

EN BANC

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-10250-CC

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KELVIN TOWNSEND,
a.k.a. Kilven Townsend,
a.k.a Timmy Brown,
a.k.a. Mike Young,
a.k.a. Calvin Townsend
a.k.a. Jimmy Brown,
a.k.a. Calvin Brown,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida

Before: MARCUS, ROSENBAUM and GRANT, Circuit Judges.

BY THE COURT:

Appellant's motion for reconsideration of this Court's July 15, 2019 order denying his motion for summary reversal is DENIED.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

August 01, 2019

Kelvin Townsend
USP Coleman II - Inmate Legal Mail
PO BOX 1034
COLEMAN, FL 33521

Appeal Number: 19-10250-CC
Case Style: USA v. Kelvin Townsend
District Court Docket No: 5:97-cr-00002-WTH-PRL-1

Please take notice that the following motion has been filed:

MOTION for reconsideration of a panel order entered on 07/15/2019, construed from Motion for An En Banc Rehearing filed by Appellant Kelvin Townsend. Opposition to Motion is Unknown [8841820-1]

A paper presented for filing must contain proof of service consisting of a statement by the person who made service certifying the date and manner of service; the names of the persons served; and the manner of service.

Your motion has been filed, but will not be considered or acted upon by the Court pending receipt of the required certificate (except as may be required to prevent injustice) within FOURTEEN (14) DAYS from the date of this letter. If you fail to file the certificate within FOURTEEN (14) DAYS from the date of this letter, the Court will determine whether the motion should be stricken for failure to comply with the Rules. This may result in your motion being returned to you without Court action.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Carol R. Lewis, CC
Phone #: (404) 335-6179

MOT-9 Motion deficient

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IN THE UNITED STATES COURT OF APPEALS
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UNITED STATES OF AMERICA,

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versus

KELVIN TOWNSEND,
a.k.a. Kilven Townsend,
a.k.a Timmy Brown,
a.k.a. Mike Young,
a.k.a. Calvin Townsend
a.k.a. Jimmy Brown,
a.k.a. Calvin Brown,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida

Before: MARCUS, ROSENBAUM and GRANT, Circuit Judges.

BY THE COURT:

The Appellant's motion for summary reversal of the district court's order is DENIED.

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-10250-CC

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KELVIN TOWNSEND,
a.k.a. Kilven Townsend,
a.k.a Timmy Brown,
a.k.a. Mike Young,
a.k.a. Calvin Townsend
a.k.a. Jimmy Brown,
a.k.a. Calvin Brown,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida

Before: MARCUS, WILLIAM PRYOR, and GRANT, Circuit Judges.

BY THE COURT:

The government's motion to dismiss this appeal for lack of jurisdiction is DENIED, and its motion to stay the briefing schedule is GRANTED to the extent the government shall have 21 from the date of this order to file its response brief.

Kelvin Townsend appeals from the district court's December 10, 2018 order denying his motion for a certified copy of his indictment. The government contends that Mr. Townsend's

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motion was a 28 U.S.C. § 2241 petition or unauthorized 28 U.S.C. § 2255 motion that the district court lacked jurisdiction to consider.

We express no opinion as to how Mr. Townsend's motion should be construed or whether the district court lacked jurisdiction to enter the order denying it. Even if the district court lacked jurisdiction to rule on the motion, as the government contends, we nevertheless have jurisdiction to review the issue of the district court's jurisdiction. *See Boyd v. Homes of Legend, Inc.*, 188 F.3d 1294, 1298 (11th Cir. 1999).

Mr. Townsend's request for a forensic examination of the government's copy of the indictment is DENIED.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

UNITED STATES OF AMERICA

-vs-

Case No. 5:97-cr-2-Oc-10PRL

KELVIN TOWNSEND

ORDER

Upon due consideration, the Defendant's request for a certified copy of his indictment (Doc. 108) is DENIED. Requests for copies should made directly to the Clerk.

IT IS SO ORDERED.

DONE and ORDERED at Ocala, Florida this 10th day of December, 2018.

Wrenell Hodges

UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record
Mari Jo Taylor, Courtroom Deputy
Kelvin Townsend

B.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

UNITED STATES OF AMERICA

v.

KELVIN TOWNSEND

a/k/a Kilven Townsend
a/k/a Jimmy Brown
a/k/a Timmy Brown
a/k/a Calvin Brown
a/k/a Mike Young
a/k/a Calvin Townsend

| Case No. | |
|----------|-----------------------|
| Ct. 1: | 18 U.S.C. § 922(g)(1) |
| Ct. 2: | 21 U.S.C. § 841(a)(1) |
| Ct. 3: | 18 U.S.C. § 924(c)(1) |

INDICTMENT

The Grand Jury charges:

COUNT ONE

On or about August 3, 1996, at Ocala, Florida, Middle District of Florida, the defendant

KELVIN TOWNSEND
a/k/a Kilven Townsend
a/k/a Jimmy Brown
a/k/a Timmy Brown
a/k/a Calvin Brown
a/k/a Mike Young
a/k/a Calvin Townsend

having previously been convicted of a crime punishable by imprisonment for a term exceeding one year, that is:

a. Burglary of a structure and attempted burglary, Case No. 78-683-CF-A-01, in the Circuit Court of the Fifth Judicial Circuit, in and for Marion County, Florida, on November 20, 1978;

b. Grand theft, Case No. 82-6732-CF-B, in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, on June 23, 1983;

c. Burglary, Case No. 83-8969-CF, in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, on December 12, 1983;

d. Grand theft, Case No. 84-5871-CF-10-A, in the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida, on August 6, 1984;

e. Grand theft, Case No. 88-6686-HB, in the Circuit Court of the Seventh Judicial Circuit, in and for Volusia County, Florida, on December 20, 1988;

f. Grand theft, Case No. 90-107-CF-A-Y, in the Circuit Court of the Fifth Judicial Circuit, in and for Marion County, Florida, on July 12, 1990;

g. Battery on a law enforcement officer, Case No. 90-651-CF-A-Z, in the Circuit Court of the Fifth Judicial Circuit, in and for Marion County, Florida, on July 13, 1990;

did knowingly posses in and affecting commerce, a firearm, that is, a Smith and Wesson model 25-5, .45 caliber revolver, bearing serial no. N824573, which had been shipped in interstate commerce.

In violation of Title 18, United States Code, Section 922(g)(1).

COUNT 2

On or about August 3, 1996, at Ocala, Florida, in the Middle District of Florida, the defendant,

KELVIN TOWNSEND
a/k/a Kilven Townsend
a/k/a Jimmy Brown
a/k/a Timmy Brown
a/k/a Calvin Brown
a/k/a Mike Young
a/k/a Calvin Townsend

did knowingly, willfully and intentionally possess with intent to distribute cocaine base, also known as crack cocaine, weighing

approximately 59.9 grams, a Schedule II controlled substance.

In violation of Title 21, United States Code, Section 841(a)(1).

COUNT 3

On or about August 3, 1996 at Ocala, Florida, in the Middle District of Florida, the defendant,

KELVIN TOWNSEND
a/k/a Kilven Townsend
a/k/a Jimmy Brown
a/k/a Timmy Brown
a/k/a Calvin Brown
a/k/a Mike Young
a/k/a Calvin Townsend

knowingly carried a firearm, to wit, a Smith and Wesson, model 25-5, .45 caliber revolver, bearing serial no. N824573, during and in relation to a drug trafficking crime for which he may be prosecuted in a court of the United States, that is, possession with intent to distribute a controlled substance, that is, cocaine base, also known as crack cocaine, a Schedule II controlled substance; in violation of Title 21, United States Code, Section 841(a)(1);

All in violation of Title 18, United States Code, Section 924(c)(1).

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CERTIFICATE OF SERVICE

I, KELVIN TOWNSEND, hereby declare under the
penalty of perjury 28 USC, sect. 1746 that the attached
pleading is true and correct and that i have mailed a
true and correct copy to the United States District
Court Ocala Division on this _____ day
of _____, Two-Thousand and Eighteen.

x Kelvin Townsend

KELVIN TOWNSEND

REG# 19662018,

USP COLEMAN TWO

P.O. BOX 1034

COLEMAN, FLORIDA

33521-1034

In Re: In the Matter of 1997 Grand Jury vs. Kelvin
Townsend subpoena under Rule 17(c) for certified copy of
indictment, presentment under Rule 6(b)(1)(2) Fed.R.Crim.P.