No. 23-7269

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Willis Maxi — PETITIONER
(Your Name)

vs.

United States Of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

11th Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Willis Maxi
(Your Name)

FCI Coleman Medium P.O. Box 1032
(Address)

Coleman, FL 33521
(City, State, Zip Code)

N/A
(Phone Number)

Questions presented

(1) Whether counsel failed to include any facts within the suppression motion regarding petitioner's observations at the time of the unlawful warrantless search.

(2) Whether petitioner's Second Amendment Rights were violated based on New York State Rifle And Pistol Assn, Inc. -v- Bruen, 142 S. Ct. 2111 (2022).

(3) Whether petitioner was unconstitutionally labelled A Armed Career offender.

LIST OF PARTIES

[X] 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:

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

[X] 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 Appx "A"; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

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

[ ] reported at Appx "B"; 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[ ] is unpublished.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[ ] is unpublished.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[ ] is unpublished.

STATEMENT OF JURISDICTION

The Judgement of Court of Appeals was enclosed on November 7th, 23. The Jurisdiction of this Court is invoked under Title 28 U.S.C. § 1654(a) and 28 U.S.C. § 1254(1).

OPINION BELOW

APPX. "A" Petitoner's opinion was entered on 11/7/23 for the United States Court of Appeals for the Eleventh Circuit unpublished.

APPX. "B" The Opinion of the Southern District was entered on 9/14/21, unpublished.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides:

No person shall be held to answer for a capital or otherwise infamous crime, unless on an indictment of a grand jury, except in cases arising in the land or naval forces or in the milita, when the actual service in time of war or public danger; nor shall any person be subject for the same offense, to be twice put in jeapordy of life or limb; nor shall be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use, without just cause. Id. Fifth Amendment.

The Fourth Amendment of the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated and no warrants shall be issued, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

STATEMENT OF THE CASE

Petitioner was charged by indictment with conspiracy to possess with intent to distribute twenty-eight grams or more of cocaine, in violation of 21 U.S.C. § 841(b)(1)(B)(iii), and § 841 (a)(1), and 846 (count one), possession with intent to distribute a detectable amount of cocaine base, in violation of 21 U.S.C. § 841(a)(1), § 841(b)(1)(C), and 18 U.S.C. section 2 (count 2) possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c) (Count 3), and felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1) and 18 U.S.C. § 924(c) (count 4).

Movant proceeded to trial and was found guilty as charged, following a Jury verdict. Movant was adjudicated guilty and sentenced to 312 months in a Federal Prison.

REASONS FOR GRANTING THE PETITION

This Court should issue a writ of certiorari, because the United States Court of Appeals for the Eleventh Circuit has decided Federal questions in a way that conflicts with the applicable decesions of this Court.

Supreme Court Rule 10 provides relevant parts as follows:

1) A review on writ of certiorari, is not a matter of right, but of judicial discretion. A petition for a writ will be granted only when there are special and important reasons, therefore the following, while neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will be considered.

2) When the United States Court of Appeals has decided an important question of Federal law which has not been, but should be settled by this Court, or has decided a Federal question in a way that conflicts with applicable decisions of this Court. Supreme Court Rule 10.1(a), (c).

Reasons For Granting The Petition

Arguments

Whether Counsel failed to include any facts within the supression motion regarding Movant's observations at the time of the unlawful warrantless search.

1) Petitoner states that Counsel was ineffective based on Strickland -v- Washington, 466 U.S. 468-694 (1984); Cronic -v- United States, 466 U.S. 648 (1984); and Cuyler -v- Sullivan, 446 U.S. at 350 (1980); Counsel prejudiced the petitioner when Counsel failed to introduce facts by questioning the Petitioner during a suppression hearing regarding petitioner's observations at the time of the unlawful and warrantless search, and the fact that petitioner never voluntarily opened the door nor concented to entry of police onto the residence. Entick -v- Carrington, 19 Howell's state trials 1029, 1035, 95 Eng. Reg. 807, 817-18 (1765); Chapman -v- United States, 365 U.S. 610 (1961); Stoner -v- California, 376 U.S. 483 (1964); Frazier -v- Culp, 394 U.S. 731-740, (1969); United States -v- Jeffers, 342 U.S. 48 (1951); and Rakas -v- Illinois, 439 U.S. 128, 144 N. 12 (1978).

Petitioner stated to the lower courts that he looked through a peephole of the front door, and observed "several officers", some with guns drawn. While looking through the peephole he could see about ten officers and heard them screaming, "Police.. open then door so we can talk to you". Because the officers had

guns and intimidated the petitioner, he did not open the door, fearing for his life, if he did do as the officers had demanded of him. Petitioner was frightened by their guns and so many of them and the intimidating presence of them, believing he might be shot if he refused to obey their intimidating orders and did not open the door at all. Petitioner tried to step back from the door and close it completely out of their intimidating fear tactics, but stayed where he was because officer Ogden threatened at that very moment to shoot him. Petitioner stated all of this information in his Affidavit to the lower courts as well. All of this prejudiced the petitioner and violated his Fourth Amendment rights to illegal search and seizure without probable cause and without a warrant.

Movant testified to all of this and wrote an affidavit in regards to all of the aboved stated information.

Petitoner states to this Honorable Court, that he never voluntarily opened the door voluntarily, only under a show of authority and threats and intimidation. The officers were not permitted to conduct any search at all without the petitioner's permission, this permission that the petitioner never gave voluntarily at all. The search was impermissible without probable cause, without a warrant.

The lower court's simply ruled in favor of the government who refused to protect the petitioner's Fourth Amendment rights

to illegal search and seizure under the Fourth Amendment of the United States Constitution.

All of the aboved stated fundamental Fourth Amendment errors prejudiced the petitioner and caused him 312 months of his life in a Federal United States prison. But for Counsel's below the standards of representation, the proceedings would have been so much different. Strickland -v- Washington, Cronic -v- United States, and Cuyler -v- Sullivan, Supra.

2) Movant states that his courts in 2 and 3, regarding Rehaif -v- United States, 139 S. Ct. 2391 (2019), being a person in possession of a firearm, should be under Rehaif, Supreme Court's New York State Rifle and Pistol Assn -v- Bruen, 143 S. Ct. 2111 (2023), 2023 adopted a new standard that when the 2nd Amendment covers conduct, the government can limit that conduct only by showing that the regulation is consistent with the nation's historical traditon of firearm regulation is consistent with the Nations historical tradition may a Court conclude that the individual's conduct falls outside the Second Amendment's unqualified command. "Bruen superceded the Court's long standing practice of allowing the government to weigh it's interest in public safety against the possibility of imposing a " indication of 2nd Amendment Rights.

The government never proved that the Petitioner knew he could not possess a firearm and that he was a prohibited person who could not possess a firearm and whether Rehaif applies retroactively

or not, it would be a miscarrier of Justice to keep the Movant incarcerated based on a Rehaif Law, that the Statute has been amended, and the Petitioner not able to receive the benefit of this Statute while incarcerated based on a Rehaif Law, that the Statute has been amended and the Petitioner not able to receive the benefit of this statute, while in the Court of Appeals, which states while Petitioner is on direct appeal that this Rehaif Law, New York State Rifle and Pistol Association all apply to the Petitioner's case in point. Murray -v- Carrier, 477 U.S. 478 (1986). Movant was on Direct Appeal and should have received the benefit of Rehaif, supra. Bousley -v- United States 523 U.S. 614 620 (1998). Petitoner is actually innocent of the Title 18 U.S.C. § 922(g) in counts 2 and 3.

3) Of Petitioner's three Florida state priors used to enhance the Petitioner are not eligible state priors for armed career offender status, because they are not serious drug offenses nor drug felonies. Cocaine charge of sell/delivery (case no. F11-2409A). These state priors violate Brown -v- United States, 22-6389 U.S. Supreme Court cite; Jackson -v- United States, U.S. Supreme Court cite, 22-6640; and Erlinger -v- United States, Supreme Court cite, 230370. These three cases stipulate that the Petitioner is not an armed career offender, and therefore, does not have three eligible Florida State priors for armed career offender enhancement purposes.

Movant is actually innocent of his Title 18 U.S.C. §

924(c)(1)(A)(i) requires proof that the Petitioner used or carried a firearm during and in relation to a crime of violence or drug trafficking crime. Bailey -v- United States, 516 U.S. 137 (1995); Timmons -v- United States, 283 F.3d 1246, 1252 (11th Cir. 2002) (citing H.R. Rep. 105-344, at 6 (1997).

The government was required to prove and establish that the firearm helped, furthered, promoted or advanced the drug trafficking. United States -v- Dixon, 901 F.3d 1322, 1340-41 (11th Cir. 2018); United States -v- Mercer, 541 F.3d 1070, 1076 (11th Cir. 2008); and Timmons, 283 F.3d at 1253.

Petitioner staes that counsel was ineffective for not pursuing these claims and that because of Counsel's ineffectiveness and below the standards of representation, the proceedings would have been so much different. Counsel's prejudice in not pursuing these claims prejudice the Petitoner and caused him 312 months in a Federal Prison. Strickland -v- Washington, 466 U.S. 668-694 (1984); Cronic -v- United States, 466 U.S. 648 (1984); Cuyler -v- Sullivan, 446 U.S. 335-350 (1980); Erlinger -v- United States, 23-370 U.S. Supreme Court Cite; Brown -v- United States, 22-6389 U.S. Supreme Court Cite; and Jackson -v- United States, U.S. Supreme Court cite 22-6640.

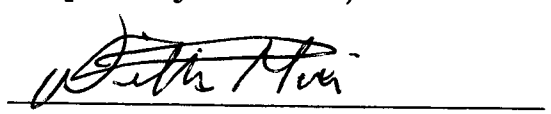
Petitioner states that jurists of reason would have stipulated that this case deserved further encouragement. Slack -v- McDaniels, 529 U.S. 473, 484 (2000); Buck -v- Davis, 137 S. Ct. 759-777 (2017); Barefoot -v- Estelle; and Miller El -v- Cockrell, jurists

of reason would have stipulated that this case, deserves further developement.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 2/1/24