

CMRR NO. 7018-2290 0000 1198 9889
Tracking No. 9590 9402 43078190 3995 80

Sent

Ed Brown 1:16-cv-00883-GZS
30 December 2019

Dear Mr. Falkner,

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Today, Monday, 30 December 2019, I received your letter and the court order dated December 27th; Please file a motion immediately using this argument:

Resentencing under the "Bundled Sentence Doctrine" is not appropriate in my case for two reasons:

(1) My convictions were already bundled into distinct sentences at the time of sentencing and the vacated conviction did not affect any other ~~aspects~~ bundles.

(2) A resentencing would be un-just because I have ALREADY completed the sentences for Count Numbers (1), (2), (5), and (7)!! A ^{new} sentence for these convictions is not possible because they have been completed in full. Doing so would violate the 5th Amendment "double jeopardy" protection. Further, I am more than half-way done with sentences for Counts (9) and (10), ~~which~~ both of which are "failure to appear," and not eligible for such enormous sentences.

I ~~have~~ never received any letter from you dated December 6th, which is why you never got a reply. I also never got the government's motions, which is a violation of due process.

It seems to me like Judge Singal is trying his best to come up with a way to keep me detained. This is part of his ongoing animosity towards me. It is bias. It is unjust.

Please request an "En Banc" review immediately. Also, please file a challenge to the resentencing with the Appellate Court. I believe this move violates my Constitutional Rights, and I'd like a chance for the Circuit court to rule on the Constitutionality of enhancing sentences that have ~~been~~ already been served.

We also need to make every attempt to get a new judge for sentencing. This is also part of my reasoning for an "En Banc" review: Singal is too biased to give me justice.

I need to speak to you immediately. If we have not spoken on the phone by the time you receive this letter, then please set up an Attorney-Client phone call right away.

The crux of our argument is simple. My sentence was not Bundled in such a way as to allow for a "just" and "fair" resentencing.

I was sentenced to serve four (4) distinct sentences:

- (1) 72-months for Counts (1), (5), and (7).
- (2) 60-months for Count (2) to run concurrently with Sentence 1.
- (3) 12-months for Counts (9), and (10), to run consecutive to Sentence 1. and finally,
- (4) 360-months for Count (3) now vacated to run consecutive to (after!) the completion of all other counts!

As you can see, ~~sent~~ Sentences 1 and 2 began in 2013, and were completed several months ago this year in 2019. I am currently serving Sentence 3. I have not even begun to serve time for the vacated conviction, so resentencing is only going to affect "already terminated" sentences!

Lastly, there is no reason a 360-month Guideline is justifiable. I have no criminal history aside from structuring (tax-fraud) and I therefore believe the PSR to be inaccurate and I object ~~to~~ to its validity, ~~and I object to its validity.~~

30 December 2019

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What the court is attempting to do goes directly counter to the underlying principle of the Bundled Sentence Doctrine. The doctrine's purpose is to help reduce a prisoner's sentence in a fair and just way.

In contrast to this, the court now seeks to Enhance an 84-month sentence, 78-months of which have already been served, so they can add venom to a case that just vacated its only alleged instance of "violence."

This case wields the potential to become disparagingly unjust. The only matter that should be addressed by resentencing is the amount of time the court should remove from the term of supervised release.

The court had the ability to sentence heavily for the remaining counts at the first sentencing. They should not feel free to enhance those counts now, after their original reasoning was proved inadequate by the Supreme Court. Instead, they should seek to understand the implications of removing a violent conviction: sentence reduction, not enhancement.

I do indeed agree with you that I should appear in person for sentencing. Please arrange for that. Please also begin submitting the necessary motions for En Banc review, and request Judge Sengal to recuse himself. Also, please seek the injunction on sentencing so the Circuit can determine the Constitutionality Challenges I mentioned.

I appreciate your hard work in this case, and I look forward to working with you. If you have objections to any of my instructions and requests, please put them in writing for me. Also, please re-send whatever it was that failed to reach me on the 6th of December. Once again, thanks for your hard work.

Sincerely,

Edward Brown 03923-049

Federal Correctional Institution Gilmer

PO Box 6000

Glenville, WV 26354

UNITED STATES OF AMERICA
DISTRICT OF NEW HAMPSHIRE

FILED

REC'D JSA

2020 APR 15 10:25

1-OF 13

Edward Lewis, Brown

v.

UNITED STATE OF AMERICA

Case NO

1-16-CV-00083-G

MOTION OF STATUS TO RELEASE
OR RECURSE COURT APPOINTED
COUNSEL BEJAMIN L. FALKNER
AS COUNSEL FOR THE PETITIONER
Due to ineffectiveness.

GROUNDS:

HISTORY

(1.) On 3 January 2020 Petitioner contacted Attorney Benjamin L. Falkner at his office on recommendation from the U.S. DISTRICT COURT-NEW HAMPSHIRE, previously stating that he was Petitioner's appointed (limited) counsel.

(2) Petitioner introduced himself and requested Attorney Falkner to file several motions to this court. Mr. Falkner asked me to wait until we meet, that there was plenty of time,

UNITED STATES DISTRICT COURT
DISTRICT OF New Hampshire

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Continue

(2) which is as I expected and had already sent the motions to this court in New Hampshire.

(3) Petitioner arrived at the Merrimack County D.O.C. in Boscaawen, New Hampshire on the 24th January, 2020 and received 2 visits and 1 telephone call to this date offering his advice that we wait and that the court/prosecutor is preparing to enhance ~~petitioner~~ sentence to 360 months to life.

(4) I asked attorney Felkner to help me get a pen and pencil. He seemed a bit confused and offered no way to assist. I told him that Merrimack County D.O.C. is a model for how prisons (all) should be run, however! this Federal county Facility is a higher security Communication Management Unit than the C.M.U. at Marion, Ill.

continue

(4) Mr. Falkner did not seem interested or concerned. I was and still am.

(5) On the second visit from atty. Falkner which was late February I noticed that he (for the second time) gave me audience, while he was visiting another of his clients, who I also noted was on the phone (a special phone, typewriter etc?). Several times a day on that special attorney. (I received one call). I couldn't get assistance with a pen or pencil.

(5) Court appointed counsel should be asking Petitioner many things but Attorney Benjamin L. Falkner is not. Petitioner thanks the office of the clerk for helping to resolve this puzzle by sending Petitioner an ATTENTION notice stating:

'Pursuant to local Rule 4.3(e) any litigant who is represented by

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DISTRICT OF NEW HAMPSHIRE

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continue

(5) by an attorney may not file a pleading in a case unless:

(a) The court grants a motion for leave to file a pro se pleading;

(B) The litigant is filing a motion related to the status of counsel, or

(C) An attorney has been granted leave to provide limited representation to an otherwise unrepresented party and the filing is outside the scope of the limited representation.

The rule further provides that any pro se pleading that does not comply with this rule shall not be added to the courts docket or presented to a judicial officer for ruling and shall be returned to the filer.

Please be advised that Petitioner has never had effective counsel in regards

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DISTRICT OF NEW HAMPSHIRE

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continue

(5) to case No. 06-cr-00071-01/02-Sm
No. 09-cr-00030-01/02-GZS

where Court appointed attorney: Michael Iacopino was vacated (Fired) by Petitioner on the record on several occasions. However! Judge George Singal would not accept attorney Iacopino permission to leave, but Petitioner still had to conduct himself as pro se, to this day.

Please note! When Judge Singal vacated Petitioner's 924(c) charge he still recognized that Petitioner was still pro se. It is a moot point at any rate as this motion is terminating Mr. Falkner of any kind of representing of Petitioner including as an advisor, which he totally failed beyond reasonableness, into abandonment by not accepting any telephone calls or assisting in any way.

(6) Petitioner is only aware of attorney Falkner filing a single motion to the court for Petitioner. That

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continues

(6) motion was a motion to object
to the ~~U.S. Attorney~~ ~~of S.P.S.A~~

(Supplemental Presentencing Investigator Report) which his motion was a duplicate of Petitioner's, pro se objection two weeks earlier. Petitioner does not need a counselor to duplicate what Petitioner is capable to do. Petitioner needs guidance through the quagmire of colorable and clouded law, procedure strategy and language.

I need to know what Structuring means in law. No one on the street has any idea. I need to know that structuring is a felony before I stupidly, lawfully buy less than the reporting requirements state to fill out forms (which I openly told every I was doing it because I no longer wanted to fill out their taxing forms of spying on us all.

Structuring and all criminal law must be on a bulliten Board in the Post office or an employee should tell the patron that what they are doing is a felony. It is immoral and unconscienable not to. And finally

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DISTRICT OF NEW HAMPSHIRE

SUPPORT

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(7) In STRICKLAND v. Washington

466 U.S. 668, 80 L ED 2d 674, 104 S. CT 2052

No. 82-1554

Listed many of the sites of what
effective counsel is and is not.

including a two-part test:

(1) Reasonably effective assistance.

(2) Reasonable probability of different
results with effective assistance.

Fair enough, so (with this golf pencil)
lets review the Strickland v. Washington
summary in part: Paragraphs: 2-3-4-OF-4.

SUMMARY

(2) On Certiorari, the Supreme Court
reversed. In an opinion by O'Connor
J. expressing the views of Burger,
Ch. J. and White, Blackman, Powell,
Rehnquist, and Stevens JJ, it was
held that (1) A convicted defendant
alleging ineffective assistance of

UNITED STATES DISTRICT COURT
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Continued

(2) counsel must show not only that counsel was not functioning as the counsel guaranteed by the Sixth Amendment so as to provide reasonably effective assistance but also that counsel's errors were so serious as to deprive the defendant of a fair trial because of a reasonable probability that, but for counsel's unprofessional errors, the results would have been different, and (2) neither branch was shown because the evidence which the defendant argued that counsel <page 675> should have offered would have been of little help and would have allowed the introduction of other evidence, which counsel successfully moved to exclude, which would have been harmful to his case.

(3) Brennan, J. concurring in part and dissenting in part, joined the court's opinion but dissented from its judgment on the ground that the death penalty is in all circumstances cruel and

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continue

(3) unusual punishment forbidden by the eighth and fourteenth amendments.

(4) Marshall, J. dissenting, stated that the announced standard for effective representation is so malleable that in practice it will either have no grip or will yield excessive variation in the manner in which the Sixth Amendment is interpreted and applied by different courts, and that the defendant in that present case was not effectively represented at and before the sentencing hearing.

With the above stated Justices Petitioner makes serious note of Justice Marshall in regards to the malleableness of the then new, 1984 standard for effective representation. It appears to Petitioner that the standard has greatly degraded to the point of near total abandonment... even to the judicial who also abandon when the

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DISTRICT OF NEW HAMPSHIRE

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continue (3)

if they don't like the subject, recuse.

The standard for effective representation must be reviewed and constructed much clearer and more definitively in the plain language, so every one understands them. We notice that even the courts are at odds with the standards, as well as they are with the Rules of Professional conduct, that are rarely used anymore.

The judicial canons are too few and too vague.

(4.) Criminal Law § 46.4 - Counsel duties

In representing a criminal defendant counsel owes the client a duty of loyalty, a duty to avoid conflicts of interest, a duty to advance the defendant's cause, a duty to consult with the defendant on important decisions, a duty to keep the defendant informed of important developments in the course of the prosecution, and a duty to bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process.

UNITED STATES DISTRICT COURT
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In conclusion, Petitioner submits a copy of a letter sent to Attorney Benjamin L. Falkner in early January, 2020 asking him to assist Petitioner in filing specific motions and requests to both the United States District Court - N.H. and the U.S. 1st Circuit Court of Appeals. He did neither as I expected and had already put them in the mail barely on time.

Attorney Falkner failed Petitioner on our first contact and has maintained this position to discuss strategy, discovery, or assist. He has stopped taking any calls. Petitioner has never been allowed any effective counsel by Judge Stephen McAuliffe re case

re case no 06-cr-00071-01/02-Sm

or by

Judge George Z. Singal

re case no. 09-cr-00030-01/02-GZS

and again by Judge Z. Singal in current case no 1-16-00083-GZS

Therefore Petitioner remains without effective counsel to date and remains Pro Se. However! This is also a moot point as both sentences and case's are complete/Time Served, as of 22 March, 2020.

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DISTRICT OF NEW HAMPSHIRE

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Relief Sought,

Petitioner has never had effective Counsel nor an effective court in his 77 years of life. What this UNITED STATES DISTRICT COURT-N.H. has demonstrated I believe is extreme prejudice (using Plausible Deniability, behind a Bureaucratic shield, while protected by a 'NO Accountability' self created set of laws.) toward Petitioner who does not believe this court will ever allow:

- (1) any justice based on complete evidence or facts,
- (2) a level playing of due process in its adversarial style of presentment (may the best man win),
- (3) offer this Petitioner an effective representation.

(4) Ineffective Counsel on case no 09-cr-00030-GZS, attorney Michael Iacopino stated to me at the only interview we had prior to trial in 2009: "The Judge" (singal) "said that if you and your wife were putting together a successful defense he would separate the two of us." I fired him on the spot for the second time.

therefor

Petitioner will have completed the entire sentencing, including the vacated 924(c) charge and supervised release (G.C.T. on January 4, 2019,

continues

and the Supervised Release on 22 March 2020. I expect to be released immediately on the 23 March, 2020. with a terminated case. I expect the court to have all its errors corrected so we may finally end this fraud.
Thank you for your consideration

15 March, 2020

Edward Lewis, Brown
Temp. Merrimack County D.O.C.
314 D.W. Highway
Boscawen, New Hampshire
03303

LS,

Date:

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

DISTRICT OF NH

FILED

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Edward Lewis, Brown
Prose

2020 APR 15 P 4:24 - 24:24

24 HOUR DEPOSITORY

CASE NO

vedh...
JEF

v.

1-16-00083-BZS

UNITED STATES OF AMERICA

MOTION

CLAIM FOR DECLARATORY

AND INJUNCTIVE RELIEF

WITH LITIGATION HOLD

ON ALL OTHER GOVERN-

MENT ASSOCIATED DOCUMENTS

AND ENTITIES.

06-CR-00071-01/02-S.M.

Petitioner, Pro Se, Indigent, Claims
Sufficient Good Cause Exists to
Have the UNITED STATES OF
AMERICA Provide A Complete
Copy of the 2007 Transcript's
For Case No. 06-CR-00071-01/02-S.M.

- (1) Petitioner intends to seek a reversal of the sentence out of case no. 06-cr-00071-01/02-S.M. but this whole affair has left Petitioner totally without funds.

(2) Without a transcript Petitioner is unable to illustrate my actions or arguments for an effective review.

(3) The transcript will reveal the Petitioner had his private council silenced and replaced with non effective counsel to present.

(4) The transcript will reveal suppression of all evidence and witnesses.

(5) The transcript will reveal Petitioner's immediate offer to settle entire matter but was ignored.

(6) The transcripts will reveal a non-effective court and prejudice.

(7) Petitioner seeks to restore his good name with all the truth.