

18-7287

No. _____

ORIGINAL

FILED

NOV 02 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

LAMONT LAPRADE

— PETITIONER

(Your Name)

vs.

UNITED STATES et al

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THIRD CIRCUIT, APPELLATE COURT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

LAMONT LAPRADE

(Your Name)

Federal Correctional Complex

UNITED STATES PENITENTIARY - COLEMAN

(Address)

Coleman, FL 33521

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

That if,

1) To Charge with 924(c) (Crime of violence) must show Connection, with Predicate Offense. To sustain conviction?

2) That, if on Collateral Attack (2255), Once Authority Remand, movant is no longer on 2255, because of resentencing, ~~because~~, do it start the Process over, And Allow if need be a Direct Appeal.

3) If not "in the course of" "the commission" 16(b) or 924(c) Charging is not an option.

4) Is the District Court, and Appellate, allowed to consider a Future Appeal, when movant is still on initial APPEAL to Deny the initial Appeal?

5) In light of Dimaya is 924(c) vague + unconstitutional?

6) When do a crime end, when the consumption of a Crime, or When, off the Premises.

7) If a collateral attack is launch, but a unconstitutional error is found, on Second Direct Appeal, can movant be considered for plain Error?


LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[x] 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:

 - WESTERN DISTRICT COURT FOR PENNSYLVANIA

 - THIRD CIRCUIT COURT OF APPEALS

 - Solicitor General N/A yet

 - ~~Laura S. Irwin~~

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TABLE OF AUTHORITIES CITED

CASES	2018	PAGE NUMBER
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Dunaway v. Sessions 584 U.S.

Derrigov v. U.S. 824 F.2d 521, 522 (9th Cir. 1988)

U.S. v. Christensen 808 F.3d 800

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Buckley v. Valeo 424 U.S. 1, 121, 96 S.Ct. 612 46 871

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STATUTES AND RULES

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 B #1 1-6115 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 D N/A 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**: N/A

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 May 9, 2018. 1-6 pgs.

☐ 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: August 10, 2018, and a copy of the order denying rehearing appears at Appendix A-1 1 pg

☒ 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**: n/a

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

1. Petitioner's Due Process Rights was severely violated under 4th, 5th, & 6th Amendment when Appellate Court fell to make a decision on the actual appeal. *DeRango v U.S.* 864 F.2d 520, 522 (7th Cir 1988). The Seventh Circuit has "held on more than one occasion that a court should not consider 2255 motion while a Direct Appeal is pending."
2. Petitioner is "Actual Innocence" of 924(c), because 924(c) is unconstitutional and vague, he was charged with a 924(c) when the crime was already consummated, it was not "in the course of" "the commission" (See Appendix A#2) (enclosed) "Dimaya"
3. Appellate Court never gave District the ability to correct its own mistake. See 828 F.3d 800 U.S. v. Christensen, District should be able to fix its mistake before the Direct Appeal occurs. (See App A#2 enclosed)

Argument/Elaborate (Issues)

- #1 *Brown v Mendez* 167 Supp 2d 723, 727 (Md. Pa. 2001) explaining that Section 2241 should not be used as a way to evading gatekeeping requirements of Section 2255 - [Nor should Appellate use a 2255 reason to dismiss and evade the Direct Appeal Process].
- #2 *Dimaya - Salas* The required nexus does not change the fact 924(c)(3)(B) possesses the same two features that rendered the ACCA residual clause and 16(b) unconstitutionally vague (an ordinary-case requirement an ill-defined risk threshold). Requiring a sufficient nexus to a firearm does not remedy those two flaws (see *Ovalles v U.S.* 861 F.3d 1257, 1265 (11th Cir 2017); *Aswell* as law can be unconstitutionally vague even if it is a criminal offense that requires a determination of guilt beyond a reasonable doubt.

#3 *Thorpe v Housing Authority of Reitzel Ga*

Appellate Court must apply the law effect @ the time it renders its decision.

- For an error to be contrary to well-settled law, either Supreme Court or Court of Appeals must have addressed the issue (See App A#2) and App "C" enclosed - "Scirica"

STATEMENT OF THE CASE

See Appendix ~~C~~ ~~1~~ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ ~~7~~ ~~8~~ ~~9~~ ~~10~~ ~~11~~ ~~12~~ ~~13~~ ~~14~~ ~~15~~ ~~16~~ ~~17~~ ~~18~~ ~~19~~ ~~20~~ ~~21~~ ~~22~~ ~~23~~ ~~24~~ ~~25~~ ~~26~~ ~~27~~ ~~28~~ ~~29~~ ~~30~~ ~~31~~ ~~32~~ ~~33~~ ~~34~~ ~~35~~ ~~36~~ ~~37~~ ~~38~~ ~~39~~ ~~40~~ ~~41~~ ~~42~~ ~~43~~ ~~44~~ ~~45~~ ~~46~~ ~~47~~ ~~48~~ ~~49~~ ~~50~~ ~~51~~ ~~52~~ ~~53~~ ~~54~~ ~~55~~ ~~56~~ ~~57~~ ~~58~~ ~~59~~ ~~60~~ ~~61~~ ~~62~~ ~~63~~ ~~64~~ ~~65~~ ~~66~~ ~~67~~ ~~68~~ ~~69~~ ~~70~~ ~~71~~ ~~72~~ ~~73~~ ~~74~~ ~~75~~ ~~76~~ ~~77~~ ~~78~~ ~~79~~ ~~80~~ ~~81~~ ~~82~~ ~~83~~ ~~84~~ ~~85~~ ~~86~~ ~~87~~ ~~88~~ ~~89~~ ~~90~~ ~~91~~ ~~92~~ ~~93~~ ~~94~~ ~~95~~ ~~96~~ ~~97~~ ~~98~~ ~~99~~ ~~100~~ ~~101~~ ~~102~~ ~~103~~ ~~104~~ ~~105~~ ~~106~~ ~~107~~ ~~108~~ ~~109~~ ~~110~~ ~~111~~ ~~112~~ ~~113~~ ~~114~~ ~~115~~ ~~116~~ ~~117~~ ~~118~~ ~~119~~ ~~120~~ ~~121~~ ~~122~~ ~~123~~ ~~124~~ ~~125~~ ~~126~~ ~~127~~ ~~128~~ ~~129~~ ~~130~~ ~~131~~ ~~132~~ ~~133~~ ~~134~~ ~~135~~ ~~136~~ 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REASONS FOR GRANTING THE PETITION

In light of Sessions v. Dimaya 584 U.S. - 2018, because the Predicate is not constitutionally applied to allow the 924(c) to be invalid on its face, because it was not in the course of committing the crime, making LaPrade "actually innocent" of that crime. "Fundamental defect"

In light of Brown v. Mender 167 F.Supp 2d 723, 727. (M.D. Pa. 2001) Direct is to be address first, and the Appellate Court have the Discretion to Dismiss the 2244(b) application, so the pending 2255 would be irrelevant.

By remanding this Appeal back to Appellate Court to be decided Properly.

By proper review, it would allow a growth of American Jurisprudence for all Americans

Supreme Court remind us security ^{Bourne case 553 U.S.} subsistence in fidelity to Freedom's first principles. Chief among these are freedom from arbitrary and unlawful restraint and the personal liberty that is secured by adherence to Separation of Powers. This is particularly true when, as here, the situation demands Judication. It is, without question, the sole province of the Judicial Branch to determine what process a person should receive. ^{Buckley v. Valeo}

Wherefore Petitioner prays that the errors individual merit be acknowledged and impact duly recognized and not harmless in God we pray

Respectfully Submitted
Lamont LaPrade - El

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lamont LaPrade El Lamont LaPrade El
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Date: 09/20/18 without recourse