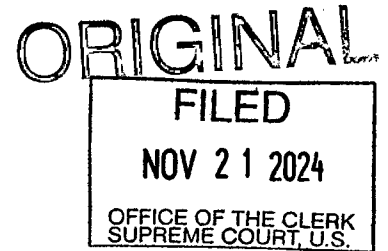


No. 24-6670

IN THE
SUPREME COURT OF THE UNITED STATES



EARL HART — PETITIONER PRO, SE
(Your Name)

— vs. —
CHARLES DANIEL S
WARDEN USP BEAUMONT — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(5TH CIR) COURT OF APPEAL
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

EARL HART 27106038
(Your Name)

USIP CANAAN
(Address)

PO BOX 300 WAYNART PA 18472
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

THE UNITED STATES SUPREME COURT STRUCK DOWN THE RESIDUAL CLAUSE OF THE
ACCA IN JOHNSON V UNITED STATES 576 U.S. 591 (2015) RULING IT WAS A VIOLATION
OF THE 5TH AMENDMENT OF THE U.S. CONSTITUTION IN VIOLATION OF DUE PROCESS
IS IT HARMLESS ERROR TO SENTENCE MR HART UNDER A STATUTE THAT WAS STRUCK
DOWN AND IS NO LONGER GOOD LAW

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 COURT OF APPEALS (STH CIR) AUGUST 23 2024 "2241 MOTION"

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS 5/15/23 "2241 MOTION"

UNITED STATES DISTRICT COURT JURY TRIAL 1/27, 2011 1204-CR-1005-P.B.S (IST CIR)

UNITED STATES COURT OF APPEALS (IST CIR) LIFE SENTENCE VACATED NO 11-1201 (AUG 27 2012)

UNITED STATES DISTRICT COURT RESSENTENCE (IST CIR) NO 13-1199 4/17/2014

UNITED STATES DISTRICT COURT (IST CIR) 28 U.S.C 2255 MAY 22 2018 109-CR-10005-P.B.S

UNITED STATES COURT OF APPEALS (IST CIR) CERTIFICATE OF APPEALABILITY DENIED CASE NO 19-8002 (12,10,2019)

UNITED STATES DISTRICT COURT, DISTRICT OF TEXAS EARL LITART V WARDEN U.S.P. BENJAMIN CIVIL ACTION # 123 CV-165 28 U.S.C 2241 Denied 10/22/23

COURT OF APPEALS 5TH CIRCUIT 28 USC 2241 8/23/24 DENIED CASE# 23-40639

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CASES	PAGE NUMBER
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SHEPARD V UNITED STATES	544 US 13, 161
UNITED STATES V BOOKER	125 S.Ct 738

STATUTES AND RULES

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6TH AMENDMENT UNITED STATES CONSTITUTION	
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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 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 DATE FIRED 8/23/2024

☒ 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: _____, 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 DEC 5, 24 (date) on 60 DAYS FROM DATE (date) in Application No. A ON LETTER FROM CLERK -

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

5TH AMENDMENT UNITED STATES CONSTITUTION, "DUE PROCESS"

ARMED CAREER CRIMINAL 18 USC 924 (c) (ACCA)

18 USC 924 (c)

18 USC 924 (A)

21 USC 846

28 USC 2241 WRIT HABEAS CORPUS

USISG 4B1.1

STATEMENT OF THE CASE

PETITIONER IS IN CUSTODY PURSUANT TO JUDGEMENT ENTERED IN THE U.S. DISTRICT COURT (1ST CIR) CASE #109-CR-1005 FOLLOWING A JURY TRIAL, PETITIONER WAS FOUND GUILTY OF CONSPIRACY TO POSSESS WITH INTENT TO DISTRIBUTE OXYCODONE (COUNT 1), ATTEMPTED POSSESSION OF OXYCODONE WITH INTENT TO DISTRIBUTE (COUNT 2), FELONY IN POSSESSION OF A FIREARM (COUNT 3), 18 USC 924 (c) BRANDISHING A FIREARM IN FURTHERANCE OF A DRUG CRIME (COUNT 4) ON JANUARY 27 2011 PETITIONER WAS SENTENCED TO 240 MONTHS ON COUNT 1 AND 2, 293 MONTHS ON COUNT 3, AND A MANDATORY TERM OF LIFE ON COUNT 4. ON DIRECT APPEAL THE U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT VACATED THE LIFE SENTENCE ON COUNT 4, THE CASE WAS REMANDED FOR RE-SENTENCING, US V HART #11-1201 (1ST CIR AUG 27 2012) DURING HIS RESENTENCING THE COURT DETERMINED THAT PETITIONER WAS A ARMED CAREER CRIMINAL, UNDER THE ACCA 18 U.S.C 924 (c) AND A CAREER OFFENDER UNDER 4B1.1 USSC, PETITIONER WAS RESENTENCED TO A TOTAL OF 360 MONTHS, 240 MONTHS COUNTS 1+2, 276 MONTHS ON COUNT 3, TO BE SERVED CONCURRENTLY, AND 84 MONTHS ON COUNT 4, TO RUN CONSECUTIVELY TO ALL OTHER COUNTS, THE SENTENCE WAS AFFIRMED ON APPEAL, US V HART NO 13-1194 (1ST CIR APR 17 2014) PETITIONER FILED A MOTION TO VACATE, GET A SIDE OR CORRECT SENTENCE PURSUANT TO 28 USC 2255 PETITIONER ARGUED THAT HIS SENTENCE WAS INVALID BECAUSE HE NO LONGER QUALIFIED AS AN ARMED CAREER CRIMINAL, AFTER THE SUPREME COURT STRUCK DOWN THE RESIDUAL CLAUSE OF THE ACCA IN JOHNSON V US 576 U.S 591 (2015) THE DISTRICT COURT WAS NOT PERSUADED THAT PETITIONER HAD A THIRD QUALIFYING PREDICATE CONVICTION IN LIGHT OF JOHNSON V US, BUT CONCLUDED, THAT IT WAS NOT NECESSARY TO RESOLVE THE ISSUE, BECAUSE PETITIONER WOULD STILL BE SENTENCED TO 360 MONTHS, AS A CAREER OFFENDER UNDER USSC 4B1.1 SINCE HE HAD TWO QUALIFYING CONVICTIONS HART V US 109-CR-1005 PBS SLIP OPAT 1-2 (CD MASS MAY 22 2018) PETITIONER FILED A NOTICE OF APPEAL AND THE FIRST CIRCUIT DENIED HIS REQUEST FOR A C.G.A HART V US #19-8002 (1ST CIR DEC 10 2019)

REASONS FOR GRANTING THE PETITION

THE FIRST ACT OF THE COURT, IN RELATIONSHIP TO PETITIONERS 28 U.S.C 2255 WAS TO HAVE THE FEDERAL PUBLIC DEFENDERS REVIEW PETITIONERS CASE, AND THEY REPORTED BACK TO THE COURT THAT PETITIONER DID IN FACT HAVE A JOHNSON CASE, JOHNSON V U.S. SICT 133 (2015) SEE DOCKET SHEET. THE SECOND THING THE COURT DID WAS ORDER A HEARING ON THE ISSUE OF THE 28 USC 2255, THE COURT APPOINTED ATTORNEY, TOLD PETITIONER THAT HIS SENTENCE WAS GOING TO BE VACATED, THE ATTORNEY ASKED PETITIONER TO WITHDRAW HIS PETITION, BECAUSE THE COURT WAS GOING TO GIVE PETITIONER A LIFE SENTENCE, AT THAT TIME PETITIONER WENT PRO SE, THE MOTION HEARING SET BY THE COURT WAS CANCELED, SHORTLY THERE AFTER THE 28 USC 2255 WAS DENIED SEE DOCKET SHEET THE COURT DID NOT REPLY TO ANY OF PETITIONERS ARGUMENTS, THE MOTION WAS 21 PAGES LONG, SEE DISTRICT COURTS MEMORANDUM MAY 22, 2018 169-CR-10005, THE COURT CONSIDERS PETITIONER NO LONGER HAS THE 3 NEEDED PRIORS TO BE ACCA AND EVEN GOES ON TO NAME CASE LAW, WHY THE THIRD POSSIBLE PRIOR, IS NO GOOD FOR ACCA PREDICATE, SO PETITIONER IS NOW SENTENCED UNDER A STATUTE THAT WAS RULED IN JOHNSON A VIOLATION OF THE 8TH AMENDMENT OF THE UNITED STATES CONSTITUTION, DUE PROCESS JOHNSON V UNITED STATES SICT 133 (2015) IS A NEW RULE OF CONSTITUTIONAL LAW, AND WAS MADE RETROACTIVE, THE 1ST CIR APPEALS COURT IN THERE DENIAL OF PETITIONERS CERTIFICATE OF APPEALABILITY STATED ANY REVERSAL ON THE RESIDUAL CLAUSE OF THE ARMED CAREER CRIMINAL ACT "ACCA" IN VIOLATION OF JOHNSON V UNITED STATES IS HARMLESS ERROR, THE STATUTE WAS RULED UNCONSTITUTIONAL IN JOHNSON, THE DISTRICT COURT IN THERE MEMORANDUM MAY 22, 2018, STATED THEY WERE NOT CONVINCED, PETITIONER HAD A 3RD PRIOR FOR THE ACCA, BUT HE REMAINS A CAREER OFFENDER, EVEN THOUGH ON COUNT #3 FELONY IN POSSESS, WITHOUT THE MANDATORY SENTENCES OF THE "ACCA" THE 291 MONTHS GIVEN WITH THE ACCA MANDATORY SENTENCE, CAREER OFFENDER IS A GUIDELINE SENTENCE WHICH IS ADVISORY, SEE BOOKER V UNITED STATES SICT MAX SENTENCE FOR FELONY IN POSSESS IS 120 MONTHS, WHICH THE COURT PUTS OUT, BUT SAYS IT DON'T MATTER, BECAUSE 30 YEARS IS A JUST SENTENCE, SEE COURTS MEMORANDUM MAY 22, 2018 THE LAW DON'T MATTER SUPREME COURT RULINGS, THE U.S CONSTITUTION, BECAUSE THIS SENTENCE IS UNCONSTITUTIONAL IT MUST BE VACATED AND PETITIONER RESENTENCED, A NEW RULE OF CONSTITUTIONAL LAW, JOHNSON V UNITED STATES, ACTUAL INNOCENCE OF BEING A ARMED CAREER CRIMINAL SENTENCE OVER WHAT THE STATUTE KNOWS COUNT #3 FELONY IN POSSESS, THE COURT WAS WITHOUT JURISDICTION TO IMPOSE SUCH A SENTENCE, THE SENTENCE IMPOSED IN VIOLATION OF THE CONSTITUTION OR LAWS OF THE UNITED STATES, THE DISTRICT COURT CLAIMS IN THERE MEMORANDUM MAY 22 2018 CASE# 169-CR-10005 THAT PETITIONER HAS TWO REMAINING PRIORS, THAT MAKE HIM A CAREER OFFENDER P.S-1 77+78, P.S. 78 STARTED AS A ASSAULT + BATTERY DANG WEAPON, GOVERNMENT CLAIMS CONVICTION WAS AMENDED BY A MOTION FILED BY A ATTORNEY, WHICH CHANGED THE ABDOW FROM A NON PREDICATE, TO ASSAULT BY MEANS WHICH IN MASSACHUSETTS IS A PREDICATE UNDER THE FREE CLAUSE, WAS CONVICTED IN FRONT OF A JUDGE, WHICH THE SHEPARD DOCUMENTS SIGNED BY JUDGE SHOW, THE SHEPARD DOCUMENTS WERE ALTERED WITH A PEN, ABDOW WAS CROSSED OUT AND ASSAULT BY MEANS WAS WRITTEN IN, ON A CRIMINAL HISTORY DOCKET SHEET HAND WRITTEN, SAYS CONVICTION WAS AMENDED, NOTHING SIGNED BY A JUDGE, CLEARLY ALTERED SHEPARD V UNITED STATES SICT WOULD NOT ALLOW THIS PRIOR TO BE USED ITS AMBIGUOUS AT BEST, THE CALIFORNIA CONVICTION, P.C 459 BURGLARY RULED IN DESCHAMPS V UNITED STATES 570 US 254 133 SICT '2013' THE ALL ATTEMPTED ROBBERY, DOES NOT PASS, DESCHAMPS V US, OR MATIAS V US 133 SICT THE GREAT ROBBERY CALIFORNIA PENAL CODE 120227 IS A SENTENCE IN HALLMARK, THE 9TH CIR RULED IT CAN NOT BE USED FOR A PREDICATE SEE DISTRICT COURTS MEMORANDUM MAY 22 2018, ALL THE CASE LAW ON THE CALIFORNIA CONVICTION IS THERE, ALL MY LEGAL DOCUMENTS WERE REMOVED FROM MY CELL AND LOST, BUT STAFF PLEASE BEAR WITH ME, I AM NOT ASKING TO GET MY SENTENCE OVERTURNED I AM ASKING TO GET A SENTENCE I CAN DO AND THAT IS FAIR, THE TRUTH IS BAD ENOUGH WITHOUT MAKING THINGS UP, I SHOULD HAVE GOTTEN MY JOHNSON MOTION FROM THE BEGINNING, I FEEL I AM PAYING THE PRICE FOR GOING PRO SE, BUT SMARTED MYSELF, NO DOCT OR HONESTLY SAY, THAT I DID NOT HAVE A JOHNSON CASE, THE FEDERAL PUBLIC DEFENDERS THOUGH SO I PRAY THAT MY MOTION GETS LOOKED AT, FOR, BELIEVE I NEED THE RIGHT PERSON TO READ IT, I AM 64 YEARS OLD WITH A SECOND GRADE EDUCATION, AND WANT TO BELIEVE IN THE RIGHT THING RESPECTFULLY