

SUPREME COURT CASE NO. 20-_____

IN THE SUPREME COURT OF THE UNITED STATES

ARCHIE LEE WILLIAMS,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari from
the United States Court of Appeals
for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Did the Eleventh Circuit err in affirming the district court's denial of the Petitioner's motion to withdraw his plea and was it was it an abuse of discretion and/or harmless error?

PARTIES TO THE PROCEEDING

Archie Lee Williams is the petitioner here and was the defendant-appellant below. The United States of America is the respondent here and was the appellee below.

CORPORATE DISCLOSURE STATEMENT

There are no parent corporations or publicly held companies in this case.

STATEMENT OF RELATED PROCEEDINGS

United States of America v. Archie Lee Williams, No. 19-12784 (11th Cir. 2020). (11th Cir. opinion is unreported and judgment issued April 3, 2020).

United States of America v. Archie Lee Williams, No. 5:18-cr-00442-SLB-GMB-1 (N.D.A.L. judgment entered July 18, 2019).

There are no additional proceedings in any court that are directly related to this case.

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Archie Lee Williams, an inmate currently incarcerated at U.S. Penitentiary Lee in Jonesville, Virginia, by and through Brian D. Clark, Appointed Counsel for the Petitioner, respectfully petitions this court for a writ of certiorari to review the judgement of the United States Court of Appeals for the Eleventh Circuit. The Eleventh Circuit erred in finding no plain error where there is no precedent from the Supreme Court or this Court directly resolving an issue where the language of a statute or rule does not specifically resolve an issue. The Eleventh Circuit erred in finding that the district court did not abuse its discretion in denying Mr. Williams' motion to withdraw his guilty plea. Contrary to the Eleventh Circuit's opinion, the district court plainly erred by not explicitly explaining that his guilty plea as to Count One could be used against him at his trial for Count Two. The Eleventh Circuit is incorrect in their assessment that it is harmless error to deny a defendant's plea withdrawal when such consequences of a guilty plea are not explained.

OPINION BELOW

The Eleventh Circuit's opinion is unreported: *U.S.A. v. Archie Williams*, No. 19-12784, (11th Cir. 2020).

JURISDICTION

The Eleventh Circuit issued a judgment on April 3, 2020. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RULES, STATUTES AND CONSTITUTIONAL PROVIDSIONS INVOLVED

U.S. CONST. amend. XIV Rights Guaranteed

Fed. R. Crim. P. 11

STATEMENT OF THE CASE

The Defendant, Archie Lee Williams, was indicted on September 26, 2018, Count 1: bank robbery and Count 2: possession of a firearm during and in relation to a crime of violence. Mr. Williams filed a Notice of Intent to Change Plea as to Count One on December 4, 2018, and plead guilty to one count of bank robbery in violation of 18 U.S.C. § 2113(a) on December 7, 2018. (Doc. 25 and 40). On December 9, 2019 Mr. Williams filed a Motion requesting to withdraw his guilty plea as to count one. (Doc. 49). After a verbal ruling denying Mr. Williams request to withdraw his guilty plea, the District Court moved forward for trial on the second count of the indictment. A trial was held on December 11, 2018. On December 12, 2019 Mr. Williams was found guilty by a jury of count 2 possession of a firearm during and in relation to a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A). Mr. Williams' presentence report was filed on February 19, 2019. The District Court officially denied Mr. Williams' request to change his plea in writing on March 7, 2019. (Doc. 71). On March 18, 2019 the District Court granted trial counsel's a motion to withdraw as Mr. Williams' counsel and appointed Attorney Brian Clark on March 19, 2019 as Mr. Williams' new counsel. (Doc. 66, 67, 68, 74). The District Court Judge Sentenced Mr. Williams on July 18, 2019 to serve forty-one (41) months for count one and sixty (60) months for count two, to serve consecutively for a total of one-hundred and one (101)

months. (Doc. 92 and 97). On August 9, 2019, the District Court amended its sentencing order to clarify that the Defendant pled guilty to Count One and was found guilty by a jury on Count Two. (Doc. 97).

REASONS FOR GRANTING THE PETITION

Question #1

To avoid erroneous deprivation of the right to withdraw a plea, this Court should clarify whether the District Court abused its discretion and whether it is harmless error to deny a defendant's request for plea withdrawal when such consequences of a guilty plea are not explained such as the guilty plea and conviction to Count 1 being used as a detrimental element to Count 2 at trial affecting Mr. Williams' substantial rights.

On December 7, 2018, Petitioner, Mr. Archie Lee Williams, entered into a blind guilty plea agreement pursuant to Federal Rules of Criminal Procedure 11 and pleaded guilty to count one of his indictment. Mr. Williams requested to change his plea and notified the District Court of such on December 8, 2018, he wished to proceed to trial on Count One. A Motion to withdraw his guilty plea was filed on December 9, 2018. However, the District Court verbally denied the request on December 11, 2018 after opening statements of the trial on Count Two and withheld its official ruling as to the withdraw of Mr. Williams' guilty plea to Count One until March 7, 2019.

Fed. R. Crim. P. 11(d) states:

(d) Withdrawing a Guilty...Plea. A defendant may withdraw a plea of guilty...:

...

(2) after the court accepts the plea, but before it imposes sentence if:

(A) the court rejects the plea agreement under Rule 11(c)(5); or

(B) the defendant can show a fair and just reason for requesting the withdrawal.

The District Court asked Mr. Williams why he wanted to change his Count 1 plea back to not guilty. Trial Tr. vol. 1, 16:3-25, 17:19-25 and 18:1-5, December 11, 2018. The District Court ruled Mr. Williams reasons for requesting the withdrawal of his guilty plea as to Count 1 were not fair and just reasons to grant his request. Specifically, Mr. Williams stated that he did not plead guilty to Count 1 because he was in fact guilty of the offense, he professed that he pled guilty to something he did not do because he was told the evidence was against him and it was his best option. Mr. Williams stated “I mean, it wasn’t a plea deal. I just submitted”. *Id.* Mr. Williams explained he had not been sleeping nor eating due to a toothache causing him pain and receiving no medical care. *Id.* Mr. Williams argued to the Eleventh Circuit that this medical condition clouded his judgment in pleading guilty to Count 1. However, the Eleventh Circuit opined against Mr. Williams argument that he had shown fair and just reasons for requesting to withdraw his guilty plea and that their denial was not harmless error. Trial Tr. vol 1, 20:5-9, December 11, 2018. Fed. R. Crim. P. 11(h) discusses harmless error which is a variance from the requirements of Rule 11 only if it does not affect substantial rights. Mr. Williams’ substantial rights were affected and violated by the District Court in denying his request to withdraw his guilty plea on Count 1. *Dell v. United States*, 710 F.3d 1267, 1275 (11th Cir. 2013). Mr. Williams request was made two days after he pled guilty, his request was well in advance of trial for Count 2 conserving judicial resources, counsel for Mr. Williams failed to fully explain the consequences to his guilty plea to Count 1 and the District Court failed to directly inquire with Mr. Williams whether he understood those consequences and

the effects of his plea with regard to Count 2, and the Government was not prejudiced in preparing their case for trial on Counts 1 and 2 if Mr. Williams were allowed to withdraw his plea.

Both Counts 1 and 2 involved the same incident and were strongly attached to each other. Count 1 was for bank robbery and Count 2 was for possession of firearm in furtherance of a crime of violence for which the crime of violence was proven through Mr. Williams guilty plea to Count 1 for bank robbery. This is similar to *McLaughlin v. United States*, 476 U.S. 16 (1986) where a petitioner pled guilty to bank robbery and bank larceny charges, and the petitioner was found guilty of assault during a bank robbery “by use of a dangerous weapon.” *Id.* at 17. Like *McLaughlin*, Mr. Williams guilty plea to Count 1 bank robbery implicated him in Count 2 for possession of a firearm during a crime of violence (bank robbery). Mr. Williams argued to the Eleventh Circuit that just as a defendant is required to be informed of deportation¹ possibilities upon a guilty plea, a defendant should have the right to have the court specifically explain that a guilty plea can be used to establish elements to a second charge under the Federal Rules of Evidence Rule 410 as stated in Rule 11 of the Federal Rules of Criminal Procedure.

Neither the Court nor the defense counsel advised Mr. Williams that pleading guilty to Count One would be used as an element of Count Two. Trial Tr. vol. 1; 18:1-5, Dec. 11, 2018. The District Court’s failure to explain to Mr. Williams that pleading

¹ *Lee v. United States*, 137 S. Ct. 1958, 1965 (2017).

to Count 1 could be used as proof to an element in Count 2 at trial and defense counsel's deficient advice deprived Mr. Williams of a trial by causing him to plead guilty affecting his substantial rights. Therefore Mr. Williams has shown that he was prejudiced through a "reasonable probability that, but for counsel's errors, he would not have pled guilty and would have insisted on going to trial." *Lee v. United States*, 137 S. Ct. 1958, 1965 (2017). Mr. Williams decision whether to plead guilty not only requires consideration of success at trial but also the consequences of a conviction after a plea. *Lee*, 137 S.Ct. at 1966. The District Court inquired with Mr. Williams about the charge in Count One and with defense counsel as to whether counsel was satisfied that the Mr. Williams fully understood the charge in Count One and the *consequences* of entering the plea of guilty, but the District Court never inquired directly with Mr. Williams whether he fully understood the *consequences* of pleading guilty to Count One in relation to Count 2. Change of Plea as to Count 1 Tr., 9:21-25, Dec. 7, 2018 (emphasis added).

"Rule 11 expressly directs the district judge to inquire whether a defendant who pleads guilty understands the nature of the charge against him and whether he is aware of the consequences to his plea." *McCarthy v. United States*, 394 U.S. 459, 464 (1969). *McCarthy* maintains that "prejudice inheres in a failure to comply with Rule 11, for noncompliance deprives the defendant of the Rule's procedural safeguards that are designed to facilitate a more accurate determination of the voluntariness of his plea." *McCarthy* holds that Rule 11 insures to "reduce the great waste of judicial resources" in appeals. And although *McCarthy* is a Supreme Court

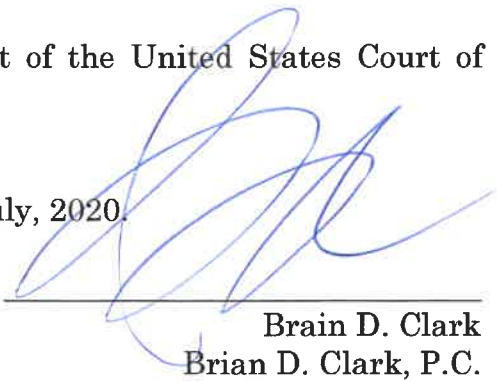
ruling on a Seventh Circuit case, and the Seventh Circuit has now clarified Rule 11 since its 1983 amendments in *United States v. Cross*, 57 F.3d 588, 590-591 (7th Cir. 1995) by opining that “[e]rrors in the plea colloquy are subject to harmless error” per Fed. R. Crim. P. 11(h), and that “Rule 11...provides that any variance from the procedures required by this rule which does not affect substantial rights shall be disregarded.” (internal quotations omitted). As argued above, Mr. Williams’ substantial rights were affected and he would not have pled guilty to Count 1 had he been advised of its consequences in relation to Count 2 at trial.

Therefore, it was an abuse of discretion and not harmless error under Rule 11 to deny Mr. Williams request to withdraw his guilty plea as to Count 1 because it affected his substantial rights in such as way that it incriminated him, and proved an element in Count 2 that was taken to trial.

CONCLUSION

For the foregoing reasons, Mr. Williams respectfully requests that this Court issue a writ of certiorari to review the judgement of the United States Court of Appeals for the Eleventh Circuit.

Respectfully submitted this the 2nd day of July, 2020.



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APPENDIX TO THE PETITION FOR WRIT OF CERTIORARI

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