Supreme Court, U.S.
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No. 03-9730

IN THE
SUPREME COURT OF THE UNITED STATES

In Re THEODORE BRADLEY - Petitioner

vs.

UNITED STATES OF AMERICA - Respondent

ON PETITION FOR WRIT OF HABEAS CORPUS TO

THE THIRD CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF HABEAS CORPUS

THEODORE BRADLEY
FCI McKEAN, P.O. BOX 8000
BRADFORD, PA. 16701

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QUESTION(S) PRESENTED

WHETHER IN LIGHT OF WIGGINS v. SMITH, 539 U.S.___, 156 LED 2d. 471, 123 S.Ct.___, (2003), PETITIONER HAD A SIXTH AMENDMENT RIGHT TO COUNSEL IN PRESENTING A MITIGATION CASE AT SENTENCING.

STATEMENT OF THE CASE

On July 30, 1998, a grand jury in the Western District of Pennsylvania returned an indictment charging Petitioner with one count each of being an armed career criminal, in violation of Title 18 U.S.C., sections 922(g)(1) and 924(e); possession of an unregistered short-barreled shotgun, in violation of Title 26, United States Code, sections 5861(d) and 5871; and use of a firearm during a crime of violence, in violation of Title 18 United States Code, section 924(c)(1).

On January 15, 1999, Petitioner pled guilty to the armed career criminal charge pursuant to a plea agreement by which the government dismissed the other two counts. On March 30, 1999, Petitioner was sentenced by the district court to 190 months imprisonment to be followed by 60 months of supervised release.

On August 20, 2002, Petitioner filed a Writ of Habeas Corpus under 28 U.S.C. §2255. On September 20, 2002, the court denied the motion. On September 30, 2002, Petitioner moved to certify the court's order for appeal. On October 8, 2002, the court ordered the government to respond.

On October 24, 2002, the government responded in opposition to the Motion to Certify. On November 11, 2002, the United States Court of Appeals for the Third Circuit remanded the matter to the district court for the purpose of either issuing a certificate of appealability or stating reasons why a certificate of appealability

or stating why a certificate of appealability should not issue. On December 10, 2002, the district court denied issuance of a COA.

On January 8, 2003, Petitioner filed an Application to the Third Circuit seeking issuance of a certificate of appealability. That on August 21, 2003, the Government filed a letter response. On September 17, 2003, the Third Circuit issued an order denying Application for Certificate of Appealability.

On October 31, 2003, Petitioner filed a Petition for Rehearing with Suggestion for Rehearing En Banc to the Third Circuit. On December 30, 2003, the Third Circuit issued an order denying Petition for Rehearing with Suggestion for Rehearing En Banc.