

1 asked both of them, Do you use that term loosely? Does this
2 apply to a lot of people? Both confirmed this was their one
3 and only best friend. They knew each other very well.

4 When Alexandra met Eddie Jackson, Adrianna was
5 there. When Alexandra went with Eddie Jackson to Grand
6 Rapids, Adrianna was in the car with them for 45 minutes on
7 the way down. These two girls are best friends. Alexandra is
8 going to start going to the same high school as Adrianna.
9 They were talking as best friends do who are 15 and 16.

10 Ask yourself when you go back with the charges if
11 Eddie Jackson had a reasonable opportunity to observe
12 Alexandra and should he have known that she was under the age
13 of 18. Why would he buy her cigarettes the very first time
14 that she met him and leave Adrianna and Alexandra in the car
15 if he thought that she could buy them herself? Now, Alexandra
16 did not tell Eddie Jackson her true age. But ask yourself,
17 and ask yourself through this presentation, there's evidence
18 that Eddie Allen Jackson should have known or had reason to
19 believe based on his observations of Alexandra with Adrianna
20 that she was under the age of 18.

21 Eddie Jackson provided Alexandra with vodka,
22 marijuana, and cigarettes on the ride down to Grand Rapids and
23 those were free, but on the way back she had to pay for them.
24 Remember on the way back she gave Eddie Jackson the money she
25 had just earned to run into a liquor store and come back out

1 were in or affecting interstate or foreign commerce. So those
2 are the same three elements for each of the three counts that
3 pertain to each of the three minors.

4 So as for the first element, ladies and gentlemen,
5 we've got Count 1, Count 2, Count 3. There are pictures of
6 the minors there to help us keep track. For count -- for
7 element one to be met, we just need any one of those words in
8 the left-hand column to be present, any one of them, that
9 Eddie Jackson recruited them, enticed, harbored, transported *On/Off*
10 anything in that list. /

11 Well, we know he enticed them. He enticed them with
12 the promise of 50/50 share of money. He also enticed some of
13 them with alcohol, some of them with marijuana.

14 He recruited them all on the streets of Muskegon.
15 Whether he went through the intermediary of Lisa Williams or
16 through Adrianna, he recruited them for the purposes of
17 prostitution. And he transported all three of those girls to
18 Grand Rapids in his Ford Explorer, his girlfriend's Ford
19 Explorer that he drove that summer.

20 He provided all three of them to men for money. He
21 harbored Adrianna and Alissa, at least, by providing them with
22 hotel rooms. He maintained Adrianna and Alissa. We heard
23 testimony about the provision of clothing, food. He
24 maintained those girls, and he obtained all three of them.
25 Remember, we only need one X in each of those columns for the

1 read a stipulation at the end of the trial when the government
2 was putting on its proofs that the parties have agreed that
3 certain things affect interstate commerce. Those things are
4 the Ford that was being driven was made in Missouri and
5 traveled in interstate commerce to get to Michigan; that
6 alcohol sales affect interstate commerce; that Ciroc is made
7 in France; that America's Best hotel is a business where
8 interstate travelers come and they accept credit cards that
9 affects interstate commerce. The use of telephones in and of
10 itself is a means of interstate commerce, and LifeStyles
11 condoms are made outside of Michigan.

12 Now, these things on the left, ladies and gentlemen,
13 these are not elements of the offense. You don't need to find
14 that each one of these happened even though the parties have
15 stipulated that they do affect interstate commerce. You do
16 need to find that some of the activities involved some of
17 these things and that Eddie Jackson's prostituting of these
18 three minors affected something that touched on interstate
19 commerce, which is what makes it a federal crime.

20 So I won't belabor the point, but there are elements
21 of all of these that we've already talked about that affect
22 interstate and foreign commerce and his sex trafficking of
23 these three girls. So that element has been proven beyond a
24 reasonable doubt.

25 So the government has put on evidence that each of

1 and return a separate verdict for each one. Your decision on
2 any one charge, whether it is guilty or not guilty, should not
3 influence your decision as to any of the other charges, each
4 to be considered separately.

5 Now, the defendant is charged with three counts of
6 sex trafficking of a minor. It is a federal crime for anyone
7 in or affecting commerce to recruit, entice, harbor,
8 transport, provide, obtain, or maintain by any means a person,
9 knowing or in reckless disregard of the fact that this person
10 has not attained the age of 18 years and will be caused to
11 engage in commercial -- a commercial sex act.

12 Now, the defendant can be found guilty of each of
13 these crimes only if all of the following acts are proven
14 beyond a reasonable doubt: first, the defendant knowingly
15 recruited, enticed, harbored, transported, provided, obtained,
16 or maintained by any means the minors that were identified to
17 you as Adrianna, Alissa, and Alexander (sic). Second, the
18 defendant did so knowingly or in reckless disregard of the
19 fact that the person had not attained the age of 18 years and
20 would be caused to engage in commercial -- a commercial sex
21 act. Third, that the defendant's acts were in and affecting
22 interstate or foreign commerce.

23 Now, a commercial sex act means any sex act on
24 account of which anything of value is given to or received by
25 any person, whether or not the exchange is completed.

1 In determining whether the defendant's conduct was
2 in or affecting interstate or foreign commerce, you may
3 consider whether the defendant used means or facilities of
4 interstate commerce, such as telephones, Internet, hotels that
5 serviced interstate travelers, or whether his conduct
6 substantially affected interstate commerce by virtue of the
7 fact that he purchased items that had moved in interstate
8 commerce.

9 If the government proves beyond a reasonable doubt
10 that the defendant had a reasonable opportunity to observe the
11 persons recruited, enticed, harbored, transported, provided,
12 obtained, or maintained, then the government does not have to
13 prove that the defendant knew the person had not attained the
14 age of 18 years.

15 Consent by a minor is not a defense to the charges
16 of sex trafficking of a minor because a minor cannot legally
17 consent to be sexually exploited. Therefore, because a minor
18 cannot legally consent -- let's see. Therefore, it is not
19 relevant to your analysis whether or not the minor went
20 willingly with the defendant into prostitution because,
21 legally, a minor cannot consent to prostitution.

22 Next I want to say a word about the date mentioned
23 in the indictment. The indictment charges that the crime
24 happened, the crime -- these three crimes happened on or about
25 particular dates or date. The government does not have to

1 prove that the crime happened on the exact date, but the
2 government must prove that the crime happened reasonably close
3 to the dates that are alleged.

4 I will now address the question of the defendant's
5 required mental state. The defendant (sic) must prove beyond
6 a reasonable doubt that the defendant knowingly recruited,
7 enticed, harbored, transported, provided, obtained, or
8 maintained a person, and knew or recklessly disregarded the
9 fact that the person was under the age of 18 and would be
10 caused to engage in a commercial sex act.

11 Now, the government need not prove that the
12 defendant knew his actions were in or affecting interstate or
13 foreign commerce.

14 To do something knowingly means that the person is
15 conscious and aware of his actions and did not act because of
16 ignorance, mistake, or accident.

17 Next I want to explain something about proving a
18 defendant's state of mind. Ordinarily there is no way to
19 prove -- that a defendant's state of mind can be proven
20 directly because no one can read another person's mind and
21 tell what that person is thinking. But a defendant's state of
22 mind can be proven indirectly from the surrounding
23 circumstances, things like what the defendant said, what the
24 defendant did, how the defendant acted, and any other facts or
25 circumstances in evidence to show what was in the defendant's

Appendix B

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDDIE ALLEN JACKSON,

Defendant.

INDICTMENT

The Grand Jury charges:

COUNT 1
(Sex Trafficking of a Minor)

Between on or about June 4, 2012, and on or about August 31, 2012, in Muskegon and Kent Counties, in the Southern Division of the Western District of Michigan,

EDDIE ALLEN JACKSON

did knowingly recruit, entice, harbor, transport, provide, obtain, and maintain by any means in and affecting interstate and foreign commerce Minor #1, knowing and in reckless disregard of the fact that Minor #1 had not attained the age of 18 years and that Minor #1 would be caused to engage in commercial sex acts.

18 U.S.C. § 1591(a)(1) and (b)(2)

30 base level

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COUNT 2
(Sex Trafficking of a Minor)

On or about August 16, 2012, in Muskegon and Kent Counties, in the Southern Division of the Western District of Michigan,

EDDIE ALLEN JACKSON

did knowingly recruit, entice, harbor, transport, provide, obtain, and maintain by any means in and affecting interstate and foreign commerce Minor #2, knowing and in reckless disregard of the fact that Minor #2 had not attained the age of 18 years and that Minor #2 would be caused to engage in a commercial sex act.

18 U.S.C. § 1591(a)(1) and (b)(2)

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COUNT 3
(Sex Trafficking of a Minor)

At some time between June 2012 and August 2012, the exact date being unknown to the grand jury, in Muskegon and Kent Counties, in the Southern Division of the Western District of Michigan,

EDDIE ALLEN JACKSON

Miles recd *DR*
did knowingly recruit, entice, harbor, transport, provide, obtain, and maintain by any means in and affecting interstate and foreign commerce Minor #3, knowing and in reckless disregard of the fact that Minor #3 had not attained the age of 13 years and that Minor #3 would be caused to engage in a commercial sex act.

18 U.S.C. § 1591(a)(1) and (b)(2)

A TRUE BILL



GRAND JURY FOREPERSON

PATRICK A. MILES, JR.
United States Attorney



TESSA K. HESSMILLER
Assistant United States Attorney

No. 19-2269

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Apr 07, 2020
DEBORAH S. HUNT, Clerk

In re: EDDIE ALLEN JACKSON,
Movant.

ORDER

Movant.

Before: BATCHELDER, McKEAGUE, and READLER, Circuit Judges.

Eddie Allen Jackson, a federal prisoner proceeding pro se, moves this court for an order authorizing the district court to consider a second or successive motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. *See* 28 U.S.C. § 2255(h). The government opposes the motion for authorization.

In April 2014, a federal jury convicted Jackson of three counts of child sex trafficking in violation of 18 U.S.C. § 1591(a)(1), and the district court sentenced him to a 360-month term of imprisonment. On direct appeal, Jackson argued that the district court improperly excluded evidence of the minor victims' prostitution history and that his sentence was both procedurally and substantively unreasonable. We affirmed. *United States v. Jackson*, 627 F. App'x 460, 465 (6th Cir. 2015).

In March 2017, Jackson filed an unsuccessful § 2255 motion and this court declined to issue a certificate of appealability. *See Jackson v. United States*, No. 17-2241 (6th Cir. Apr. 12, 2018) (order), *cert. denied*, 139 S. Ct. 274 (2018). Jackson thereafter filed a motion for authorization to file a second or successive § 2255 motion, in which he asserted that he was actually innocent of one of his § 1591(a)(1) convictions. We denied Jackson’s motion for authorization. *In re Jackson*, No. 18-1866 (6th Cir. Dec. 19, 2018) (order).

In October 2019, Jackson filed another § 2255 motion, which the district court transferred to this court pursuant to *In re Sims*, 111 F.3d 45, 47 (6th Cir. 1997) (per curiam). Jackson has since filed in this court a corrected motion for authorization to file a second or successive § 2255 motion, challenging his sentence in light of *United States v. Haymond*, 139 S. Ct. 2369 (2019) (plurality). In that case, the Supreme Court held that 18 U.S.C. § 3583(k), which set a mandatory minimum penalty based on judge-found facts following a supervised-release revocation, violated the Due Process Clause and the Sixth Amendment's right to a jury trial. *See id.* at 2378-79 (Gorsuch, J., plurality).

Before we may grant permission to file a second or successive § 2255 motion, Jackson must make a *prima facie* showing that he relies on either: (1) newly discovered evidence that “would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found [him] guilty of the offense”; or (2) “a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.” 28 U.S.C. § 2255(h); *see also* 28 U.S.C. § 2244(b)(3)(C).

Jackson cannot make such a showing. Despite his contention to the contrary, Jackson's claim does not rely on newly discovered evidence that clearly exonerates him of his crimes of conviction. *See* 28 U.S.C. § 2255(h)(1). He instead seeks to proceed under § 2255(h)(2), citing *Haymond* as a basis for relief. But even if *Haymond* applied to Jackson's case, it did not announce a new rule of constitutional law made retroactively applicable to cases on collateral review. The rule announced in *Haymond* did not “alter[] the range of conduct or the class of persons that the law punishes,” but rather “allocate[d] decisionmaking authority” by requiring that certain factual findings be made by a jury rather than by a judge. *Schrivo v. Summerlin*, 542 U.S. 348, 353 (2004). “Rules that allocate decisionmaking authority in this fashion are prototypical procedural rules. . . .” *Id.* Procedural rules apply retroactively to cases on collateral review only if they are “‘watershed rules of criminal procedure’ implicating the fundamental fairness and accuracy of the criminal proceeding.” *Saffle v. Parks*, 494 U.S. 484, 495 (1990) (quoting *Teague v. Lane*, 489 U.S. 288, 311 (1989)). *Haymond* did not announce such a watershed rule because it merely

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extended the Supreme Court's holding in *Alleyne v. United States*, 570 U.S. 99 (2013), which itself was not a "watershed" decision. *See Haymond*, 139 S. Ct. at 2378; *United States v. Salazar*, 784 F. App'x 579, 583–84 (10th Cir. 2019), *cert. denied*, No. 19-7304, 2020 WL 873699 (U.S. Feb. 24, 2020); *In re Mazzio*, 756 F.3d 487, 491 (6th Cir. 2014).

Accordingly, we **DENY** Jackson's motion for authorization to file a second or successive § 2255 motion.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk