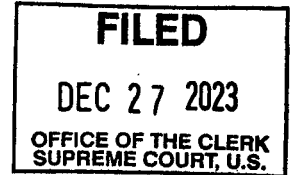


No. 23-6419

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



ANTHONY MICHAEL HARRIS — PETITIONER
(Your Name) (PRO SE)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANTHONY HARRIS REG No 94567-509
(Your Name)

F.C.I. ° BECKLEY
(Address)

P.O. BOX 350
(City, State, Zip Code)

BEAVER, WV 25813
(Phone Number)

QUESTION(S) PRESENTED

- I). Should a defendant receive a offense-level enhancement based on [2] vague "state laws" which categorically "mirror" the "residual clause"?
- II). Shouldn't "state laws" borrowed for the purpose of applying offense-level enhancements also be tested using the "void for vagueness doctrine"?
- III). Is it a violation of due process to use vague laws in any capacity ... whether federal or state?

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

☒ UNITED STATES V. ANTHONY HARRIS, No. 5:22-cr-00028-1
U.S. DISTRICT COURT FOR EASTERN DISTRICT OF KENTUCKY.
JUDGEMENT ENTERED: OCTOBER 19 2022

☒ UNITED STATES V. ANTHONY HARRIS, No. 22-5951
U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
JUDGEMENT ENTERED: NOVEMBER 2 2023

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APPENDIX A : Affidavit of PETITIONER in support of lack of
case information concerning writ of CERTIORARI

APPENDIX B Copy of "Envelope" containing all important info.

APPENDIX C Affidavit in support of PLEA

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Borden v. United States 141 S.Ct. 1817 (June 2021) 5

STATUTES AND RULES

18 U.S.C. 922

U.S.S. 242.1 (b)(6)(B)

4, 5⁴

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 NOVEMBER 2 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: _____, 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

■ FIFTH-AMENDMENT

PROVIDES THAT NO PERSON SHALL BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW.

■ KY REV. STAT. 508.060 "FELONY"

"UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE VALUE OF HUMAN LIFE, ... WANTONLY ENGAGES IN CONDUCT WHICH CREATES A SUBSTANTIAL DANGER OF DEATH, OR SERIOUS PHYSICAL INJURY."

■ KY. REV. STAT. 508.070 "MISDEMEANOR"

"WANTONLY ENGAGES IN CONDUCT WHICH CREATES A SUBSTANTIAL DANGER OF PHYSICAL INJURY TO ANOTHER PERSON."

■ U.S.S.G 2K2.1 (b)(6)(B) "OFFENSE-LEVEL ENHANCEMENT"

"USING A FIREARM IN CONNECTION W/ ANOTHER FELONY OFFENSE, WHETHER IT BEING A FEDERAL OR STATE OFFENSE."

STATEMENT OF THE CASE

PETITIONER accidentally discharged a firearm into the ceiling of a top floor hotel room occupied by himself and two other persons. Mr. Harris pled guilty to a felon-in-possession charge and a 66 month sentence. He argues the District Court improperly applied a 4-level enhancement under U.S.S.C. 2K2.1(b)(6)(B) for using a firearm in connection with another [felony] offense, namely Wanton Endangerment in the first-degree under Kentucky law. PETITIONER objected to the enhancement, stating the firearm discharged while pointing the gun away from other persons while attempting to unload it, therefore, his actions did not meet the definition of Wanton Endangerment. The District Court overruled, applied the enhancement and sentenced Harris within the resulting guideline range of 57 to 71 months. PETITIONER argues that the district court made erroneous factual findings misapplying the law in determining that his conduct amounted to felony Wanton Endangerment. The district court thus found Mr. Harris likely committed first-degree Wanton Endangerment because he "manifest[ed] extreme indifference to the value of human life" under the circumstances. The Petitioner's mental state was hardly considered in the Government's analysis. That disregard of the mental state component of first-degree Wanton-Endangerment in Kentucky was plain error. Whether Petitioner "consciously" intended to fire the gun is thus highly relevant

STATEMENT OF THE CASE : CONTINUED

TO HIS CULPABILITY. WANTON ENHANCEMENT IS ABOUT THE CIRCUMSTANCES AS MUCH AS INTENT. AFTER ALL, THE DIFFERENCES BETWEEN FIRST- AND- SECOND DEGREE WANTON ENHANCEMENT ARE THE "MENTAL STATE" AND DEGREE OF DANGER. THERE HAS TO BE A "DELIBERATE DECISION TO ENHANCE ANOTHER" SEE *BORDEN V. UNITED STATES* 141 S. CT. 1817 (JUNE 10 2021).

THE GUN WAS IN MR. HARRIS' POSSESSION AND IT FIRED. HE WAS NOT THREATENING ANYONE NOR WAS HE AIMING AT ANYONE. THIS WAS A SINGLE SHOT THAT DID NOT TRAVEL IN THE DIRECTION OF ANYONE - IT WENT STRAIGHT UP THROUGH THE CEILING.

PETITIONER DOES NOT CHALLENGE THE GUIDELINES, NOR DOES HE CHALLENGE THE "NEXUS REQUIREMENT", BUT INSTEAD CHALLENGES THE USE OF VAGUE, OVERLY BROAD LAWS TO FULFILL A "LANGUAGE REQUIREMENT" OF AN ENHANCEMENT.

REASONS FOR GRANTING THE PETITION

IN OUR CONSTITUTIONAL ORDER, A "VAQUE LAW" IS REALLY NO LAW AT ALL. ALTHOUGH WE'VE BEEN HERE BEFORE ... FAMILIARITY SHOULD NEVER BREED ACCEPTANCE. U.S.S. & 2K2.1(b)(6)(B) AUTHORIZES HEIGHTENED CRIMINAL PENALTIES FOR USING A FIRE-ARM IN CONNECTION W/ ANOTHER "FELONY" OFFENSE. THE FEDERAL CATALOG OF OFFENSES IS FAR FROM A COMPLETE ONE AND OFTEN TIMES OFFENSE-LEVEL ENHANCEMENTS ARE APPLIED USING "STATE LAWS" WITH NOT MUCH CONSIDERATION GIVEN AS TO WHETHER THE "STATE" LAW IS VAQUE AND FAR REACHING. KENTUCKY'S WANTON ENHANCEMENT STATUTES, LIKE THE "RESIDUAL CLAUSE" HAVE TWO FEATURES THAT CONSPIRE TO MAKE THEM BOTH UNCONSTITUTIONALLY VAQUE. AN ORDINARY-CASE REQUIREMENT, WHICH THE GOVERNMENT DID NOT MEET, AND AN ILL-DEFINED RISK THRESHOLD. NOT TO MENTION THE CULPABLE "MENTAL-STATE" REQUIREMENT FOR THE FELONY OFFENSE TO BE APPLIED. BOTH LAWS DEVOLVE INTO GUESSWORK AND INTUITION, INVITE ARBITRARY ENFORCEMENT, AND FAIL TO GIVE FAIR NOTICE OF THE CONDUCT THEY GOVERN. IN THE GOVERNMENT'S TELLING, PETITIONER "IMPROPERLY FOCUSES ON HIS [INTENT] RATHER THAN THE CIRCUMSTANCES." THE GOVERNMENT ERRONEOUSLY ARGUES THAT FELONY WANTON ENHANCEMENT IN KENTUCKY IS A CIRCUMSTANTIAL, CATEGORICAL RULE ... SWEEPING ASIDE PETITIONERS LACK OF INTENT. TO RENDER AN ACT CRIMINAL ... A WRONGFUL INTENT MUST EXIST.

THESE VAQUE LAWS SWEEP INTO WHAT "COULD HAPPEN", WHEN A PERSON ENGAGES IN UNSPECIFIED CONDUCT, THUS CAUSING AN

REASONS FOR GRANTING THE PETITION : CONTINUED.

UNSPECIFIED AMOUNT OF RISK. IN PETITIONERS CASE, HIS CONDUCT CAN THEREFORE "PENDULUM" FROM EITHER A FELONY OR THE MISDEMEANOR ... DEPENDING ON THE GOVERNMENTS NEED ... SO AS TO PRECISELY FIT THE RISK THRESHOLD OF THE FELONY AND THEREBY SATISFYING THE LANGUAGE REQUIREMENT OF THE OFFENSE LEVEL ENHANCEMENT. THESE TWO LAWS CONTINUE TO OPERATE WITHIN THE BASIC FRAMEWORK OF THE "RESIDUAL CLAUSE", AND IN A SENSE, ARE MERELY WORD PLAY. WHEN A DEFENDANT'S LIBERTY IS AT STAKE ... WORD GAMES ARE NO LONGER TRIVIAL! THEY ALLOW THE GOVERNMENT TO PAINT ON A CANVAS THAT IS FAR TOO VAST ... A PICTURE OF CONDUCT ALL TOO INCONCLUSIVE.

HOW CAN WE ACCURATELY, AND MORE IMPORTANT, FAIRLY AND JUSTLY CALCULATE CONSEQUENCES W/ VAQUE LAWS?

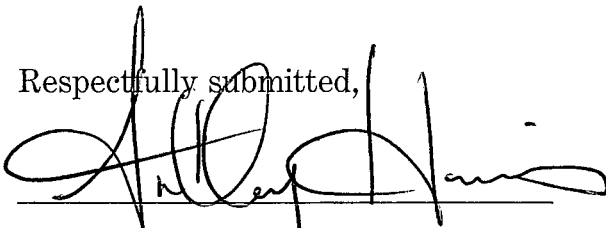
IT IS A "CLEAR" DUE PROCESS VIOLATION TO SUBJECT A DEFENDANT TO VAQUE LAWS THAT ARE ONLY SPECIFIC CONCERNING CONSEQUENCE AND NOT CONDUCT.

THIS IS A IMPORTANT ISSUE THAT AFFECTS THE MASSES AND FOR THE REASONS DESCRIBED ABOVE, PETITIONER PRAYS THIS COURT WILL ENTERTAIN HIS ARGUMENT AND GRANT CERTIORARI.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: DECEMBER 26 2023