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No.

20-10960

1:19-CV-155

1:18-CR-12

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

SEP 01 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Bryce Clark

(Your Name)

— PETITIONER

vs.

United States of America

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fifth Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Bryce Clark

(Your Name)

1900 Simler Ave

(Address)

Big Springs Tx 79720

(City, State, Zip Code)

N/A

(Phone Number)

RECEIVED

JAN - 5 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Did the court error in applying a 4 point enhancement for having a firearm with an altered or obliterated serial number, when all of the numbers are clearly readable?

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:

Northern District of Texas

RELATED CASES

US vs. Mitchell May 7, 2012 #11-2420 3rd Cir of Appeals
US vs Bowers June 12, 2015 #15-4063 4th Cir of Appeals
US vs Harris May 16, 2013 #12-4521 4th Cir of Appeals

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TABLE OF AUTHORITIES CITED

CASES

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US vs Mitchell
US vs Bowers
US vs Harris

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STATUTES AND RULES

§2k201 (b)(4)(B) Enhancement for having a
Firearm with an altered or obliterated
serial number

5

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☒ is unpublished.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 _____ 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☐ is unpublished.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 June 3, 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 Nov. 16, 2021 (date) on Sept 16, 2021 (date) in Application No. 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 _____.
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

Enhancement: §2K2.1 (b)(4)(B)

STATEMENT OF THE CASE

I received an enhancement for possessing a firearm with an altered or obliterated serial number, when all the numbers in question are clearly readable.

Reasons for Granting the Petition

This petition should be granted due to the fact that all of the numbers of the serial number in question are clearly readable and in no way less accessible. I was unable to find any clear guidelines as to what constitutes receiving a 2K2.1 enhancement for possessing a firearm with an altered or obliterated serial number. However Mr. Hagg, whom was a part of the prosecuting party during sentencing, stated that, "The requisite intent is whether there's anything that makes it less accessible or readable." If you address exhibits A+B, which I apologize for the poor quality of the pictures but it is simply beyond my control, you can clearly see that all the numbers are readable and no less accessible than they would be if the scratches were not present. In fact during the investigation of this case by all law enforcement agencies the serial number in question was documented over 20 times and never once was the accessibility or readability questioned.

In the following cases: U.S. vs Mitchell, U.S. vs Bowers and U.S. vs Harris, each received the same 2K2.1 enhancement as I did. Each appealed this decision and each lost. In each of these cases at least one of the numbers in the serial number was fully removed in one form or another. I could have referenced a thousand similar cases, but I felt 3 was plenty. On the other side of this, in all my research I still have not found a single other case where anyone has received this enhancement while all of the serial numbers remain on the firearm.

Also during my research I found a court ruling that if it "appears" that a serial number has "tried" to be removed than the 2K2.1 enhancement may be applied. As stated above I

can show case after case of serial numbers being removed, but none, other than mine, where someone tried and failed to remove even a single number. I might ask the court how it can be said that a purposeful effort was made to remove a serial number, when the scratches are so superficial that a simple coat of gun blueing, which is available at any sporting goods store just for this purpose, would repair the "damage"? I might also ask for what reason would someone try to remove a serial number from a firearm that is not stolen and never been used in a crime? Would it not be more plausible that the scratches occurred due to some kind of attachment previously used?

I'd like to ask one further hypothetical question of the court, if you had a young teen age son or daughter and they had been out hunting rabbits with this same gun, and an officer stopped them, removed a scope mount so that the serial number could be run, and found the firearm to be clean, would they too be at mercy of this ruling do to the scratches clearly made by the scope mount? Or was this enhancement applied simply to ensure a maximum sentence was obtained?

Conclusion

I ask that the writ of certiorari be granted, and that council be appointed to help me move forward with this case.

Respectfully submitted
Boyle Clark

10-3-2021

(6)