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No. 20-1444

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MAR 02 2021

OFFICE OF THE CLERK
SUPREME COURT U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Douglas D. Jackson

(Your Name)

— PETITIONER

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Seventh Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Douglas D. Jackson, Reg No. 13961-027

(Prise-Appellant)

(Your Name)

Loretto Federal Correctional Institution

P.O. BOX 1600

(Address)

Cresson, PA 16630

(City, State, Zip Code)

—
(Phone Number)

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MAR - 8 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- 1.) Whether the Northern District of Indiana was the improper venue, if venue for that District was failed to be proven; after the government did not present any evidence or testimony indicating that the crimes or trips began, continued, or completed in Indiana?
- 2.) Whether Jackson was erroneously sentenced under an unlawful mandatory sentencing scheme, that resulted in a "Booker error" 3, 6th Amendment violation?

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:

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- United States v. Booker, 543 U.S. 220, 125 S.Ct. 738, 166 L.Ed.2d 621 (2008). 4, 7
- United States v. Mares, 402 F.3d 511 (5th Cir. 2005). 6
- United States v. Mendoza-Mesa, 421 F.3d 671 (8th Cir. 2005) 6
- United States v. Potamitis, 739 F.2d 784, 791 (2d Cir.) 7
- United States v. Purcell, 967 F.3d 159 (July 23, 2020) 8, 10, 11
- United States v. Rodriguez-Moreno, 526 U.S. 275 9, 10
- United States v. Oliver, 397 F.3d 369 (6th Cir. 2005) 7

STATUTES AND RULES

- 18 U.S.C. § 924(c) 3, 4
- 18 U.S.C. § 1591(a) 3, 4
- 18 U.S.C. § 2423(a) 3, 4
- 18 U.S.C. § 2255 motion 4
- Rule 10 of the Rules of the Supreme Court of the United States 6, 7, 8, 9, 10

OTHER

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- APPENDIX A = Order ; Final Judgement of United States Court of Appeals for the Seventh Circuit
- APPENDIX B = Judgment ; Order/opinion of United States District Court
- APPENDIX C = petition for panel rehearing denial of United States Court of Appeals for the Seventh Circuit
- APPENDIX D = Resentencing Transcripts, pgs 13-15
- APPENDIX E = Trial Transcripts, pgs 162-164 ;
pgs 182-185
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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 January 6, 2021.

☐ 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: February 12, 2021, and a copy of the order denying rehearing appears at Appendix C.

☐ 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. § 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

- United States Constitution Sixth Amendment, right to trial by jury.
- United States Constitution Sixth Amendment, "In all criminal prosecutions, the accused shall enjoy the right to a speedy & public trial, by an impartial jury of the state & district wherein the crime shall have been committed."
- Article III, § 2, Cl. 3, "The trial of all crimes ... shall be held in the state where the said crimes shall have been committed."
- 18 U.S.C § 2423(a), transportation of a minor with the intent to engage in criminal activity.
- 18 U.S.C § 1591(a), sex trafficking of a minor.
- 18 U.S.C § 924(c), use of a firearm in furtherance of a crime of violence.

STATEMENT OF THE CASE

- Jackson was arrested & charged w/sex trafficking in the state of Michigan. After 6 months, the Federal government filed a complaint & transferred Jackson to Indiana, to face Federal prosecution. He was then charged in a 7-count indictment. Counts 1-2 were for Kentucky, counts 3-4 were for Georgia, & counts 5-7 were for Michigan. None of Jackson's counts were for crimes committed in Indiana.

- Once Jackson proceeded to trial, evidence was only presented for Kentucky, Georgia, & Michigan. Indiana was only mentioned twice during the entire trial testimony; neither reference was in connection to the charged crimes. Jackson was convicted & sentenced to 295 months on the 7-count indictment. 3 counts of sex trafficking of a minor (18 U.S.C. § 1591(a)), 3 counts of transportation of a minor w/intent to engage in criminal activity (18 U.S.C. § 2423(a)), & 1 count of use of firearm in furtherance of a crime of violence (18 U.S.C. § 924(c)).

- Jackson appealed & was successful; count 7 (924(c)) was vacated. After his direct appeal, he filed a 2255 motion for ineffective assistance of counsel, because his trial attorney did not object to venue for Indiana, after the government failed to prove venue for that District (where his trial took place). The court's order denying the 2255 motion, was based on assumptions & speculations. They believed venue was proper for Indiana because Jackson & the victim met & resided there.

- When Jackson was remanded for resentencing for his count 7 being vacated, he objected to his sentencing enhancements not found by the jury & cited United States v. Booker, 543 U.S. 220. Jackson mentioned at resentencing, on the record, that the court was imposing a mandatory sentencing scheme, if he was sentenced beyond his jury verdict maximum of 120 months (See Appendix D).

The court overruled Jackson's "Booker objection" & sentenced him to a 188-235 month guideline range, a 1-point departure for post conviction rehab took his ultimate sentence up to 168 months.

- Jackson then filed a successive direct appeal. He appealed his venue claim & his "Booker" argument. The Court for the Seventh Appeals Court sided w/ the District court on the venue claim & also relied on facts that were not proven, to establish venue for Indiana. On page 3 of its order, the court states, "Jackson crimes began in the Northern District of Indiana, in South Bend, where he met a minor at a party, enticed her to engage in prostitution, & then drove her to perform illicit sex acts in other states." The error is that, it was never proven at trial that Jackson enticed the victim in Indiana at that party or that they traveled from Indiana to perform illicit sex acts in other states. These two facts are speculations.

- In regards to the "Booker error", the court denied the claim because even though there was a clear "Booker error", Jackson did not "suggest that the court treated the guidelines as mandatory." (See page 4 of the order).

- Jackson filed a petition for a panel rehearing & attached the portion of his resentencing transcripts, that was obviously overlooked, when he did suggest that he was being erroneously sentenced under an unlawful mandatory sentencing scheme (See Appendix D). The panel decided not to rehear the appeal & denied the petition.

- Now Jackson is filing the petition for writ of certiorari.

REASONS FOR GRANTING THE PETITION

* Booker error *

- Jackson was unconstitutionally enhanced w/ judge found facts, that the jury did not find him guilty of $\frac{1}{2}$ since he had zero prior convictions, any enhancement that exceeded his maximum guideline range for his jury verdict, could only be applied in a mandatory fashion. Jackson's jury verdict $\frac{1}{2}$ criminal history guideline range, was 97-121 months, he was ultimately sentenced to the guideline range of 188-235 months because of judge fact based enhancements.

★ Rule 10, This decision is in conflict w/ the 8th $\frac{1}{2}$ 5th circuit court of appeals decision on the same important matter. ★

- See United States v. Mendoza Mesa, 421 F.3d 671 (8th Cir. 2005), (A defendant's sentence is in violation of Booker $\frac{1}{2}$ the 6th Amendment if he was sentenced under a mandatory U.S. sentencing guideline manual regime on the basis of a fact-based sentencing enhancement that was not tried to a jury.)

- See United States v. Mares, 402 F.3d 511, "District court error was imposition of sentence, which was enhanced by using judge found facts, not admitted by defendant or found by jury in (former) mandatory sentencing guidelines system."

- The District court sentenced Jackson to 47 additional months longer than his guideline maximum for his jury conviction of 121 months $\frac{1}{2}$ did so because of judge found facts. Jackson's jury verdict combined w/ his criminal history only supported a guideline range of 97-121 months. The court applied the guidelines as mandatory instead of advisory by sentencing him to a guideline range of 188-235 months, w/ judge facts that the jury did not find him guilty of.

★ Rule 10, This decision is in conflict w/ the 6th circuit court

of Appeals on this same important matter. ★

→ See United States v. Oliver, 397 F.3d 369 (6th Cir. 2005), "Court imposed a sentence 12 months longer than the guideline maximum, based upon judge-found facts & the mandates of the federal sentencing guideline. . . . We therefore conclude that the District Court plainly erred when it applied the federal sentencing guidelines as mandatory rather than advisory; thereby sentencing Oliver beyond the sentencing range which the jury verdict & Oliver's criminal history supported."

- Jackson's advisory guidelines, absent the "Booker error", was 97-121 months, compared to his mandatory sentence of 188-235 months, shows that there was a "reasonable probability" that he would receive a lesser sentence w/o this error. Thus, Jackson was sentenced under an unlawful mandatory sentencing scheme. If this Court were to review Jackson's voiced objections on pgs 13-15 of the resentencing transcripts, it will find: the Booker error objection, the substantial rights violation, & the suggestion of being sentenced in a mandatory sentencing scheme that results in a Sixth Amendment violation. Just this statement alone compared to the outcome of the sentence warrants relief (See Appendix D).

★ Rule 10, all previous stated decisions are in conflict w/ the Supreme Courts decision on these same important matters ★.

→ see United States v. Booker, 543 U.S. 220 (2005)

★ Improper Venue ★

- The District court & the Appeals Court denial of Jackson's venue claim is based on assumption & speculation, but venue must be proven. see United States v. Potamitis, 739 F.2d 784, 791 (2d Cir), "The burden is on the government to prove that the crime was committed in the district

in which prosecution is brought." On page 3 of the Order, the Court believes Jackson enticed in Indiana; traveled from Indiana, to engage in prostitution, So venue is proper there. But there is no evidence or testimony that Jackson committed those acts in Indiana.

★ Rule 10, This decision is in conflict w/ the 2nd Circuit Court of Appeals decision on this same important matter, *concerning this same exact case* ★, (This is a recent case that was decided on July 23, 2020.)

- See United States v. Purcell, 967 F.3d 159 at 59, "Nothing in the record suggest that either Purcell or Vasquez was located within the Southern District of New York during Purcell's efforts (if any) to recruit Vasquez."

- Once it was failed to be proven that Jackson enticed or traveled from Indiana to engage in prostitution, then venue was improper, because the prostitution crimes did not occur in Indiana.

- Both courts speculate that Indiana is proper venue, because Jackson meet the victim there; they both resided there; but w/o any evidence to support the claim, that the same state where the pair meet; resided, is also the same state where this enticement; travel occurred, then venue is improper because the government cannot prove this assumption w/ evidence or testimony.

★ Rule 10, This decision is in conflict w/ the 2nd Circuit Court of Appeals decision on this same important matter, concerning this same exact case. ★

- See United States v. Purcell, 967 F.3d 159 at 60-62, "There is no record evidence indicating how Vasquez traveled to Raleigh See Id at 61, "Thus, nothing in the record

*Suggest that Vasquez actually or necessarily set foot in the Southern District in connection with her sex work for Purcell. Because the government's theory of venue is entirely speculative, we conclude that no reasonable jury could have found by a preponderance of evidence that either Purcell or Vasquez committed conduct essential to the crime of enticing Vasquez to engage in commercial sex work within the Southern District of New York.

- Moreover, Jackson was convicted for transportation not enticing. The government believes Jackson enticed the victim at a party when they 1st meet, but when the government ask the witness if Jackson made a suggestion that she make money by being a prostitute at this party, she answered "NO", (See Appendix E, pg 164). The topic of prostitution was not brought up at this party, so there is no way Jackson could've enticed her to engage in prostitution at this party. Besides this instant, there is no other indication that Jackson enticed anyone to engage in prostitution. The Appeal Courts enticement argument does not have any merit, when compared to the testimony of it's star witness.

- The crimes of prostitution & transportation to engage in prostitution, were not proven to take place in Indiana. Without the assumption & speculation, there is no way to connect the crimes to the Northern District of Indiana. All acts that occur in Indiana that were proven, were non-criminal acts & for venue to be proper, it must be proven that a criminal act occur there.

★ Rule 10, This decision is in conflict w/ the Supreme Court's decision on this same important matter. ★

- See United States v. Rodriguez - Moreno, 526 U.S.

at 279, "In performing this inquiry, a court must initially identify the conduct constituting the offense (the nature of the crime); then discern the location of the commission of the criminal acts."

- In addition, being that there was two separate trips, Indiana had to be established twice, for venue to be proper for each trip. Venue was not established for the 1st or 2nd trip, for the Northern District of Indiana.

- It also needs to be pointed out, that after the pair meet at this party, counts 1-4 did not occur until over a month later; after they return to Indiana, counts 5-6 do not occur until almost a week later. There is no evidence of what took place during these time spans in between trips taking place.

★ Rule 10, This decision is in conflict w/ the 2nd circuit "Purcell" case mentioned earlier, ★ See Id at 60, "There is no record evidence indicating how Vasquez traveled to Raleigh, how or where she spent the month prior to that engagement..." See Id at 58, "But that argument is based on speculation rather than evidence."

- The Appendix E, are portions of the transcripts, that show & prove the testimony that takes place before

• Each trip. it is clear to see, that Indiana was never mentioned or proven that these trips originated there or that this so-called enticement took place there.

• See Appendix E; (pgs 163-164 = shows that enticement to engage in prostitution is not proven to take place at this party. Pg 164 = shows testimony before travel for counts 1-4 * Indiana has no proof, it was traveled from. Pg 164 = shows testimony before travel for counts 5 & 6 * Indiana was not proven, that it was traveled from.)

• The government's venue claim relies upon proving that enticement & travel from, occurs in Indiana, because the prostitution acts occurred in other states. But Indiana was not proven as venue for enticement, travel from for counts 1-4, or travel from for counts 5 & 6.

• The 2nd circuits "Purcell sex trafficking case" was decided last year & that case mirrors Jackson's case, in terms of improper venue. (1) There is no evidence how or where from, the pair travel to other states to engage in prostitution. (2) No evidence where the enticement takes place. (3) No evidence how or where the victim spent her time before each trip takes place. (4) When the pair return to where they resided, it was not for the purpose of prostitution, this act was considered "preparatory to the offense; not part of the offense" in "Purcell's" case ... See id at 58.

CONCLUSION

For the following special & compelling reasons stated throughout the petition; these important issues that conflicts w/ the Supreme Court & other Appeals Courts, needs to be reviewed. Jackson prays & seeks in good faith that

The petition for a writ of certiorari should be granted.

Respectfully submitted,
Douglas D. Jackson

Dug (Pro Se - Appellant)

Date: March 1, 2021