

20-6238

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 2019

DEMOND PARKER,
PETITIONER,

v.

UNITED STATES OF AMERICA,
RESPONDENT.

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

PETITION FOR CERTIORARI

DEMOND D'NEIR PARKER
REG. NO. 08197-084
P.O. BOX 5000
BRUCESTON MILLS, WY.

26525

QUESTION PRESENTED

PARKER MADE AN ARGUMENT AND TWO COURTS
DECIDED ANOTHER ISSUE. DID THE SENTENCING
COURT AND THE FOURTH CIRCUIT VIOLATE THE
PARTY PRESENTATION DOCTRINE?

IN THE
SUPREME COURT OF THE UNITED STATES

DEMOND PARKER,
PETITIONER,

v

UNITED STATES OF AMERICA,
RESPONDENT.

TO THE CHIEF JUSTICE AND ASSOCIATE JUSTICES
OF THE SUPREME COURT:

DEMOND D. PARKER ("PARKER"), HEREBY MOVES FOR A WRIT OF
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH
CIRCUIT THE ORDER AFFIRMING THE DISTRICT COURT.

I. JURISDICTION

THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 1254(1).

II. OPINIONS BELOW

THE FOURTH CIRCUIT AFFIRMED JULY 28, 2020 AND IS ATTACHED
AT EXHIBIT-A.

III. CONSTITUTIONAL AND STATUTORY PROVISIONS

THE FIFTH AMENDMENT IN PERTINENT PART:

[No Person Shall Be Sentenced] "... WITHOUT DUE PROCESS ... "

STATUTORY PROVISION

THE FIRST STEP ACT OF 2018.

IV. STATEMENT OF THE CASE

FOLLOWING A SUPERSEDING INDICTMENT PARKER WAS CHARGED (JULY 20, 1997) WITH 21 U.S.C. §§ 846, 841(b)(1)(A), CONSPIRACY TO DISTRIBUTE COCAINE BASE AND 18 U.S.C. § 924(c) (COUNT 16). AFTER THE FIRST STEP ACT OF 2018 ("FSA") PARKER FILED SEEKING FURTHER REDUCTION OF HIS 384-MONTH SENTENCE. AT THAT TIME PARKER HAD BEEN CONVICTED SINCE 1998 FOLLOWING A PLEA AGREEMENT. ON JULY 30, 2019 JUDGE NORMAN K. MOON GRANTED A REDUCTION TO 249-MONTHS NOT LESS THAN TIME-SERVED. EVEN THOUGH PARKER'S SENTENCE HAS BEEN SERVED IN AGGREGATE FOR TWO-DECADES JUDGE MOON ELECTED TO LOOK AT COUNT-ONE WHEN GRANTING RELIEF WITH CONSIDERING NEW APPLICATIONS OF PRECEDENT AND THE LAW. THAT IS, JUDGE MOON'S DISREGARD FOR REVIEW IN THE AGGREGATE TRIGGERED MISCALCULATIONS IN GTC AND HAS CAUSED PARKER TO SERVE THE SENTENCE IN INSTALLMENTS IN PLAIN VIOLATION OF HIS DUE PROCESS RIGHTS. THIS COURT'S INTERVENTION IS REQUIRED TO PREVENT THIS ON-GOING PRACTICE.

V. REASON FOR GRANTING CERTIORARI

PARKER FILED UNDER RULE 35(a) PROVIDING THE DISTRICT COURT WITH AN OPPORTUNITY TO CORRECT ITS ERRORS. THE FOURTH CIRCUIT OR MORE LIKELY A STAFF ATTORNEY AFFIRMED WITHOUT A RESPONSE OR ARGUMENTS. IN THIS CASE, ONCE PARKER WAS GRANTED A REDUCTION

PARKER'S RIGHTS WERE THE CENTERPIECE IN CALCULATING THE APPROPRIATE SENTENCE. IN THE ABSENCE OF THESE CONSTITUTIONAL AND SUBSTANTIVE PROCEDURES A SENTENCE IS BOTH SUBSTANTIVELY AND PROCEDURALLY UNREASONABLE. HERE, THE FOURTH CIRCUIT FAILED TO REVIEW THE FINDINGS PRESENTED BY PARKER IN VIOLATION OF PARTY PRESENTATION. PARKER SPECIFICALLY ARGUED A CALCULATION ISSUE AND INSTEAD OF APPOINTING COUNSEL AND FURTHER DEVELOPING THE ACTUAL CLAIM THE SENTENCING AND COURT OF APPEALS BY PROXY ADDRESSED A MATTER NOT PRESENTED TRIGGERING A BARRAGE OF MISCALCULATIONS IN THE TIME PARKER IS SERVING.

THIS COURT RECENTLY ISSUED THE OPINION IN UNITED STATES V. SINEENING-SMITH, 140 S.Ct. 1575 (MAY 7, 2020), WHICH DIRECTLY DECIDES THIS CASE. THAT IS, "[I]n BOTH CIVIL AND CRIMINAL CASES, ... WE RELY ON THE PARTIES TO FRAME THE ISSUES FOR DECISION AND ASSIGN TO COURTS THE ROLE OF NEUTRAL ARBITER OF MATTERS THE PARTIES PRESENT." Id. AT 1577 (QUOTING GREENLAW V. UNITED STATES, 554 U.S. 237, 243 (2008)). HERE, PARKER FILED TO CORRECT A CALCULATING CLAIM AND THE DISTRICT COURT DECIDED IT AS A SUBSTANTIVE ISSUE WHICH THE FOURTH CIRCUIT SIMPLY RUBBER-STAMPED. AS THIS COURT REPEATED IN SINEENING-SMITH: "IN OUR ADVERSARIAL SYSTEM OF ADJUDICATION, WE FOLLOW THE PRINCIPLE OF PARTY PRESENTATION." Id. AT 1579. SINCE A GVR IS MOST APPROPRIATE FOR THE COURT TO ALLOW THE FOURTH CIRCUIT TO CORRECTLY DECIDE THE ISSUE, THIS COURT SHOULD REMAND UNDER THE PARTY PRESENTATION DOCTRINE.

CONCLUSION

PARKER PRAYS CERTIORARI WILL BE GRANTED.

FILED OCTOBER 8, 2020.

Demond Parker
Demond PARKER.