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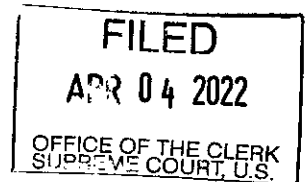
ORIGINAL

No. USCAB NO. 22-1123

Eye v. United States

IN THE

SUPREME COURT OF THE UNITED STATES



Gary Eye — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States District Court, Western District of Missouri.

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

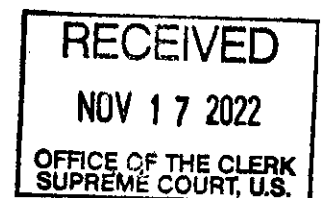
PETITION FOR WRIT OF CERTIORARI

Gary Eye
(Your Name)

Thomson 438
P.O. Box 1002
(Address)

Thomson, IL 61285
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

- 1) should the illegal stacking of 924(c) gun charges become retroactive to all offenders illegal sentence which was made illegal by the 1st step Act passed by congress in (Dec. 2018).
- 2) what was congress intent as to illegalizing the stacking of 924(c) stacking problems. Clearly it was not to leave a huge class of offenders sentence prior to Dec. 18, 2018 to serve a now illegal sentence because illegal stacking is not Retro-Active.
- 3) could the Supreme Court provide direction to the lower courts who are split and Divided on the issue of using a "Compassionate Release request for a sentence reduction under 18 USC 3582 as it applies to" compelling and extraordinary circumstance" as a vessel for offenders to gain relief from illegal sentences as applies to 924(c) illegal non-RetroActive stacking of 924(c).

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

Case no: 405 - 42 - 00344 - SRB-1

(Eze v. Street 2021 4th C.R.) Compassionate release and Habeas Corpus 2:241.

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	9
CONCLUSION.....	10

INDEX TO APPENDICES

APPENDIX A *The United States District Court's denial of compassionate release.*

APPENDIX B *The United States Court of Appeals for the 8th Circuit's Denial of Appeal*

APPENDIX C *mandate from the United States Court of Appeal for the 8th Circuit Appeals Court*

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
us v. Liggins (8th Cir) Page 3, Pg 6, Pg 7, Pg 9	
us v. Wainman (2021) Page 3, Pg 6, Pg 7, Pg 9	
u.s. v. Megee (2021) Page 3, Pg 6, Pg 7, Pg 9	
u.s.v. mccom (2021) Page 3, Pg 6, Pg 7, Pg 9	
u.s.v. urkewich (2020) Page 3, Pg 6, Pg 7, Pg 9	
Miller v. Ala (2016) Pg 7, Pg 8, Pg 9	

STATUTES AND RULES

Illegal stacking of 924(c) Page 3, Pg 6, Pg 7, Pg 9
14 Step Act Page 3, Pg 5, Pg 6, Pg 7, Pg 9
18 u.s.c. 245(b) Page 3, Pg 6, Pg 7, Pg 9
18 usc 3142(g) Page 3, Pg 7, Pg 9
18 usc 3582 request for compassionate release Page 4, Pg 6, Pg 7, Pg 9
motion for reconsideration Rule 59(e) Pg 5, Pg 9
crim and civil punishment Pg 7, Pg 8, Pg 9
extraordinary and compelling reasons under 18 usc 3582 compassionate release Pg 6, Pg 7, Pg 8, Pg 9, Pg 9

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 ^{No. 22-1123} _____ 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 ^{# Doc. 527} _____ to the petition and is

☒ reported at Case 4:05-cr-00344-SRB-J _____; 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 1-27-22.

☒ 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

924(c) stacking of gun charges made illegal

1st Step Act Passed by Congress on Dec. 18, 2018

Compassionate Release reduction of sentence

18 U.S.C. 3582

Retrospectivity of illegal stacking of 924(c) and or, 18 U.S.C. 245(b)

Illegal stacking of 18 U.S.C. 245(b) identical wording of charges in indictment.

The District Court and Court of appeals court erred by relying on old precedent in (U.S. v. Ladd, 8th Cir.) and ignoring new precedent in (U.S. v. Muhammad (2021), (U.S. v. McGehee (2021), (U.S. v. McCoy (2021), (U.S. v. Urkevich (2020), and the (1st Step Act) just to name a few please see (Doc. #587) filed on Oct. 25th, 2021 and the court's denial in district court (Doc. #590) Also see (Doc. #596) for the 8th Circuit Court of Appeals denial.

The District Court and 8th Circuit Court of appeals erred in not granting relief under 18 U.S.C. 3582 request for a sentence reduction under compassionate release. Due to illegal stacking of 924(c) gun charges, illegally stacking of 18 U.S.C. 245(b) violation of civil liberties and failed to consider the age sentence length given (41 years without parole and 600 months to be ran consecutively to every charge. The courts failed to consider the age the sentence was handed down at the age of (18) years of age, the court failed to consider the sentence length served up to this point (206) months and counting. The courts should of considered the high stress environment with which the time was served in, all max security federal prisons with over (168) months in segregation, and the court should of considered all the programs completed by petitioner within prison to show facts he is not a danger to the community under 18 U.S.C. 3142(g).

STATEMENT OF THE CASE

Petitioner wishes to file a writ of Certiorari to raise issues and arguments against the denial of his 18 U.S.C. 3582 request for a sentence reduction based on compassionate release request which was filed in the Western District of Missouri, Western Division, Kansas City, MO. (Case No: 4:05-cr-00344-528-1). Petitioner filed an appeal in the 8th Circuit Court of Appeals on the same matter (No: 22-1123) which was affirmed on (1-27-22). The mandate was issued on March 8, 2022. As a appeal was pending there was a motion for reconsideration filed in the Western District of Missouri which was pending until after the 8th Circuit Court of Appeals issued its mandate which was filed (3-8-22). The motion for leave to file a motion for reconsideration under rule 59(e) was then decided on (3-9-22) which was delivered to petitioner on March 23rd, 2022 via institutional mail.

Petitioner filed for a motion under 18 U.S.C. 3582 for a sentence reduction under compassionate release. Petitioner complied with the requirements by exhausting all remedies with the Western District of Missouri where petitioner was incarcerated at the time of filing for compassionate release under U.S.C. 3582 (Please see original 18 U.S.C. 3582 and all documents attached). Furthermore the Government did not raise any arguments about the requirement of exhausting all B.O.P. remedies. so petitioner request this Court to take that as the Government conceding the point.

Petitioner wishes to incorporate the above Attachments of pages (1-4) of Petitioner's arguments which Mr. Ege states concisely his grounds for relief and reasons this Honorable Court should grant certiorari in this case. Please incorporate documents marked as Exhibits A, B, C, D in full and detail for statement of case and facts surrounding this case.

United States Supreme Court

United States of America, |

Plaintiff, |

Case No: 4:05-CR-00344-SRB-1

v. |

No: 22-1123 (8th circuit)

Gary Eye, |

Defendant, |

Writ of Certiorari

It comes now Petitioner, Gary Eye, filing Pro-se in this instand case wishes to file for a writ of Certiorari in the United States Supreme Court.

Petitioner wishes to file a writ of Certiorari to raise issues and arguments against the denial of his 18 U.S.C. 3582 request for a sentence reduction based on a compassionate release request which was filed in the Western District of Missouri, Western Division, Kansas City, Mo. (Case No: 4:05-CR-00344-SRB-1). Petitioner filed a appeal in the 8th Circuit Court of appeals on the same matter (No: 22-1123) which was affirmed on (1-27-22). The mandate was issued on March 8, 2022. As the appeal was pending there was a motion for reconsideration filed in the Western District of Missouri which was pending until after the 8th Circuit Court of appeals issued its mandate which was filed on 3-8-22. The motion for leave to file a motion for reconsideration under rule 59(e) was then denied on 3-9-22 which was delivered to Petitioner on March 23rd, 2022 via institutional mail.

This case presents extremely sensitive issues that have many of the lower courts divided on the issue of granting relief to Federal offenders who are attempting to gain their life and freedom back through the passage of the compassionate release portal that was opened through the passing of the 1st Step Act (2018). The fact

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that the 1st Step Act provides the opportunity for Federal offenders file on they're own behalf to the Federal courts and not rely

Pg 1 of 4

on the B.O.P. to just rubber stamp a denial. The fact remains there is an opportunity for Federal offenders to gain the Justice they seek in correcting old sentences when all other avenues are closed but it's clear they are serving a longer sentence under old law which if sentenced today would be a dramatic change to the offender's sentence. Just as in this particular case Petitioner was sentenced to (120) months or Court (1) 18 U.S.C. 245(b), 120 months or Court (2) 924(c), life without parole or Court (3) 18 U.S.C. 245(b), life without parole or Court (4) 924(c), life without parole or Court (5) tampering with a witness, life without parole or Court (6) 924(c), (240) months or Court (7) obstruction of Justice, (120) months or Court (8) using force to commit a felony. All at the age of 18 years of age.

Ground (1) the District Court and appeals court erred by relying on old precedent in (U.S. v. Loggins (9th Circuit) and ignoring new precedent in (U.S. v. Maunman (2021), (U.S. v. Moser (2021), (U.S. v. McCoy (2021), (U.S. v. Markovich (2020), and the (1st Step Act). Just to name a few. (Please see (Doc # 587) filed on Oct. 25, 2021 and the courts denial in District Court (Doc # 590) Also see (Doc # 596) for 9th Circuit Court of appeals denial.

Petitioner filed for a motion under 18 U.S.C. 3582 for a sentence reduction under compassionate release. Petitioner complied with the requirements by exhausting all remedies with the warden at the facility where Petitioner was incarcerated at the time of filing for compassionate release under U.S.C. 3582 (Please see original 18 U.S.C. 3582 and all documents attached). Furthermore the Government did not raise any arguments about the requires of exhausting all B.O.P. remedies so Petitioner request this Court to take that as the Government conceding the point.

The 1st Step Act brought changes to the requirements to file a request for compassionate release. The Federal offender can now bring a motion on his own behalf to the Federal Court after exhausting

Pg 2 of 4

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remedies or receiving a denial by the warden at the facility the Federal offender is being housed. By use of "extraordinary and compelling reasons" in the compassionate release petition a Federal offender may request the sentencing court to hear his case and the Federal Court has jurisdiction to correct a misjustice or miscarriage of law and justice like the illegal stacking of 924(c) gun charges (see McCray, Mannan, Mince) and furthermore illegal stacking of every charge in the indictment. (Please see indictment) Counts 2-4-6 are illegally stacked, Counts 1-3-5 are illegally stacked and Counts 7-8 are illegally stacked which makes for a gross over charge and conviction.

Ground (2) the District Court and 2nd circuit Court of appeals erred in not granting relief under 18 U.S.C. 3582 request for a sentence reduction under compassionate release. Due to illegal stacking of 924(c) gun charges, illegal stacking of 18 U.S.C. 245(b) violation of civil liberties and failed to consider the sentence length given (4 life without parole and 600 months to be ran consecutively to every charge. The courts failed to consider the age the sentence was handed down at the age of (18) years of age, the court failed to consider the sentence length served up to this point (206) months and counting. The courts should of considered the huge stress involvement with which the time was served in, all max security Federal prisons with over (160) months in segregation.

Petitioner wishes to incorporate the arguments raised in ground (1) of this request for a writ of certiorari as to ground (2) which is a continuation. Furthermore if the Courts would of followed (U.S. v. Mannan 2020), (U.S. v. McCray 2021), (U.S. v. Mince 2021), (U.S. v. Urbanech 2020) the courts would of seen that the sentence was grossly unfair and if sentenced today and all the considerations mentioned through and this brief there is a vast difference of life sentences and many months handed down to the petitioner at a young age. Relying on national statistics the average sentence for murder as of this year is (263)

months. A far cry from the mountain of time handed to a offender indicted at 18 years of age with numerous illegal stacking through out the indictment.

Please note Petitioner has been on lockdown since March 1st, 2022 without access to his property or to retrieve any legal documents or adequate legal material, but due to time constraints Petitioner must file this writ of Certiorari now. Petitioner also has written this office asking for proper documents to file a writ of Certiorari but as of this date has had no response. Petitioner request this document to be construed as a writ of Certiorari and if its not adequate could this Court either 1) Grant Petitioner a Attorney from the Public Defender's office to help prepare a proper writ of Certiorari. 2) Grant equitable tolling to allow time to file a proper writ of Certiorari. 3) End this case in Absence until proper forms and all documents are filed. If its ruled this current document is adequate then Petitioner is ready to proceed but will ask this Court to grant Petitioner an Attorney in this matter.

Conclusion

Petitioner, Gary Eye, Prays this Court accepts his case for a writ of Certiorari and grants the relief this Court deems necessary.

Date 4-7-22

Respectfully Submitted,

The foregoing details in this writ of Certiorari are

Gary Eye

True and correct as to the best of Petitioner's knowledge

Gy Eye

under the penalty of Perjury. Respectfully Submitted,

Gary Eye
Gy Eye 4-7-22

Pursuant to the mailbox rule in (Henderson v. Mack) this legal document was placed in the prison mailing system on 4-7-22

Thus deeming this legal

document of a writ of Certiorari filed. Respectfully Submitted,

under the penalty of perjury

Gary Eye

Gy Eye 4-7-22

REASONS FOR GRANTING THE PETITION

(Attorney United States Court of Appeals for the 8th Circuit has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter; has so far departed from the accepted and usual course of judicial proceedings or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power.

(c) A United States Court of Appeals for the 8th Circuit has decided an important question of Federal Law that has not been, but should be, settled by this Court or has decided an important Federal question in a way that conflicts with relevant decisions of this Court.

This case presents extremely sensitive issue that have many of the lower courts divided on the issue of granting relief to Federal offenders who are attempting to gain their life and freedom back through the passage of the 1st Step Act (2012). The fact that the 1st Step Act provides the opportunity for Federal offenders to seek out their own behavior to the Federal Courts and not rely on the B.O.P. to just rubber stamp a denial. The fact remains there is a opportunity for Federal offenders to gain the Justice they seek in correcting old sentences when all other avenues are closed but its clear they are serving a severe sentence under old law which if sentenced today would be a dramatic change in the offenders sentence. Just as in this particular case petitioner was sentenced to (120 months or Count (1) 18 U.S.C. 245(b); 120 month or Count (2) 924(c) Life without parole or Count (3), 18 USC 245(b) Life without Parole or Count (4) 924(c) Life without parole or Count (5) tampering with witness. Life without Parole or Count (6) 924(c). 240 months or Count (7) obstruction of Justice, (120) months or Count (8) using fire to commit a felony. All at the age of (18) years old.

The District Court and Court of Appeals ignored new precedent in *U.S. v. Mann* (2021), *U.S. v. McGehee* (2021), *U.S. v. McCoy* (2021), *U.S. v. Urkevich* (2020), and the 1st Step Act. This was at the Government's request. Petitioner failed for a motion under 18 U.S.C. 3582 for a sentence reduction under compassionate release. Petitioner complied with the requirements by exhaustion all remedies with the B.O.P. (Please see original 18 USC 3582 and all documents attached). (The 1st Step Act) brought changes to the requirements to file a request for compassionate release. The Federal offender can now bring a motion on his own behalf to the Federal Court after exhausting remedies or receiving a denial by the warden at the facility the Federal offender is being housed. By the use of "extraordinary and compelling" in the compassionate release Petition a Federal offender may request the sentencing Court to hear his case and the Federal Court has Jurisdiction to correct a misjustice or miscarriage of Law and Justice. Like illegal stacking of 924(c) gun charges (see McCoy, Mann, McGehee) Furthermore illegal stacking of even charge in the indictment. (Please see indictment) Counts 2-4-6 are illegally stacked, Counts 1-3-5 are illegally stacked and counts 7-8 are illegally stacked which means for a gross overcharge and conviction.

The District Court and 8th Circuit Court of Appeals erred in not granting relief under 18 U.S.C. 3582 request for a sentence reduction under compassionate release. Due to illegal stacking of 924(c) gun charges. Failed to consider sentence length given (41) life without parole and 120 months to be served consecutively to even charge. The counts failed to consider offenders age (18). The Court failed to consider the sentence length served up to this point (206) months and counting. The counts Court of considered the high stress involvement with whom the time was served in all max security Federal prisons with over (168) months in Segregation. Petitioner wishes to incorporate the arguments through out his original 3582 herein. Furthermore if the Courts want of follow (U.S. v. Urkevich (2020)) (U.S. v. Mann (2021)), (U.S. v. McCoy (2021)) (U.S. v. McGehee (2021)) the Courts would of seen that the sentence was grossly unfair and if sentenced today and all considerations mentioned through the brief there is a vast difference of life sentences and many months handed down to the petitioner at a young age. Relative or national statistics the average sentence for murder as of this year is (263) months. A far cry from the mountain of time handed to a offender indicated at 18 years of age with numerous illegally stacked charges in his indictment.

So for some reason this Court does not wish to hear this case under petitioner's arguments under compassionate release then petitioner is request this Honorable Court grant retroactivity of the 1st Step Act as its concerned to illegal stacking of 924(c) twice its unfair and unjust to keep offenders in Federal Prison from gaining relief from illegal stacking of 924(c) as was Congress intent upon the passing of the 1st Step Act.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

D. J. Eng

Date: 7-15-22