

19-6722

ORIGINAL

No. _____

IN THE

FILED
NOV 12 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

SUPREME COURT OF THE UNITED STATES

ROBIN LEACH, JR

— PETITIONER

(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FORTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

ROBIN LEACH, JR

(Your Name)

FCI FORT DIX, P.O. BOX 2000

(Address)

JOINT BASE MDL, N.J. 08640

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

(1) Did the Petitioner know that finding mens-rea of knowing in a gun or firearm statute, 18 U.S.C. 922(g)(1). See, e.g. Rehaif v. United States, NO. 17-9560 S.Ct. June 21, 2019.

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:

RELATED CASES

REHAIF V. UNITED STATES, NO. 17-9560 S.Ct. June 21, 2019

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STATUTES AND RULES

18 U.S.C. 922(g)(1)

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,
[X] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[X] 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[] is unpublished.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[] is unpublished.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[] is unpublished.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 July of 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

18 U.S.C. 922(g)(1); UNITED STATES CONST. AMENDMENT V, VI, and VII

STATEMENT OF THE CASE

A grand jury in the Western District of North Carolina charged that on December 19, 2016, Mr. Leach possessed marijuana with the intent to distribute it and, on the same day, possessed a firearm after having been convicted of a felony offense and in connection with the possession with intent to distribute marijuana. [JA 11-12]. On April 2, 2018, Mr. Leach entered into a plea agreement with the government whereby he would plead guilty to the marijuana and firearm possession, and in return the government would dismiss the count of using the firearm in connection with the marijuana possession. [JA 90-91]. Pursuant to that agreement, Mr. Leach and the government agreed to recommend that Mr. Leach's Total Offense Level pursuant to the United States Sentencing Guidelines was 25. [JA 92]. The agreement specifically noted that Mr. Leach would request a sentence in the middle of the guideline range and that the parties did not agree regarding whether a sentence at the top of the guideline range, which the government would request, did not violate 18 U.S.C. § 3553(a). [JA 92]. On

On August 1, 2018, the probation office filed its final Presentence Investigation Report which concluded that, based on Mr. Leach's Criminal History Category, the top of the guideline range was 78 months imprisonment and the middle of the range was 71 months

STATEMENT OF THE CASE

imprisonment [JA 136]. Mr. Leach argued that 70 months imprisonment was sufficient to meet the goals of sentencing, specifically citing Mr. Leach's employment history and prospects, his support for and support by the community, and the fact that the crime itself did not result in any injury to anyone. [JA 67-68,71]. The government argued that 78 months was necessary solely due to Mr. Leach's recidivism, remarking that "despite some of the good things that he has done and despite the family support that he has, nevertheless [he cannot leave drugs and guns alone." [JA 73-74]. The court acknowledged that Mr. Leach's proposed reasons for leniency were "all factors in [his] favor," finding specifically that Mr. Leach "has a job waiting for him when he emerges from federal custody," "has a CDL license," "is a hard worker," can "support a law-abiding life if he chooses to live one," and "has successfully supported community outreach events, notably through [his work with a local charity]." [JA 74]. Still, the court cited Leach's "terrible record, even though it only scores at Roman Numeral II," counted "all the dismissals which, of course, aren't convictions, but they are opportunities for [Mr. Leach] to have straightened himself out, which he did not do time after time," and sentenced Mr. Leach to 78 months imprisonment, the maximum guideline sentence. [JA 75-76].

REASONS FOR GRANTING THE PETITION

That the Petitioner plea was not knowingly, where Petitioner did not know all elements of charge or nature of 18 U.S.C. 922(g).

Based upon the foregoing points and authorities the Petitioner respectfully request this Honorable Court to grant the within writ and reverse the Judgment of the Courts.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robin Leach

Date: 11-12-2019