

No 21-5868

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JUL 30 2021

OFFICE OF THE CLERK

Ryan Russell Parks — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ryan Parks
(Your Name)

6659 Spring Mill Circle
(Address)

Gwynn Oak, MD 21207
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1) Is the amended charge of 1591 (c) a constructive amendment?
- 2) Is the compounding of charge 1952 (a) (3) aiding and abetting the promotion of a business involving prostitution before jury instructions but after trial started to all charges listed in indictment to lower their burden constitute a constructive amendment?
- 3) Is the charge of 1591 (c) lawful as it both robs the defendant of a affirmative defense but also, takes away an essential element of the crime while putting it in the jurors hands to determine what is meant by the experienced language of reasonable opportunity to view, and furthermore the fact that looking at someone doesn't determine age?
- 4) Did the Judge err in the execution of rule 412 when he stopped the defense from asking relevant questions that had nothing to do with sex but why the alleged victim contacted me?
- 5) Did the defendant experience a variance in evidence when at trial the judge added aided and abetted to the original indictment based on the prosecution's belief that the defendant was trying to put alleged crime on another person or persons?

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. McMillian, 600 F.3d 434, 451 U.S. Court of Appeals for the Fifth Circuit. Judgment 2010
- 2) United States v. {956 F.3d 407} Barlow, 568 F.3d 215, 219 U.S. Court of Appeals for the Fifth Circuit. Judgement 2009
- 3) United States v. Sanders U.S. Court of Appeals for the Fifth Circuit.
- 4) United States v. Brown U.S. District Court for the Third Circuit. Judgement April 24, 2020

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STATUTES AND RULES

OTHER

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 March 10, 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: _____, 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. § 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

STATEMENT OF THE CASE

On 03/28/19 I was superceded for three counts of 1591 (a), (b) (2), and (c) one of which was later dropped and one count of 1952 (a) (3). Before jury instructions they added 18 U.S.C. §2 to each offense. The questions I'm presenting rise from these counts and how the use of a totally different charge aiding and abetting the promotion of a business involving prostitution (18 U.S.C. 1952 (a) (3)) was compounded with the charges listed to cover up where the governments case was weak and subsequently rob me of an affirmative defense. It is my understanding that not only the charge itself 1591 (c) but also the compounding of two totally different charges constitutes as a constructive amendment. As you know a constructive amendment occurs when it permits the defendant to be convicted upon a factual basis that effectively modifies an essential element of the charged offense or permits the government to convict the defendant on a materially different theory or set of facts. 1591 (c) is an amendment passed by congress in 2015 three years before my case. In the amended charge it allows you to be convicted "even if you didn't know the age, you had a reasonable opportunity to view" the alleged victim. The problem being that one of the essential elements of 1591 is "knowingly". The amended charge essentially eliminates that essential element and mens rea. Furthermore it robbed me of my affirmative defense, because in my case I truly didn't know that the girls in question were under 18. As evidenced in court at trial governments witness and alleged victim AZ admits to having renting a hotel room in person multiple times. In doing so she used an I.D. that wasn't her or in some way falsified. I also witnessed both the I.D. and renting of the hotel room but was not aware the I.D. was false. Any sane or reasonable person wouldn't question the validity of I.D. especially when the hotel clerk also believed on multiple occasions to be accurate. Clearly they had to have believed it was accurate because they wouldn't risk their job and the business on renting to a minor. Also in respects to AZ, she contacted me out of the blue on a site called Tagged. On Tagged you have to be 18 to even have an account so my very first contact with AZ through Tagged I was under the belief she was 18 as it said on her profile. The thing with this particular amendment is that it doesn't even include what constitutes as a reasonable time to view. Instead it puts it into the jurors hands to decipher this specialized language. Not to mention looking at someone even in a state of undress (the governments reasoning that I had a reasonable opportunity to view) doesn't define a persons age as some people look older and act older than they actually are and vice versa. The government took it even a step further by saying look how "small and skinny" they were to the jury, which is no factual basis as to age. In United States v. Sanders and U.S.v. Barlow both out of the 5th circuit court of appeals they held that 18 U.S.C. 2422 (b) requires the government "to prove beyond a reasonable doubt that the defendant knew person was a minor and intended to persuade, induce, entice, or coerce to engage in prostitution". The ruling was overturned because the government didn't meet their burden of proof. They upheld that one must have knowledge something 1591 (c) deprives. Also compounding another charge that wasn't part of the original or superceding indictment unduly frees the government of their burden of proof, they only chose to add the language when they weren't meeting that burden but is also a constructive amendment as now they were allowed to say "even if you believe he didn't know the girls age he's still guilty" and if you believe he had any part in this he's guilty a total different theory and set of circumstances than which I was charged. It also had nothing to do with the essential elements it was simply used to nullify my defense, that I wasn't the one who caused the prostitution nor did I know their age was under 18. There was only physical evidence that showed this to be true as even with SW in trial there was a message introduced where she states that she's 19. Also in my case I told my lawyer to point out which he did that the 1B address of many of the ads where in different counties than the government says I was so I couldn't have posted the ads.

REASONS FOR GRANTING THE PETITION

There are several reasons that the court should grant this petition including actual innocence. One is the fact that if we look at the charge of 1591(c) as written it constitutes a constructive amendment, cases that have been found to have that particular error have historically been aquitted.

Secondly in my case at trial the judge on a motion from the ~~prosecution~~ prosecution added the charge of 1952(a)(3) to my original indictment in such a way that it compounded the charge with my original charge of 1591(c) after testimony but before jury instructions. This not only lowered the prosecutions burden and constitutes as a constructive amendment but also was a variance in evidence as ~~aided and abetting~~ aided and abetting was not a part of my indictment until that time so I therefor had no time to prepare for that.

Lastly the charge of 1591(c) is unlawful as it both robs the defendant of an affirmative defence in not having knowledge, but also strips that essential element of the crime, while putting it in the hands of the jurors to determine specialized language of reasonable ~~and~~ opportunity to view, furthermore in just viewing someone you can not determine their age.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ryan Parks

Date: April 17, 2021