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IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 2018

AMEEN GREEN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Third Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Did the United States Court of Appeals for the Third Circuit err in dismissing Mr. Green's Notice of Appeal?

PARTIES TO THE PROCEEDING

The petitioner is:

Ameen Green

The respondent is:

United States of America

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Other Sources

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OPINIONS BELOW

The United States Court of Appeals for the Third Circuit dismissed Petitioner Ameen Green's Notice of Appeal. App. 1-2.

STATEMENT OF JURISDICTION

Ameen Green seeks review of the September 4, 2018, Order of the United States Court of Appeals for the Third Circuit. Jurisdiction of this Court to review the judgment of the Third Circuit is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 5 of the United States Constitution, which provides:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

STATEMENT OF THE CASE

On December 20, 2017, a grand jury in the Eastern District of Pennsylvania returned a four-count Indictment charging Ameen Green (01) and Richard Winn (02) with one count of possession with intent to distribute cocaine base (“crack”), heroin, and marijuana and aiding and abetting, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B), and (C) and 18 U.S.C. § 2 [Count 1]; one count of possession of a firearm in furtherance of a drug trafficking crime and aiding and abetting, in violation of 18 U.S.C. §§ 924(c)(1) and 2 [Count 2]; and two counts of felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1) [Counts 3 and 4]. A Notice of Forfeiture accompanied the Indictment.

Ameen Green was charged in Counts 1, 2 and 3.

On January 26, 2018, the government filed an Information Charging Prior Felony Drug Convictions, pursuant to 21 U.S.C. § 851(a).

On March 28, 2018, the defendant appeared before the Honorable R. Barclay Surrick, and pursuant to a plea agreement, pled guilty to Counts 1, 2, and 3 of the Indictment.

The parties agree that the plea agreement was made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) and that the following specific sentence is the appropriate disposition of this case: a total sentence of 180 months impris-

onment (120 months on each of Counts 1 and 3, to run concurrently, and 60 months on Count 2, to run consecutively to the terms of imprisonment imposed on Counts 1 and 3); eight years of supervised release; a \$300 special assessment, and a fine, if any, to be determined by the Court.

The parties agreed and stipulated that the quantity of controlled substances that was distributed and possessed with the intent to distribute was 47 grams of cocaine base, 6 grams of heroin, and 43 grams of marijuana. On July 5, 2018, Mr. Green was sentenced to 180 months. Thereafter, he filed a *pro se* Notice of Appeal.

REASONS FOR GRANTING THE WRIT

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT ERR IN DISMISSING MR. GREEN'S APPEAL?

The decision by the United States Court of Appeals to dismiss Mr. Green's appeal is at odds with the Untied States Court of Appeals for the District of Columbia. In *United States v. Eshetu*, 15-3020, the United States Court of Appeals for the District of Columbia held that *Session v. Dimaya*, 138 S.Ct. 1204, 2010 (2018) provides support to vacate the 924(c) conviction under the residue clause.

In view of *United States v. Khattak*, 273 F.3d 557 (3d Cir. 2001), and *United States v. Gwinnett*, 483 F.3d 200 (3d Cir. 2007), the dismissal of the appeal constitutes a miscarriage of justice and violates Mr. Green's right to due process under the 5th Amendment of the United States Constitution.

CONCLUSION

For these reasons stated, this court should grant Petitioner's Petition for
Writ of Certiorari.

Respectfully submitted,

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Dated: September 20, 2018