

Supreme Court, U.S.
FILED

MAY 30 2019

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No. _____

**SUPREME COURT
OF THE UNITED STATES**

ERIC GOODALL,

Petitioner,

v.

UNITED STATES of AMERICA,

Respondent.

On petition for a writ of certiorari to the
United States Court of Appeals for the Fourth Circuit
USCA No. 18-7023

MOTION FOR EXTENSION OF TIME TO FILE PETITION

Motion prepared by:
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SUPREME COURT, U.S.

Petitioner Eric Goodall moves under Supreme Court Rule 30.3 to extend the time for filing a petition for a writ of certiorari until and including July 29, 2019.

I. JURISDICTION

The United States District Court for the District of Maryland claimed subject-matter jurisdiction under 18 U.S.C. § 3231 over the criminal case brought against Petitioner in United States v. Goodall, No. 8:13-CR-00668-RWT-1.

Petitioner's motion for post-conviction relief under 28 U.S.C. § 2255 was denied on August 1, 2018, by the District Court and no Certificate of Appealability was issued because the Court had "assessed the claims in Goodall's motion... on the merits and found them deficient." Goodall v. United States, 2018 U.S. Dist. LEXIS 128679 at * 14 (D. Md. Aug. 1, 2018); Memorandum Opinion at 10, Goodall v. United States, No. 8:13-CR-00668-RWT-1 (D. Md. Aug. 8, 2018), ECF No. 89. Petitioner timely filed his Notice of Appeal, id. (Aug. 10, 2018), ECF No. 91.

The Fourth Circuit Court of Appeals denied Petitioner's Application for a Certificate of Appealability on March 1, 2019, after purportedly independently reviewing the record. United States v. Goodall, 755 Fed. Appx. 294, 295 (4th Cir. 2019) (unpublished per curiam opinion).

This Court has certiorari jurisdiction under 28 U.S.C. § 1254(1).

II. ISSUES FOR REVIEW

Goodall intends to present the following issues in his Petition for Certiorari:

- 1.) Whether the Fourth Circuit erred in affirming the lower court's Certificate of Appealability ("COA") analysis.
- 2.) Whether the Fourth Circuit erred in finding that reasonable jurists could not debate the Judgment's validity as to Count Three.
- 3.) Whether the Fourth Circuit erred in affirming the lower court's prejudice analysis.
- 4.) Whether the Fourth Circuit erred in upholding the lower court's credibility determinations in the context of a motion for summary judgment without holding a hearing.

This Court should grant the requested extension of time because this case presents issues of importance beyond the particular facts and parties involved, and raises issues of great importance to the public.

A. Scope of COA Analysis

Goodall's application for a Certificate of Appealability to the Fourth Circuit questioned whether the lower court exceeded the limited scope of COA analysis.

The District Court failed to follow the statutory order of operations and predicated the COA denial on the Court's adjudication of the merits of Goodall's claims. The District Court stated it had assessed Goodall's claims "on the merits and found them deficient" therefore "[n]o reasonable jurist could find merit in any of Eric Goodall's claims, and thus no certificate of appealability shall issue." Goodall v. United States, 2018 U.S. Dist. LEXIS 128679 *14 (D. Md. Aug. 1, 2018) (Titus, J.). The Fourth Circuit's affirmance is irreconcilable with this Court's directive that a failure "to make the ultimate showing that the claim is meritorious does not logically mean he failed to make a preliminary showing that his claim was debatable." Buck v. Davis, 580 U.S. ___, 197 L. Ed. 2d 1, 17 (2017) (Roberts, C.J.) (holding that denial of a COA based on adjudication of the actual merits inverted the statutory order of operations).

B. Count Three Judgment Validity

The Fourth Circuit's affirmance of the lower court's procedural default ruling on Goodall's Second Claim for relief rests on the re-characterization of his interstate commerce clause subject-matter jurisdiction challenge as "merely one element of the criminal activity proscribed... and whether it is demonstrated in an individual circumstance does not affect a court's ~~constitutional~~ constitutional or statutory power to adjudicate a case." United States v. White, 771 F.3d 225, 229 n.2 (4th Cir. 2014) (quoting United States v. Carr, 271 F.3d 172, 178 (4th Cir. 2001)).

Goodall's case demonstrates the flawed reasoning in the Fourth Circuit's interpretation of Congress' interstate commerce clause powers. First, the

Indictment fails to make any interstate commerce allegation. See Indictment at 3, United States v. Goodall, No. 8:13-CR-00668-RWT (D. Md. Dec. 4, 2013), ECF No. 9 (allegation that ammunition was knowingly possessed "in and affecting commerce" in violation of 18 U.S.C. § 922(g)). It is well established in the common law that rendition of judgment "must be restricted to issues raised on the pleadings." 1 Henry C. Black, The Law of Judgments § 242 (2nd ed. 1902); Restatement (Second) of Judgments § 12 cmt. d (Am. Law Inst. 1982) ("a court ordinarily is required and authorized to determine only the issues that are raised by the parties."). Second, there was no stipulation or evidence presented during the plea colloquy that places the charged offense conduct in a channel of interstate commerce; a person or thing in interstate commerce; or any activity that substantially affected interstate commerce. United States v. Lopez, 514 U.S. 549, 558-59 (1995) (Rehnquist, C.J.).

An indictment that fails to state a cause of action cannot support a judgment, and it is "an inflexible rule" that a judgment rendered by a court without jurisdiction is null and void. The Law of Judgments §§ 183, 240; Restatement (Second) of Judgments § 1 (a court must have subject-matter jurisdiction to render a valid judgment). It is "an axiom of the law" that a judgment is to be given no effect when "the court had no jurisdiction... or the judgment rendered was beyond its power." Cooper v. Reynolds, 10 Wall. 308, 316, 19 L. Ed. 931 (1870); Steel Co. v. Citizens for Better Environment, 523 U.S. 83, 94 (1998) (Scalia, J.) (without jurisdiction, the court must dismiss). Reasonable jurists could debate whether the Judgment as to Count Three of the Indictment is valid.

C. Prejudice Analysis

Goodall pleaded several theories of prejudice resulting from his attorney's ineffective assistance. Goodall argued that he was innocent of violating 18 U.S.C. § 922(g)(1); Indictment Counts One and Two were multiplicitous (again, ~~prejudice~~ prejudice results from an additional felony conviction); the \$100.00 special assessment fee for each Count that he should not have been convicted of was unauthorized punishment; and the prosecutor used the § 922(g)(1) conviction to misrepresent Goodall's conduct in this case as "a dangerous and violent drug trafficker" which made him ineligible for the one year sentence reduction awarded for successful completion of the BOP's Residential Drug Abuse Program ("RDAP"). Government's Sentencing Memorandum at 3, United States v. Goodall, No. 8:13-CR-00668-RWT (D. Md. May 20, 2015), ECF No. 43. The District Court found that Goodall could not demonstrate prejudice, reasoning that "even if the Court were to remove one of these convictions altogether, Goodall would not suffer any prejudice because his term of imprisonment would remain the same." Goodall v. United States, 2018 U.S. Dist. LEXIS 128679 *10 (D. Md. Aug. 1, 2018) id. at *11 (none of Goodall's claims result in prejudice). It seems clear that the District Court's exclusive focus on sentence length is in conflict with Supreme Court and Fourth Circuit precedence. In Rutledge v. United States, 517 U.S. 292, 301-03 (1996), this Court recognized that a statutory special assessment constitutes prejudice and the Fourth Circuit has found that felony convictions carry a myriad of collateral consequences beyond prison time, including special assessments, rejecting the argument that no change in sentence length bars a claim for relief. United States v. Adams, 814 F.3d 178, 180 n.1 (4th Cir. 2016).

This case implicates concerns outside of this case because the District Court routinely applies this erroneous prejudice analysis. See Myers v. United States, U.S. Dist. LEXIS 75686, WL 3654496 at *4 (D. Md. June 11, 2015) (Titus, J.)

III. RELEVANT FACTS

On March 1, 2019, the Fourth Circuit Court of Appeals denied Petitioner's request for a Certificate of Appealability. See United States v. Goodall, No. 18-7023 (4th Cir. 2019) (unpublished per curiam opinion). A Petition for writ of certiorari is timely filed on or before May 30, 2019. See Supreme Court Rule 13.1.

Other than Goodall's previously submitted Motion for Extension of Time to File Petition on May 19, 2019 (operative date of filing), which was rejected by this Court, Goodall has not previously requested an extension of time.

Neither harm nor prejudice to Petitioner or Respondent will result by the granting of the sixty day extension of time requested.

Petitioner is a layman, unskilled in legal matters. Petitioner requires legal reference material and assistance not available in the FCI Fort Dix main law library to properly present his Petition to this Court.

IV. MOTION IS TIMELY

A petition for a writ of certiorari is timely filed with the Clerk

of Court within 90 days after entry of the judgment. 28 U.S.C. § 2101(c); Supreme Court Rule 13.1. The period of time for petitioning this Court may be extended by sixty days if the request is filed with the Clerk at least 10 days before the date the petition is due and "good cause" is shown. 28 U.S.C. § 2101(c); Supreme Court Rule 13.5.

Goodall filed his first request for an extension with the Clerk on May 19, 2019 (operative date of filing), which was within eighty days of the Fourth Circuit's judgment entered on March 1, 2019. Although rejected because of form, Goodall's request for an extension was timely filed and this re-submission has been corrected.

V. GROUNDS FOR EXTENSION

Goodall is currently in the custody of the United States Attorney General and is restrained of his liberty by the Bureau of Prisons ("BOP") in Fort Dix Federal Correctional Institution ("FCI").

Goodall is incarcerated with approximately 2,500 other federal inmates and is permitted a very limited amount of time in which to access the FCI Fort Dix law library. The law clerks at FCI Fort Dix are not capable of assisting Goodall with preparing effective or meaningful documents for submission to this Court. As previously stated, the FCI Fort Dix law library content is inadequate for the research needed to meaningfully prepare his petition for a writ of certiorari. For these reasons, Goodall must obtain legal reference materials and assistance from outside the institution which

has caused unavoidable delay. Lastly, Goodall cannot afford legal representation because he is indigent.

Goodall respectfully submits that good cause exists to grant his request for an extension of time where FCI Fort Dix fails to facilitate Goodall's constitutional right of effective and meaningful court-access.

VI. CONCLUSION

This Court should grant Goodall's request for an extension of time and ultimately exercise its supervisory authority and correct the Fourth Circuit's reasoning that interstate commerce is merely one element of a § 922(g) offense as opposed to the subject-matter jurisdiction element. The Fourth Circuit's reasoning is incompatible with the Constitution's Article I, § 8, cl. 3 power to regulate interstate commerce, which is a discrete enumeration rendered express by the Tenth Amendment. Printz v. United States, 521 U.S. 898, 919 (1997) (Scalia, J.). The Fourth Circuit's precedence suffers from the "false notion that the purpose of interpretation is to discover intent." Antonin Scalia & Bryan Garner, *Reading Law: The Interpretation of Legal Texts* § 67 (2012). This false notion supports a premise that Congress need only speak the phrase "interstate commerce" in order to exercise a plenary power, contra Cohens v. Virginia, 6 Wheat. 264, 428 (1821); Lopez, 514 U.S. at 556 (the Constitution withholds from Congress a plenary police power); Bond v. United States, 572 U.S. ___, 189 L. Ed. 2d 1, 10 (2014) (same).

Nothing authorized the District Court to presume that the ammunition

was in or affecting interstate commerce, a presumption necessary for rendition of judgment in Goodall's case. The court's presumption of an interstate commerce nexus created "a new offense and one that I would think of doubtful constitutionality even if it were created by Congress." Krulewitch v. United States, 336 U.S. 440, 457 (1949) (Jackson, J., concurring).

Respectfully Submitted,

Dated: June 23, 2019

/s/ Eric Goodall

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