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No.

Supreme Court, U.S.
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IN the Supreme Court of the United States

JERRIENS WILLIAMS, PETITIONER

V.

UNITED STATES OF AMERICA

PETITION FOR WRIT OF CERTIORARI
TO THE

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 17-20125

JERRIENS WILLIAMS *

Reg # 87217-379

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* Petitioner Pro se

QUESTION PRESENTED FOR REVIEW

Whether 18 U.S.C. §§ 2 and 1951(a), aiding and abetting interference with commerce by robbery, falls under the residual clause found at 18 U.S.C. § 924(c)(3)(B), in light of this Court's decision in *United States v. Davis*, 139 S.Ct. 2319.

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Petitioner Jerriens Williams asks that a writ of certiorari issue to review the opinion and judgment entered by the U.S. Court of Appeals For the Fifth Circuit on April 16, 2020.

PARTIES TO THE PROCEEDING

All parties to the proceeding in the court whose judgment is sought to be reviewed are named in the caption of the case before this Honorable Court.

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JURISDICTION OF THE UNITED STATES SUPREME COURT

The opinion and judgment of the U.S. Court of Appeals for the Fifth Circuit were entered on April 16, 2020. This petition is filed within 90 days after entry of judgment. See SUP. CT. R. 13.1. This Court has jurisdiction to grant certiorari under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

Article I of the U.S. Constitution gives Congress the power "[t]o regulate Commerce with Foreign Nations, and among the several States [.]". U.S. CONST. art. I, § 8, cl. 3.

STATUTE(S) INVOLVED

Title 18 U.S.C. §§ 2 and 1951(a), Title 18 U.S.C. § 924(c)

STATEMENT

On May 20, 2015, defendant Jerrius Williams was charged by indictment with conspiracy to interfere with commerce by robbery (Count 1), aiding and abetting interference with commerce by robbery (Counts 2, 4, and 6), aiding and abetting using and carrying a Firearm during and in relation to a crime of violence (Counts 3, 5, and 7).

On January 7, 2016, Mr. Williams entered into a plea agreement with the government, in which he agreed to plead guilty to Counts 2 and 4 of the indictment, which alleged that he had aided and abetted interference with commerce by robbery in violation of 18 U.S.C. §§ 1951(a) and 2, and Count 5 of the indictment, which alleged that he aided and abetted using and carrying a Firearm during and in relation to a crime of violence in violation of 18 U.S.C. §§ 924(c)(1)(A)(ii) and 2.

On February 14, 2017, the district court sentenced Mr. Williams to 135 months of imprisonment on Counts 2 and 4, and a consecutive term of 84 months of imprisonment on Count 5, for a total of 219 months.

REASONS FOR GRANTING THE WRIT

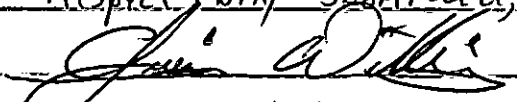
IN light of this court's decision in United States v. Davis, 139 S.Ct. 2319 which ruled the residual clause found at 18 U.S.C. § 924(c)(3)(B) unconstitutional for vagueness. The petitioner pled guilty to two counts of aiding and abetting interference with commerce by robbery, in violation of 18 U.S.C. §§ 2 and 1951(a) counts (2, and 4) and one count of aiding and abetting the use of a firearm during the commission of a violent crime, in violation of §§ 2 and 924(c)(2)(A)(ii) (Count 5). Also in United States v. Davis, 903 F.3d 483 (5th Cir. 2018) the Fifth Circuit held that section 924(c)(3)(B) is unconstitutional in light of Bimaya. Also in United States v. Simms, No. 15-4640 (4th Cir. Jan 24, 2019) the 4th Cir. also held like the 5th Circuit that the residual clause of 18 U.S.C. § 924(c)(3)(B) is unconstitutionally vague, but as for relevance to this issue the petitioner in Simms like Mr. Williams also signed a plea waiver which was not upheld by the court. Specifically in this case counsel advised the petitioner to enter into a plea agreement which up to this point has deprived him of the ability to seek a lawful reduction of his sentence.

The petitioner contends that his plea agreement should not affect his ability to seek relief in light of *Dimaya*, *Simms*, and *Davis*, because the agreement was grounded in error involving the now invalid residual clause. In a Third Circuit ruling (see *United States v. Peppers*, No. 17-1029 (2018)) the Third Circuit indicated that *Peppers*' 11(C)(1)(C) plea did not invalidate a collateral attack pursuant to *Johnson*; the court reasoned that it would be impermissible to seek a sentence reduction on any collateral attack, which meets the gatekeeping requirements and is not procedurally barred, based on a plea that preserves a now-unlawful sentence. Parties may not stipulate to an unlawful sentence in a plea agreement.

CONCLUSION

Wherefore and in conclusion the petitioner ask that his sentence be vacated based on this Court's decision in *United States v. Davis*, 139 S.Ct 2319 which makes his aiding and abetting charges ☐ invalid because they fall under the residual clause found at

18 U.S.C. § 924(c)(3)(B) which has been
ruled unconstitutional by this Court.

Respect Fully Submitted,

Terrius Williams

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