

Supreme Court, U.S.  
FILED

MAR 30 2020

OFFICE OF THE CLERK

19-8883

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES  
of America

NATHAN E. GUNDY — 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 Eleventh Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

NATHAN E. GUNDY  
(Your Name)

Estill Federal Correctional Inst.  
(Address)

Estill, South Carolina 29918-0699  
(City, State, Zip Code)

N/A  
(Phone Number)

**ORIGINAL**

## QUESTION(S) PRESENTED

1. Whether The Sixth Amendment of The United States Constitution rights are Guaranteed to a Fair Trial in all criminal prosecutions, or Just when a Judge deems so?
2. Whether The Fifth And Sixth Amendments right to effective Assistance of Counsel starts before a Trial or on The day of Trial?
3. Whether The Eleventh Circuit misapplied This Court's precedent in Johnson, Descamps, And Mathis when in contrast with Courts in The Second, Fourth, Fifth, And Sixth Circuit, The Government's concession in Another CASE, And Georgia's own CASE law And jury instructions, It concluded that Georgia burglary is divisible As to The Type of structure element And Therefore can be A generic burglary And qualifying violent felony under The Armed Career Criminal Act (ACCA)?

## 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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## TABLE OF AUTHORITIES CITED

### CASES

Supreme Court opinions

Apprendi v. New Jersey (2000)  
 Descamps v. United States (2013)  
 Johnson v. United States (2015)  
 Mathis v. United States (2016)  
 Shepard v. United States (2005)  
 Taylor v. United States (1995)  
 United States v. Baldwin (1995)  
 McCrann v. Richardson (1970)

### STATUTES AND RULES

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### OTHER

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United States v. L. Coker Grocery Co (1921)  
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 Illinois v. Allen (1970) (SEE ATTACHED)  
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Federal Court opinions

U.S. v. Jones (2006) Harding v. Davis (1989)  
 U.S. v. Cash (1995) Smarr v. State (2012)  
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(SEE ATTACHED) MOTION

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 A to the petition and is

reported at Court of Appeals Eleventh Circuit; 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 B to the petition and is

reported at Southern District of Georgia; 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 December 30, 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

The Constitutional of United States of America  
Fifth Amendment and Sixth Amendment.

The Armed ~~Officer~~ Career Criminal Act 18 U.S.C  
924(e)

~~SEC Amended Motion~~

#### STATEMENT OF THE CASE

Mr. Gandy was indicted on one count of being a felon in possession of a firearm and an armed career criminal, in violation of sections 922(g) and 924(e) of Title 18, and one count of possession of stolen firearms. Mr. Gandy represented himself at trial. The jury returned a verdict of guilty as to Count One and not guilty as to Count Three.

The district court violated Mr. Gandy constitutional right of the Fifth and Sixth Amendment and concluded over objection that Mr. Gandy was an Armed Career Criminal because of multiple convictions for Georgia Burglary. He was sentenced to 24 years to prison.

SEE ATTACHED MOTION

#### REASONS FOR GRANTING THE PETITION

Do to the Circuits disagreements of this matter of Georgia Burglary, This Court Should ~~clarify and make right the issue at hand here in this case.~~ Grant this writ to clarify and make right the issue at hand here in this case.

Mr. Gundy's Due process of Law was violated, Which his Due process of Law, gave him every right, to a fair and impartial trial. Which Mr. Gundy did not receive.

The Constitution of The United States of America is where all laws are protected for the people of The United States and keep us all safe from these violations. To violate either one, would be to violate all of them. And Mr. Gundy's conviction should be serious looked at and base on the facts and laws that govern this United States of America. The Georgia burglary statute is broader than the generic definition of burglary in two ways: first, the statute covers an unlimited class of buildings, vehicles and containers that are not elements of the offense, but rather means of committing it, and second the statute is broader than generic burglary because it includes not just breaking and entering, but also fraudulent entries into these structures and vehicles. Courts in four circuits agree, as did the government, in a case in the Eastern District of Kentucky. And in the Southern District of Georgia, Georgia case law and pattern jury instructions also support the conclusion that the Georgia burglary statute is broader than generic burglary and indivisible, therefore, preventing Georgia's burglary from qualifying as a violent felony under the Armed Career Criminal Act. To this point, this court has addressed the categorical approach as applied to burglary offenses 4 times, in Taylor, Shepard, Descamps, and Mathis. ~~the~~

This Court is The Only Court That will Govern The Laws and what They stand for, so The lower Courts can get a complete understanding of The Constitutional laws That are setforth by our lawmaker's. There is A Constitutional violation here and a completely breakdown with These circuit's, which here is also a circuit split. For These Reason's stated here and The court's with Looks upon and see That It is a violation here, and By The Grace of God,

#### **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Nathan Mandy

Date: March, 20<sup>th</sup> 2020