

NO. 20-5132

IN THE SUPREME COURT OF THE UNITED STATES

ANTWAN R. CRAY,

Petitioner,

vs.

WARDEN, FCI COLEMAN MEDIUM,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
FROM THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

REPLY FOR PETITIONER ANTWAN R. CRAY

By: Donald G. Green
Reg. # 39747-019
Incarcerated
pro-se litigant,

For:

Antwan R. Cray
Reg. #
FCI Coleman-MED
P.O. Box 1032
Coleman, FL 33521

100-40444
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SUPREME COURT, U.S.

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**PETITIONER'S REPLY TO THE ACTING SOLICITOR GENERAL'S
RESPONSE TO Petitioner'S WRIT OF CERTIORARI**

COMES NOW, Petitioner files this Reply to the Solicitor General's Response, dated Oct. 29, 2020. Petitioner is a layman in the law, unskilled in the law, and therefore, requests that this Reply be construed liberally. *Haines v. Kerner*, 404 U.S. 519 (1972). We are on total lockdown, Honorable Justices, because of COVID-19 virus.

Petitioner states the following in this Reply to the Solicitor General's Response, in regards to Petitioner's *Rehaif v. United States*, 139 S. Ct. 2191 (2019) claim:

(1) A prisoner such as Petitioner should be allowed to file a Title 28 U.S.C. § 2241(c)(3) motion/petition to raise an argument that was foreclosed by binding circuit precedent at the time of his original 2255 motion, but is now meritorious in light of a subsequent decision overturning that precedent. See **Dusenberry v. Holt** (3rd Cir.) argued that a 2241 filed under § 2255(e) "savings clause" should be able to raise actual innocence of his sentence, like Petitioner, and like **Wheeler v. United States**, No. 16-6073 (4th Cir. 2018); In re Jones, 226 F.3d 328 (4th Cir. 2000); **Boumediene v. Bush**, 553 U.S. at 780; **Schlup v. Delo**, 513 U.S. 298, 319, 115 S.Ct. 851, 130 L.Ed.2d 808 (1995); **Terrence v. Thompson**, 263 U.S. 197, 214, 44 S. Ct. 15, 68 L.ED. 255 (1923); **Triestman v. United States**, 124 F.3d 361, 363 (2nd Cir. 1997); In re Dorsainvil, 119 F.3d 245, 251 (3rd Cir. 1997); **Reyes-Requena v. United States**, 243 F.3d 893, 904 (5th Cir. 2001); **Wooten v. Cauley**, 677 F.3d 303, 307-08 (6th Cir. 2012); In re Davenport, 147 F.3d 605, 611-12 (7th Cir. 1998); In re Smith, 285 F.3d 6, 8, 350 U.S. App. D.C. 354 (D.C. Cir. 2002). The saving clause of § 2255(e), for the portal avenue of entry for a § 2241(c)(3) motion, in **Trenkler v. U.S.**, 536 F.3d 85, 99 (1st Cir. 2008); **Poindexter v. Nash**, 333 F.3d 372, 378 (2nd Cir. 2003); In re Dorsainvil, 119 F.3d 245, 252-52 (3rd Cir. 1997); In re Jones, 226 F.3d 328, 333-334 (4th Cir. 2000); **Reyes-Requena v. U.S.**, 243 F.3d 893, 903-04 (5th Cir. 2001); **Wooten v. Cauley**, 677 F.3d 303, 307-08 (6th Cir. 2012); **Brown v. Caraway**, 719 F.3d 583, 586-87 (7th Cir. 2013); **Marrero v. Ives**, 682 F.3d 1190,

1192, 1194-95 (8th Cir. 2012); In re Smith, 285 F.3d 6, 8, 350 U.S. App. D.C. 354 (D.C. Cir. 2012); and Boumediene v. Bush, *supra*, except the 10th and 11th circuits, have concluded that at least the "saving clause" allows a prisoner to challenge his detention when a retroactive statutory interpretation decision from the Supreme Court allows that prisoner to challenge his detention when a retroactive statutory - interpretation decision from the Supreme Court shows that the prisoner was convicted for conduct that the law does not in fact make criminal. See all of the above stated cases with the exception of the 10th and 11th circuits.

The Supreme Court has called this clause the "savings clause," to allow petitioner entry. The 11th Cir. has violated this § 2255(e) savings clause, of the Petitioner's Due Process under the Fifth Amendment to the United States Constitution. **Boumediene v. Bush**, 553 U.S. 723, 776, 128 S.Ct. 2229, 171 L.Ed.2d (2208); **Wheeler**, 139 S.Ct. 1318 (2019).

McCarthan v. Director of Goodwill, 2017 U.S. App. LEXIS 4485, 11th Cir. case, in regards to Petitioner's § 2241(c)(3) motion for entry through the savings clause, is in violation of the Judiciary Act of § 14, Judiciary Act of 1789, which authorized federal courts to issue writs of habeas corpus, and the 1867 Act that amended the Judiciary Act of 1789 **Invs v. St. Cyr**, 533 U.S. 289, 305, 121 S. Ct. 2271, 150 L.Ed.2d 347 and n.25 (2001). Both statutes were enacted in 1948. Section 2241(e)(2). See also, **Swain**, 430 U.S. at 381; **Hayman**, 342 U.S. at 223; and **Boumediene**,

553 U.S. at 776. The Supreme Court placed explicit reliance upon the savings clause provisions in upholding 28 U.S.C. § 2255 and the District of Columbian equivalent of § 2255 against Constitutional challenges. See for § 2255(e), Pub. L. No. 80-773, 62 stat. 869, 968 (1948). See also, The Federalist No.47 (James Madison).

CONCLUSION

Petitioner request sentry into the 11th Circuit, and U.S. District Courts within the 11th Circuit, based on all of the above stated reasons, especially for a crime that is not criminal to his charged offense. **Bousley v. United States**, 523 U.S. 614-620-624 (1998). Petitioner should therefore, not be denied entry into the Honorable Courts.

Dated: Oct. 29th, 2020.

Respectfully,

Antwan Cray

Antwan R. Cray
Reg. # 53343-018
FCI Coleman-MED
P.O. Box 1032
Coleman, Fl 33521