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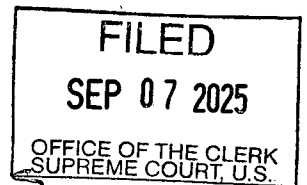
No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

JOSEPH JONES III — PETITIONER
(Your Name)



vs.
THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE FIFTH
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) CIRCUIT

PETITION FOR WRIT OF CERTIORARI

JOSEPH JONES III
(Your Name)

U.S.P. COLEMAN 1 P.O. BOX 1033
(Address)

COLEMAN FL 33521
(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED

Whether the District Court for the Fifth Circuit erred by sentencing MR. JONES under an incorrect guideline range.

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:

RELATED CASES

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USSC § 2K2.1(2)(4)(A)

(4)

Other

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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JUNE 9, 2025.

☒ 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).

The judgement appealed from was entered on the docket on September 30, 2024. MR JONES filed his notice of appeal on October 2, 2024. The appeal is timely See Fed. R. App. P. 4(b)(1)(A)(i).

☐ 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).

STATEMENT OF JURISDICTION

Jurisdiction of this Court is invoked under 28 U.S.C. § 1291, as an appeal from a final judgment of conviction and sentence in the United States District Court for the Southern District of Texas, and under 18 U.S.C. § 3742, as an appeal of a sentence imposed under the Sentencing Reform Act of 1984.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PETITIONER intends to rely on the following provision:

Fed. R. Crim. P. 52

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*

*

(b) Plain ERROR. A plain ERROR that affects substantial rights may be considered EVEN though it was not brought to the court's attention

(c) This court reviews unpreserved sentencing objections for plain ERROR. United States v.

Baudall, 924 F.3d 790, 795-96 (5th Cir. 2019).

To show plain ERROR, MR. JONES must show

(1) THE lower courts ERRED; (2) THE ERROR IS

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

"clear or obvious"; (3) it "affect[s] [his] substantial rights"; and (4) it "seriously affects the fairness, integrity or public reputation of judicial proceedings."

STATEMENT OF THE CASE

ON DECEMBER 14, 2022, a federal grand jury in the Houston Division of the United States District Court for the Southern District of Texas returned an indictment charging the defendant - appellant, Joseph Jones III, with one count: possessing a firearm after a prior felony conviction in violation of 18 U.S.C. §§ 922 (g)(1) and 924 (a)(2). R.O.A. 10-11

On July 2, 2024, MR. JONES plead guilty to the indictment without a plea agreement. R.O.A. 90-104. At the hearing, the government proffered the following factual basis supporting the guilty plea.

On or about September 10, 2022, a police officer carried out a traffic stop on MR. JONES because he was speeding and ran a red stop light. R.O.A. 100. After stopping the car, the officer asked MR. JONES -

STATEMENT OF THE CASE

if he had any weapons, and MR JONES indicated he had firearms, in the car. R.O.A. 101. He consented to a search and the police located a black Smith & Wesson M&P, .40 caliber handgun in the rear passenger seat. R.O.A. 101. The weapon was loaded with a magazine containing ten rounds of ammunition. R.O.A. 101. Police also located a black Mossberg, 12-gauge 500A shotgun in the rear passenger seat, as well as 53 ammunition shells and three buckshot pellets inside a duffle bag in the rear passenger seat. R.O.A. 101. A criminal history check of MR. JONES indicated he had a prior felony conviction for Texas aggravated sexual assault. R.O.A. The handgun "was analyzed and

STATEMENT OF THE CASE

determined to be a firearm sold and transported within interstate commerce, in proper working order, and capable of firing a projectile." R.O.A. 101.

The district court asked Mr. Jones if all the facts proffered by the government were true, and he said yes. R.O.A. 102. The court also asked Mr. Jones if, on September 10, 2022, he knew he had a prior felony conviction. R.O.A. 102. Mr. Jones said yes. R.O.A. 102.

Mr. Jones plead guilty to count one in the indictment. 103. R.O.A. 103. The court accepted his plea and ordered a presentence investigation. R.O.A. 103.

The P.S.R. calculated Mr. Jones Criminal history score and category.

STATEMENT OF THE CASE

The PSR did not assess criminal history points for Mr. Jones's remote convictions for possession of a firearm by a convicted felon, possession of marijuana, assault on a family member, driving while intoxicated, and various dismissed charges.

The PSR, as amended by the district court, provided for an offense level of 21 and a criminal history category of VI, yielding an advisory Guidelines imprisonment range of 77 to 96 months imprisonment. Mr. Jones filed a written objection to the PSR's analysis of the Guidelines Section 3E1.1 adjustment, which is not at issue in this appeal. The government filed a statement of no objections to the PSR.

STATEMENT OF THE CASE

ON SEPTEMBER 27, 2024, the district court held a SENTENCING hearing. It adopted the PSR, as amended, and identified a Guidelines Range of 77 to 96 months, based on a final offense level of 21 and a criminal history category of VI. It then allowed the parties to make SENTENCING RECOMMENDATIONS.

MR. JONES apologized for his conduct and said he took full responsibility for it. The government recommended a sentence of 92 months' imprisonment, saying "somewhere in the upper range of the guidelines is appropriate" based on MR. JONES' criminal history. DEFENSE COUNSEL REQUESTED a sentence at the "low end or near the bottom end of

STATEMENT OF THE CASE

OR NEAR the bottom end of the guidelines range" based on MR. JONES's family support and his good conduct while detained, including his completion of educational and vocational courses.

The district court imposed a sentence of 96 months imprisonment, 3 years' supervised release, a \$100 special assessment, and no fine. It explained that "the upper end" of the Guidelines Range was "the only appropriate sentence" in light of MR. JONES's criminal history.

MR. JONES filed a timely notice of appeal on October 2, 2024, (ROA.78-79; see also ROA 72-77 (judgment entered on September 30, 2024)).

REASONS FOR GRANTING THE PETITION

This Court should intervene to preclude the Fifth Circuit from creating a new exception to Molina-Martinez' plain error prejudice standard which conflicts with the general rule that Molina-Martinez establishes

The error here seriously affects the fairness, integrity, and public reputation of judicial proceedings, and thus should be corrected by this Court even on plain-error review. This case involves a plain error in calculating the applicable Guidelines Range. The Supreme Court has explained that, in "the ordinary case," "a plain Guidelines error that affects a defendant's substantial rights will seriously affect the