

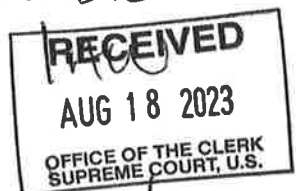
TO: Clerk of Court      Date: Aug 7, 2023  
U.S. Supreme Court  
Washington, DC  
20543-0001

RE: UNITED STATES V. BAZEMORE  
CASE NO. # 21-1779 / 19-CR-006  
(EXTENSION OF TIME)

Dear Court Clerk:

I AM requesting a (30) day extension of time to file Certiorari due to the fact that I AM presently housed at FCI HAZELTON, P.O. Box 5000, Bruncton Mills, WV 26025, AND WE ARE, AND HAVE BEEN ON Facility lock-down status... As such, I AM UNABLE to attend law library or access library materials...

I AM respectfully requesting



A (30) day extension AS to allow  
ME Adequate time to RESEARCH, AND  
PREPARE when the lock-down ends...

Thank you for your time, AND  
CONSIDERATION...

Dated: August 7, 2023

Respectfully Submitted:

William Bazemore  
WILLIAM BAZEMORE  
#86611-054  
FCI HAZELTON  
P.O. BOX 5000  
BRUCESTON MILLS, WV  
26525

CC:

UNITED STATES  
ATTORNEY'S OFFICE  
"ATTORNEY GENERAL"

21-1779-cr  
United States v. Bazemore

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1 At a stated term of the United States Court of Appeals for the Second Circuit,  
2 held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the  
3 City of New York, on the 22<sup>nd</sup> day of March, two thousand twenty-three.  
4

5 PRESENT: RAYMOND J. LOHIER, JR.,  
6 STEVEN J. MENASHI,  
7 BETH ROBINSON,  
8 *Circuit Judges.*

9 -----  
10 UNITED STATES OF AMERICA,

11  
12 *Appellee,*

13  
14 v.

No. 21-1779-cr

15  
16 WILLIAM BAZEMORE, AKA Sealed Defendant  
17 1,

18  
19 *Defendant-Appellant.\**  
20 -----  
21

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\* The Clerk of Court is directed to amend the caption as set forth above.

1 FOR DEFENDANT-APPELLANT:

BRIAN A. JACOBS (Curtis B.  
2 Leitner, *on the brief*), Morvillo  
3 Abramowitz Grand Iason &  
4 Anello P.C., New York, NY

5  
6 FOR APPELLEE:

DANIELLE R. SASSOON,  
7 Assistant United States  
8 Attorney (Jacqueline C. Kelly,  
9 David Abramowicz, Assistant  
10 United States Attorneys, *on the*  
11 *brief*), for Damian Williams,  
12 United States Attorney for the  
13 Southern District of New York,  
14 New York, NY

15  
16 Appeal from a judgment of conviction entered in the United States District  
17 Court for the Southern District of New York (Analisa Torres, *Judge*).

18 UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,  
19 AND DECREED that the judgment of the District Court is AFFIRMED.

20 William Bazemore appeals from a judgment of conviction entered on July  
21 19, 2021 in the United States District Court for the Southern District of New York  
22 (Torres, L.), after he pleaded guilty to sex trafficking in violation of 18 U.S.C.  
23 §§ 1591(a), (b)(1), and 2. Bazemore was sentenced principally to a within-  
24 Guidelines term of 327 months' imprisonment. We assume the parties'  
25 familiarity with the underlying facts and the record of prior proceedings, to  
26 which we refer only as necessary to explain our decision to affirm.

1           **I. Bazemore’s Guilty Plea**

2           Bazemore claims that the District Court erred in denying his motion to  
3 withdraw his guilty plea. Under Federal Rule of Criminal Procedure 11(d)(2)(B),  
4 “[a] defendant may withdraw a plea of guilty after it is accepted, but before  
5 sentencing, only if the defendant can show a fair and just reason for requesting  
6 the withdrawal.” United States v. Rose, 891 F.3d 82, 85 (2d Cir. 2018) (quotation  
7 marks omitted). “We review a district court’s denial of a motion to withdraw a  
8 guilty plea for abuse of discretion and any findings of fact in connection with  
9 that decision for clear error.” United States v. Rivernider, 828 F.3d 91, 104 (2d  
10 Cir. 2016) (quotation marks omitted).

11           Bazemore primarily argues that his plea was not knowing and voluntary  
12 because his counsel misled him about whether he could “potentially” argue that  
13 a sex trafficking offense under 18 U.S.C. § 1591 is not categorically a crime of  
14 violence. Appellant’s Br. 27-34. We see things differently. During an  
15 evidentiary hearing on Bazemore’s plea withdrawal motion, Bazemore’s  
16 attorneys testified that they advised him that some uncertainty existed about  
17 whether certain offenses qualify categorically as crimes of violence in light of  
18 United States v. Davis, 139 S. Ct. 2319 (2019). The attorneys also testified that

1 they advised Bazemore that the impact of Davis on his offense of conviction  
2 “was an issue that could be raised in the future, although it was unclear when or  
3 how it could be raised,” and that he “couldn’t count on any reversals or any  
4 findings that [his offense] was not a violent crime.” App’x 125; see id. at 129.  
5 The District Court credited the testimony of the attorneys, and Bazemore does  
6 not explain why we should disturb that finding. The record thus shows that  
7 Bazemore’s attorneys advised him that Davis presented “a potential argument  
8 that could be made” and otherwise accurately described to Bazemore the terms  
9 of his plea agreement, which clearly states that Bazemore’s offense is a crime of  
10 violence. Id. at 48, 129. Their legal advice was not as Bazemore now  
11 characterizes it in support of his claim that his plea was not knowing and  
12 voluntary.

13 Insofar as Bazemore asks us to assign error to the District Court’s decision  
14 to credit his attorneys’ testimony and discredit his conflicting testimony at the  
15 evidentiary hearing, we decline to do so. “[S]worn testimony given during a  
16 plea colloquy carries such a strong presumption of accuracy that a district court  
17 does not, absent a substantial reason to find otherwise, abuse its discretion in  
18 discrediting later self-serving and contradictory testimony as to whether a plea

1 was knowingly and intelligently made.” Rivernider, 828 F.3d at 105 (quotation  
2 marks omitted). During his plea allocution, Bazemore confirmed that he had  
3 read the plea agreement and discussed it with his attorneys before he signed it  
4 and that he was “satisfied with their representation of [him].” App’x 54.8, 54.19.  
5 He also confirmed that he understood the terms of the agreement, that his  
6 attorney’s predictions about his sentence could be wrong, that he and the  
7 Government had agreed on the “appropriate calculation” of his Guidelines  
8 range, that neither he nor the Government could argue for a different Guidelines  
9 range, and that the District Court was free to impose a sentence that differed  
10 from the one outlined in the agreement. App’x 54.19–54.22. For these reasons,  
11 we conclude that Bazemore has not “raised a significant question about the  
12 voluntariness of the original plea,” id. at 117 (quotation marks omitted), and that  
13 his plea was knowing and voluntary. We note that other factors relevant to  
14 assessing Bazemore’s plea withdrawal motion also weigh against granting the  
15 motion to withdraw his plea. For example, Bazemore does not assert his legal  
16 innocence, and over ten months elapsed between his guilty plea and his plea  
17 withdrawal motion. United States v. Albarran, 943 F.3d 106, 117–18 (2d Cir.  
18 2019).

1 Bazemore separately argues that he received ineffective assistance of  
2 counsel in connection with his plea. See Strickland v. Washington, 466 U.S. 668  
3 (1985)); United States v. Freeman, 17 F.4th 255, 265–66 (2d Cir. 2021). Because  
4 Bazemore’s attorneys did not provide incorrect legal advice, their performance  
5 did not “[fall] below an objective standard of reasonableness.” Freeman, 17 F.4th  
6 at 265 (quotation marks omitted).

7 For these reasons, we conclude that the District Court did not abuse its  
8 discretion in denying Bazemore’s motion to withdraw his guilty plea.

## 9 **II. The Virtual Hearing**

10 Bazemore also insists that the District Court erred by holding the  
11 evidentiary hearing by videoconference without his express consent, thereby  
12 violating both his constitutional rights and Federal Rule of Criminal Procedure  
13 43(a). As an initial matter, Bazemore acknowledges that he did not object to  
14 holding the hearing by videoconference and argues that the District Court  
15 committed a structural error, which requires automatic vacatur of the judgment.  
16 The argument that any error in holding the hearing virtually is structural is  
17 foreclosed by our decision in United States v. Leroux, 36 F.4th 115 (2d Cir. 2022)  
18 (applying plain error standard in reviewing a defendant’s challenge to the



1 district court's failure to make the requisite CARES Act findings before  
2 conducting a sentencing by videoconference where the defendant failed to object  
3 to proceeding by videoconference).

4 "Plain error is (1) error (2) that is plain, (3) that affects substantial rights,  
5 and (4) that seriously affects the fairness, integrity, or public reputation of  
6 judicial proceedings." United States v. Riggi, 541 F.3d 94, 102 (2d Cir. 2008).

7 Bazemore has not established that any error in the District Court's conducting  
8 the hearing on his motion to withdraw his guilty plea via videoconference  
9 affected his rights or seriously affected the fairness, integrity, or public  
10 reputation of judicial proceedings. As noted above, Bazemore never objected to  
11 the remote proceeding. He has not suggested that he could not see and hear the  
12 proceedings throughout the hearing. He does not contend that the District Court  
13 could not see and hear him fully throughout his testimony. And, although he  
14 asserts generally that he "appears to have been unable to confer privately with  
15 his counsel throughout the hearing," he does not indicate that he sought to  
16 communicate any information to his counsel, or that his counsel sought to  
17 communicate information to him, in connection with the proceeding.

18 Appellant's Br. 40. Even if the District Court erred in conducting the hearing by

1 videoconference without an express waiver of Bazemore’s right to be present—a  
2 question we need not resolve—Bazemore cannot demonstrate that any error was  
3 sufficiently prejudicial to rise to the level of plain error.

4 We have considered Bazemore’s remaining arguments and conclude that  
5 they are without merit. For the foregoing reasons, the judgment of the District  
6 Court is AFFIRMED.

7 FOR THE COURT:  
8 Catherine O’Hagan Wolfe, Clerk of Court


**United States Court of Appeals for the Second Circuit  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007**

**DEBRA ANN LIVINGSTON**  
CHIEF JUDGE

Date: March 22, 2023

Docket #: 21-1779cr

Short Title: United States of America v. Bazemore

**CATHERINE O'HAGAN WOLFE**  
CLERK OF COURT

DC Docket #: 1:19-cr-6-1

DC Court: SDNY (NEW YORK  
CITY)

DC Judge: Torres

**BILL OF COSTS INSTRUCTIONS**

The requirements for filing a bill of costs are set forth in FRAP 39. A form for filing a bill of costs is on the Court's website.

The bill of costs must:

- \* be filed within 14 days after the entry of judgment;
- \* be verified;
- \* be served on all adversaries;
- \* not include charges for postage, delivery, service, overtime and the filers edits;
- \* identify the number of copies which comprise the printer's unit;
- \* include the printer's bills, which must state the minimum charge per printer's unit for a page, a cover, foot lines by the line, and an index and table of cases by the page;
- \* state only the number of necessary copies inserted in enclosed form;
- \* state actual costs at rates not higher than those generally charged for printing services in New York, New York; excessive charges are subject to reduction;
- \* be filed via CM/ECF or if counsel is exempted with the original and two copies.

**United States Court of Appeals for the Second Circuit  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007**

**DEBRA ANN LIVINGSTON**  
CHIEF JUDGE

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DC Court: SDNY (NEW YORK  
CITY)

DC Judge: Torres

**VERIFIED ITEMIZED BILL OF COSTS**

Counsel for

\_\_\_\_\_

respectfully submits, pursuant to FRAP 39 (c) the within bill of costs and requests the Clerk to prepare an itemized statement of costs taxed against the

\_\_\_\_\_

and in favor of

\_\_\_\_\_

for insertion in the mandate.

Docketing Fee \_\_\_\_\_

Costs of printing appendix (necessary copies \_\_\_\_\_) \_\_\_\_\_

Costs of printing brief (necessary copies \_\_\_\_\_) \_\_\_\_\_

Costs of printing reply brief (necessary copies \_\_\_\_\_) \_\_\_\_\_

**(VERIFICATION HERE)**

\_\_\_\_\_  
Signature

**UNITED STATES COURT OF APPEALS  
FOR THE  
SECOND CIRCUIT**

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 17<sup>th</sup> day of May, two thousand twenty-three.

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United States of America,

Appellee,

v.

William Bazemore, AKA Sealed Defendant 1,

Defendant-Appellant.

---

**ORDER**

Docket No: 21-1779

Appellant, William Bazemore, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk