

Case No: _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2019

JARODERICK HARDY,
Petitioner,

v.

UNITED STATES,
Respondent.

On Petition for a Writ of Certiorari
to the Court of Appeals for the Eleventh Circuit

MOTION TO PROCEED IN FORMA PAUPERIS

Christine A. Freeman, Executive Director
Mackenzie S. Lund*
Federal Defenders, Middle District of Alabama
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**Counsel of Record*

August 14, 2020

Petitioner, Mr. Jaroderick Hardy, asks leave to file his Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis* pursuant to Rule 39. Mr. Hardy has been represented by the Federal Defenders for the Middle District of Alabama by appointment. The oral order appointing the Federal Defenders was entered on May 18, 2018. A copy of the docket sheet containing the relevant entries is attached to this motion.

Respectfully submitted,

/s/ Mackenzie S. Lund

Mackenzie S. Lund

Assistant Federal Defender

Federal Defenders for the Middle District of Alabama

817 S. Court Street

Montgomery, AL 36104

(334)-834-2099

Counsel of Record for Petitioner

Executed on August 14, 2020

CLOSED,MHT-VJ

**U.S. District Court
Alabama Middle District (Montgomery)
CRIMINAL DOCKET FOR CASE #: 2:18-cr-00168-LSC-TFM-1**

Case title: USA v. Hardy

Date Filed: 05/01/2018

Date Terminated: 11/19/2018

Assigned to: Honorable L. Scott

Coogler

Referred to: Honorable Judge Terry F.

Moorer

Appeals court case number: 18-14884-F

USDC

Defendant (1)**Jaroderick Hardy***TERMINATED: 11/19/2018*represented by **Federal Defender**

Federal Defenders

Middle District of Alabama

817 South Court Street

Montgomery, AL 36104

334-834-2099

Fax: 834-0353

Email: ECFCMALM@fd.org

LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Designation: Public Defender or**Community Defender Appointment***Nate Wenstrup**

Federal Defenders - MDAL

817 S Court St

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Email: nate_wenstrup@fd.org

LEAD ATTORNEY**ATTORNEY TO BE NOTICED****Christine Ann Freeman**

Federal Defenders

Middle District of Alabama

817 South Court Street

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 Email: christine_freeman@fd.org
ATTORNEY TO BE NOTICED

Pending Counts

18 USC 922(g)(1) Possession of a
 Firearm by a Convicted Felon
 (1)

Disposition

15 Months Imprisonment; 3 Years
 Supervised Release;\$100.00
 Assessment Fee

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition**Highest Offense Level (Terminated)**

None

Complaints

None

Disposition**Plaintiff**

USA

represented by **Joshua J. Wendell**
 US Attorneys Office
 131 Clayton St
 Montgomery, AL 36104
 334-551-1789
 Email: Josh.Wendell@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
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Robert Randolph Neeley
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
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05/01/2018	<u>1</u>	INDICTMENT as to Jaroderick Hardy (1) count(s) 1. Forfeiture Allegation (cb,) (Entered: 05/03/2018)
05/03/2018		Case as to Jaroderick Hardy Reassigned to Honorable L. Scott Coogler. Honorable Judge Myron H. Thompson no longer assigned to the case. (jct,) (Entered: 05/03/2018)
05/08/2018		Case unsealed as to Jaroderick Hardy pursuant to notice of arrest from USMS (ag,) (Entered: 05/08/2018)
05/08/2018	<u>4</u>	MOTION for Detention by USA as to Jaroderick Hardy. (Wendell, Joshua) (Entered: 05/08/2018)
05/08/2018		Arrest of Jaroderick Hardy (cb,) (Entered: 05/09/2018)
05/08/2018	<u>5</u>	CJA 23 Financial Affidavit by Jaroderick Hardy (cb,) (Entered: 05/09/2018)
05/08/2018		ORAL MOTION to Appoint Counsel by Jaroderick Hardy. (cb,) (Entered: 05/09/2018)
05/08/2018		ORDER (ORAL) granting Oral Motion to Appoint Counsel: Appointed Federal Defender for Jaroderick Hardy as to Jaroderick Hardy (1). Signed by Honorable Judge Terry F. Moorer on 5/8/2018. (cb,) (Entered: 05/09/2018)
05/08/2018	<u>6</u>	Minute Entry for Initial Appearance held before Honorable Judge Terry F. Moorer as to Jaroderick Hardy on 5/8/2018 (PDF available for court use only) (Recording Time 2:49-2:56.) (cb,) (Entered: 05/09/2018)
05/08/2018		ORAL ORDER directing the defendant to remain in the custody of the US Marshal pending further proceedings as to Jaroderick Hardy. Signed by Honorable Judge Terry F. Moorer on 5/8/2018. (cb,) (Entered: 05/09/2018)
05/09/2018	<u>7</u>	ORDER as to Jaroderick Hardy re <u>4</u> MOTION for Detention filed by USA: Detention Hearing set for 5/11/2018 02:00 PM in CR 4A before Honorable Judge Terry F. Moorer. Pending this hearing, the defendant(s) shall be held in custody of the U. S. Marshal and produced for the hearing Signed by Honorable Judge Terry F. Moorer on 5/9/2018. (ag,) (Entered: 05/09/2018)
05/09/2018	9	TEXT ORDER as to Jaroderick Hardy: Resetting Detention Hearing now set for 5/11 to 5/10/2018 02:00 PM in CR 4A before Honorable Judge Terry F. Moorer. Entered by Honorable Judge Terry F. Moorer on 5/9/2018. (ag,) (Entered: 05/09/2018)
05/10/2018	10	TEXT ORDER as to Jaroderick Hardy. Detention Hearing set for 5/10/2018 at 2:00 PM is hereby RESET for 5/11/2018 at 02:00 PM in CR 4A before Honorable Judge Terry F. Moorer. Pending this hearing, the defendant(s) shall be held in custody of the U. S. Marshal and produced for the hearing. Signed by Honorable Judge Terry F. Moorer on 5/10/2018. (cb,) (Entered: 05/10/2018)
05/11/2018	<u>11</u>	Minute Entry for Arraignment held before Honorable Judge Terry F. Moorer as to Jaroderick Hardy. NOT GUILTY PLEA ENTERED AS TO COUNT 1.

		DETENTION HEARING NOT HELD (PDF available for court use only) (Recording Time 2:04-2:08.) (cb,) (Entered: 05/11/2018)
05/21/2018	12	NOTICE OF ATTORNEY APPEARANCE: Nate Wenstrup appearing for Jaroderick Hardy (Wenstrup, Nate) (Entered: 05/21/2018)
05/21/2018	13	NOTICE OF ATTORNEY APPEARANCE: Christine Ann Freeman appearing for Jaroderick Hardy (Freeman, Christine) (Entered: 05/21/2018)
05/22/2018	14	NOTICE OF ATTORNEY APPEARANCE Robert Randolph Neeley appearing for USA. (Neeley, Robert) (Entered: 05/22/2018)
05/22/2018	15	MOTION to Continue trial by Jaroderick Hardy. (Wenstrup, Nate) (Entered: 05/22/2018)
05/25/2018	16	MOTION to Suppress by Jaroderick Hardy. (Wenstrup, Nate) (Entered: 05/25/2018)
05/25/2018	17	ORDER to include Ends of Justice as to Jaroderick Hardy (Time excluded from 6/11/2018 until 7/16/2018) granting 15 MOTION to Continue trial filed by Jaroderick Hardy and Resetting Jury Selection and Trial now set for 6/11/18 to 7/16/2018 before Honorable L. Scott Coogler. Signed by Honorable L. Scott Coogler on 5/25/2018. (ag,) (Entered: 05/25/2018)
05/31/2018	18	ORDER ON ARRAIGNMENT to include Ends of Justice as to Jaroderick Hardy (Time excluded from 5/31/2018 until 7/16/2018): Pretrial Conference set for 6/11/2018 08:30 AM in CR 4A before Honorable Judge Terry F. Moorner; Jury Selection & Trial set for 7/16/2018 10:00 AM in Montgomery, Alabama before Honorable L. Scott Coogler; Proposed Jury Instructions due by 7/9/2018; Voir Dire due by 7/9/2018; Pretrial Motions due by 6/7/2018; government's initial disclosures due on or before 5/25/18 with defendant's Discovery due by 5/30/2018. Signed by Honorable Judge Terry F. Moorner on 5/31/2018. (ag,) (Entered: 05/31/2018)
05/31/2018	19	ORDER as to Jaroderick Hardy re 16 MOTION to Suppress filed by Jaroderick Hardy; that the Government shall file a response to the motion on or before June 8, 2018: Evidentiary Hearing set for 6/11/2018 08:30 AM in CR 4A before Honorable Judge Terry F. Moorner. If the defendant is in custody, the United States Marshal shall produce the defendant for the hearing. Signed by Honorable Judge Terry F. Moorner on 5/31/2018. (ag,) (Entered: 05/31/2018)
06/08/2018	20	NOTICE of Intent to Use Evidence by Jaroderick Hardy <i>AT EVIDENTIARY HEARING</i> (Wenstrup, Nate) (Entered: 06/08/2018)
06/08/2018	21	RESPONSE to Motion by USA as to Jaroderick Hardy re 16 MOTION to Suppress <i>Evidence</i> (Attachments: # 1 Exhibit Google Map of Spring Valley Area)(Wendell, Joshua) (Entered: 06/08/2018)
06/11/2018	25	Minute Entry for proceedings held before Honorable Judge Terry F. Moorner:Evidentiary Hearing as to Jaroderick Hardy held on 6/11/2018 re 16 MOTION to Suppress filed by Jaroderick Hardy (PDF available for court use only) (Court Reporter Risa Entrekin.) (Attachments: # 1 Witness List, # 2 Govt. Exh List (including (2) CDs, Govt. Exhibit 3, 911 Call, and Govt. Exhibit 4,

		Body Camera)) (ws,) Modified on 4/5/2019 to reflect on docket there are (2) CDs filed with Govt. Exh List. (dmn,) (Entered: 06/18/2018)
06/12/2018	22	TRANSCRIPT of Defendant's Motion to Suppress (PDF ACCESS RESTRICTED FOR 90 DAYS.) held on 6/11/2018 before Judge Terry F. Moorer as to Jaroderick Hardy. Court Reporter/Transcriber Risa Entrekin, Telephone number 334-240-2405. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. NOTICE OF INTENT TO REQUEST REDACTION DUE WITHIN 7 BUSINESS DAYS. Redaction Request due 7/3/2018. Redacted Transcript Deadline set for 7/13/2018. Release of Transcript Restriction set for 9/10/2018. (ag,) Modified on 11/21/2018. Transcript not released. See redacted transcript 27 . (dph,). (Entered: 06/12/2018)
06/14/2018	23	NOTICE of Intent to Request Redaction of 22 Transcript,, by Nate Wenstrup in case as to Jaroderick Hardy (Wenstrup, Nate) (Entered: 06/14/2018)
06/14/2018	24	REPORT AND RECOMMENDATIONS as to Jaroderick Hardy that 16 MOTION to Suppress be Granted. Objections to R&R due by 6/26/2018. Signed by Honorable Judge Terry F. Moorer on 6/14/2018. (ag,) (Entered: 06/14/2018)
06/22/2018	26	Transcript Redaction Request in case as to Jaroderick Hardy re 22 Transcript,, filed by attorney Nate Wenstrup (Wenstrup, Nate) (Entered: 06/22/2018)
06/26/2018	27	REDACTED TRANSCRIPT of 22 Transcript as to Jaroderick Hardy of proceeding held on 6/11/2018, before Judge Terry F. Moorer. Court Reporter/Transcriber Risa Entrekin. (ag,) (Entered: 06/26/2018)
06/26/2018	28	OBJECTION TO REPORT AND RECOMMENDATIONS 24 by USA as to Jaroderick Hardy (Attachments: # 1 Exhibit)(Wendell, Joshua) (Entered: 06/26/2018)
06/29/2018	29	MOTION for Leave to File <i>REPLY TO GOVERNMENTS OBJECTIONS TO MAGISTRATE JUDGES REPORT AND RECOMMENDATION</i> by Jaroderick Hardy. (Attachments: # 1 Exhibit)(Wenstrup, Nate) (Entered: 06/29/2018)
06/29/2018	30	TEXT ORDER granting 29 Motion for Leave to File Reply to Government's Objections to Magistrate Judges Report and Recommendation as to Jaroderick Hardy (1). Signed by Honorable Judge Terry F. Moorer on 6/29/2018. (cb,) (Entered: 06/29/2018)
06/29/2018	31	RESPONSE to Motion by Jaroderick Hardy re 24 REPORT AND RECOMMENDATIONS as to Jaroderick Hardy re 16 MOTION to Suppress (Wenstrup, Nate) (Entered: 06/29/2018)
07/09/2018	32	NOTICE OF INTENT TO CHANGE PLEA by Jaroderick Hardy (Wenstrup, Nate) (Entered: 07/09/2018)
07/11/2018	33	ORDER as to Jaroderick Hardy re 32 Notice of Intent to Change Plea: Change of Plea Hearing set for 7/12/2018 09:00 AM in CR 4A before Honorable Judge Terry F. Moorer. If a court reporter is available, the Clerk of the Court shall provide a court reporter for this proceeding. The

		United States Marshal or the person having custody of the defendant shall produce the defendant for the proceeding. Signed by Honorable Judge Terry F. Moorer on 7/11/2018. (ag,) (Entered: 07/11/2018)
07/12/2018	34	Consent to Enter Guilty Plea before U. S. Magistrate Judge as to Jaroderick Hardy (ws,) (Entered: 07/12/2018)
07/12/2018	35	PLEA AGREEMENT as to Jaroderick Hardy (ws,) (Entered: 07/12/2018)
07/12/2018		ORAL ORDER Accepting Guilty Plea as to Jaroderick Hardy and Adjudicating the defendant guilty as to Count(s) 1 of the Indictment. Signed by Honorable Judge Terry F. Moorer on 7/12/18. (ws,) (Entered: 07/12/2018)
07/12/2018	36	Minute Entry for proceedings held before Honorable Judge Terry F. Moorer:Change of Plea Hearing as to Jaroderick Hardy held on 7/12/2018 ; Plea entered by Jaroderick Hardy (1) Guilty to Count 1. (PDF available for court use only) (Court Reporter Patricia Starkie.) (ws,) (Entered: 07/12/2018)
07/13/2018	37	ORDER as to Jaroderick Hardy. Sentencing set for 11/14/2018 11:40 AM in Montgomery, Alabama before Honorable L. Scott Coogler.. Signed by Honorable Judge Charles S. Coody on 7/13/2018. (cb,) (Entered: 07/13/2018)
07/17/2018	38	MOTION for Preliminary Forfeiture of Property by USA as to Jaroderick Hardy. (Attachments: # 1 Text of Proposed Order)(Neeley, Robert) (Entered: 07/17/2018)
08/07/2018	39	MEMORANDUM OPINION AND ORDER as to Jaroderick Hardy that the Court finds the magistrate judge's Report and Recommendation (doc. 24) is not due to be adopted and accepted but is REVERSED. The Motion to Suppress (doc. 16) is hereby DENIED. Signed by Honorable L. Scott Coogler on 8/7/2018. (ag,) (Entered: 08/07/2018)
10/10/2018	40	TEXT ORDER as to Jaroderick Hardy: Resetting Sentencing now set for 11/14 to 11/6/2018 10:40 AM in CR 2F before Honorable L. Scott Coogler.. Entered by Honorable L. Scott Coogler on 10/10/2018. (ag,) (Entered: 10/10/2018)
10/30/2018	41	<i>NOTICE OF FILING SENTENCING EXHIBIT</i> as to Jaroderick Hardy (Wenstrup, Nate) (Entered: 10/30/2018)
10/31/2018	42	<i>NOTICE OF FILING SUPPLEMENTAL SENTENCING EXHIBIT</i> as to Jaroderick Hardy (Wenstrup, Nate) (Entered: 10/31/2018)
11/05/2018	43	<i>NOTICE OF FILING SUPPLEMENTAL SENTENCING EXHIBITS (SECOND)</i> as to Jaroderick Hardy (Wenstrup, Nate) (Entered: 11/05/2018)
11/06/2018		ORAL ORDER granting 38 Motion for Preliminary Order of Forfeiture FORFEITURE OF PROPERTY as to Jaroderick Hardy (1). Entered by Honorable L. Scott Coogler on 11/6/2018. (kcf,) (Entered: 11/07/2018)
11/06/2018	44	Minute Entry for proceedings held before Honorable L. Scott Coogler:Sentencing held on 11/6/2018 as to Jaroderick Hardy. (PDF available

		for court use only) (Court Reporter Patricia Starkie.) (kcf,) (Entered: 11/07/2018)
11/07/2018	45	PRESENTENCE INVESTIGATION REPORT (Sealed) as to Jaroderick Hardy (kcf,) (Entered: 11/07/2018)
11/07/2018	46	MOTION for Final Forfeiture of Property by USA as to Jaroderick Hardy. (Attachments: # 1 Text of Proposed Order)(Neeley, Robert) (Entered: 11/07/2018)
11/19/2018	47	JUDGMENT as to Jaroderick Hardy (1), Count(s) 1: 15 Months Imprisonment; 3 Years Supervised Release;\$100.00 Assessment Fee. Signed by Honorable L. Scott Coogler on 11/19/18. (jct,) (Entered: 11/19/2018)
11/21/2018	49	NOTICE OF APPEAL by Jaroderick Hardy re 47 Judgment (Wenstrup, Nate) (Entered: 11/21/2018)
11/26/2018	50	Appeal Instructions sent to Attorney Nathaniel Wenstrup counsel for Defendant JARODERICK HARDY, re 49 Notice of Appeal - Final Judgment. A copy of the Transcript Information Form must be mailed to each court reporter from whom you are requesting a transcript. (Attachments: # 1 TRANSCRIPT INFORMATION FORM)(ydw,) (Entered: 11/26/2018)
11/26/2018	51	Transmission of Notice of Appeal, 1 INDICTMENT, 47 JUDGMENT, and Docket Sheet to US Court of Appeals re 49 Notice of Appeal - Final Judgment (Attachments: # 1 DOCKET SHEET)(ydw,) (Entered: 11/26/2018)
11/26/2018	52	FINAL ORDER OF FORFEITURE granting 46 Motion for FINAL FORFEITURE OF PROPERTY as to Jaroderick Hardy (1) as directed in order. Signed by Honorable L. Scott Coogler on 11/26/2018. (ag,) (Entered: 11/26/2018)
11/27/2018	53	USCA Case Number as to Jaroderick Hardy 18-14884-F for 49 Notice of Appeal - Final Judgment filed by Jaroderick Hardy. (ydw,) (Entered: 11/27/2018)
01/03/2019	54	TRANSCRIPT INFORMATION FORM by Jaroderick Hardy for proceedings held on 6/11/18, 7/12/18, 11/6/18 before Judge Moorer and Coogler, (Wenstrup, Nate) (Entered: 01/03/2019)
01/03/2019	55	Transcript Acknowledgment re 54 Transcript Information Form received from Court Reporter Patricia G. Starkie on 11th Circuit Appeal No. 18-14884-F. (dmn,) (Entered: 01/08/2019)
02/01/2019	56	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of CHANGE OF PLEA Proceedings (PDF ACCESS RESTRICTED FOR 90 DAYS) as to Jaroderick Hardy for dates of July 12, 2018, in Montgomery, AL before Judge Terry F. Moorer, re 49 Notice of Appeal - Final Judgment. Court Reporter/Transcriber Patricia G. Starkie, Telephone number 334-262-1221. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. NOTICE OF INTENT TO REQUEST REDACTION DUE WITHIN 7 BUSINESS DAYS. Redaction Request due 2/22/2019. Redacted Transcript Deadline set for 3/4/2019. Release of Transcript

		Restriction set for 5/2/2019. (dmn,) Modified on 5/12/2020 (dph,). Transcript released 5/12/2020. (Entered: 02/01/2019)
02/01/2019	57	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of SENTENCING Proceedings (PDF ACCESS RESTRICTED FOR 90 DAYS) as to Jaroderick Hardy for dates of November 6, 2018, in Montgomery, AL before Judge Honorable Judge L. Scott Coogler, re 49 Notice of Appeal - Final Judgment. Court Reporter/Transcriber Patricia G. Starkie, Telephone number 334-262-1221. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. NOTICE OF INTENT TO REQUEST REDACTION DUE WITHIN 7 BUSINESS DAYS. Redaction Request due 2/22/2019. Redacted Transcript Deadline set for 3/4/2019. Release of Transcript Restriction set for 5/2/2019. (dmn,) Modified on 5/12/2020 (dph,). Transcript released 5/12/2020. (Entered: 02/01/2019)
02/01/2019	58	Transcript Notification that Transcript has been filed in District Court, Part III, received from Court Reporter Patricia Starkie on 11th Circuit Appeal No. 18-14884-F. (dmn,) (Entered: 02/04/2019)
02/04/2019	59	Court Reporter acknowledgment not filed. USCA Letter issued to Court Reporter Risa L. Entrenkin as to Appellant Jaroderick Hardy re 49 Notice of Appeal - Final Judgment. Transcript is due to be filed in District Court 30 days from 2/4/2019. Noted on letter: Transcript is due to be filed March 6, 2019 (30 days from appellant's certification) as to 6/11/2018 suppression hearing. (dmn,) (Entered: 02/04/2019)
04/05/2019		Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Middle District of Alabama certifies that the record is complete for purposes of this appeal re: 49 Notice of Appeal - Final Judgment, Appeal No. 18-14884-F. The entire record on appeal is available electronically with the exception of Exhibit 3, CD of 911 Call Recording, and Exhibit 4, CD Body Camera Video, filed as attachment 2 to Doc. 25 . (dmn,) (Entered: 04/05/2019)
04/05/2019	60	Certified and Transmitted Record on Appeal as to Jaroderick Hardy to US Court of Appeals re 49 Notice of Appeal - Final Judgment, USCA Case Number 18-14884-F: Exhibit 3, CD of 911 call recording, and Exhibit 4, CD Body Camera Video, filed as attachment 2 to Doc. 25 mailed to USCA. (dmn,) (Entered: 04/05/2019)
03/17/2020	61	Signed Opinion issued by court as to Appellant Jaroderick Hardy: Decision: AFFIRMED. Opinion type: Non-Published. Opinion method: Signed. The opinion is also available through the Court's Opinions page at this link http://www.ca11.uscourts.gov/opinions . (dmn,) (Entered: 03/25/2020)
04/15/2020	62	JUDGMENT entered 3/17/2020 issued as Mandate 4/15/2020 of USCA as to Jaroderick Hardy re 49 Notice of Appeal - Final Judgment, 11th Circuit Appeal No. 18-14884-CC: It is hereby ordered, adjudged, and decreed that the opinion issued on this date in this appeal is entered as the judgment of this Court. (dmn,) (Entered: 04/15/2020)

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08/14/2020 16:11:44			
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