

Case No: _____

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2021

CHRISTOPHER JASON HENRY,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition for a Writ of Certiorari
to the Court of Appeals for the Eleventh Circuit

MOTION TO PROCEED IN FORMA PAUPERIS

Christine A. Freeman, Executive Director
Mackenzie S. Lund*
Federal Defenders, Middle District of Alabama
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**Counsel of Record*

November 15, 2021

Petitioner, Christopher Jason Henry, asks leave to file his Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis* pursuant to Rule 39. Mr. Henry has been represented by the Federal Defenders for the Middle District of Alabama by appointment. The order appointing the Federal Defenders to represent Mr. Henry was entered on February 22, 2018. A copy of the docket sheet, which reflects entry of the oral appointment order, is attached to this motion.

Respectfully submitted,

/s/ Mackenzie S. Lund

Mackenzie S. Lund
Assistant Federal Defender
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(334)-834-2099
Counsel of Record for Petitioner

Executed on November 15, 2021

U.S. District Court
Alabama Middle District (Montgomery)
CRIMINAL DOCKET FOR CASE #: 2:17-cr-00508-WKW-GMB-1

Case title: USA v. Henry

Date Filed: 11/30/2017

Date Terminated: 12/10/2018

Assigned to: Honorable Judge William
Keith Watkins

Referred to: Honorable Judge Gray M.
Borden

Appeals court case number: 18-15251-F

Defendant (1)

Christopher Jason Henry
TERMINATED: 12/10/2018

represented by **Federal Defender**
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Pending Counts

18:922(g)(1) UNLAWFUL TRANSPORT
OF FIREARMS, ETC.
(1)

Disposition

108 mos cc w/state charges; 3 Yrs SR; \$100
SA

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition

Plaintiff

USA

represented by **Bradley G Bodiford**
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TERMINATED: 07/25/2018
LEAD ATTORNEY
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 Designation: Assistant U S Attorney

Thomas Ramsey Govan , Jr.
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 State of Alabama
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 Montgomery, AL 36130
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TERMINATED: 02/10/2021
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
 Designation: Assistant U S Attorney

Date Filed	#	Docket Text
11/30/2017	1	INDICTMENT as to Christopher Jason Henry (1) count(s) 1. (ag,) (Entered: 12/01/2017)
01/05/2018	4	Detainer Lodged with Covington County Jail as to Christopher Jason Henry. (ajr,) (Entered: 01/05/2018)
01/11/2018	5	MOTION for Writ of Habeas Corpus ad prosequendum by USA as to Christopher Jason Henry. (Attachments: # 1 Text of Proposed Order)(Redmond, Susan) (Entered: 01/11/2018)
01/12/2018	6	ORDER granting 5 Motion for Writ of Habeas Corpus ad prosequendum as to Christopher Jason Henry (1). Signed by Honorable Judge Gray M. Borden on 1/12/18. (ajr,) (Entered: 01/12/2018)
01/12/2018	7	Writ of Habeas Corpus ad Prosequendum Issued as to Christopher Jason Henry for Arraignment set for 2/27/2018 10:30 AM in CR 5B before Honorable Judge Susan Russ Walker. (ajr,) (Entered: 01/12/2018)
02/22/2018		ORAL MOTION to Appoint Counsel by Christopher Jason Henry. (war,) (Entered: 02/22/2018)
02/22/2018	8	CJA 23 Financial Affidavit by Christopher Jason Henry (war,) (Entered: 02/22/2018)

02/22/2018		ORDER (ORAL) granting Oral Motion to Appoint Counsel: Appointed Federal Defender for Christopher Jason Henry as to Christopher Jason Henry (1). Entered by Honorable Judge Gray M. Borden on 2/22/18. (war,) (Entered: 02/22/2018)
02/22/2018	9	Minute Entry for proceedings held before Honorable Judge Gray M. Borden:Initial Appearance as to Christopher Jason Henry held on 2/22/2018, Arraignment as to Christopher Jason Henry (1) Count 1 held on 2/22/2018, Plea entered by Christopher Jason Henry (1) Count 1- Not Guilty on count 1. (PDF available for court use only) (Recording Time FTR: 1:06 PM - 1:10 PM.) (war,) (Entered: 02/22/2018)
02/23/2018	10	ORDER ON ARRAIGNMENT as to Christopher Jason Henry setting an initial Pretrial Conference for 3/14/2018 10:00 AM in CR 4E before Honorable Judge Gray M. Borden. Jury Trial set for 4/16/2018 10:00 AM in CR 2B before Chief Judge William Keith Watkins. Pretrial Motions due by 3/12/2018. Discovery due from the government by 2/22/2018 and from the defendant by 3/1/2018. Signed by Honorable Judge Gray M. Borden on 2/23/18. (ajr,) (Entered: 02/23/2018)
02/26/2018	12	NOTICE OF ATTORNEY APPEARANCE: Cecilia Vaca appearing for Christopher Jason Henry (Vaca, Cecilia) (Entered: 02/26/2018)
02/26/2018	13	NOTICE OF ATTORNEY APPEARANCE: Christine Ann Freeman appearing for Christopher Jason Henry (Freeman, Christine) (Entered: 02/26/2018)
03/14/2018	14	Minute Entry for proceedings held before Honorable Judge Gray M. Borden:Pretrial Conference as to Christopher Jason Henry held on 3/14/2018 (PDF available for court use only) (Recording Time FTR: 10:09 AM - 10:09 AM.) (war,) (Entered: 03/14/2018)
03/15/2018	15	PRETRIAL CONFERENCE ORDER as to Christopher Jason Henry setting Jury Selection and Trial (ETT 2 days) for 4/16/2018 10:00 AM in CR 2B before Chief Judge William Keith Watkins. Notice of Intent to Change Plea due by noon on 4/4/2018. Signed by Honorable Judge Gray M. Borden on 3/15/18. (ajr,) Modified on 3/15/2018 (ajr,). (Entered: 03/15/2018)
04/02/2018	16	MOTION to Continue trial (<i>Unopposed</i>) by Christopher Jason Henry. (Vaca, Cecilia) (Entered: 04/02/2018)
04/04/2018	17	NOTICE OF AVAILABILITY OF JURY LIST AND JURORS' PROFILES for Jury Selection and Trial commencing on 4/16/2018 before Honorable Judge W. Keith Watkins as to Christopher Jason Henry (Attachments: # 1 Juror Questionnaire Certification, # 2 Clothing Notice)(ajr,) (Entered: 04/04/2018)
04/05/2018	18	ORDER TO CONTINUE - Ends of Justice as to Christopher Jason Henry. Time excluded from 4/16/18 until 8/6/18: granting 16 MOTION to Continue Trial (Unopposed) filed by Christopher Jason Henry. Jury Trial set for 4/16/2018 is CONTINUED to 8/6/2018 10:00 AM in CR 2B before Chief Judge William Keith Watkins. The Magistrate Judge shall conduct a pretrial conference prior to the August 6, 2018 trial term. Signed by Chief Judge William Keith Watkins on 4/5/18. (ajr,) (Entered: 04/05/2018)
04/05/2018	19	ORDER as to Christopher Jason Henry setting a final Pretrial Conference for 7/11/2018 10:00 AM in CR 4E before Honorable Judge Gray M. Borden. Signed by Honorable Judge Gray M. Borden on 4/5/18. (ajr,) (Entered: 04/05/2018)
06/14/2018	20	Proposed Voir Dire by USA as to Christopher Jason Henry (Redmond, Susan) (Entered: 06/14/2018)
07/12/2018	21	Minute Entry for Pretrial Conference held before Honorable Judge Gray M. Borden as to Christopher Jason Henry on 7/12/2018 (PDF available for court use only) (Recording Time 10:16-10:17.) (cb,) (Entered: 07/12/2018)

07/17/2018	22	SECOND PRETRIAL CONFERENCE ORDER as to Christopher Jason Henry: Jury Selection and Jury Trial (ETT 2 days) set for 8/6/2018 10:00 AM in CR 2B before Chief Judge William Keith Watkins. Notice of Intent to Change Plea due by noon on 7/25/2018. Signed by Honorable Judge Gray M. Borden on 7/17/18. (war,) (Entered: 07/17/2018)
07/23/2018	23	NOTICE OF INTENT TO CHANGE PLEA by Christopher Jason Henry (Vaca, Cecilia) (Entered: 07/23/2018)
07/24/2018	24	NOTICE OF ATTORNEY APPEARANCE Bradley G Bodiford appearing for USA. (Bodiford, Bradley) (Entered: 07/24/2018)
07/24/2018	25	MOTION to Withdraw as Attorney by USA as to Christopher Jason Henry. (Redmond, Susan) (Entered: 07/24/2018)
07/24/2018	26	ORDER as to Christopher Jason Henry re 23 Notice of Intent to Change Plea > Change of Plea Hearing set for 7/26/2018 at 11:00 AM in CR 2D before Honorable Judge Gray M. Borden. It is further ORDERED that the government shall email a PDF version of any plea agreement to the court at propord_borden@almd.uscourts.gov no later than 8:00 a.m. on the day set for the change of plea. If there is no plea agreement for this defendant, the government shall inform the court of this fact by sending an email to the same address and by the same deadline. The Clerk is directed to provide a court reporter for this proceeding, if one is available. If the defendant is in custody, the United States Marshal or the person having custody of the defendant shall produce the defendant for this proceeding.. Signed by Honorable Judge Gray M. Borden on 7/24/18. (ws,) (Entered: 07/24/2018)
07/25/2018	27	TEXT ORDER granting 25 Motion to Withdraw as Attorney. Susan R. Redmond withdrawn from case as to Christopher Jason Henry (1). Entered by Honorable Judge Gray M. Borden on 7/25/18. (NO PDF ATTACHED) (war,) (Entered: 07/25/2018)
07/26/2018	28	Consent to Enter Guilty Plea before U. S. Magistrate Judge as to Christopher Jason Henry (cb,) (Entered: 07/26/2018)
07/26/2018	29	Minute Entry for Change of Plea held before Honorable Judge Gray M. Borden as to Christopher Jason Henry on 7/26/2018. GUILTY PLEA ENTERED AS TO COUNT 1 OF THE INDICTMENT (PDF available for court use only)(Recording Time 11:13-11:18.) (cb,) (Entered: 07/26/2018)
07/26/2018		ORAL ORDER accepting guilty plea and adjudicating defendant as guilty as to Christopher Jason Henry. Signed by Honorable Judge Gray M. Borden on 7/26/18/2018. (cb,) (Entered: 07/26/2018)
07/26/2018		ORAL ORDER directing the defendant to remain in the custody of the USM pending further proceedings as to Christopher Jason Henry. Signed by Honorable Judge Gray M. Borden on 7/26/18. (cb,) (Entered: 07/26/2018)
07/30/2018	30	ORDER as to Christopher Jason Henry Sentencing set for 11/15/2018 at 10:45 AM in CR 2B before Chief Judge William Keith Watkins.. Signed by Chief Judge William Keith Watkins on 7/30/18. (ws,) (Entered: 07/30/2018)
10/11/2018	31	TEXT ORDER as to Christopher Jason Henry: Sentencing set for 11/15/18 is RESET to 11/16/2018 10:45 AM in CR 2B before Chief Judge William Keith Watkins.Entered by Chief Judge William Keith Watkins on 10/11/18. (NO PDF ATTACHED). (war,) (Entered: 10/11/2018)

11/08/2018	34	NOTICE of <i>Filing Sentencing Exhibits</i> as to Christopher Jason Henry (Vaca, Cecilia) (Entered: 11/08/2018)
11/09/2018	35	MOTION for Variance (<i>Downward</i>) by Christopher Jason Henry. (Vaca, Cecilia) (Entered: 11/09/2018)
11/09/2018	36	SENTENCING MEMORANDUM by Christopher Jason Henry. (war,) (Entered: 11/13/2018)
11/16/2018	37	Minute Entry for proceedings held before Chief Judge William Keith Watkins:Sentencing held on 11/16/2018 as to Christopher Jason Henry. (PDF available for court use only) (Court Reporter Risa Entrekin.) (war,) (Entered: 11/19/2018)
11/27/2018	38	PRESENTENCE INVESTIGATION REPORT (Sealed) as to Christopher Jason Henry (war,) (Entered: 11/27/2018)
11/29/2018	39	TRANSCRIPT of Sentencing (PDF ACCESS RESTRICTED FOR 90 DAYS.) held on 11/16/2018 before Judge W. Keith Watkins as to Christopher Jason Henry. Court Reporter/Transcriber Risa Entrekin, Telephone number (334) 240-2405. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. NOTICE OF INTENT TO REQUEST REDACTION DUE WITHIN 7 BUSINESS DAYS. Redaction Request due 12/20/2018. Redacted Transcript Deadline set for 12/31/2018. Release of Transcript Restriction set for 2/27/2019. (cb,) Modified on 5/8/2020 (dph,).Transcript released 5/8/2020. (Entered: 11/30/2018)
12/10/2018	40	JUDGMENT as to Christopher Jason Henry (1), Count(s) 1, 108 mos cc w/state charges; 3 Yrs SR; \$100 SA. Signed by Chief Judge William Keith Watkins on 12/10/18. (war,) (Entered: 12/10/2018)
12/18/2018	42	NOTICE OF ATTORNEY APPEARANCE: Mackenzie S. Lund appearing for Christopher Jason Henry (Lund, Mackenzie) (Entered: 12/18/2018)
12/19/2018	43	NOTICE OF APPEAL by Christopher Jason Henry re 40 Judgment (Lund, Mackenzie) (Entered: 12/19/2018)
12/19/2018	44	Appeal Instructions sent to Attorney Mackenzie S. Lund counsel for Defendant, Mr. CHRISTOPHER JASON HENRY, re 43 Notice of Appeal - Final Judgment. A copy of the Transcript Information Form must be mailed to each court reporter from whom you are requesting a transcript. (Attachments: # 1 TRANSCRIPT INFORMATION FORM)(ydw,) (Entered: 12/19/2018)
12/19/2018	45	Transmission of Notice of Appeal, 1 INDICTMENT, 40 JUDGMENT, and Docket Sheet to US Court of Appeals re 43 Notice of Appeal - Final Judgment. (Attachments: # 1 DOCKET SHEET)(ydw,) (Entered: 12/19/2018)
12/26/2018	46	USCA Case Number 18-15251-F for 43 Notice of Appeal - Final Judgment filed by Christopher Jason Henry. (dmn,) (Entered: 12/27/2018)
01/07/2019	47	TRANSCRIPT INFORMATION FORM with the following notation, "All necessary transcript(s) on file" by Christopher Jason Henry. (Lund, Mackenzie) Modified on 1/9/2019 to include additional text. (dmn,) (Entered: 01/07/2019)
03/07/2019		Pursuant to F.R.A.P. 11(c), the Clerk of the District Court for the Middle District of Alabama certifies that the record is complete for purposes of this appeal re: 43 Notice of Appeal - Final Judgment, Appeal No. 18-15251-F. The entire record on appeal is available electronically. (dmn,) (Entered: 03/07/2019)
08/07/2020	48	[REHEARING SIGNED OPINION REPLACES THIS OPINION, SEE DOC. 56 FOR

		PDF.] SIGNED Opinion received from USCA on 11th Circuit Appeal No. 18-15251-CC issued by court as to Appellant Christopher Jason Henry. Decision: VACATED Henry's sentence and REMANDED for resentencing. Opinion type: Published. Opinion method: Signed. The opinion is also available through the Court's Opinions page at this link http://www.ca11.uscourts.gov/opinions . (dmn,) Modified on 8/12/2020 to include additional text. Furnished by email to WKW. (dmn,) Modified on 6/23/2021. (dmn,) (Entered: 08/12/2020)
12/09/2020	49	TEXT ORDER as to Christopher Jason Henry: Resentencing set for 1/27/2021 11:00 AM in CR 2F before Honorable Judge William Keith Watkins. Entered by Honorable Judge William Keith Watkins on 12/9/20. (NO PDF ATTACHED). (war,) (Entered: 12/09/2020)
01/04/2021	50	NOTICE OF ATTORNEY APPEARANCE Thomas R Govan, Jr appearing for USA. (Govan, Thomas) (Entered: 01/04/2021)
01/04/2021	51	MOTION to Continue <i>Sentencing Hearing</i> by USA as to Christopher Jason Henry. (Attachments: # 1 Exhibit A)(Govan, Thomas) (Entered: 01/04/2021)
01/07/2021	52	ORDER as to Christopher Jason Henry, GRANTING 51 MOTION to Continue <i>Sentencing Hearing</i> filed by USA; Accordingly, the sentencing hearing, which is scheduled on January 27, 2021, is CONTINUED generally. The Government is DIRECTED to file a motion to reset the case for sentencing when Defendants direct appeal proceedings have concluded. Signed by Honorable Judge William Keith Watkins on 1/7/21. (war,) (Entered: 01/07/2021)
01/07/2021	53	NOTICE OF ATTORNEY APPEARANCE Brett J. Talley appearing for USA. (Talley, Brett) (Entered: 01/07/2021)
02/09/2021	54	MOTION to Withdraw as Attorney by Thomas R. Govan. by USA as to Christopher Jason Henry. (Govan, Thomas) (Entered: 02/09/2021)
02/10/2021	55	TEXT ORDER granting 54 Motion to Withdraw as Attorney. Thomas R Govan, Jr withdrawn from case as to Christopher Jason Henry (1). Entered by Honorable Judge William Keith Watkins on 2/10/21. (NO PDF ATTACHED) (war,) (Entered: 02/10/2021)
06/21/2021	56	REHEARING SIGNED OPINION issued by USCA on 11th Circuit Appeal No. 18-15251-CC: Decision: AFFIRMED. Opinion type: Published. Opinion method: Signed. (Footnote: The United States petitioned for rehearing or rehearing en banc after issuance of our opinion of August 7, 2020. We grant the motion for panel rehearing, vacate our earlier opinion, and substitute in its place the following opinion. (Replaces Doc. 48 .)) (dmn,) (Entered: 06/23/2021)
08/25/2021	57	JUDGMENT Entered 6/21/2021 issued as Mandate of USCA as to Christopher Jason Henry re 43 Notice of Appeal - Final Judgment, 11th Circuit Appeal No. 18-15251-CC: It is hereby ordered, adjudged, and decreed that the opinion issued on this date in this appeal is entered as the judgment of this Court. (dmn,) (Entered: 08/25/2021)

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