

No. 21-7230

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

FEB 10 2022

OFFICE OF THE CLERK

GEMAR MORGAN — PETITIONER
(Your Name)

VS.

UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SIXTH CIRCUIT COURT OF APPEAL - MATTER ^{THIS IS A SUPREME COURT RULE 11}
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

GEMAR MORGAN # 40722-039
(Your Name)

F.C. I. ELKTON
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INSTITUTION

①

QUESTION(S) PRESENTED

① BASED ON THE SUPREME COURT CASE: REHAIF V. UNITED STATES, 139 S.Ct. 2191, AT 2194. WE HOLD THAT THE WORD "KNOWINGLY" APPLIES BOTH TO THE DEFENDANT'S CONDUCT AND DEFENDANT STATUS: WHEN A PERSON IS 3 AND 5 YEARS FREE OF ALL FINE, PROBATION AND IMPRISONMENT AS COMMANDED IN MCL. 750.224F; RECEIVE A FEDERAL BACKGROUND CLEARANCE - TO TRANSPORT, RECEIVE AND POSSESS FIREARMS, AMMUNITION, FIREWORKS, BOMBS AND MILITARY FORM OF EXPLOSIVES AS REQUIRED THROUGH THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION - DOES THESE CONDITIONS CONSTITUTE: "WITHOUT KNOWLEDGE OF THE STATUS, THE DEFENDANT MAY WELL LACK THE INTENT NEEDED TO MAKE HIS BEHAVIOR WRONGFUL"?

② BASED ON STINSON V. UNITED STATES, 508 U.S. 36, 43, 45, 113 S.Ct. 1913 (1993); UNITED STATES V. ROLLINS, 836 F.3d 737, 742 STATES AN APPLICATION NOTE HAS "CONTROLLING WEIGHT UNLESS IT IS PLAINLY ERRONEOUS OR INCONSISTENT WITH THE TEXT OF THE GUIDELINE IT INTERPRETS." IN SHORT, THE APPLICATION NOTE ARE INTERPRETATIONS OF, NOT ADDITIONS TO THE GUIDELINE THEMSELVES, AN APPLICATION NOTE HAS NO INDEPENDENT FORCE. THE APPLICATION NOTE HAS NO LEGAL FORCE STANDING ALONE. 2D AT 508 U.S. 43 - OUR HOLDING IN STINSON DEALING WITH COMMENTARY AND THE GUIDELINE IT INTERPRETS ARE INCONSISTENT IN THAT FOLLOWING ONE WILL RESULT IN VIOLATING THE DICTATES OF THE OTHER. THE SENTENCE REFORM ACT ITSELF COMMAND COMPLIANCE WITH THE GUIDELINE. DOES USSG § 4A1.2(d) & (e) HAS MORE AUTHORITY THAN THE § 4B1.4 APPLICATION NOTE 1?

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

GEMAR MORGAN v. UNITED STATES, NO. 2:19-cv-20259,
U.S. DISTRICT COURT FOR EASTERN DISTRICT OF MICHIGAN,
JUDGEMENT ENTERED JUNE 11TH, 2021 & JUNE 15TH, 2021

GEMAR MORGAN v. UNITED STATES, NO. 21-2628,
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT, JUDGMENT
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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 _____ 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.

STATEMENT OF THE CASE

THE JUDGMENT INCLUDES THE FOLLOWING VIOLATIONS: ON 4/9/2019 - CHARGED MR. MORGAN OF 18 U.S.C. 8922(a)(1) - FELON IN POSSESSION OF A FIREARM. ON 4/9/2019 - MORGAN WAS OVER 5 YEARS FREE OF ALL "FINES, PROBATION, AND IMPRISONMENT" AS CONSTITUTED IN THE MCL 750-224F. ALSO MR. MORGAN RECEIVED A FEDERAL BACKGROUND CLEARANCE FROM THE DEPARTMENT OF HOMELAND SECURITY AND THE TRANSPORTATION SAFETY ADMINISTRATION IN 2014 AND WAS RENEWED IN 2015 TO TRANSPORT HAZARDOUS MATERIAL - WHICH CONSIST OF "EXPLOSIVES, FIREARMS, AMMUNITIONS, BOMBS, FIREWORKS, MILITARY STYLE EQUIPMENT". ALSO, MR. MORGAN WAS NOT A FELON - WHICH IS DEFINED IN THE BLACK'S LAW DICTIONARY AS: ONE WHO IS CONVICTED OF A FELONY AND HAS NOT YET FINISHED SERVING TIME FOR THE CONVICTION. ACCORDING TO REHAFF V. U.S., 139 S.Ct. 2191, 2197 (2019) - IT IS THEREFORE THE DEFENDANT'S STATUS, AND NOT HIS CONDUCT ALONE, THAT MAKES THE DIFFERENCE. WITHOUT KNOWLEDGE OF THE STATUS, THE DEFENDANT MAY MAY WELL LACK THE INTENT NEEDED TO MAKE HIS BEHAVIOR WRONGFUL. DUE TO MR. MORGAN "FEDERAL BACKGROUND CLEARANCE", THE MCL 750-224F - CONDITIONS FOR A PERSON TO "POSSESS, SHIP, TRANSPORT AND RECEIVE FIREARMS IN THE STATE OF MICHIGAN" - AND MR. MORGAN WAS NOT A FELON ON 4/9/2019 - THE DISTRICT COURT - DID NOT PROVE BEYOND A REASONABLE DOUBT - THAT MR. MORGAN KNOWINGLY AND POSSESSING FIREARMS.

ALSO, THE DISTRICT COURT IMPOSED A CONDITION THAT VIOLATES U.S.S.G. § 4A1.2(d) & (e)! THE GOVERNMENT CLAIM THAT § 4B1.4 APPLICATION NOTE 1 - ALLOW THEM TO USE A SENTENCE OVER 15 YRS. OLD TO ENHANCE A PERSON - SENTENCES. ROLLINS 836 F.3d 737, 742 (2016) STATES: WE BEGIN WITH THE SUPREME COURT'S DECISIONS IN STINSON V. U.S., 508 U.S. 36, 41, 123 L.Ed.2d 598, 113 S.Ct. 1913 (1993) - THE THIRD VARIETY OF THE GUIDELINES IS THE COMMISSION COMMENTARY, "THESE APPLICATION NOTES HAVE TO INTERPRET THE GUIDELINES AND EXPLAIN HOW THEY ARE APPLIED". I.D. AT 42. 508 US 43 STATES: OUR HOLDING IN STINSON DEALING WITH THE COMMENTARY AND THE GUIDELINES IT INTERPRETS ARE INCONSISTENT IN THAT FOLLOWING ONE WILL RESULT IN VIOLATING THE DICTATES OF THE OTHER. THE SENTENCES REFORM ACT ITSELF COMMANDS COMPLIANCE WITH THE GUIDELINES. IN THIS MATTER SINCE § 4B1.4 APPLICATION NOTE 1 VIOLATES THE COMMANDS IN § 4A1.2(e) - THE SENTENCES REFORM ACT MUST COMPLY WITH § 4A1.2(e). WHICH ENFORCES THE APPLICABLE TIME PERIODS FOR PRIOR SENTENCES. AN APPLICATION NOTE HAS CONTROLLING WEIGHT UNLESS IT IS PLAINLY ERRONEOUS OR INCONSISTENT WITH THE TEXT OF THE GUIDELINES. STINSON, 508 US AT 43 (QUOTATION MARKS OMITTED). IN SHORT, THE APPLICATION NOTES ARE INTERPRETATIONS OF, NOT ADDITIONS TO THE GUIDELINES THEMSELVES. AN APPLICATION NOTE HAS NO INDEPENDENT FORCE. THE APPLICATION NOTE HAS NO LEGAL FORCE STANDING ALONE.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was PELWING PER SUPREME COURT RULE 11

☐ 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).

CASES IN THE COURTS OF APPEALS MAY BE REVIEWED BY THE SUPREME COURT BY THE FOLLOWING METHODS (1) BY WRIT OF CERTIORARI GRANTED UPON THE PETITION OF ANY PARTY TO ANY CRIMINAL CASE, BEFORE RENDERING OF JUDGEMENT

☐ 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

SEE BRIEF 1-12

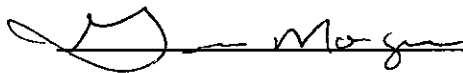
REASONS FOR GRANTING THE PETITION

BASED ON THE SUPREME COURT CASE: RENAULT V. UNITED STATES, 139 S. CT. 2191-2201 - WE HOLD THAT THE WORD "KNOWINGLY" APPLIES BOTH TO THE DEFENDANT CONDUCT AND DEFENDANT STATUS. IN OLDCHIEF V. US, 519 US 172, 175, 117 S. CT. 644 (1997) IT IS QUESTIONABLE WHETHER A DEFENDANT BY OFFERING TO STIPULATE THAT HE HAS A PRIOR CONVICTION CAN PREVENT THE PROSECUTION FROM SUBMITTING EVIDENCE ABOUT THE NATURE OF THAT OFFENSE. THIS HOLDING APPEARS TO REST ON THE UNDERSTANDING THAT SS 922(G) REQUIRES PROOF OF STATUS BUT NOT OF KNOWLEDGE. THE DISTRICT COURT FOUND MR. MORGAN GUILTY BASED ON THE PROSECUTION INTRODUCING A 1998 AND 2006 PRIOR SENTENCE - WHICH SUPPORT THE KNOWLEDGE AND NOT THE STATUS ELEMENT OF §922(G). THE PROSECUTOR NEVER PROVED THAT MR. MORGAN WAS SERVING A SENTENCE ON 4/09/2019. ON 4/09/2019 MR. MORGAN WAS OVER 5 YRS FREE FROM "IMPRISONMENT, FINES, AND PROBATION" - AS CONSTITUTED IN THE MCL 750.224F - A MICHIGAN COMPILED LAW - THAT ASSERTS - WHEN A PERSON WHO WAS CONVICTED OF A FELONY GAIN THE RIGHTS TO "SHIP, RECEIVE, TRANSPORT, AND POSSESS FIREARMS" IN THE STATE OF MICHIGAN. ALSO, IN 2014 MR. MORGAN PAID \$89.00 FOR A FEDERAL/NATIONWIDE BACKGROUND CLEARANCE TO DETERMINE IF HE QUALIFY TO "TRANSPORT, SHIP, RECEIVE AND POSSESS" EXPLOSIVES MATERIAL AND OTHER HAZARDOUS MATERIALS AS REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION. MR MORGAN RECEIVED A LETTER FROM THE DEPARTMENT OF HOMELAND SECURITY & TSA - GRANTING THE FEDERAL/NATIONWIDE BACKGROUND CLEARANCE. IN 2015 MR. MORGAN RENEWED THE CLEARANCE - WHICH LAST UNTIL MR. MORGAN BIRTHDAY IN 2019 - WHICH IS 7/11/2019! ALSO, MR. MORGAN DID NOT MEET THE TERM FELON AS DEFINED IN THE BLACKS LAW DICTIONARY: FELON - ONE WHO IS CONVICTED OF A FELONY AND HAS NOT YET FINISHED SERVING TIME FOR THE CONVICTION. THE DISTRICT COURT FINDING OF GUILT IS IN VIOLATION OF THE "ELEMENT" REQUIREMENTS LISTED IN THE SUPREME COURT CASES IN THE ABOVE TEXT! THE CIRCUIT HAVE BEEN PREJUDICE IN THIS CURRENT CASE. ALSO, THE 6TH CIRCUIT HAVE ADOPTED CONVICTIONS FOR 922(G) IN CASES THAT THE SUPREME COURT HELD: 922(G) REQUIRES PROOF OF STATUS - BUT NOT PROOF OF KNOWLEDGE! DUE TO THE DISTRICT COURT CONFUSING PROOF OF KNOWLEDGE IN REPLACEMENT OF THE "PROOF OF STATUS ELEMENT" - THIS CASE WARRANT THE REVIEW OF THE SUPREME COURT BEFORE JUDGEMENT IS ENTERED PER RULE 11!

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

 _____

Date: 2/08/2022 _____