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IN THE SUPREME COURT OF THE UNITED STATES

AVERY JAMAL EDWARDS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent

PETITION FOR A WRIT OF CERTIORARI

APPENDIX

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2024 WL 4779551

Only the Westlaw citation is currently available.
United States Court of Appeals, Eighth Circuit.

UNITED STATES of America, Plaintiff - Appellee

v.

Avery Jamal EDWARDS, Defendant - Appellant

No. 23-3618

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Submitted: October 21, 2024

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Filed: November 14, 2024

Appeal from United States District Court for the Western
District of Arkansas - Fayetteville

Attorneys and Law Firms

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Jose Alfaro, Assistant Federal Public Defender, Christopher
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AR, for Defendant - Appellant.

Avery Jamal Edwards, Yazoo City, MS, Pro Se.

Before SHEPHERD, KELLY, and STRAS, Circuit Judges.

[Unpublished]

PER CURIAM.

*1 Avery Edwards pleaded guilty to being a felon in possession of a firearm, *see* 18 U.S.C. § 922(g)(1), and received a 96-month prison sentence. He argues that the base offense level the district court¹ adopted was too high because his prior Arkansas conviction of delivering methamphetamine is not a “controlled substance offense” under the Sentencing Guidelines. *See* U.S.S.G. §§ 2K2.1(a)(4)(A), 4B1.2(b)(1).

As Edwards candidly admits, *United States v. Henderson*, 11 F.4th 713, 717–19 (8th Cir. 2021), stands in the way of his argument. We held there that, under the “plain meaning” of the Sentencing Guidelines, a “controlled substance offense” covers more than what is prohibited by federal law alone. *Id.* at 719. It also “include[s] prior convictions for controlled substance offenses ‘under ... state law,’ ” *id.* (quoting U.S.S.G. § 4B1.2(b)), regardless of what the federal drug schedules say, *see* 21 U.S.C. §§ 811, 812. Following *Henderson*’s reasoning, Edwards’s conviction for delivering methamphetamine counts. *See* Ark. Code §§ 5-64-422, 5-64-419. We accordingly affirm the judgment of the district court.

All Citations

Not Reported in Fed. Rptr., 2024 WL 4779551

Footnotes

- 1 The Honorable Timothy L. Brooks, United States District Judge for the Western District of Arkansas.

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

No: 23-3618

United States of America

Appellee

v.

Avery Jamal Edwards

Appellant

Appeal from U.S. District Court for the Western District of Arkansas - Fayetteville
(5:23-cr-50006-TLB-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

December 18, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik