

No. 19-5501

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL
Supreme Court, U.S.
FILED
JUL 19 2019
OFFICE OF THE CLERK

MANDRAIL JAMAR WOODBERRY — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Mandrail Jamar Woodberry, Pro se
(Your Name)

HSP LEE

(Address)

PO 305 Jonesville, VA 24263

(City, State, Zip Code)

x

(Phone Number)

QUESTION(S) PRESENTED

Whether in light of the Court's opinion in *Rehaif v. United States*, No.17-9560 issued on June 21, 2019 this Court should vacate the opinion of the U S Court of Appeals for the Fourth Circuit, and remand to the court for further proceedings in light of *Rehaif*, despite the fact Appellant Counsel withdrew from Defendant appellant direct appeal process.

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:

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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 _____ 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is unpublished.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 _____ 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is unpublished.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**:

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is unpublished.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is unpublished.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 March 11, 2019 and July 12, 2019

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: _____, 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. § 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

U S. CONST. amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of counsel for his defense

18 U.S.C. § 922(g)(1)

18 U.S.C. § 924(a)(2)

STATEMENT OF THE CASE

Defendant-appellant plead guilty to one count to being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) 924(a)(2). The district court imposed 119-months sentence. The district court imposed an upward variance sentence four months higher than the top of Defendant-appellants advisory range after considering the §3553(a) factors. The court stated that a sentence in excess of the advisory Sentencing Guidelines range was required to provide for just punishment, to promote respect for the law, provide adequate deterrence and most significantly to protect the public from Defendant-appellant's continued criminal conduct including his possession and use of firearms

Defendant-appellant submits for the first time on appeal that his upward variance sentence was substantively unreasonable. (Appendix A Op. Ct. Appeals at 2.3)

REASONS FOR GRANTING THE PETITION

Aside from whether Defendant-appellant's counsel should have filed a writ of certiorari to this court on Defendant-appellant's behalf, but instead filed a motion to withdraw from the appeal, and not even knowing of *United States v. Rehaif* while Defendant-appellant appeal was pending before the Fourth Circuit, and despite counsel not studying the case of *Rehaif* after the Court of Appeals had denied the direct appeal. See Appendix B letter dated July 15, 2019)

Defendant-appellant submits that in light of the Court's opinion in *Rehaif v. United States*, No. 17-9560, issued on June 21, 2019 Defendant-appellant respectfully request that the court grant Defendant-appellant's petition for certiorari, vacate the opinion of the U.S. Court of Appeals for the Fourth Circuit, and remand to that Court for further proceedings in light of *Rehaif*. Slip Op. at 12 (REVERSING THE JUDGMENT OF THE Court of Appeals and remanding the case for further proceedings); Dissent at 23 ("Those for whom direct review has not ended will likely be entitled to a new trial.") Defendant-appellant was indicted for possessing a firearm after having been convicted of a crime punishable by imprisonment for a term exceeding one year. In violation of U.S.C. §§ 922(g)(1) 924(a)(2) 1:17-cr-00394 TDS-1

Defendant-appellant pleaded guilty without a plea agreement in 2017, when the prosecutor stated a factual basis at entry of the guilty plea, he never asserted that Defendant-appellant knew that he had been convicted of a crime punishable by imprisonment for a term exceeding one year. For this reason Defendant-appellant respectfully submit this is why his petition should be granted. The Fourth Circuit's judgment vacated and the case remanded to that court for further proceedings.

Despite the fact that Defendant appellant's Appeal Counsel filing a motion to withdraw from Defendant-appellant's direct appeal all the way to the end. Defendant appellant did in fact, request of counsel to file a petition for a writ of certiorari to this Court prior to the Court of appeals denying Defendant-appellant's direct appeal, and prior to the court of appeals granting counsel's motion to withdraw (See Appendix A and B). Defendant-appellant disagreed with his appeal attorney that his appeal was not frivolous. This Court ruled on *Rehaif v. United States*, No. 179560 on June 21, 2019 counsel should have been aware of this case and the importance of a ruling from this Court on this case and the effect that this case would have on my case and direct appeal. Had counsel filed a writ of certiorari back in March or June this Court would have already granted certiorari in my case just like other defendant-appellants whom direct review has not ended

Defendant-appellant had been on a prison lockdown from June 1 through July 29, 2019, despite this fact, counsel knew that it was Defendant-appellant wishes to file a certiorari with this Court on Defendant-appellant's behalf. (See Appendix E).

See CERTIORARI GRANTED CASES

17-92221 Hall Donovan v. United States

The motion of petitioner for leave to proceed in forma pauperis and the petition for a writ of certiorari are granted. The judgment is vacated and the case is remanded to the United States Court of Appeals for the Fourth Circuit for further consideration in light of *Rehaif v. United States* 588 U.S. __ (2019)

18-7123 Allen Derrick M. v United States

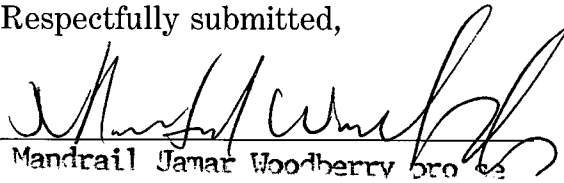
The motion of petitioner for leave to proceed in forma pauperis and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the United States court of Appeals for the Fourth Circuit for further consideration in light of *rehaif v. United states*, 588 U.S. __ (2019)

Defendant-appellant respectfully submit that he is actually innocent of his §§ 922(g)(1) 924(a)(2) conviction and sentence of 119 months sentence because he did not have knowledge that he belonged to the relevant category of persons barred from possessing a firearm. Defendant-appellant respectfully request that permission to proceed in forma pauperis and that his requested petition be granted that the Fourth Circuit's judgment vacated and the case remanded to that court for further proceedings

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Mandrail Jamar Woodberry pro se

Date: 7/31/19

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