

No. 23-5410

UNDERLYING U.S. C.A No.: 22-2539

ORIGINAL

FILED

AUG 09 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Seth Williams

(Your Name)

vs.

UNITED STATES OF AMERICA

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

Seth Williams

(Your Name)

Federal Correctional Complex - LOW
P.O. Box 1031 Unit C-1
Coleman, FL 33521-1031

(Address)

(City, State, Zip Code)

(Phone Number)

(1)

RECEIVED

AUG 16 2023

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Does the District Court for the Middle District of Pennsylvania have the authority and jurisdiction to change a sentence after 12 years that was ORALLY pronounced?
2. How can Defendant Williams be considered a career offender without having three felony convictions? Defendant Williams only has 2 misdemeanor, 1 for 5.9gr of three over the counter cutting agents, and the 2nd for 3.5gr of powder cocaine. Pennsylvania has weight based amounts in which 2 to 10gr is a misdemeanor.
3. Pennsylvania accepts Rehaif which would make the charge unconstitutional.
4. How can Defendant Williams receive 25 years when the mandatory minimum is 15 years?
5. The Court knew that without the three prior convictions the Defendant would only face 10 years.

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

U.S.D.C. Middle District of Pennsylvania. Case No. 1:10-CR-341

U.S. Court of Appeals for the Third Circuit. Case No. 22-2539

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Rios v. United States, 201 F.3d. 265	
Ruggian v. Reish, 307 F.3d 121, 133-34 (3rd Cir 2002)	
Weber v. United States, 51 F.3d. 343 (2nd Cir. 1995)	
Williams v. United States, 503 U.S. 193, 202 (1992)	
United States v. Felton, 55 F.3d. 861 n.3 (3rd Cir. 1996)	
United States v. Guvermont, 829 F.2d. 423, 426 (4th Cir. 1987)	
United States v. Stupac, 262 F.2d. 933 (3rd Cir. 1966)	
United States v. Faust, 680 f.2d. 540 (8th Cir. 1982).	
In Re Richards, 213 F.3d. 773, 779 (3rd Cir. 2000)	

STATUTES AND RULES

F.R.Crim. P. Rule 36
18 U.S.C. § 924(c)(a)(A)
18 U.S.C. § 922(g)(1)
18 U.S.C. § 924(e)
F.R.Crim. P Rule 35

OTHER

USSG § 4A1.2(d)(2)(B)
USSG § 4B1.1(c)(3)
USSG § 4B1.1(a)

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 Case No. 22-2539; or,
[] has been designated for publication but is not yet reported; or,
[XX] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at 1:10-CR-341; or,
[] has been designated for publication but is not yet reported; or,
[XX] 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 Feb 21, 2023.

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: March 13, 2023, 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).

Article III, U.S. Constitution

18 U.S.C. § 3231

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

4th Amendment violation Illegal Search and Seizure

5th Amendment violation of Due Process of Law

14th Amendment violation of Due Process of Law

6th Amendment violation Ineffective assistance of Counsel

10th Amendment violation Separation of Powers

8th Amendment Excessive Punishment

18 U.S.C. § 924(c)(a)(A)

18 U.S.C. § 922(g)(1)

18 U.S.C. § 924(e)

STATEMENT OF THE CASE

Clerk of the U.S. Court of Appeals failed to file Defendant's Rule 36 Motion stating that it was out of time. Defendant's Motion was submitted timely, as the clock started when the Appeals Court issued the Appeal Case Number, therefore the Motion was not filed one day late. Further the Motion was filed pursuant to the prison mailbox rule, Houston v. Lack, 487 U.S. 266, 276 (1988).

The Petition / Motion was never submitted or answered regarding the oral pronouncement of sentence. COUNT THREE (3) never had a sentence attached to it. 300 months for a non-existent Count (3) would not fall under a mandatory sentence. It's 180 months. The Defendant received 120 months for non-felony 922(g)(1) and also the 180 months mandatory sentence for convicted felon 922(g)(1).

Defendant was given a career offender designation, from 2 prior misdemeanors which was used for the armed career offender enhancement. Defendant received a 30 year sentence for non-violent offense for the same use of the 2 prior misdemeanors under the ACCA.

The Appeals Court made its decision based on the Clerk of the Court's order dated March 21, 2023, and not the merits of Defendant's Motion that was submitted for filing but was denied as being one day late.

REASONS FOR GRANTING THE PETITION

1. Oral pronouncement of sentence must prevail over the BOP's application of 300 months for Count (3) when count three does not exist as reflected by the oral and written judgments. The BOP cannot apply a sentence that was otherwise ordered by the trial court judge. After 12 years it is too late to add time to a sentence that could not be challenged.
2. The Defendant with 2 priors could only receive a 10 year sentence because he would not be designated for ACCA.
3. The Defendant actually received 120 months for ACCA, and a mandatory minimum of 180 months for the ACCA with a total of 300 months, which is excessive.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Seth Williams # 69724-067

Date: August 05, 2023

PROCEEDING PRO SE