in the ordinary case." The Court then went on to reverse and remand based upon the sentencing error which "affected the defendant's substantial rights," thereby severely affecting the fairness, integrity and public reputation of the judicial proceeding.¹

6) Based upon the Court's holding in Rosales-Mireles, Junod respectfully requests that the Court reconsider its denial at this time. This case precedent, not considered as part of Junod's Direct Appeal/Circuit Court proceedings, does, in Junod's view, result in the need to afford Junod a hearing, upon review, to consider the impact of the clear error in Junod's sentencing calculation, which error purportedly led to a legally improper sentencing conclusion.

7) Junod submits that the Rosales-Mireles decision represents an intervening circumstance of substantial and controlling effect satisfying Supreme Court Rule 44. See Junod's attached certification as required by Supreme Court Rule 44.

1: The Court additionally stated as follows: "In considering claims like Rosales-Mireles', then 'what reasonable citizen wouldn't bear a rightly diminished view of the judicial process and its integrity if courts refused to correct obvious errors of their own device that threaten to require individuals to linger longer in federal prison than the law demands?' United States v. Sabillon-Umana, 772 F.3d 1328, 1333-1334 (CA10 2014)(Gorsuch, J.).

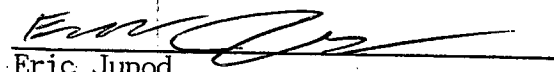
8) A second ground advanced by Junod which, as here, satisfies Supreme Court Rule 44's intervening circumstance and controlling effect requirements relates to the Court's decision in Hughes. In Hughes v. United States, the court held that a defendant who is sentenced under a plea agreement authorized by FRCP 11(c)(1)(c) may seek a sentence reduction if his sentence was "based on a guideline range that is subsequently reduced by the Sentencing Commission. By implication, Junod respectfully submits, the Government's continued contention that Junod is not, under "any circumstances" entitled to move for a sentence reduction in light of his 11(c)(1)(c) plea agreement, "flies in the face" of Hughes, and is, as a matter of law, an erroneous contention. The Court's reconsideration of its October 1, 2018 denial is, therefore, warranted at this time.

9) Once again, Junod respectfully submits that the decision in Hughes represents an intervening circumstance of substantial and controlling effect satisfying Supreme Court Rule 44. See Junod's attached certification as required by Supreme Court Rule 44.

10) Based upon the foregoing, Junod respectfully requests that this Honorable Court reconsider its October 1, 2018 denial order, to reverse its previous denial and to, instead, grant Junod's petition for certiorari request at this time.

WHEREFORE, the Petitioner, Eric Junod, prays that this Honorable Court enter an Order in favor of the foregoing and for such other and further relief this Court deems is just and proper.

Respectfully Submitted,


Eric Junod
Federal Correctional Institution
P.O. Box 1000
Milan, MI 48160

VERIFICATION

I, Eric Junod, verify that the foregoing statements made within this document are true and correct to the best of my knowledge and belief pursuant to the penalty of perjury.


Eric Junod

CERTIFICATE OF SERVICE

I, Eric Junod, certify that on the 5TH day of NOVEMBER, 2018, I mailed a true and correct copy of the foregoing Certified and Verified Amended Motion for Reconsideration through the Milan Prison Mail System postage pre-paid to the following address:

⇔51349-039⇔

United States Attorney
211 W FORT ST
Attn: Mollie O'Rourke
Detroit, MI 48226
United States

⇔51349-039⇔

Us Solicitor General
950 Pennsylvania AVE NW
Room 5616
Washington, DC 20530-0001
United States


Eric Junod

UNITED STATES SUPREME COURT

ERIC JUNOD,
Petitioner,

v.

Case No. 17-9433

UNITED STATES OF AMERICA,
Respondent.

CERTIFICATION PURSUANT TO RULE 44 OF THE UNITED STATES SUPREME COURT

I, Eric Junod, Petitioner, herein, hereby certify, pursuant to the penalty or perjury, the following contentions are both true and correct to the best of my knowledge and belief:

1) The two grounds I have presented to the Court, in my Certified and Verified Amended Motion for Reconsideration are entirely limited to intervening circumstances of substantial or controlling effect or to other substantial grounds I had not previously raised or presented.

2) My petition(s) for rehearing have been presented in good faith and in no way were my filings interposed to delaying these proceedings.

Date: 11/5/18


Eric Junod
Pro Se Petitioner

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

October 26, 2018

Eric Junod
#51349-039
F.C.I.
P.O. Box 1000
Milan, MI 48160

RE: Junod v. United States
No: 17-9433

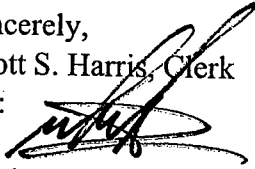
Dear Mr. Junod:

The petition for rehearing in the above-entitled case was postmarked October 17, 2018 and received October 26, 2018 and is herewith returned for failure to comply with Rule 44 of the Rules of this Court. The petition must briefly and distinctly state its grounds and must be accompanied by a certificate stating that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

You must also certify that the petition for rehearing is presented in good faith and not for delay.

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,
Scott S. Harris, Clerk
By:


Michael Duggan
(202) 479-3025

Enclosures

EXHIBIT A

UNITED STATES SUPREME COURT

ERIC JUNOD,
Petitioner,

RECEIVED

OCT 26 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

v.

Case No. 17-9433

UNITED STATES OF AMERICA,
Respondent.

MOTION FOR RECONSIDERATION

Now comes the Petitioner, Eric Junod ("Junod"), Pro Se, and pursuant to Supreme Court Rule 44, respectfully requests that this Honorable Court reconsider its October 1, 2018 denial of his Petition for Certiorari, and, in support thereof, states as follows:

- 1) On May 22, 2018, Junod filed his Petition for Writ of Certiorari.
- 2) On October 1, 2018, this Honorable Court entered an Order denying Junod's Petition for the Issuance of a Writ of Certiorari in the instant matter.
- 3) Following the filing of Junod's Direct Appeal in this matter (and following Junod's filing for Certiorari review on May 22, 2018, the Rosales-Mireles case was decided approximately one month later); on June 18, 2018, this Honorable Court issued its decision in Rosales-Mireles v. United States, 585 U.S. (June 18, 2018). In Rosales-Mireles, the Court held that "a miscalculation of a Guideline sentencing range that has been determined to the plain error and to affect a defendant's substantial rights calls for a court of appeals to exercise its discretion under Rule 52(b) to vacate the defendant's sentence in the ordinary case." The Court then went on to reverse and remand based upon the sentencing error which "affected the defendant's substantial rights," thereby severely affecting the fairness, integrity and public reputation of

the judicial proceeding.¹

4) Based upon the Court's holding in Rosales-Mireles, Junod respectfully requests that the Court reconsider its denial at this time. This case precedent, not considered as part of Junod's Direct Appeal/Circuit Court proceedings, does, in Junod's view, result in the need to afford Junod a hearing, upon review, to consider the impact of the clear error in Junod's sentencing calculation, which error purportedly led to a legally improper sentencing conclusion.

5) Moreover, this Court, in Hughes v. United States, _____ U.S. _____ 138 S.Ct. 1765, 201 L.Ed. 2d 72 (2018) ^{the court held} held that a defendant who is sentenced under a plea agreement authorized by FRCP 11(c)(1)(c) may seek a sentence reduction if his sentence was "based on a guideline range that is subsequently reduced by the Sentencing Commission. By implication, Junod respectfully submits, the Government's continued contention that Junod is not, under "any circumstances" entitled to move for a sentence reduction in light of his 11 (c)(1)(c) plea agreement, "flies in the face" of Hughes, and is, as a matter of law, an erroneous contention. The Court's reconsideration of its October 1, 2018 denial is, therefore, warranted at this time.

WHEREFORE, the Petitioner, Eric Junod, prays that this Honorable Court enter an Order in favor of the foregoing and for such other and further relief as this Court deems is just and proper.

1: The Court additionally stated as follows: "In considering claims like Rosales-Mireles', then 'what reasonable citizen wouldn't bear a rightly diminished view of the judicial process and its integrity if courts refused to correct obvious errors of their own devise that threaten to require individuals to linger longer in federal prison than the law demands?' United States v. Sabillon-Umana, 772 F.3d 1328, 1333-1334 (CA10 2014)(Gorsuch, J.).

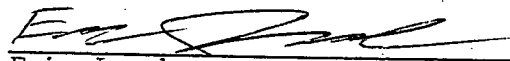
Respectfully Submitted,



Eric Junod
Federal Correctional Institution
P.O. Box 1000
Milan, MI 48160

VERIFICATION

I, Eric Junod, verify that the foregoing statements made within this document are true, correct and complete to the best of my knowledge and belief pursuant to the penalty of perjury.



Eric Junod

CERTIFICATE OF SERVICE

I, Eric Junod, certify that on the 17 day of OCTOBER, 2018, I mailed a true and correct copy of the foregoing Motion for Reconsideration through the Milan Prison Mail System postage pre-paid to the following address:



Eric Junod