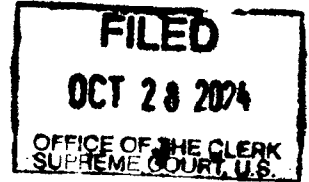


ORIGINAL

No. 23-5874

24-5940



IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Charlton Beasley — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Charlton Beasley
(Your Name)

FCI Edgefield, P.O. Box 725
(Address)

Edgefield, SC 29824
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Did Beasley overcome procedural default when he filed a § 2255 within one year of the Supreme Court decision in Davis which was a new rule of law and newly discovered evidence, and the Court of Appeals itself stated that he has made a prima facie showing that his application satisfies § 2255(h)?
- 2) Did the Sixth Circuit err when it denied Beasley relief to vacate his 924(c) conviction in Count 3 when Davis invalidates his 924(c) conviction, and the Court itself admits Beasley is actually innocent?
- 3) Did the District Court err when it denied Beasley relief because he did not prove innocent of Count 5, which is a dismissed count that was never reinstated pursuant to 18 U.S.C. § 3296?
- 4) Does, in Beasley's case, enforcing Bousley's standard that a defendant who has been proven innocent must also prove innocent of "equally serious" dismissed charges, conflict with the reinstatement process dictated by 18 U.S.C. § 3296, because it allows the government to obtain the benefits of a reinstated charge while circumventing the responsibility of having to meet the requirements of § 3296?
- 5) Does the statute of limitations in 18 U.S.C. § 3282 bar Beasley's dismissed counts from reinstatement due to the passing of the allotted 5 years?
- 6) The Court of Appeals also stated, "A petitioner may also overcome procedural default by showing that he is actually innocent, which Beasley did not show that he is actually innocent of Count 5." If dismissed Count 5 was not

reinstated, and if reinstatement is barred due to the passing of the statute of limitations period, do these two factors suffice to prove Beasley is actually innocent of Count 5, thus overcoming procedural default?

- 7) Since the District Court denied Beasley relief by saying, "Beasley's Davis claim is procedurally defaulted because he did not raise the claim's underlying argument on direct appeal. Indeed he did not file a direct appeal," Would this Court remand Beasley back to the District Court so that he may ask for an extension of the deadline to file a direct appeal so that Beasley can present his Davis claim on direct appeal in order to prevent a manifest injustice because he is actually innocent?
- 8) Does this Court conclude that Beasley's due process rights have been violated, and that he should be granted vacation of his 924(c) conviction in Count 3?

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:

Court of Appeals Circuit Judges:

COLE, READLER, and BLOOMEKATZ

Chief UNITED STATES DISTRICT JUDGE Sheryl H. Lipman

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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 A 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 B 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 09/30/2024.

☐ 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: 09/30/2024, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Clisby v. Jones, 960 F.2d 925	II
U.S. v. Davis, 139 S. Ct. 2319 (2019)	II
Knight v. U.S. (6th Cir. 2019)	II
U.S. v. Ornelas-Castro (5th Cir. 2019)	II
Bousley v. U.S. (1998)	III
U.S. v. Samuel Gaither	III

STATUTES AND RULES

18 U.S.C. § 2255(h)(2)	II
28 U.S.C. § 924(c)(3)(b)	II
18 U.S.C. § 3296	III
18 U.S.C. § 3282	III

OTHER

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

18 U.S.C. § 2255(h)(2)

28 U.S.C. § 924(c)(3)(b)

18 U.S.C. § 3296

18 U.S.C. § 3282

U.S. Constitution

STATEMENT OF THE CASE

Beasley's sought relief is the vacation of his 924(c) conviction in Count 3.

As Beasley progressed through his remedy exhaustion, the Sixth Circuit has denied him relief even though the Court has said itself that Beasley has proven his innocence of Count 3. None of the Court's denials were based on the actual merits of Beasley's petitions because Beasley's merits were never addressed, which violates Clisby v. Jones, 960 F.2d 925.

Plainly stated, Beasley's 924(c) in count 3, for brandishing a firearm during kidnapping, is no longer valid due to 924(c)(3)(b)'s residual clause being deemed unconstitutionally vague, and § 1201 Kidnapping no longer qualifies as a crime of violence due to the Supreme Court's decision in U.S. v. Davis, 139 S. Ct. 2319 (2019). See Knight v. U.S. (2019) and U.S. v. Ornelas-Castro (2019).

Although Beasley didn't file a direct appeal, he is not procedurally defaulted because he was sentenced in December, 2015 and Davis was not law until 2019. Once Davis was decided, Beasley filed a § 2255 within a year, under (1) newly discovered evidence, and (2) a new rule of Constitutional law made retroactive to cases on collateral review by the Supreme Court that was previously unavailable. § 2255(h)(2).

Beasley does not have the burden of proving innocence of his dismissed charges, as according to Bousley v. U.S. (1998), because they were never reinstated. 18 U.S.C. § 3296 allows for reinstatement of dismissed charges of a plea agreement if the (4) prongs are met, but, vacating the guilty plea first is what allows for the chance to reinstate, but Beasley's guilty plea was never vacated.

Also, 18 U.S.C. § 3282 allows a statute of limitations period of 5 years to reinstate dismissed charges, but in Beasley's case, the limitations period has passed, so reinstatement is no longer possible, meaning Beasley cannot be held liable for any dismissed counts, and this limitations period was not tolled by his plea agreement. U.S. v. Samuel Gaither.

Lastly, to enforce Bousley's standard in Beasley's case is improper because it not only circumvents the requirements for reinstatement in § 3296, but it also does ^{not} ~~do~~ take into account that the statute of limitations bars Beasley's dismissed counts from the possibility of being reinstated.

Beasley's Constitutional right to due process is violated due to him being denied relief unjustly and the government misapplying rules to ensure his continued punishment for a crime he is innocent of.

REASONS FOR GRANTING THE PETITION

Since Beasley is in fact innocent of Count 3, his conviction should be vacated to reflect that. He has shown that he is not procedurally defaulted by the Court's own admission that he has satisfied § 2255(h), see Appendix C page 3, he has shown that he does not have the burden of proving innocence of any dismissed counts because they were never reinstated, and, he has shown that reinstatement of any dismissed counts at this point is barred due to the passing of the statute of limitations period.

There are no legitimate reasons to continue Beasley's punishment under Count 3, but, all the reasons to vacate exist, mainly, to maintain uniformity of the Supreme Court's decisions regarding 924(c)(3)(b) vacations, as well as to protect Beasley's Constitutional rights.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over a horizontal line.

Date: 10/28/2024