

18-7287

ORIGINAL

No: _____

IN THE

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

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 II

(Address)

Coleman, FL 33521

(City, State, Zip Code)

N/a

(Phone Number)

That if,

QUESTION(S) PRESENTED

- 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.

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

✓ - ~~Patricia S. Brown~~

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APPENDIX B #1 Appellate Court deny on Direct 1-6 pgs.

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STATUTES AND RULES

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Pellilee 329 F.3d (2001)
Bosalles - Mireles v. U.S. 116-9493 6/18/01
U.S. v. S. 103 889 F.3d 681 U.S
Ovalles v. U.S. 841 F.3d 1257
Ruiz - Ga. 340 F.3d (2001)
Thorp v. Itasca County Auditor 343 U.S. 268 1964
Brown v. Mandel 107 F. Supp. 2d 723, 727 (and pa 2001)
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PAGE NUMBER
CLASSES

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.

B #1 1-6115
N/A

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.

N/A

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 May 9, 2018. 1-6 pgS

[] No petition for rehearing was timely filed in my case.

[X] 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**:

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 Severly violated under 4th, 5th, & 6th Amendment When Appellate Court felt 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 occur. (See App A#3 enclosed)

Argument/Elaborate (Issues)

- #1 Brown v. Mendez 167 F. 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 - Satas 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 remedy those two flaws (see Ovalles v. U.S. 861 F.3d 1257, 1265 (11th Cir 2017); As well 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 Reids 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 C¹ ~~2~~ ~~3~~ ~~4~~ ~~5~~ ~~6~~ enclosed

Petitioner was convicted of Armed Robbery, conspiracy, + 924(c),
Jan 2012. Received 60^{mos.} @ 2; 70^{mos.} @ 3 to run concurrent, and
120mos @ 6 to run consecutive. Movant Did Direct Appeal on 924(c)
not enough to Convict and was Affirmed Jan 11, 2013. Did En banc
how the 924(c) should have been charged as "Discharging a weapon
within 25 ft. of a occupied dwelling". Appeals Court ~~not~~ looked at it.
Turned down April 10, 2013, while the 90 days going to Supreme Court

"Alleyne" Came down June 17, 2013, Movant did immediate 2255 to
District Court in light of "Alleyne" and "Griffith v. Kentucky". District court
Turn me down in 2014, Movant objected, and granted COA for 924(c) (Movant
also mention, should be charged with "Discharging weapon within 25ft of occupied dwelling" to
Challenge conviction (see Cr 14-143 District court) Movant, along with Counsel, Petition
the Appeals Court; and Appeals Court said the Jury not the Judge can
Find a fact to increase mandatory minimum/maximum (Alleyne) and "reverse"
District court Decision (See Appellate Court record 15-1700), while Opinion
of Justice in Appeals Court say "LaPrade appeal for Alleyne error, using
or carrying firearm during and in relation to a crime of violence" under 18 USC
924(c)(1)(A), but sentenced for a separate crime. Prof. Appellate Court Seen an
error, "Thorpe v. Housing Authority & Ruiz Ga" For an error to be contrary to well-
settled law, either Supreme Court or Court of Appeals must have addressed the issue
(Appendix C"). I addressed the District court on 924(c), and they said they
had no authority, that was quiet to them to correct. So, I Appeal to Appellate
Court the issue and they said, Because I had a 2nd successive pending on
that issue I cannot address the issue (See Decision enclosed). While on Appeal
"Dimaya" came down and said "It not in the ^{course} ~~Commission~~ of the commission,
then 16(b) / 924(c) is used for those facts. I Did En Banc and it was
~~not~~ ~~not~~ Turned down in August 2018. "Here I STAND"! (See App[#] 2)
(Prosecutor charge Petitioner with 924(c), that happen outside in the
Parking lot, after "Consumation of the crime").

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 §24(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. Menden 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 §24(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 subsistence in fidelity to Freedoms' 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. ^{as Buckley is valid}

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

Respectfully Submitted
Lamar LaPrade - Esq

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lamont LaRode-El Lamont LaRode-El
UCC-1-103.6; 207; 308 All rights reserved UCC-3-501
Date: 09/20/18 without recourse