

NO. _____

In The
Supreme Court of the United States

—◆—
THOMAS WAYNE GODARD,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

—◆—
ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
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Dated: September 16, 2020

QUESTION PRESENTED

- I. Whether the Circuit Court Erred Failing to Apply First Step Act retroactively to multiple 924(c) convictions that were announced, but not final, at the date of enactment in violation of due process and equal protection.

PARTIES TO THE PROCEEDING

Other than the Petitioner and the United States, the following are the only other parties to this proceeding.

STATEMENT OF RELATED CASE

Keanan Dequez Bond, No. 18-4377(L), U. S. Court of Appeals for the Fourth Circuit. Judgment entered April 27, 2020.

Keanan Dequez Bond, No. 4:16-CR-00030-FL-2, United States District Court, Eastern District of North Carolina. Judgment entered July 11, 2018.

Tremaine Jamal Anderson, No. 4:16-cr-00030-FL-3, United States District Court, Eastern District of North Carolina. Judgment entered February 21, 2018.

TABLE OF CONTENTS

	Page
QUESTION PRESENTED	i
PARTIES TO THE PROCEEDING	ii
STATEMENT OF RELATED CASE.....	ii
TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES	v
PETITION FOR WRIT OF CERTIORARI	1
OPINION AND ORDER BELOW	1
JURISDICTION.....	1
CONSTITUTIONAL PROVISIONS INVOLVED.....	1
INTRODUCTION	2
STATEMENT OF THE CASE.....	3
REASONS FOR GRANTING THE PETITION	5
I. The Circuit Court Erred Denying Retroactive Application.....	5
II. Due process does not require efficient justice; it does require effective and equal justice.....	10
III. The Question Presented Is Important To Fair Application Of the Law.....	10
IV. The Question Is Squarely Presented.....	11
CONCLUSION.....	11

APPENDIX:

Unpublished Opinion of The United States Court of Appeals For the Fourth Circuit entered April 2, 2020.....	1a
Judgment of The United States Court of Appeals For the Fourth Circuit entered April 2, 2020.....	6a
Judgment in a Criminal Case of The United States District Court for The Eastern District of North Carolina entered December 6, 2018.....	8a
Order of The United States Court of Appeals For the Fourth Circuit Re: Denying Petition for Rehearing <i>en Banc</i> entered April 27, 2020.....	17a

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>Bowen v. Georgetown Univ. Hosp.</i> , 488 US 204 (1988)	7
<i>Bradley v. School Bd. of City of Richmond</i> , 416 US 696 (1974)	6, 7, 8
<i>Crandon v. U.S.</i> , 494 U.S. 152 (1990)	9
<i>Deal v. United States</i> , 508 U.S. 129 (1993)	2
<i>Dorsey v. United States</i> , 567 US 260 (2012)	8, 9
<i>Gulf, C. & S.F.R. Co. v. Dennis</i> , 224 U.S. 503 (1912)	6
<i>Kaiser Aluminum & Chem. Corp. v. Bonjorno</i> , 494 US 827 (1990)	7
<i>Landgraf v. USI Film Products</i> , 511 U.S. 244 (1994)	7
<i>Linkletter v. Walker</i> , 381 U.S. 618 (1965)	8
<i>Rewis v. U.S.</i> , 401 U.S. 808 (1971)	9
<i>United States v. Bass</i> , 404 US 336 (1971)	9
<i>United States v. Chambers</i> , 291 US 217 (1934)	7
<i>United States v. Fitzgerald</i> , 545 F.2d 578 (7th Cir. 1976)	6

<i>United States v. Holcomb</i> , 657 F.3d 445 (7th Cir. 2011)	7, 8
<i>United States v. Jordan</i> , — F.3d __,__, No. 17-4751, 2020 WL 1022420 (4th Cir. Mar. 3, 2020)	2, 5
<i>United States v. Rosenbohm</i> , 564 F.3d 820 (7th Cir. 2009)	9
<i>United States v. Schooner Peggy</i> , 1 Cranch 103 (1801)	6
<i>United States v. Stillwell</i> , 854 F.2d 1045 (7th Cir. 1988)	6
<i>United States v. Tynen</i> , 78 US 88 (1870)	6, 7
<i>Warden, Lewisburg Penitentiary v. Marrero</i> , 417 US 653 (1974)	8

CONSTITUTIONAL PROVISIONS

U.S. CONST. amend. V	1
U.S. CONST. amend. XIV	1

STATUTES

1 U.S.C. § 109	8
18 U.S.C. § 1951	3
18 U.S.C. § 922(g)	4
18 U.S.C. § 924(c)	<i>passim</i>
18 U.S.C. § 924(c)(1)(C)	2
26 U.S.C. § 401(c)	8, 9
26 U.S.C. § 403	2
26 U.S.C. § 403(a)	2

26 U.S.C. § 403(b)	2, 5
28 U.S.C. § 1254(1)	1

OTHER AUTHORITIES

Black's Law Dictionary 1134 (6th Ed. 1990).	8
First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194	2, 8

PETITION FOR WRIT OF CERTIORARI

Petitioner Thomas Wayne Godard respectfully petitions this Court for a writ of certiorari to review the judgment of the Fourth Circuit Court of Appeals.

OPINION AND ORDER BELOW

The Fourth Circuit Court of Appeals' opinion (Pet. App. 1a-5a) is unpublished. The District Court's Judgment (Pet. App. 8a-16a) is unpublished.

JURISDICTION

The judgment of the Fourth Circuit Court of Appeals was entered on April 2, 2020. *See* Pet. App. 6a-7a. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth and Fourteenth Amendment [applicable to the States] to the U.S. Constitution provide that "No person ... shall be deprived of life, liberty, or property, without due process of law...". The Fourteenth Amendment directs no State "shall...deny to any person within its jurisdiction the equal protection of the laws."

INTRODUCTION

Congress enacted the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 after Petitioner’s sentencing was completed in the district court and while the appeal was pending. Section 403 of the First Step Act amended 18 U.S.C. section 924(c)(1)(C), abrogating the Supreme Court’s interpretation of section 924(c) in *Deal v. United States*, 508 U.S. 129, 132-33 (1993), and expressly stating that a subsequent section 924(c) violation must occur “after a prior conviction under [section 924(c)] has become final” to qualify for the enhanced mandatory minimum term of imprisonment of 25 years. Section 403(a), 132 Stat. At 5222. “Under the First Step Act, in other words, the 25-year mandatory minimum is reserved for recidivist offenders, and no longer applies to multiple section 924(c) convictions obtained in a single prosecution.” *United States v. Jordan*, __ F.3d __, __, No. 17-4751, 2020 WL 1022420, at *8 (4th Cir. Mar. 3, 2020).

Petitioner was convicted of two section 924(c) offenses in the same proceeding, and has no prior section 924(c) convictions. The mandatory minimum sentence for the second offense should drop from 300 months to 83 months, Section 403(a), 132 Stat. at 5221-22, subject to the retroactivity limitation of this provision to “any offense that was committed before the date of [the First Step] Act, if a sentence for the offense has not been imposed as of such date of enactment.” Section 403(b), 132 Stat. at 5222.

The Fourth Circuit held in *Jordan* “that section 403 of the First Step Act does not apply retroactively to cases pending on direct appeal when it was enacted.” 2020 WL 1022420, at *1. The Circuit Court relied upon *Jordan* to deny relief here.

However, the Circuit Court erred. While the district court had announced its calculation of the Petitioner's sentence, the sentence is not imposed (established, reliable, fixed) while subject to error adjustment on appeal. Therefore, Petitioner contends he is entitled to application of the relief in the First Step Act because his sentence had not been imposed [on him] after final review on appeal.

Moreover, failure to apply the First Step Act retroactively deprives Petitioner of equal protection of the law. Petitioner is the very defendant the section was intended to protect because a prior application of the statute was not what Congress intended, and they said so abrogating the Court's contrary interpretation.

The Court should grant certiorari.

STATEMENT OF THE CASE

1. Procedural Background - On 27 April 2016, a Ten Count indictment was filed in the Eastern District of North Carolina charging Mr. Godard, Mr. Bond, and a third individual with conspiracy to commit of armed Hobbs Act robberies under 18 U.S.C. § 1951 (Count One), and several related counts. Specifically, alleged as to both Mr. Bond and Mr. Godard were substantive separate Hobbs Act robbery charges occurring on 13 January 2015 (Count Two), 23 January 2015 (Count 4), and 23 February 2015 (Count Six). It was further alleged Mr. Godard and Mr. Bond brandished firearms during these robberies pursuant to 18 U.S.C. § 924(c) (Counts Three, Five and Seven). Additionally, the indictment alleged Mr. Bond and another individual committed a further Hobbs Act

robbery (Count Eight) of a store on 9 April 2015 while brandishing firearms (Count Nine). The indictment further charged Mr. Godard as being a felon in possession of a firearm pursuant to 18 U.S.C. § 922(g) (Count 10).

2. Petitioner on 17 August 2017 pursuant to a plea agreement pled guilty to Counts 3 and 5 of the indictment—two 18 U.S.C. § 924(c) counts.
3. On 11 July 2018, the Honorable Judge Louise Wood Flanagan sentenced Mr. Godard to 84 months in prison on Count 3, and 300 months in prison on Count 5, to be served consecutively.

A timely notice of appeal was filed on 20 July 2018.

4. Defendant's brief was filed in the Fourth Circuit Court of Appeals on 6 December 2018, in part raising the second 25 year brandishing sentence as error. This subsequent mandatory 25 year sentence in the same prosecution was abrogated by the First Step Act, signed into law by the President 21 December 2018 - 15 days later.
5. On 2 April 2020 the Circuit Court held in an unpublished decision on the issue that the First Step Act failed to apply to Petitioner's case pending on appeal at the time of the enactment (21 December 2018) because the "sentence [had been] ... imposed" on 21 December 2018.

REASONS FOR GRANTING THE PETITION

I. *The Circuit Court Erred Denying Retroactive Application.*

The offense was committed prior to the passage of the Act on 21 December 2018, but the sentence had not been “imposed” while pending on appeal. In *United States v. Jordan*, __ F.3d __, __, No. 17-4751, 2020 WL 1022420, at *8, the Fourth Circuit held that the 25-year mandatory minimum no longer applies to the second 924(c) offense in the same prosecution as the first. However, its ruling below relied upon section 403(b) language that relief is limited “to any offense that was committed before the date of [the First Step] Act, if a sentence for the offense has not been *imposed* as of such date of enactment.” (Emphasis added) Imposition of a sentence requires establishment of the sentence. To establish is to finally fix, reliably accepted. To the extent Petitioner noticed appeal of his sentence announced by the district court, it was not established as a matter of law until review and finality on appeal because it is subject to error adjustment. Taken in that light, the circuit court erred when it held that Petitioner was not entitled to application of the relief contained in section 403(b). No sentence had been finally established prior to review, and therefore the district court’s sentence was not a final decision. Because Petitioner squarely qualifies for the relief in the statute - and is the intended recipient of the relief enacted by Congress - his sentence was legally erroneous and subject to adjustment, and was not yet “final” or “established”. As result, the circuit court erred.

Cases¹ addressing whether a newly enacted statute applies retroactively on direct appeal requires a court "to apply the law in effect at the time it renders its decision, unless doing so would result in manifest injustice or there is statutory direction or legislative history to the contrary." *Bradley v. School Bd. of City of Richmond*, 416 US 696, 711 (1974)(citing *United States v. Schooner Peggy*, 1 Cranch 103 (1801)(Marshall, C.J.)). This presumption applies whether the intervening law is a judicial decision or a statute. See *United States v. Stillwell*, 854 F.2d 1045, 1047 (7th Cir. 1988) ("When an appellate court is deciding a matter on direct review, it must normally apply the law in effect at that time, whether it be intervening statutory or decisional law, rather than the law as it existed at the time the lower court acted."); *United States v. Fitzgerald*, 545 F.2d 578, 581 (7th Cir. 1976)("It is well established that when a lower court relies on a legal principle which is changed by a treaty, statute, or decision prior to direct review, an appellate court must apply the current law rather than the law as it existed at the time the lower court acted."). Following this presumption, the Supreme Court has routinely applied intervening changes in law to pending cases. In so doing, the Court has explained that, when Congress amends a law while a case is pending on appeal, "it becomes [the courts'] duty to recognize the changed situation, and either to apply the intervening law or decision, or to set aside the judgment and remand the case so that the [lower] court may do so." *Gulf, C. & S.F.R. Co. v. Dennis*, 224 U.S. 503, 507 (1912). See *United*

¹ *See, Wheeler v. United States*, No: 18-7187, presents a similar question regarding the First Step Act's applicability to sentences announced by the district court before the Act's enactment. Pet. granted; judgment vacated, 6-3-2019.

States v. Tynen, 78 US 88, 95 (1870)(prosecution abated when Congress amended the underlying criminal statute); *United States v. Chambers*, 291 US 217, 226 (1934) (prosecution of bootleggers abated after enactment of the Twenty First Amendment). This presumption clashes with another line of cases providing that, "unless there is specific indication to the contrary, a new statute should be applied only prospectively." *Kaiser Aluminum & Chem. Corp. v. Bonjorno*, 494 US 827, 841 (1990)(Scalia, J., concurring), citing *Bowen v. Georgetown Univ. Hosp.*, 488 US 204, 208 (1988). In *Kaiser*, the Supreme Court declined to reconcile the "apparent tension" between this conflicting authority, concluding that the statute at issue "evidence[d] clear congressional intent" that it was not retroactive. *Id.* at 837-38. In a separate opinion, Justice Scalia asserted that the *Bradley* line of cases was wrong; he would have opted for a presumption against retroactive legislation. *Id.* at 841 (Scalia, J., concurring). Justice Scalia's opinion applied only to civil cases. See *Kaiser*, 494 U.S. at 841 (Scalia, J., concurring)("Absent specific indication to the contrary, the operation of non-penal legislation is prospective only."). "[A] contrary presumption (i.e., a presumption of retroactivity) is applied to the repeal of punishments." *Id.* at 841 n.1 (citing *Tynen*, 78 US at 95 ("There can be no legal conviction, nor any valid judgment pronounced upon conviction, unless the law creating the offense be at the time in existence.")); cf. *United States v. Holcomb*, 657 F.3d 445, 446 (7th Cir. 2011)(Easterbrook, C.J.) ("[W]hat makes application 'retroactive' is a change in the legal consequences of activity that predates the new law's enactment", citing *Landgraf v. USI Film Products*, 511 U.S. 244 (1994) . . . "The common law

distinguished increases in criminal punishments from reductions or repeals. Any law that repealed a criminal statute or reduced the defendant's punishment was fully retroactive, while in light of the Constitution's Ex Post Facto Clause a law creating a crime or increasing criminal punishment could apply only to conduct that occurred after the law changed."). Congress embraced this presumption of retroactivity by expressly applying the First Step Act to "pending cases" and providing that it "shall apply to any offense that was committed before the date of enactment of this Act." Pub-L L. No. 115-391, § 401(c). By its express terms, the First Step Act is retroactive. As noted in Black's Law Dictionary, "an action or suit is 'pending' from its inception until the rendition of final judgment." Black's Law Dictionary 1134 (6th Ed. 1990). And a "final judgment" is "one where the availability of appeal has been exhausted or has lapsed², and the time to petition for certiorari has passed." *Bradley*, 416 US at 711 n.14, citing, *Linkletter v. Walker*, 381 U.S. 618, 622 n.5 (1965). Thus, a criminal sentence in a pending case does not become final— or imposed—until it has "reached final disposition in the highest court authorized to review [it]." *Warden, Lewisburg Penitentiary v. Marrero*, 417 US 653, 660 (1974); see *Holcomb*, 657 F. 3d at 446 (Easterbrook, C.J.)(explaining that a law deemed retroactive "applies to all pending cases no matter how far they got in the judicial system.").

² This language confirms that the general savings statute, 1 U.S.C. § 109—which generally provides that a statute repealing a criminal provision does not extinguish penalties previously incurred— has no application here. See *Dorsey v. United States*, 567 US 260, 274-75 (2012).

Applying the First Step Act retroactively will be in accordance with the wishes of Congress, which it said to do in the Act to "pending cases". We presume that Congress is cognizant of judicial precedent when making laws. See *Dorsey*, 567 U.S. at 275. If Congress wanted to preclude application of the First Step Act to cases pending on direct appeal, it could have done so by writing "first imposed" or "imposed in the district courts". Congress's application of the Act to "pending cases" coupled with its decision not to qualify the word "imposed" instead reflects a deliberate choice to give relief to defendants like Petitioner whose case was pending on direct appeal and not to other defendants seeking to overturn their sentences collaterally. If there is any ambiguity on this point, the Court should defer to the rule of lenity, which "instruct courts to read an ambiguous statute narrowly to ensure 'fair warning of the boundaries of criminal conduct and that legislatures, not courts, define criminal liability'." *United States v. Rosenbohm*, 564 F.3d 820, 825 (7th Cir. 2009), citing, *Crandon v. U.S.*, 494 U.S. 152, 158 (1990). When a criminal statute has two possible readings, courts do not "choose the harsher alternative" unless Congress has "spoken in language that is clear and definite." *United States v. Bass*, 404 US 336, 347 (1971). "Ambiguity concerning the ambit of criminal statutes should be resolved in favor of lenity." *Id.*, citing, *Rewis v. U.S.*, 401 U.S. 808 (1971)(citations omitted).

That is not the case here. Section 401(c) has two possible readings. It could be read to preclude relief for those defendants whose sentenced were previously announced in the district court. Nevertheless, Congress's decision to apply the Act to "pending cases", together with the presumption of retroactivity in criminal cases,

compels a reading that would afford redress to Petitioner while foreclosing collateral relief to others whose sentences are final upon exhaustion of appeal rights. This reading is consistent with the rule of lenity and expressly carries out the will of Congress expressly abrogating a prior interpretation of the statute.

II. *Due process does not require efficient justice; it does require effective and equal justice.*

Had petitioner been scheduled for sentencing just 16 days later, *to wit*: 22 December 2018, according to the circuit court ruling he would have enjoyed the benefit of the clear intent of Congress when it abrogated this Court's interpretation of the section 924(c) statute on sentencing for multiple counts of conviction. Congress clearly intended this subsequent heightened mandatory sentencing statute to apply to recidivists - not to multiple counts in the same prosecution, and it said so in the First Step Act. Because Petitioner's case directly reflects the essential elements for relief, but for the timing of his sentencing before the district court (according to the circuit court's interpretation) and the, arguably erroneous, retroactivity interpretation of the Circuit Court, and because he is directly the offender Congress targeted in the statute on this issue, he should be afforded relief. (Reference to authority argued *supra* hereby incorporated in support.)

III. *The Question Presented Is Important To Fair Application Of the Law.*

The importance of this issue – whether Petitioner whose sentence was announced by the district court a mere 15 days prior to passage of a clarifying statute abrogating interpretation by this Court that Congress never intended is entitled to relief – is the equal protection of the application of the law. Failure of retroactivity

violates that fair application. (Reference to authority argued *supra* hereby incorporated in support.)

IV. *The Question Is Squarely Presented.*

The question upon which the lower court opined was directly presented, and the Opinion is clearly reliant upon the language of the proscribing statute. *See*, Pet. App. 6a-7a, Judgment of the Fourth Circuit Court of Appeals.

No reasonable argument could be made that this issue requires further percolation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

TABLE OF CONTENTS

Appendix Page

Unpublished Opinion of The United States Court of Appeals For the Fourth Circuit entered April 2, 2020	1a
Judgment of The United States Court of Appeals For the Fourth Circuit entered April 2, 2020	6a
Judgment in a Criminal Case of The United States District Court for The Eastern District of North Carolina entered December 6, 2018	8a
Order of The United States Court of Appeals For the Fourth Circuit Re: Denying Petition for Rehearing <i>en Banc</i> filed April 27, 2020.....	17a

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4377

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEANAN DEQUEZ BOND, a/k/a Sticks,

Defendant - Appellant.

No. 18-4515

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS WAYNE GODARD, a/k/a True,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern District of North Carolina, at New Bern. Louise W. Flanagan, District Judge. (4:16-cr-00030-FL-2; 4:16-cr-00030-FL-1)

Submitted: March 23, 2020Decided: April 2, 2020

Before WILKINSON, NIEMEYER, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas R. Wilson, GREENE & WILSON, P.A., New Bern, North Carolina, for Appellant Thomas Wayne Godard. Laura Elizabeth Beaver, BEAVER LAW FIRM, Raleigh, North Carolina, for Appellant Keanan Dequez Bond. Robert J. Higdon, Jr., United States Attorney, Jennifer P. May-Parker, Assistant United States Attorney, Phillip A. Rubin, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Keanan Dequez Bond and Thomas Wayne Godard (jointly, “Appellants”) were each convicted of two counts of brandishing a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(ii) (2012) (amended Dec. 21, 2018). The predicate crime of violence for each count was interference with commerce by robbery (“Hobbs Act robbery”), 18 U.S.C. § 1951 (2018). The district court sentenced Appellants to the statutory mandatory minimum sentence applicable at the time of their sentencing: 84 months’ imprisonment on the first § 924(c) offense and a consecutive 300 months on the second § 924(c) offense, for a total sentence for each of 384 months in prison. In these consolidated appeals, Appellants contend (1) that Hobbs Act robbery is not a crime of violence under 18 U.S.C. § 924(c)(3) (2018); and (2) under the First Step Act, they are no longer subject to a mandatory 300-month sentence on their second § 924(c) convictions. For the following reasons, we affirm.

Appellants first argue that Hobbs Act robbery is not a crime of violence under 18 U.S.C. § 924(c)(3), and thus cannot serve as a predicate offense for their 18 U.S.C. § 924(c)(1)(A) convictions. This argument is foreclosed by our decision in *United States v. Mathis*, 932 F.3d 242, 266 (4th Cir.), *cert denied*, 140 S. Ct. 639 (2019), and *cert. denied*, 140 S. Ct. 640 (2019).

Turning to Appellants’ sentencing claim, after the district court sentenced Appellants and while their appeals were pending, Congress enacted the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. Section 403 of the First Step Act amended 18 U.S.C. § 924(c)(1)(C). Prior to the First Step Act, § 924(c) provided that each “second or

subsequent conviction” under this provision would subject the defendant to a consecutive mandatory minimum term of imprisonment of 25 years. 18 U.S.C. § 924(c)(1)(C)(i), (D)(ii) (2018) (amended Dec. 21, 2018). The Supreme Court held that the phrase “second or subsequent conviction” referred to a finding of guilt prior to the entry of a judgment of conviction, such that multiple § 924(c) convictions within the same proceeding triggered the enhanced mandatory minimum. *Deal v. United States*, 508 U.S. 129, 132-33 (1993).

The First Step Act abrogated the Supreme Court’s interpretation of § 924(c), expressly stating that a subsequent § 924(c) violation must occur “after a prior conviction under [§ 924(c)] has become final” to qualify for the enhanced mandatory minimum. § 403(a), 132 Stat. at 5222. “Under the First Step Act, in other words, the 25-year mandatory minimum is reserved for recidivist offenders, and no longer applies to multiple § 924(c) convictions obtained in a single prosecution.” *United States v. Jordan*, ___ F.3d ___, ___, No. 17-4751, 2020 WL 1022420, at * 8 (4th Cir. Mar. 3, 2020). Thus, under § 403 of the First Step Act, if a defendant is convicted of two § 924(c) offenses in the same proceeding, and has no prior § 924(c) convictions, the mandatory minimum sentence for the second brandishing offense drops from 300 months to 84 months. § 403(a), 132 Stat. at 5221-22. However, Congress expressly limited the retroactivity of this provision “to any offense that was committed before the date of [the First Step] Act, if a sentence for the offense has not been imposed as of such date of enactment.” § 403(b), 132 Stat. at 5222. In *Jordan*, we held “that § 403 of the First Step Act does not apply retroactively to cases pending on direct appeal when it was enacted.” 2020 WL 1022420, at *1. Therefore, Appellants are not entitled to resentencing in light of the First Step Act.

Accordingly, we affirm the criminal judgments. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: April 2, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4377 (L)
(4:16-cr-00030-FL-2)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

KEANAN DEQUEZ BOND, a/k/a Sticks

Defendant - Appellant

No. 18-4515
(4:16-cr-00030-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

THOMAS WAYNE GODARD, a/k/a True

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

8a

AO 245B (Rev. 09/17) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Eastern District of North Carolina

UNITED STATES OF AMERICA

v.

THOMAS WAYNE GODARD

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:16-CR-30-1FL

USM Number: 62679-056

Thomas Reston Wilson

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) Counts 3 and 5☐ pleaded nolo contendere to count(s)
which was accepted by the court.☐ was found guilty on count(s)
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

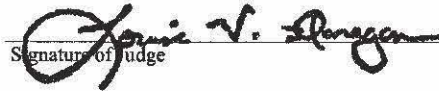
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§924(c), 924(c)(1)(A)(ii) & 2	Brandishing of a Firearm in Furtherance of a Crime of Violence and Aiding and Abetting	1/23/2015	3, 5

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☒ Count(s) 1, 2, 4, and 6 through 10 ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

7/11/2018

Date of Imposition of Judgment



Signature of Judge

Louise W. Flanagan, U.S. District Judge

Name and Title of Judge

7/11/2018

Date

DEFENDANT: THOMAS WAYNE GODARD
CASE NUMBER: 4:16-CR-30-1FL

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

84 months on Count 3, and a term of 300 months on Count 5, to be served consecutively, producing a total term of 384 months

☒ The court makes the following recommendations to the Bureau of Prisons:

The court recommends that the defendant receive intensive substance abuse treatment, vocational training, and educational opportunities. The court recommends defendant receive a mental health assessment and mental health treatment while incarcerated. The court recommends that he serve his term in FCI, Bennettsville, SC.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____

DEPUTY UNITED STATES MARSHAL

DEFENDANT: THOMAS WAYNE GODARD

CASE NUMBER: 4:16-CR-30-1FL

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :

5 years on each of Counts 3 and 5, such terms to run concurrently

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: THOMAS WAYNE GODARD
CASE NUMBER: 4:16-CR-30-1FL

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: THOMAS WAYNE GODARD
CASE NUMBER: 4:16-CR-30-1FL

ADDITIONAL STANDARD CONDITIONS OF SUPERVISION

The defendant shall provide the probation office with access to any requested financial information.

The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation office.

DEFENDANT: THOMAS WAYNE GODARD
CASE NUMBER: 4:16-CR-30-1FL

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall consent to a warrantless search by a United States probation officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.

The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.

The defendant shall submit a written weekly report to the probation office, if not regularly employed, of attempts to secure employment.

The defendant shall participate in a program of mental health treatment, as directed by the probation office.

The defendant shall support his dependent(s).

DEFENDANT: THOMAS WAYNE GODARD

CASE NUMBER: 4:16-CR-30-1FL

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 200.00	\$ 0.00	\$ 0.00	\$ 167,460.83

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
Family Dollar #172	\$1,446.67	\$1,446.67	
Dollar General #15402	\$855.17	\$855.17	
Washington Coin and Pawn	\$164,483.99	\$164,483.99	
Dollar General #5494	\$675.00	\$675.00	

TOTALS	\$	167,460.83	\$	167,460.83
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: THOMAS WAYNE GODARD
CASE NUMBER: 4:16-CR-30-1FL

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

Payment of restitution shall be due and payable in full immediately. However, if the defendant is unable to pay in full immediately, the special assessment and restitution may be paid through the Inmate Financial Responsibility Program (IFRP). The court orders that the defendant pay a minimum payment of \$25 per quarter through the IFRP, if available. The court, having considered the defendant's financial resources and ability to pay, orders that any balance still owed at the time of release shall be paid in installments of \$100 per month to begin 60 days after the defendant's release from prison. At the time of the defendant's release, the probation officer shall take into consideration the defendant's ability to pay the restitution ordered and shall notify the court of any needed modification of the payment schedule.

DEFENDANT: THOMAS WAYNE GODARD
CASE NUMBER: 4:16-CR-30-1FL

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 167,660.83 due immediately, balance due
- ☐ not later than _____, or
- ☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- The special assessment in the amount of \$200.00 and restitution in the amount of \$167,460.83 are due in full immediately. See Sheet 5A for additional payment instructions.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

Keanan Dequez Bond 4:16-CR-30-2FL
\$167,460.83 (joint and several amount)

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVT A assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

FILED: April 27, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4377 (L)
(4:16-cr-00030-FL-2)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

KEANAN DEQUEZ BOND, a/k/a Sticks

Defendant - Appellant

O R D E R

The court strictly enforces the time limits for filing petitions for rehearing and petitions for rehearing en banc in accordance with Local Rule 40(c). The petition in this case is denied as untimely.

For the Court--By Direction

/s/ Patricia S. Connor, Clerk