

26-5507

No. _____

ORIGINAL

FILED

AUG 05 2026

**OFFICE OF THE CLERK
SUPREME COURT, U.S.**

IN THE

SUPREME COURT OF THE UNITED STATES

CHRIS EUGENE COSNER — PETITIONER
(Your Name)

vs.

UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE DISTRICT COURT OF NORTHERN MISSISSIPPI
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CHRIS COSNER REG# 13863-045

(Your Name)

P.O. BOX 9

FCI MENDOTA

(Address)

MENDOTA, CA. 93640

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

Whether the Fifth Circuit appeals court denial of petitioners request for a COA was a departure from accepted course of judicial proceeding by not satifying the 2253 (c)(2) "Substatiial" showing set forth in BAREFOOT; and by doing so the Fifth Circuit sanctioned a departure by the District court which placed a greater burden on a layman than the prongs set forth in STRIKLAND to be granted a COA for a Sixth Amendment violation.

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:

Petitioner is Chris Eugene Cosner, who was a Defendant-Petitioner in the District Court of Northern Mississippi and the Fifth Circuit Appeals Court.

Respondent is the United States of America, who was the Plaintiff-Appellee in the courts mentioned above.

RELATED CASES

Will V. Cain, 629 F. Supp 2d 577 (5Th Cir 2007)

Teague V. Scott, 60 F.3d 1167,1172 (5Th Cir 1995)

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- APPENDIX D Letter to attorney Mr. Lucas dated September 27, 2015.
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STATUTES AND RULES

18 U.S.C. 924(c)(1)(A)

4B1.1(c) Career Offender And Criminal Livelihood

28 U.S.C. 2253(c)(2)

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 _____ 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☒ is unpublished.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 11, 2026.

☒ 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

The Sixth Amendment of the United States Constitution provides in all criminal prosecutions, the accused shall have the right to a speedy trial by an impartial jury, to be informed of all charges brought against him, to have the right to question all witness against him and to bring witness in his favor, and have the assistance of counsel for his defense.

28 U.S.C.S. 2253(c)(2) A certificate of appealability under paragraph (1) only if applicant has made a substantial showing of a denial of a Constitutional right.

STATEMENT OF THE CASE

The petitioner was indicted on August 26, 2015 on two counts, count one 18 U.S.C. 313(a) and (d) armed bank robbery and, count two 924(c)(1)(A)(ii) brandishing a firearm to wit a 9mm pistol during a crime of violence. The penalties on the indictment read as follows: Count one 18 U.S.C. 2113(a) and (d) not more than 25 years, Count two 18 U.S.C. 924(c)(1)(A) not less than 30 years and not more than life. The petitioner thought the penalties were extreme so petitioner looked them up the 924(c) penalties and found that the penalties for brandishing a firearm to be sentenced to a term of imprisonment of not less than 7 years. The government penalty for 924(c)(1)(A)(ii) was 30 years and for 924(c)(1)(B)(ii) was life did not even pertain to the petitioners count of his indictment.

The petitioner in November 2015 brought to his attorney George Lucas attention and his assistance Nigger Sigh the erroneous penalties of the 924(c) charge of my indictment. Mr. Lucas looked up the 924(c) penalties on his electronic note pad and said that I was correct and lucky. Mr. Lucas did not inform the government of the wrong penalties when he knew of them that day in November 2015. In January 2016 the government offered the petitioner a plea agreement with the uncorrected erroneous penalties offering to drop the 924(c) count, the petitioner declined the agreement because the government was only removing 7 years from the petitioners sentence leaving him with 25 years for armed bank robbery, this was not a good position to petitioner to give up my right to a trial I was still looking at double digit sentence on count one even though because of Mr. Lucas non action to get the government to correct their penalties and his inability to look up petitioners 924(c) penalties caused the petitioner to believe he was only looking at 7 years for count two.

On March 15, 2016 one week before the petitioners trial the government submitted to the district court a motion to amend the 924(c) penalties of petitioners indictment from 30 years to life to 7 years Mr. Lucas did not inform petitioner of this amended penalties when the motion to amend took place petitioner did not find out about the new penalties of 7 years

until after his trial had started (See Appendix C).

On March 28, 2016 the petitioner went to trial and was found guilty by a jury on both counts of armed bank robbery and brandishing a weapon during and relation to act of violence.

On September 19, 2016 one week before the petitioners sentencing date the petitioner recieved from his lawyer a copy of his presentence report from a probation officer stating that under USSG 4B1.1(c) paragraph (2) and (3) because I was a carrer offender that did not take a plea agreement that I would receive a four level enhancement to 30 years to life.

This Information of being convicted at trial of a 924(c) count along with other counts moved my sentencing guide line range to a four level upward departure to 360 months to life was not told to me by my lawyer Mr. Lucas or by the gonerment Mrs. Bradley at the time of my plea negotiations in January 2016, I did not Know my proper minimum or maximum penalties to make an intelligent decession to take a plea agreement or risk taking a trial even though I had written a letter to Mr. Lucas months before the plea agreeenent was offered requesting to know my criminal history and sentenceing guide lines if found guilty at trial. (See Appendix D).

If I had known of the 4B1.1(c)(2)(3) Carrer Offender 924(c) Enhancement to 30 years to life instead of the 32 years maximum for armed bank robbery and 924(c) I was told I was looking at by my lawyer I would have taken the plea agreement in of 25 years in a heart beat as I explained to judge Aycock at my sentencing hearing (See Appendix E).

Becouse of my lawyer failing to look up petitioners criminal history and sentencing guide lines when asked by petitioner by his letter, and by failing not to correct the 924(c) erroneus penalties himself in November2015 and by not investigating the amended 924(c) penalties in September 2016 when Mrs. Bradley changed the penalties to read 7 years Mr. Lucas's errors couosed petitioner not to know his real minimum and maximum sentence at the time of his plea negations of the 4B1.1(c) carrer offender 924(c) four level enhancement of 30 years to life petitioner under Mr. Lucas admittance of his 924(c) count only being 7 years took the trial with a grave misconception to the amount of sentence he would receive if found guilty at trial of his 924(c) count.

A defendent cannot make an intilligent choice about whether to accept a plea offer unless he fully understands the risks of proceeding to trial. See Will V. Cain, 629 F. Supp 2d 577 (5Th Cir 2007).

Failing to properly advise the defendant of the maximum sentence he could receive falls below the objective standards required by STRIKLAND. See also United States V. Gramms, 376 F.3d 433, Where a defendant persists in a plea of not guilty counsel failure to properly inform him about potential sentencing exposure may constitute ineffective assistance of council. See United States V. Rivas-Lopez, 678 F. 3d 353 (5Th Cir 2012)see also United States V. Gordon, 156 F. 3d (2Nd Cir 1988) Lafler V. Cooper, 182 L. Ed 2d 379 (SC 2012) and Missouri V. Frye, 132 S. Ct. 1399, 182 L. Ed 2d 379 (2012) and Strikland V. Washington, 466 U.S. 668, 80 L. Ed 674, 104 D. Ct. 2052 (1984).

The Petitioner now claims that the Fifth Circuit Appeals court denial of petitioners request for a COA was a departure from accepted course judicial proceedings by not satisfying the 2253(c) " Substantial Showing" set forth in BAREFOOT, Supra. The Fifth Circuit denied petitioners motion for a COA because the petitioner did not make the required showing of a denial of a constitutional claim in th District Courts decession debatable or wrong, useing Slack V. Mcdaniel, 529 U.S. 473, 484 (2000) as authority to do so.

The 2253(c) states that a COA may issue only if the applicant has made a substantial showing of a denial of a constitutional right. SCOTUS pointed out in SLACK under BAREFOOT a substantial showing of the denial of a right includes showing a reasonable jurist could debate whether or, for that matter agree that the petitioner should have been resolved is a differant manner or that the issue prsented were adequate to deserve encouragement to proceed further, the 2253(c) inquiry is whether a jurist of reason could conclude that the district courts decession in this case was a denial oon the merits was debatable or wrong.

In Miller-El V. Cockrell, 537 U.S. 322, 154 L Ed 2d 931 at page 950, states the COA determination under 2253(c) requires an overview of the claims in the habeus petition and general assesment of their merits. The Circuit Court judge in this case by his brief and unsupported denial of petitioners application for COA should have looked over all the evidence in the support brief for petitioners Sixth Amendment right claim of ineffective assistance of council of Mr. Lucas errors in this case of not trying to find the correct minimum and maximum sentence the petitioner was facing before his plea negotiations in January 2016 to make an intelligent decession to take a trial or make a plea agreement, the 924(c) penalty of 7 years is all petitioner knew

of in January 2016 when he was really looking at 30 years to life 4B1.1 career offender 924(c) enhancement lead petitioner to reject the plea and go blindly into a trial. In the support brief to the COA application the petitioner attached the following evidence in support of his claim.

(1) A copy of the letter dated September 27, 2015 asking Mr. Lucas for my criminal history category and how many months would I be looking at if convicted of both counts.

(2) A page out of my 2255 motion indicating That Mr. Nigher Singh was present during the discussions between Mr. Lucas and petitioner about the government erroneous 924(c) penalties.

(3) A copy of governments motion to amend the 924(c) penalties dated March 15, 2016 that Mrs. Bradley admitted that the penalties on the indictment was wrong and replaced them with 7 years liked the petitioner said he understood at the time of the plea negotiations to make his decession to go to trial instead of taken the plea offer.

(4) A copy of petitioners sentencing hearing dated September 29, 2016 when petitioner brought up this Sixth Amendment claim to judge Aycock and told her that " I would have taken the plea agreement in a heartbeat if I had known that I was looking at 30 years to life ".

The petitioner has shown his lawyers errors of not looking up his real minimum and maximum sentence he was facing to make an intelligent decession to go to trial or take the plea offer petitioner has shown substantial evidence to back up his claim and to show how the errors of my lawyer prejudiced the petitioner from accepting a plea offer of 25 years and ending up with asentence of 30 years from the trial; See STRIKLAND.

The Fifth Circuit judge denied me a COA because he thinks that a jurist of reason would not think that I showed a denial of my Sixth Amendment right or would not think that the evidence presented show that the District Court decession or that my application could have been handled in another way or at least rated a evidentiary hearing in Miller-El V. Cockrell A court of appeals should not decline an application for COA merely because the court of appeals believes that the applicant will not demonstrate an entitlement to relief as the Fifth Circuit has in this case by denying COA due to petitioner not making the required showing the COA was sought to the appeals court because the district court already denied petitioner; BAREFOOT, Supra see also MILLER-EL.

denial of my 2255 was debatable or wrong that there was court documents of claim of ineffective assistance of council, and by the appeals court judge denial of my COA for not making the required showing sanctioned the departure made by the district court denial of petitioners 2255 on its merits.

I then had to demonstrate a substantial showing of a denial of a constitutional right by SLACK this put a great burden of evert into that substantial showing on the petitioner that a normal layman should not have to STRIKLAND should have prevailed in this case because STRIKLAND set the bar for errora, show of prejudice and minimum and maximum sentence should be known at the time of plea negotiations and that it is ineffective assistance of council. The Circuit Court judge denial for not making substantial showing is wrong because a reasonable jurist would have found the district courts denial debatable or wrong or that there was anther way to solve the issue like an evidentiary hearing a COA should have been granted so a three judge panel could have looked at the evidence presented and the merits in this case.

REASONS FOR GRANTING WRIT

- A. In light of Barefoot V. Estelle, Mr. Coner should have been granted a COA.
1. With the evidence of a letter to his lawyer asking for criminal history and USSG range if convicted of both counts at trial three months prior to his plea negotiations and having a eye witness to the amount of years agreed to of 7 years for the 924(c) count a Mr. Nigher Sigh assistant lawyer to Mr. Lucas a reasonable jurist could see that petitioner did not know his real minimum and maximum sentence at the plea negotiations due to his lawyers errors of not looking them up.
 2. The trial record shows that the AUSAG Mrs. Bradley did amend the 924(c) erroneous penalties to read 7 years one week before trial admitting she was wrong showing that the petitioner was only looking at 7 years being removed from the table in January 2016 plea negotiations and that the petitioner did bring up these issues to the court at his sentencing hearing because of his lawyers errors was sentence to 30 years 5 years more if he would have taken a plea.
 3. A jurist of reason would have found that the District Courts denial of petitioners 2255 motion was debatable or wrong and could have been resolved in another manner (Evidence Hearing) or adequate evidence showed an encourgment to proceed further.

CONCLUSION

Petitioners lawyer errors begin with not finding out my criminal history and USSG range when I asked him to by letter three months prior to my plea negotiations then Mr. Lucas and myself would have known I was a career criminal and this would have effected my sentence minimum and maximum sentence months before the plea offer. Mr. Lucas error after I had told him that the 924(c) penalties of 30 years to life was wrong that 924(c)(1)(A) is only 7 years there is no life to this charge Mr. Lucas should have notified the AUSAG of her error, or put in a Rule 7 motion to have the proper penalties amended was a second chance for him to find out my minimum and maximum sentence. Mr. Lucas non actions not trying to find out my minimum and maximum sentence caused the petitioner to turn down a plea offer of a lesser sentence of 25 years because I believed my 924(c) count to be no more than 7 years.

Mr. Lucas did not inform me when I made the decision to go to trial that because I was a career offender if found guilty of both counts that under the 4B1.1(c) career offender 924(c) enhancement I would be at a guide line range of 360 months to life I would have taken the plea offer, I went to trial blindly without this knowledge and was found guilty then sentenced to 30 years five more years than the 25 years I would have gotten if I had taken the plea offer.

Mr. Lucas also errored when in March 2016 the AUSAG Mrs. Bradley amended the 924(c)(1)(A) penalties from 30 years to life to 7 years to life one week before my trial even though Mrs. Bradley talked to Mr. Lucas on the phone and by emails on this subject to her and the district court that is making me the defendant aware of the Rule 7 motion to amend, Mr. Lucas did not inform me of the change in penalties this error prejudice me in the fact I could not rebut her motion there is no life sentence to a 924(c)(1)(A) in my case this is my first 924(c) charge for your first time the 924(c) penalty is 7 years the only reason I was looking at 30 years to life was because of the 4B1.1(2)(3) career offender 924(c) enhancement because I was unaware of this motion to amend I could not rebut the wrong penalties to the district court because my layer did not inform of the motion to amend I did not find out until my first day in court after we had the jury pool.

Mrs. Bradley has been wrong in her 924(c) penalties twice she has stressed these penalties in my case from beginning until the end the 924(c) penalties do not apply in my case because I'm a career offender only the 4B1.1(c) 924(c) enhancement applies in my case because I took a trial and was found guilty, once I said I was taking a trial in January 2016 Mrs. Bradley should have amended my penalties to include the enhancements because she cannot apply both 924(c) penalties and the 4B1.1(c) enhancements it is either one or the other. My lawyers error in not informing me of the motion to amend the penalties denied me away to find out my true minimum and maximum sentence and a good reason to ask the AUSAG for a new plea offer of a lesser sentence.

Petitioner has satisfied the two prongs of STRIKLAND and has made a substantial showing of a denial of a constitutional right but most of all I have shown a jurist of reason that the district court decision is debatable or wrong and that there was another way to solve the issue and that enough evidence was shown to continue the case further see BAREFOOT and MILLER-EL. A COA should have been granted or my case remanded back to the district court for resentencing with the government having 60 days to reoffer the original plea offer.