

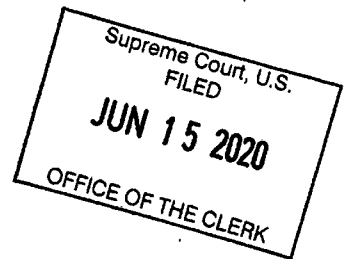
No. **20-5769**

ORIGINAL

USCA 4 No. 20-4243

IN THE

SUPREME COURT OF THE UNITED STATES



Brodley Beauchamp — PETITIONER
(Your Name)

vs.

Appelle — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Brodley Beauchamp
(Your Name)

Mecklenburg county jail
(Address)

Charlotte, NC, 28234
(City, State, Zip Code)

N/A
(Phone Number)

Arrest number 468563

QUESTION(S) PRESENTED

- The COVID 19 Pandemic, a history of Childhood Asthma, and Current Diagnosis of Asthma Qualifies as exceptional reasons for the Defendant's Bradley Beauchamp to be released?
- Also the Defendant does not have a history of Violence, should this make him Qualify for release?
- Whether district court erred by failing to hold a hearing on the question relating to pandemic setting,

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

[] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

See United States v. Stewart, 19 F. App'x 46, 48
(4th Cir. 2001)

See United States v. O'Brien, 895 F.2d 810, 814
(1st Cir. 1990)

or See more information on case file

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CASES

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- United States v. Stewart, 19 F. App'x 46, 48 (4th Cir. 2001)
- United States v. O'Brien, 895 F.2d 810, 814 (1st Cir. 1990)
- United State v. Goforth, 546 F.3d 712, 716 (4th Cir. 2008)

STATUTES AND RULES

18 U.S.C. 3145(c)

Having concluded that a district judge is a "judicial officer" and thereby authorized to release defendants under 18 U.S.C. 3145(c) when "exceptional reasons" exist,

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☒ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,

☒ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was April 20, 2020.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on Oct. 7 2020 (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

8th Amendment

Also see more information on file.

STATEMENT OF THE CASE

The court of Appeals entered judgment on, February 11, 2016. App. 1a. On May 9, 2016, it denied petitioner's timely petition for rehearing en banc after the petition was circulated and less than a majority of active judges voted to grant it. App. 60a. On July 21, 2016, this Court granted petitioner an extension of time until October 6, 2016, to file this petition. App. 61a. This Court has jurisdiction under 28 U.S.C. § 1254(1). The District Court had jurisdiction under 18 U.S.C. § 3231. The Court of Appeals had jurisdiction under 28 U.S.C. § 1291, 18 U.S.C. § 3595(a), and 18 U.S.C. § 3742.

REASONS FOR GRANTING THE PETITION

The Petitioner respectfully request review by the Supreme Court of a District Court decision not to hold a hearing or otherwise consider conditions of pre-sentencing release under 18 U.S. Code 3143. As the petitioner is incarcerated in a county jail - subject to significantly increased risk of widespread infection of Covid19 - has pre-existing health conditions, and is accused on non-violent acts in a RICO conspiracy, the Supervisory authority of the Supreme Court is required to uphold the 8th Amendment in light of the unique circumstances of a lack of response to a deadly, global pandemic. Please see attached exer from the fourth cir briefing incorporated hereIN.

granted the parties' motion (Doc 2477) and heard this matter at a one-day bench trial on July 12, 2019.² The Court found the Defendant guilty and ultimately scheduled the matter for a sentencing hearing on February 18, 2020. The Court subsequently granted a Government Motion to Continue sentencing due to the unavailability of the case agent (Doc 2839).

Additional hearings were scheduled then cancelled as the impact of the COVID 19 pandemic rapidly spread across the United States and to the Western District of North Carolina. On March 20, the Defendant filed a Motion for Conditions of Temporary Release (Doc 2886). The Court denied the motion that day (Doc 2887) and has scheduled the matter for sentencing on April 14, 2020.

STATEMENT OF FACTS

Facts necessary to the discussion of the issues on this appeal are recited *infra*.

ARGUMENT

I. Standard of Review

This Court has not addressed the standard of review applicable to the appeal from the denial of a motion for release pending appeal under 18 U.S.C. § 3143(b). *But see United States v. Stewart*, 19 F. App'x 46, 48 (4th Cir. 2001) (holding that "The standard of review for pretrial detention orders under 18 U.S.C. § 3145(c)

² The Defendant also entered into certain trial stipulations consistent with his desire to preserve his appellate rights on the pre-trial motions, but also to qualify for 'acceptance of responsibility' under U.S.S.G. §3E1.1. (Doc 2435 & 2595). "Conviction by trial, however, does not automatically preclude a defendant from consideration for such a reduction. In rare situations a defendant may clearly demonstrate an acceptance of responsibility for his criminal conduct even though he exercises his constitutional right to a trial. This may occur, for example, where a defendant goes to trial to assert and preserve issues that do not relate to factual guilt (e.g., to make a constitutional challenge to a statute or a challenge to the applicability of a statute to his conduct)." *Id.* n.2. The Government was relieved of the burden at trial of calling a number of civilian witness from Florida and elsewhere in the United States.

Please see more on file.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Bradley Beauchamp

Date: 6/2/20