

No. 22-6744

Supreme Court, U.S.
FILED

OCT 01 2022

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Michael Lee Gordon — PETITIONER
(Your Name)

vs.

United States of America RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Sixth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael Lee Gordon #6789635
(Your Name)

Zowa State Penitentiary
PO Box 316
(Address)

Fort Madison, Zowa 52627
(City, State, Zip Code)

NA
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

I.) Whether or not the Sixth Circuit/ lower courts erred by transferring Petitioner's Rule 60 (B) motions to the Sixth Circuit Court of Appeals as second/ successive 28 USC 2255 motions?

II.) Whether or not the Sixth Circuit/ lower courts erred by transferring Petitioner's Motion To Dismiss to the Sixth Circuit Court of Appeals as second/ successive 28 USC 2255 motions?

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:

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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 # 21-3689; 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☐ is unpublished.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 B to the petition and is

☒ reported at # 2:97-cr-167-6; 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 July 6, 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: _____, 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

STATEMENT OF THE CASE

I.) Petitioner filed a Rule 60 (b) motion as outlined in the federal Rules of Civil Procedure to "Reopen" his post-conviction relief motion pursuant to 28 USC 2255; so that Petitioner can challenge the validity of his conviction pursuant to 18 USC 924 (c) based upon the US Supreme Court decision in Rosemond v. U.S., 572 U.S. 65, clarifying the proof required for the intent element of aiding and abetting liability under 18 USC 924 (c); and this Rule 60 (b) motion "in error" was construed as a second/successive 28 USC 2255 motion.

II.) Petitioner filed a motion to dismiss seven (7) 18 USC 924 (c) firearms offenses based upon the US Supreme Court decision in Rosemond v. U.S., 572 U.S. 65, clarifying the proof required for the intent element of aiding and abetting liability under 18 USC 924 (c); and this motion to dismiss "in error" was construed as a second/successive 28 USC 2255 motion.

REASONS FOR GRANTING THE PETITION

The Sixth Circuit Court of Appeals has an "intra-Circuit" split that needs to be decided. Petitioner's Rule 60 (b) motion in the instant case was refused, denied and rejected and transferred as a 28 USC 2255 second successive motion; However in United States District Court Case No. #1:94-cr-68-4 in an identical case, the defendant filed a Rule 60 (b) motion whereby his Rule 60 (b) motion was granted and he successfully had "several" 18 USC 924 (c) convictions dismissed by the US District Court for the Northern District of Ohio at Cleveland.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Lee Gordon
#6789635

Iowa State Penitentiary

PO Box 316
Fort Madison, Iowa

Date: 10-1-2022