

IN THE

SUPREME COURT OF THE UNITED STATES

DERRICK LAKEITH BROWN #20986-076
PETITIONER,

vs.

UNITED STATES OF AMERICA
RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO
THE U.S. COURT OF APPEALS FOR THE 6TH CIRCUIT

PETITION FOR REHEARING

DERRICK LAKEITH BROWN

#20986-076

U.S.P. FLORENCE HIGH

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PETITION FOR REHEARING

(SUPREME COURT RULE-44.1-2)



APPELLANT/PETITIONER PRESENTS ITS PETITION FOR A REHEARING OF
THE ABOVE-ENTITLED CAUSE, AND, IN SUPPORT OF IT, RESPECTFULLY SHOWS:

GROUND FOR REHEARING

A REHEARING OF THE DECISION IN THE MATTER IS IN THE INTERESTS
OF JUSTICE BECAUSE: THE LOWER COURT'S DECISIONS WERE IN DIRECT
CONFLICT & VIOLATION OF THIS U.S. SUPREME COURT'S DECISION OF "
CONCEPCION V. UNITED STATES, 142 S.Ct. 2389 (2022)."

1). ON OCTOBER 11TH 2022, THIS COURT DENIED THE PETITION FOR A
(1 OF 4)

WRIT OF CERTIORARI.

2). IN THIS COURT'S DECISION, THERE WAS NO PRINCIPAL GROUND CITED IN THE COURT'S ORDER I RECEIVED. YET, HAD THIS COURT CONSIDERED THE PETITIONER'S CASE IN LIGHT OF ITS RULING IN CONCEPTION V. U.S., *supra*, A CASE DECIDED A MERE 120-DAYS BEFORE THE DECISION IN THIS CASE, THE OUTCOME WOULD HAVE CLEARLY BEEN DIFFERENT IN THIS CASE.

3). THE GROUNDS FOR THE RULING IN CONCEPTION V. U.S., *supra*, CAME AS A SURPRISE TO THE PETITIONER, WHICH HE'D RECENTLY FOUND OUT ABOUT IN DUE DILIGENCE. HAD THE PETITIONER BRIEFED THE CRUCIAL ISSUE(S) IN THIS CASE CAREFULLY, AND WAS AWARE THAT A RELATED ISSUE PREVIOUSLY RULED UPON IN CONCEPTION V. U.S., *supra*, HE WOULD HAVE EXTENSIVELY PRESENTED & ARGUED THOSE CONCEPTION V. U.S., *supra*, ISSUES THAT WAS CRUCIAL TO THE COURT'S DECISION IN HIS CASE.

4). THE PETITIONER WAS NOT GRANTED ANY OPPORTUNITY BY THIS COURT TO DEMONSTRATE HOW THIS COURT'S RULING IN CONCEPTION V. U.S., *supra*, DID CLEARLY APPLY TO HIS CASE, OR TO SUGGEST WHY HIS CASE SHOULD NOT BE DETERMINED BY THE SAME RULING.

5). THIS CASE CONTAINS SEVERAL CRUCIAL FACTUAL & LEGAL ISSUES SIMILAR AND RELATED TO THIS COURT'S RULING IN CONCEPTION V. U.S., *supra*, THAT WARRANTS A FAVORABLE RECONSIDERATION, REHEARING & DETERMINATION BY THIS COURT IN THIS CASE, IN LIGHT OF CONCEPTION V. U.S., *supra*.

a. THE LOWER COURTS SHOULD HAVE CONSIDERED & ADDRESSED THE PETITIONER'S SUBMITTED EVIDENCE OF POST-SENTENCING REHABILITATION BECAUSE THEY WERE NOT PROHIBITED FROM CONSIDERING ANY EVIDENCE OF REHABILITATION, DISCIPLINARY INFRACTIONS, OR UNRELATED GUIDELINES CHANGES;

- b. THE LOWER COURTS SHOULD HAVE CONSIDERED & ADDRESSED INTERVENING CHANGES OF LAW OR FACT IN EXERCISING THEIR DISCRETION TO REDUCE A SENTENCE;
- c. THE LOWER COURTS MUST CONSIDER NONFRIVOLOUS ARGUMENTS PRESENTED BY THE PETITIONER BECAUSE IT REQUIRES THE LOWER COURTS TO CONSIDER INTERVENING CHANGES WHEN PARTIES RAISE THEM; AND
- d. THE LOWER COURTS RULING ON MOTIONS BEAR THE STANDARD OBLIGATION TO EXPLAIN THEIR DECISIONS, AND, ACCORDINGLY, MUST GIVE A BRIEF STATEMENT OF REASONS TO DEMONSTRATE THAT THEY CONSIDERED THEIR PARTIES' ARGUMENTS, INCLUDING ARGUMENTS PERTAINING TO INTERVENING CHANGES IN LAW OR FACT.
- e. THIS COURT AND SEVERAL OTHER LOWER APPELLATE COURTS HAVE ALL REMANDED & REVERSED CASES WITH THESE SIMILAR AND RELATED FACTUAL LEGAL ISSUES BACK TO THE LOWER COURTS IN LIGHT OF CONCEPTION V. U.S., supra, & THE SAME SHOULD BE APPLIED TO THIS CASE IN LIGHT OF CONCEPTION V. U.S., supra, WHICH IS CONTROLLING IN THIS CASE.
- f. A REHEARING TIGHTLY AND SQUARELY FOCUSED ON THE RELATED & SIMILAR FACTUAL LEGAL ISSUES BETWEEN HIS CASE AND THE CONCEPTION V. U.S., supra, CASE, AND WHETHER THOSE RELATED & SIMILAR FACTUAL LEGAL ISSUES MERIT A FAVORABLE DIFFERENT DECISION IN THIS CASE BY THIS COURT, WHICH IS A MATTER OF FUNDAMENTAL FAIRNESS TO THE PETITIONER AND WOULD NOT UNDULY BURDEN THIS HONORABLE COURT.

CONCLUSION

FOR ALL OF THESE ABOVE REASONS JUSTLY STATED, YOUR PETITIONER-DERRICK LAKEITH BROWN ASKS & URGES THAT THIS PETITION FOR A REHEARING BE GRANTED, AND THAT, ON FURTHER CONSIDERATION, THAT THE PETITION FOR WRIT OF CERTIORARI BE GRANTED & THE JUDGMENT OF THE LOWER COURT BE REVERSED AND REMANDED, OR AS APPROPRIATE.

D.L.B. #20986-076
RESPECTFULLY SUBMITTED BY

CERTIFICATE OF GOOD FAITH BY PETITIONER

I, DERRICK L. BROWN, DO HEREBY SWEAR & CERTIFY THAT THIS PETITION FOR REHEARING IS PRESENTED IN GOOD FAITH AND NOT FOR DELAY, AND THAT IT IS RESTRICTED TO THE GROUNDS SPECIFIED IN SUPREME COURT RULE-44 OF THE RULES OF THIS COURT. AND A COPY WAS SERVED ON THE COUNSEL FOR RESPONDENT(S) THIS 3rd DAY OF NOVEMBER, 2022.

D.L.B. #20986-076
RESPECTFULLY SUBMITTED BY
DERRICK LAKEITH BROWN

#20986-076

U.S.P. FLORENCE HIGH

P.O. BOX 7000

FLORENCE, COLORADO 81226

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON: NOVEMBER 3rd, 2022 SIGNATURE: D.L.B. #20986-076

NOTE:

IF THIS COURT HAS ALREADY RECEIVED MY FIRST 4-PAGE ORIGINAL PETITION FOR REHEARING, THEN, PLEASE SEND ME BACK THIS SECOND ONE AS A "STAMPED FILED COPY," PLEASE? THANK YOU!