

21-7347

11-12-2022
11-12-2022

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JAN 12 2022

OFFICE OF THE CLERK

Anthony Phillips — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eleventh Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Anthony Phillips, # 70293-018
(Your Name)

FCC COLEMAN, USP II, P.O. Box 1034
(Address)

COLEMAN, Florida 33521
(City, State, Zip Code)

N/A
(Phone Number)

(1)

QUESTION(S) PRESENTED

- 1.) WHETHER THE PRINCIPLES OF EQUITABLE RELIEF APPLY TO 28 USC 2255(f), DURING THE GLOBAL CORONAVIRUS (COVID-19) PANDEMIC, WHERE THE DEFENDANT HAS SHOWN THAT HE HAS BEEN PURSUING HIS RIGHTS DILIGENTLY, AND SOME EXTRAORDINARY CIRCUMSTANCE (SUCH AS PERSON LOCKDOWN) STOOD IN HIS WAY AND PREVENTED TIMELY FILING? WHETHER THE HOLDING IN HOLLAND V. FLORIDA, 560 U.S. 631, 649 (2010) IS APPLICABLE IN THESE CIRCUMSTANCES?
- 2.) WHETHER, UNDER GARZA V. IDAHO, 586 U.S. (2019) THE SIXTH AMENDMENT IS VIOLATED BY COUNSEL'S FAILURE TO FILE 'NOTICE OF APPEAL', AFTER ADVISING DEFENDANT THAT HIS PLEA AGREEMENT PRECLUDED ANY FURTHER CHALLENGES, AND THE DEFENDANT ACCEPTED THIS ADVICE AND DID NOT QUESTION ITS WISDOM?

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

None

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P.C.

(4)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Holloman v. Florida, 560 J.S. 631, 649 (2010)	— App. A.
Strickland v. Washington, 466 J.S. 668 (1984)	— App. A.
Garcia v. Idaho, 586 J.S. — (2019)	— App. A.
Jae Lee v. United States, 582 J.S. — (2017)	— App. B.
Johnson v. Avery, 399 J.S. 483, 490 (1968)	— App. B.
Lewis v. Casey, 518 J.S. 343 (1996)	— App. B.
Roe v. Flores-Ortega, 528 U.S. 170 (2000)	— App. B.

STATUTES AND RULES

28 USC 2255(a)
28 USC 2255(f)
28 USC 2253(c)(2)

18 USC 924(c)(1)(A)(ii)
18 USC 922(g)(1)
18 USC 2119

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 _____ 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 8:20-cv-01862-TW-AAS; 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 10-4-21.

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

SIXTH AMENDMENT

IN all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

STATEMENT OF THE CASE

ON FEBRUARY 22, 2018, ANTHONY PHILLIPS WAS CHARGED WITH TWO COUNTS OF CARJACKING, IN VIOLATION OF 18 USC 2119, AND TWO COUNTS OF BRANDISHING A FIREARM DURING A CARJACKING, IN VIOLATION OF 18 USC 924(C)(1)(A) (ii)

IN JULY OF 2018, ANTHONY PHILLIPS PLEADED GUILTY TO TWO COUNTS OF BRANDISHING A FIREARM, IN VIOLATION OF 18 USC 924(C)(1)(A)(ii), AND ON MARCH 26, 2019 IMPOSED A TOTAL SENTENCE OF 240 MONTHS, IN ACCORDANCE WITH THE SENTENCING GUIDELINE.

NO APPEAL WAS FILED, AND A MOTION UNDER 28 USC 2255(q) WAS FILED ON AUGUST 5, 2020, SEEKING EQUITABLE RELIEF DUE TO THE PRISON LOCKDOWN AFTER THE EMERGENCE OF COVID-19. THIS MOTION WAS DENIED, AND THE CERTIFICATE OF APPEALABILITY PROCEEDING AS ISSUE HERE FOLLOWED.

REASONS FOR GRANTING THE PETITION

During plea negotiations, Anthony Phillips expresses his desire to challenge the validity of his plea, and sentence, that incorporated prior offenses that should not have been considered.

When appointed counsel for Anthony Phillips failed to file a Notice of Appeal, Anthony Phillips was denied his Sixth Amendment right to effective assistance of counsel, in accordance with Strickland v. Washington, 466 U.S. 668 (1984), as clarified in Garza v. Idaho, 586 U.S. — (2019)

Subsequent to this failure on counsel's part, when the court declined to apply "equitable tolling" to the one-year AEDPA limitation period, whereupon Anthony Phillips had argued "extraordinary circumstances" due to the COVID-19 pandemic, and prison lockdown, the court failed to apply the holding in Hollana v. Florida, 560 U.S. 631, 649 (2010)

For these reasons, this petition should be granted and this case remanded back to the lower court, for application of

Garza v. Idaho, 586 U.S. — (2019)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

* 

A.R.

Date: January 10th, 2022