

20-6418
No. _____

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

Michael A. Harris — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Michael A. Harris
(Your Name)

REG # 32770045 PO Box 1500
(Address)

EL RENO, OK 73036
(City, State, Zip Code)

N/A
(Phone Number)

ORIGINAL

1
Question Presented for Review

Whether the petitioner is Entitled to a Sentence Reduction after pleading guilty to Conspiracy to Commit Hobbs Act Robbery and aiding and abetting brandishing a firearm in furtherance of a Crime of Violence in light of this Court's decision in U.S. v Davis No. 18-431 S.Ct June 24, 2019

No. _____

In the Supreme Court of the United States

Michael A. Harris, Petitioner,

v.

United States of America

Petition for Writ of Certiorari
to the
United States Court of Appeals for the Eighth Circuit

Petitioner Michael A. Harris asks that a Writ of Certiorari be issued to review the judgment entered by U.S. Court of Appeals for the Eighth Circuit on March 11, 2020

Parties to the Proceedings

All parties to the proceedings 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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Judgment Below

A copy of the judgment of the U.S. Court of Appeals, United States v. Michael Harris, 19-3484 for the Eighth Circuit is attached to the petition as Appendix A.

JURISDICTION OF THE UNITED STATES
SUPREME COURT

The judgment of the U.S. Court of Appeals for the Eighth Circuit were entered on March 11, 2020. The Petitioner is filed within 90 days after entry of judgment. See Sup. Ct. R. 131. This Court has jurisdiction to grant Certiorari under 28 U.S.C. § 1254(1).

STATUTES INVOLVED

Title 18 U.S.C § 1951(a), 18 U.S.C §§ 2 and 1951(a);
and 18 U.S.C § 924(c)(1)(A)(ii).

Statement

In the Fall of 2017, Petitioner and his Co-defendant Jerry D. Patterson conducted a series of robberies in the Greater Kansas City Area. Subsequent to their arrest, petitioner was interviewed by police and admitted to committing robberies with Patterson, though he could not recall all of the robberies.

On November 14, 2017, an indictment was returned in the Western District of Missouri charging the two men of three crimes: (1) Conspiracy to Commit Hobbs Act Robbery in Count One, in violation of 18 U.S.C. § 1951(a); (2) aiding and abetting the Commission of Hobbs Act Robbery in Count two, in violation of 18 U.S.C. §§ 2 and 1951(a); and (3) aiding and abetting the brandishing of a firearm while committing a crime of violence, specifically the Hobbs Act Robbery charged in Count two (which was dropped by plea agreement) in violation of 18 U.S.C. § 924(c)(1)(A)(ii).

Petitioner entered into a binding plea agreement and pled guilty to Counts One and Three, the Conspiracy charge and brandishing a firearm charge. The binding agreement, under Fed. R. Crim. P. 11(c)(1)(C) was to a stipulated aggregate sentence of 180 to 300 months imprisonment.

On November 29, 2018, the district Court sentenced the Petitioner to 150 months on Count One⁽²⁾ and 84 months on Count ~~three~~⁽³⁾, to run consecutively, for an aggregate sentence of 234 months imprisonment.

Reasons for Granting the Writ

The petitioners issue is obviously one of Constitutional magnitude, and this Courts decision in Davis reversed a case based on the same criteria as that of the petitioner.

The petitioner on March 12, 2018 entered into a plea agreement with the government out of the Western District of Missouri, in which he agreed to plead guilty to Counts One (1) and Three (3) of a three (3) count indictment, which alleged that the petitioner was in violation of 18 U.S.C § 1951(a) that is Conspiracy to Commit Hobbs Act Robbery Count One (1) and that he was in violation of 18 U.S.C § 924(c)(7)(4)(ii) that is, aiding and abetting brandishing a firearm in furtherance of a crime of violence, count three (3).

In its decision in U.S. v. Davis, this Court ruled that 924(c) counts that charged Conspiracy as a predicate crime of violence could not be upheld because it depended on the residual clause which has been deemed unconstitutional for vagueness.

The district Court denial of the petitioner's § 2255 motion states the reason for the denial is because, the Eighth Circuit case law finding Hobbs Act Robbery is a Crime of violence under the elements clause remains binding precedent, but Hobbs Act Robbery does not pertain to the petitioner. The petitioner did not plead guilty to Hobbs Act Robbery, he plead guilty to Conspiracy to Commit Hobbs Act Robbery which falls under the residual Clause, and the Conviction in count three (3) because its tied to Count One (1) means it also falls under the residual clause of 924(c)(3)(B).

Since the residual clause of 924(c)(3)(B) has been deemed unconstitutionally vague the petitioner's sentence should be vacated.

For the district Court, and Eighth Circuit Court of Appeals to deny him a "COA" is a gross miscarriage of justice and of Constitutional magnitude, because it deprives the petitioner of his freedom. A freedom which should be granted to him based on this Courts decision in U.S. v. Davis No. 18-431 S.Ct. June 24, 2019.

Conclusion

FOR THESE REASONS, the petitions prays that this Honorable Court will issue a Writ of Certiorari, and review the denial below.

Respectfully Submitted,
Michael Harris 6/1/20

Michael A. Harris

Petitioner Pro Se

Reg No. 32770045

FCI El RENO

El Reno, OK 73036

P.O. Box 1500

Dated: June 1, 2020