

No. **21-7440**

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

FEB 28 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

NORMAN ALAN KERR — PETITIONER
(Your Name)

vs.

Christopher Gomez, Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

6th Cir Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

NORMAN KERR # 24670-057

(Your Name)

U.S. Penitentiary McCreary P.O. Box 3000

(Address)

Pine Knot, Ky 42635

(City, State, Zip Code)

None

(Phone Number)

(1)

QUESTION(S) PRESENTED

Should, to validate the Voluntary and Knowingly Requisite of a stipulation, that waives all the elements of the offense, Require the defendant to personally agree in open Court, Before any Trial Court and/OR ANY Collateral Tribunal, legally hold that said stipulation as Valid, whether preserved on NOT

(2) Should a North Carolina sentence mandated under N.C. Gen. Stat. § 15A-134D.16(b) and (c) and § 15A-134D.13(g) that sentenced the defendant to a 8 month minimum and a 10 month maximum, constitute a possible sentence construed to meet the year and a day Requirement, when calculating whether the defendant was aware of a felony status for the purpose of a 922(g)(1) conviction.

(3) Does Rehaif v. U.S., 139 S.Ct. 2191 (2019) amount to a substantive Intervening Change in Law for the purpose of § 2255(e) savings clause in a § 2241 motion, when the statute of Conviction after Sentencing amounted to a state mandated sentence to a term of Imprisonment for less than a year and a day.

(4) Does a government's Waiver concerning the full contents of a stipulation amount to waiving the stipulation It self, that once Ruled by the Court, allowed the argument to proceed that the defendant is not a felon, even though the stipulation agreed otherwise, that was never signed, discussed or agreed to by the defendant.

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) Kern v Gomez originating Case No. 6:19-cv-00170 ED KY
- (2) U.S v Kern (12-4775) 737 F.3d 33 (2013) 4th Cir Dissent opinion
- (3) Rehaif v U.S 139 S.Ct, 2191 (2019)

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CASES

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Rehaif v U.S. 139 S.Ct. 2191 (2019)
U.S. v Kerik (12-4775) 737 F.3d 33 (2013) 4th cir
(CERT, Denied)

STATUTES AND RULES

North Carolina Gen. Stat. § 15A-1340.16 (b) and (c)
" " § 15A-1340.13 (g)

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 _____; 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 JAN 27, 2022.

☐ 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: FEB 22 2022, and a copy of the order denying rehearing appears at Appendix A.

☐ 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

§ 922 (g)(1) Title 18 U.S.C.

STATEMENT OF THE CASE

Defendants only conviction for a 922(g)(1) conviction was a N.C. State sentence mandated to 8 to 10 month maximum.

All other convictions were later ruled not to qualify for 922(g)(1).
See Dissenting opinion (US v Kern 737 F.3d 33 (2013) 4th cir.

At Trial, defendant refused to sign or agree to a stipulation stating he knew he was a felon but it was still entered without validating that knowledge.

Defendants Direct Appeal ruled that he could argue that he was not a felon and said stipulation was waived by the government as defendant was allowed to proceed, see Appeal 12-4775 Appendix B footnote #9.

The Court ruled that the Mandate Rule does not preclude me to argue that the 922(g)(1) conviction was unconstitutional.

The S.Ct. Court ruled in Rehaif v US that the government must present knowledge of Felony status;

IF I am arguing that I am not a felon, then it is reasonable to believe I lack knowledge of 922(g)(1).

IF stipulation was still intact, then the government would have argued that the Mandate Rule precluded that argument.

The 6th cir. stated that the stipulation halts and further question to my Rehaif claim. I am claiming the stipulation is not valid as it was appealed by its constitution and was not voluntary.

Otherwise my state conviction was mandated to only 10 months max. is less than one year.

REASONS FOR GRANTING THE PETITION

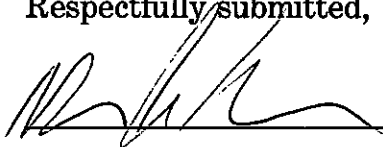
- (1) To ensure the validity of a stipulation that waives all the elements to a statute of conviction by making sure it is knowingly and voluntarily entered.
- (2) Should a state mandated sentence be allowed to be construed to anything other than what the state judge ordered.
- (3) For the purposes of Title 28 U.S.C § 2241, does Rehaif constitute a substantive Intervening change in law
- (4) When the governments waiver includes the entire contents of a stipulation. Should the amount to the stipulation later held invalid.

Forms provided are the entire contents of this
Petition. No separate memorandum needed.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: Feb 28 2022
