

No. 21-5436

ORIGINAL

Supreme Court, U.S.
FILED

JUL 24 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

William D. Dickerson — 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 Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

William D. Dickerson
(Your Name)

P.O. Box 5888
(Address)

Yazoo City, MS 39194
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Does Section 404 of The First Step Act of 2018's definition of "cored offense" covers a multi-drug conspiracy that includes both crack-cocaine as an element and another drug-quantity of equal punishment-before-the First Step Act Section 404-as an element.
2. Are the lower courts required to apply intervening judicial decisions when considering whether to reduce petitioner's sentence under Section 404 of the First Step Act.
3. Must the lower courts consider applicable sentencing factor codified in 18 U.S.C. § 3553(a)(6) when deciding to impose a reduced sentence under Section 404 of the First Step Act.

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

1. United States v. Winters, 986 F.3d 942 (5th Cir. 2021) (dual-object conspiracy to distribute both crack cocaine and powder cocaine is "covered offense." (citing United States v. Gravat, 953 F.3d 258, 264 (4th Cir. 2020); United States v. Taylor, 982 F.3d 1295 (11th Cir. 2020) (same), compare United States v. Lott, 830 F. App'x 366 (2d Cir. 2020) (reaching the opposite); United States v. Johnson, 803 F. App'x 772, 773 (7th Cir. 2020), but compare United States v. Harris et. al., No. 07-CR-10080-003, ECF 376 (granting multi-drug conspirators Section 404 motion), CDIL March 11, 2021.

2. Our sister circuits are split on whether a federal court must apply an intervening judicial decision when calculating a defendant's new sentencing parameter. United States v. Lancaster, 997 F.3d 171, 176 (4th Cir. 2021); United States v. Chambers, 956 F.3d 607, 615 (4th Cir. 2020); United States v. Hudson, 967 F.3d 605 (7th Cir. 2020); compare United States v. Concepcion, 991 F.3d 279, 292 (1st Cir. 2021); United States v. Taylor, 982 F.3d 1295 (11th Cir. 2020); United States v. Fowowe, - F.3d - , No. 3197 (7th Cir. 2021) (collecting cases).

3. Houston v. United States, cert. granted (2021) (§3553(a) factors).

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>United States v. Chambers</u> , 956 F.3d 667 (4 th Cir. 2020)	ii
<u>United States v. Conception</u> , 991 F.3d 279 (1 st Cir. 2021)	ii
<u>United States v. Fowowe</u> , - F.3d - (7 th Cir. 2021)	ii
<u>United States v. Granatt</u> , 953 F.3d 258 (4 th Cir. 2020)	ii
<u>United States v. Harris et. al.</u> , No. 07-CV-10080-003 (C.D.Ill. March 11, 2021)	ii
<u>Houston v. United States</u> , cert. granted (2021)	ii
<u>United States v. Hudson</u> , 967 F.3d 605 (7 th Cir. 2020)	ii
<u>United States v. Johnson</u> , 803 F. App'x 772 (3 rd Cir. 2020)	ii
<u>United States v. Lancaster</u> , 997 F.3d 171 (4 th Cir. 2021)	ii
STATUTES AND RULES	
21 U.S.C. §§ 841 (2002)	4
21 U.S.C. §§ 841 (2010)	4
21 U.S.C. §§ 846	4
21 U.S.C. § 851	4
Pub. L. No. 115-391, 132 Stat. 5220, et seq.	4
28 U.S.C. § 1254 et seq.	2
OTHER	

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A The decision of the United States Court of Appeals is reported as United States v. Dickerson, 2021 WL 276133 (7th Cir. Jan. 27, 2021) (unpubl.).

APPENDIX B The text orders of the United States District Court for the Central District of Illinois.

APPENDIX C The denial of a timely filed petition for rehearing and rehearing en banc by the United States Court of Appeals for the Seventh Circuit.

APPENDIX D The granting by the United States District Court of the Central District of Illinois a dual-object powder cocaine and crack cocaine conspiracy.

APPENDIX E

APPENDIX F

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 United States v. Dickerson, 2021 WL 236133; 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 N/A to the petition and is

reported at N/A; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the N/A court appears at Appendix N/A to the petition and is

reported at N/A; 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 27, 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: March 10, 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 N/A (date) on N/A (date) in Application No. N/A N/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 N/A. A copy of that decision appears at Appendix N/A.

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

On December 21, 2018, Congress enacted the First Step Act. See Pub. L. No. 115-391. Section 404 of the Act made Sections 2 and 3 of the Fair Sentencing Act retroactive, authorizing district courts to reduce sentences of defendants whose statutory penalties would have been different under Sections 2 and 3 of the Fair Sentencing Act.

In September 2004, a grand jury returned an indictment charging Mr. Dickerson with two counts of conspiracy to distribute more than 5 kilograms of powder cocaine and more than 50 grams of cocaine base ("crack cocaine"), in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846. The United States subsequently filed notice under 21 U.S.C. § 851(b), informing Mr. Dickerson of the government's intent to seek an enhanced sentence under 21 U.S.C. § 841(b) based on a prior conviction for a felony drug offense, possession of a controlled substance in Vermilion County, Illinois, Case No. 96-CF-314. Mr. Dickerson ultimately pled guilty to conspiring to distribute 5 kilograms or more of cocaine or 50 grams or more of cocaine base ("crack"). The district court imposed the statutory mandatory minimum sentences of 240 month's imprisonment on each count, to run concurrently.

In August 2019, Mr. Dickerson filed a pro se motion for a sentence reduction. Mr. Dickerson argued that his conspiracy convictions were covered offenses under Section 404 and requested that the court resentence him without his Section 851 enhancement. The district court denied Mr. Dickerson's motion for a reduction, and his motion for reconsideration. Mr. Dickerson filed a timely notice of appeal. January 27, 2021, Mr. Dickerson's appeal was denied by the Seventh Circuit, without a ruling deeming his crack cocaine conviction eligible or a "covered offense"; and without considering his challenge to his § 851 enhancement.

REASONS FOR GRANTING THE PETITION

The lower courts have mixed views on the application of Section 404 of the First Step Act of 2018. Uniformity is needed to insure a parallel application of the law mixed with the facts of Mr. Dickerson's case. In other words, relief under Section 404 should not be dependent upon the jurisdiction of conviction or the luck of the draw as to the judge or panel where the conviction desired. Transparency is paramount due to the fact that several Bills are currently pending before both bodies of the Legislative Branch of government, addressing the non-retroactive portions of the First Step Act of 2018, moving to make those provisions retroactive. Prospective, the same questions presented herein are or will assuredly manifest themselves once again after their passage. Certiorari must be granted to eliminate circuit splits and to mitigate the arbitrary imposition of the law.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

W.M. P. K.

Date: July 24, 2021