

NO.: 23-7411

IN THE SUPREME COURT OF THE UNITED STATES

Larry Elwood Steptoe
Petitioner

v.
United States of America
Respondent

On Petition For A Writ Of
Certiorari To The United States
Court Of Appeals For The Fourth Circuit

Larry Elwood Steptoe
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QUESTIONS PRESENTED

Whether a violation of 21 U.S.C. § 841 of the U.S. Criminal Code which incorporates "Attempt" crimes qualifies as a predicate offense for the Career Criminal enhancement under Section 4B1.1 of the United States Sentencing Guidelines.

LIST OF PARTIES

All parties appear in the Caption of the Case of the Cover Page.

RELATED CASES

United States v. Groves, No. 22-4095
(4th Cir. Court of Appeals)

United States v. Jackson, No. 22-4179
(4th Cir. 2022)

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TABLE OF AUTHORITIES

CASES

Leary v. United States

395 U.S. 6 (1969)

United States v. Campbell

22 F. 4th 438 (4th Cir. 2022)

United States v. Groves

No. 22-4095 (4th Cir. 2022)

United States v. Jackson

No. 22-4179 (4th Cir. 2022)

United States v. Groves

No. 22-4095 (4th Cir. 2022)

United States v. Steptoe

Case No. 5:21-CR-0032-KDB-DSC-1

(W.D. North Carolina)

CONSTITUTIONAL AND STATUTORY PROVISIONS

The 5th And 14th Amendment to U.S. Const.

21 U.S.C. 841(a)

21 U.S.C. 802(8)

21 U.S.C. 802(11)

S.C. Criminal § 44-53-375(B)

S.C. Criminal Code 44-53-110(17)

IN THE SUPREME COURT OF THE UNITED STATES

Petitioner respectfully prays that a writ of certiorari issue to review the Judgment below.

The opinion of the United States Court of Appeals for the Fourth Circuit appears at Appendix A, to the Petition and is unpublished.

The opinion of the United States District Court appears at Appendix B, to the Petition and is unpublished.

JURISDICTION

The United States Court of Appeals decided my Case on December 14, 2023. It is notable that an extension of time was filed but at the time of filing this Petition, Petitioner has not been notified. The Petition was filed with this Court Pursuant to the mail box Rule on 3/12/2024.

The Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1.) The Fifth Amendment to the U.S. Constitution and 14th Amendment
- 2.) 21 U.S.C. § 841(a) of the United States Criminal Code
- 3.) Section 4B1.1 of the United States Sentencing Commission
- 4.) 21 U.S.C. 802(8)
- 5.) 21 U.S.C. 201(11)
- 6.) S.C. Criminal Code § 44-53-375(B)
- 7.) S.C. Criminal Code 44-53-110(17)

STATEMENT OF THE CASE

Mr. Larry Elwood Steptoe, the Petitioner was indicted for 25 Counts by a grand jury seated in the Western District of North Carolina (Statesville) in Criminal Case No.: 5:21-CR-00032-KDB-DSC-1 [DOC # reference(s) documents filed in that Case. The indictment was filed 5/18/2021 (D.E. 1)] (a Copy of the Docket entries is Attached at Appendix C) A first superseding indictment was filed on 10/19/2021 [DOC 16]. On 2/8/2022 Petitioner plead guilty to Counts 7 and 8 before a U.S. Magistrate Judge. Specifically those Counts charged violations of 21 U.S.C. § 841(a). The pre-sentence investigation determine that Petitioner was a Career offender for the instant offense of a violation of 21 U.S.C. § 841(a) [D.E. 35]. Petitioner objected to the Career offender enhancement. The District court overruled the objection. (See generally sentencing at Appendix D) Petitioner appealed the Appeal, [and the Appeal] was held in abeyance and then ultimately dismissed. Petitioner Comes here and respectfully seeks this Court's review to answer the question of whether a violation of 21 U.S.C. § 841(a) supports the Career offender enhancement.

REASON FOR GRANTING THE PETITION

A United States Court of Appeals has decided an important question of federal law i.e., that although prior to amendments to the United States Sentencing Guidelines Section 4B1.1 of the United States Sentencing Guidelines did not include "attempt crimes" as a controlled substance offense to qualify as a predicate offense for the Career offender enhancement and although a violation of 21 U.S.C. § 841(a) incorporates attempt crimes the United States Court of Appeals for the fourth Circuit has determined that a violation of 21 U.S.C. § 841(a) was a "controlled substance offense" as defined under § 4B1 of the United States Sentencing Guidelines. See United States v. Groves, No. 22-4095 orally argued September 14, 2022 (4th Cir. 2022) and ultimately finding that a violation of Section 841 was a controlled substance offense as defined in Section 4B1.1.

It is notable this case is relevant because Petitioner's case was held in abeyance pending this decision and ultimately dismissed on the results Pursuant an appeal waive.

This decision has decided an important question of federal law that should be settled by this Court because it is creating ambiguity and uncertainty as to how to apply the law before the Sentencing Commission actually incorporated "attempt crimes" into the definition of a controlled substance in Section 4B1.1 of the Guidelines.

In summary and in an example, the Fourth Circuit considered whether a violation of S.C. Code § 44-53-375(B) was a controlled substance offense as defined under § 4B1.2(b) in light of United States v. Campbell, 22 F.4th 438 (4th Cir. 2022). The Fourth Circuit concluded that it could not because at relevant part the state statute incorporated "attempt crimes." This [is] relevant and warrants this Court (emphasis added) as discussed in Jackson this Court previously recognized that 48 states (except California and Pennsylvania) and the District of Columbia "had on their books in some form essentially the provisions of the Uniform Narcotic Drug Act." Leary v. United States, 395 U.S. 6, 16 n.15 (1969). Said another way, many of the States adopted the language and definitions under the uniform controlled substance act and therefore, the definitions of the State's Criminal Code and the federal Criminal Code are for relevant purposes identical. Compare for example S.C. Code § 44-53-375 with 21 U.S.C. § 841(a). Secondly, Compare S.C. Code Ann. § 44-53-375(B) with 21 U.S.C. § 802(11) both defining "distribute" (emphasis added) the definitions are identical which includes "deliver" now compare S.C. Code Ann. § 44-53-110(17) and 21 U.S.C. § 802(8) both are identical and (emphasis added) both included "attempted transfer." Because of this the Fourth Circuit determined that a violation under South Carolina Law (And 48 States) could not support a Career offender enhancement. However, turned around and validated the very same crime under federal law. This is unequal application and unequal protection of the law based on drafters of the very same statutory language.

It results in conflicts of application in the law. Therefore, creates an important question of federal law that has not been settled but should be settled by this Court.

CONCLUSION

The court should grant Petitioner review to answer the important question under federal law.

Respectfully Submitted on 3-14-2024


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