

No. 18A1193

IN THE
SUPREME COURT OF THE UNITED STATES

ANTONIO RODESQUIZ CRAWLEY,
Petitioner,

FILED
APR 26 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

vs.
UNITED STATES OF AMERICA,
Respondent.

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
FOURTH CIRCUIT

APPLICATION TO JUSTICE JOHN G. ROBERTS,
Jr., TO EXTEND TIME TO FILE PETITION
FOR CERTIORARI

Antonio Rodesquiz Crawley

Reg. No. 28088-171

USP - POLLOCK

P.O. Box 2099

Pollock, LA 71467

Petitioner pro se

RECEIVED

MAY 17 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

APPLICATION TO JUSTICE JOHN G. ROBERTS,
Jr., TO EXTEND TIME TO FILE PETITION
FOR CERTIORARI
(Sup. Ct. R. 13.5)

RELIEF SOUGHT

I, Antonio Rodriguez Crawley, on behalf of myself, requests that Chief Justice John G. Roberts, Jr., Justice for the Fourth Circuit, extend the time for filing a petition for writ of certiorari to the United States Court of Appeals for the Fourth Circuit in the matter of United States v. Crawley, No. 18-4073, (8:15-cr-00129-TMC-4), for a period of 60 days, or from May 15, 2019 up to and including July 15, 2019.

GROUND S FOR RELIEF

Judgments Below

1. On November 8, 2016, I was convicted of one count of conspiracy to possess with intent to distribute (PWID) and to distribute 5 kilograms or more of cocaine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), 846 (2012), and two counts of aiding and abetting the use of a telephone to facilitate a controlled substance felony, in violation of 21 U.S.C. § 843(b) (2012), and 18 U.S.C. § 2 (2012) in the United States District Court for the District of South Carolina at Anderson.

2. On January 29, 2018, I duly appealed this conviction to the United States Court of Appeals for the Fourth Circuit. This court affirmed the conviction by its order entered on February 15, 2019. A true and correct copy of the opinion and order of the court is attached to this motion as Exhibit "A".

Jurisdiction

3. The Supreme Court will have jurisdiction over this matter because 28 U.S.C. § 1254(1) gives the Court jurisdiction over an appeal of a final judgment of a United States Court of Appeals.

Reasons why Relief From Time Limit Needed.

4. Under Supreme Court Rule 13.1, time for filing a petition for writ of certiorari in this matter expires on May 15, 2019.

5. I, a federal prisoner proceeding pro se, rely on access to the institutions law library to conduct legal research to file a timely Petition for Writ of Certiorari in this matter. Because of consecutive institutional emergencies, I am being denied access to adequate and proper legal materials.

6. The situation which gave rise to the need for extension arose through no fault of my own.

Need for Length of Extension Sought

7. Due to institutional security precautions, the United States Penitentiary at Pollock, Louisiana was on lock-down status from Thursday, March 7, 2019 through Monday, March 25, 2019. See Exhibit "B".

8. Due to institutional security precautions, this institution was placed on lock-down status again on Sunday, April 14, 2019 and is expected to remain so until Monday, May 13, 2019. This date is tentative.

9. Access to proper legal materials, a prerequisite to the filing of a Petition for Writ of Certiorari will not be made available until this institution returns to normal operations.

Persuasive Grounds for Certiorari in This Case

10. Punishment for a mere propensity is a situation universally sought to be avoided in our criminal justice system; there is a fundamental requirement that some action be proved. The Fifth and Sixth Amendments to the Constitution of the United States guarantee this right and privilege to its citizens against violation by the Government. Here, I was convicted of conspiracy to possess with intent to distribute cocaine, 21 U.S.C. § 846 (2012) (an inchoate offense). However, my sentence was statutorily enhanced for two prior convictions under 21 U.S.C. § 841(b)(1)(A) (an enhancement which requires the instant offense of conviction be a violation of §§ 841, 849, 859, 860, or 861).

11. Because my statute of conviction has the propensity to violate § 841 as its object. I am presently serving a mandatory life term of imprisonment.

Dated: 4-22-19

(6)

Antonio Crawley
Antonio Rodriguez Crawley

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-4073

UNITED STATES OF AMERICA,**Plaintiff - Appellee,****v.****ANTONIO RODESQUIZ CRAWLEY,****Defendant - Appellant.**

Appeal from the United States District Court for the District of South Carolina, at
Anderson. Timothy M. Cain, District Judge. (8:15-cr-00129-TMC-4)

Submitted: January 31, 2019**Decided: February 15, 2019**

Before KING, DUNCAN, and FLOYD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

William G. Yarborough, III, Greenville, South Carolina, for Appellant. Sherri A. Lydon, United States Attorney, Columbia, South Carolina, Andrew B. Moorman, Sr., Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

Exhibit A

PER CURIAM:

A jury convicted Antonio Rodesquiz Crawley of conspiracy to possess with intent to distribute and to distribute five or more kilograms of cocaine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), 846 (2012), and two counts of aiding and abetting the use of a telephone to facilitate a controlled substance felony, in violation of 21 U.S.C. § 843(b) (2012), and 18 U.S.C. § 2 (2012). Because Crawley had two or more final convictions for felony drug offenses, the district court imposed a mandatory life sentence on the conspiracy count.* Crawley challenges his conspiracy conviction on the ground that the district court should have given a multiple conspiracy instruction to the jury. He also contends that his life sentence is invalid because of errors in the original information the Government filed pursuant to 21 U.S.C. § 851 (2012), that the predicate convictions on which the district court relied to enhance his sentence are not felony drug offenses, and that his sentence is unconstitutional and unreasonable. We affirm.

“[A] multiple conspiracy instruction is not required unless the proof at trial demonstrates that [the defendant was] involved only in [a] separate conspirac[y] unrelated to the overall conspiracy charged in the indictment.” *United States v. Bartko*, 728 F.3d 327, 344 (4th Cir. 2013) (internal quotation marks omitted). “[T]he district court’s failure to give a multiple conspiracies instruction is reversible error only when the defendant suffers substantial prejudice as a result.” *Id.* “For us to find such prejudice, the evidence of multiple conspiracies [must have been] so strong in relation to that of a

* Crawley received concurrent 96-month sentences on the remaining counts.

single conspiracy that the jury probably would have acquitted on the conspiracy count had it been given a cautionary multiple-conspiracy instruction." *Id.* (internal quotation marks omitted). We have reviewed the record and conclude that the evidence at trial supported the jury's finding that Crawley was involved in the single conspiracy charged in the indictment and that Crawley has not shown the jury's verdict would have been different if the district court had given the requested instruction.

Turning to Crawley's sentencing claims, any person who commits a violation of § 841(a)(1) involving five kilograms or more of cocaine "after two or more prior convictions for a felony drug offense have become final . . . shall be sentenced to a mandatory term of life imprisonment." 21 U.S.C. § 841(b)(1)(A); *see* 21 U.S.C. § 802(44) (2012) (defining felony drug offense). Before seeking an enhanced sentence under § 841(b)(1)(A), the Government must file a § 851 information notifying the defendant of its intention to do so; any clerical errors in the information may be corrected before the district court sentences the defendant. 21 U.S.C. § 851(a)(1). The district court, before pronouncing sentence, must confirm with the defendant whether he admits or denies committing the predicate offenses. 21 U.S.C. § 851(b).

In its pretrial information, the Government notified Crawley that it intended to seek a statutory enhancement to his sentence based on his 1997 South Carolina convictions for possession of cocaine, trafficking cocaine 400 grams or more, and trafficking marijuana 10-100 pounds. At sentencing, Crawley disputed the accuracy of the convictions listed in the information, and the Government amended the information to reflect convictions for trafficking crack cocaine not less than 10 grams nor more than 28

grams, conspiracy to traffic cocaine not less than 10 grams nor more than 28 grams, and possession of marijuana with the intent to distribute. The original information accurately listed the dates of conviction, docket numbers, and sentences. Crawley subsequently “affirm[ed] . . . that he ha[d] been previously convicted as alleged in the [amended] information.” *See* § 851(b).

We conclude that the errors in the original information, whether clerical or not, did not prejudice Crawley and therefore are not a basis for invalidating his sentence. *See* *United States v. Beasley*, 495 F.3d 142, 149 (4th Cir. 2007) (discussing purposes for requiring § 851 information). The information as initially written, while regrettably inaccurate in describing the type of the offenses, gave Crawley notice of the Government’s intent to seek an enhanced sentence based on certain convictions identified by the conviction dates, the sentences imposed, and the docket numbers. Crawley had an opportunity to challenge the use of those convictions and full knowledge of the consequences of having two predicate felony drug offense convictions. Section § 851 provides a posttrial rather than a pretrial mechanism for challenging the use of convictions to enhance a defendant’s sentence, *see* § 851(b), and Crawley fully availed himself of that process.

Next, Crawley does not dispute that his 1997 predicate convictions satisfied the definition of felony drug offense in 21 U.S.C. § 802(44). He instead argues that the offenses are not “serious drug offenses” under 18 U.S.C. § 3559(c)(1)(A)(ii) (2012), without offering any explanation as to why this provision has any relevance to his case. Because his prior convictions fall within the definition of “felony drug offenses” as used

in 21 U.S.C. § 841(b)(1)(A), the district court properly applied the statutory sentencing enhancement.

Finally, Crawley argues that his mandatory life sentence is unreasonable and unconstitutional because he was 17 years old when he committed the 1997 offenses. Crawley cites to Supreme Court precedent limiting the imposition of mandatory life sentences for crimes committed by minors. *See Miller v. Alabama*, 567 U.S. 460 (2012); *Graham v. Florida*, 560 U.S. 48 (2012). His reliance on those cases is misplaced, however, because he was not a minor when he engaged in the drug conspiracy in this case, and he does not contest that his previous convictions are adult convictions. Moreover, because § 841(b)(1)(A) required the district court to impose a life sentence, that mandatory sentence is “*per se* reasonable.” *United States v. Farrior*, 535 F.3d 210, 224 (4th Cir. 2008), *abrogated on other grounds by Rodriguez v. United States*, 135 S. Ct. 1609 (2015).

We therefore affirm the district court’s judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: February 15, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4073
(8:15-cr-00129-TMC-4)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ANTONIO RODESQUIZ CRAWLEY

Defendant - Appellant

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

Exhibit A6



U. S. Department of Justice

Federal Bureau of Prisons

Federal Correctional Complex

Education Department

*P O Box 1000
Pollock, Louisiana 71467*

March 25, 2019

Dear Sir/Madam:

Please accept this letter as a statement of verification for inmates assigned to USP Pollock.

Due to institutional security precautions, the United States Penitentiary at Pollock, Louisiana was on lock-down status from Thursday, March 7, 2019 through Monday, March 25, 2019 in which the institution and all living quarters returned to normal operations.

The before mentioned information is being provided in reference to appeal dates and legal responses.

Respectfully submitted,

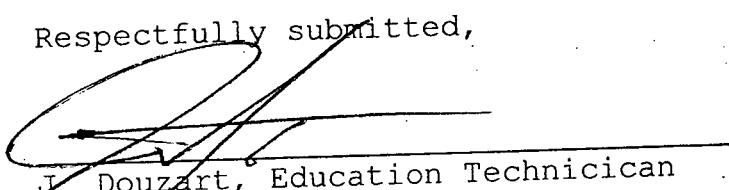

J. Douzart, Education Technician
FCC Pollock
United States Penitentiary
P.O. Box 1000 Airbase Road
Pollock, LA 71467
(318) 561-5300

Exhibit B

APPENDIX A

DECLARATION OF ANTONIO RODESQUIZ CRAWLEY

State of Louisiana)
County of Grant)
)

I, Antonio Rodesquiz Crawley, declare under the Penalty of Perjury to the following facts:

1. My name is Antonio Rodesquiz Crawley. I am over 18 years of age. I am a federal prisoner currently housed at United States Penitentiary-Pollock, Pollock, Louisiana. I am competent to make this declaration and I have personal knowledge of the facts stated in this declaration. To my knowledge, all of the facts stated in this declaration are true and correct.

2. I am the defendant in the courts below and the potential Petitioner in this matter. I make this declaration in Support

(U)

of the Motion for an Extension of Time to File a Petition for a Writ of Certiorari.

3- After having my appeal affirmed by the Fourth Circuit Court of Appeals on February 15, 2019, I am proceeding pro se.

4. Due to circumstances beyond my control (consecutive institutional lock-downs) my access to proper legal materials has been restricted.

5. I do not expect this institution to return to normal operations until May 13, 2019.

6. Due to these unforeseen circumstances, it has become impossible for me to file a meaningful Petition for Writ of Certiorari before the May 15, 2019 deadline.

I declare under Penalty of Perjury that the foregoing is true and correct.

Executed on 4-22-19

Antonio Crowley

Antonio Rodriguez Crowley
Reg. No. 28088-171
U.S.P. Pollock
P.O. Box 2099
Pollock, LA 71467

(2)