

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ASHLEI ROBINSON PETITIONER

VS.

COURT OF APPEALS FOR THE FOURTH CIRCUIT

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES OF AMERICA

PETITION FOR WRIT OF CERTIORARI

ASHLEI ROBINSON, PRO SE

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Aliceville, AL 35442.

QUESTIONS PRESENTED

- (1) DID THE LOWER COURT ERR IN ITS DECISION TO NOT REVIEW THE ALLEGATIONS THAT THE DEFENDANT WANTED TO RAISE ON APPEAL BASED ON UNTIMELINESS?
- (2) DID THE LOWER COURT ERR IN ITS DECISION TO NOT REVIEW PETITIONER'S APPEAL WHEN CONSTITUTIONAL VIOLATIONS HAVE BEEN RAISED?

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 judgement is the subject of this petition is as follows:

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TABLE OF AUTHORITIES CITED

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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☒ is unpublished.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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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 12/18/2015.

☒ 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 _____ (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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C §2255

Rule 4(b)

Rule 4(a)(6)

STATEMENT OF THE CASE

On December 13, 2012, Robinson was charged by the Grand jury in the Western District of Virginia with one count of knowingly and willfully conspiring to distribute and possess with intent to distribute five hundred grams or more of a mixture or substance containing methamphetamine, in violation of 21 U.S.C. §841(a)(1), 841(b)(1)(b) and 846.

Robinson pled guilty to said count, which carried a mandatory minimum of (10 years to Life). It was stipulated that Robinson be held in account to "more than 1.5 but less than 5 kilograms of meth mixture". Robinson was ultimately sentenced to a term of (194) months, which was inclusive of a loss of a (3) level reduction) for acceptance of responsibility, due to an enhancement of (2) levels for obstruction of justice, for absconding and violating the terms of Bond.

Robinson filed a timely motion pursuant to 28 U.S.C. §2255, which was denied on April 6, 2015. However, notice of appeal was filed untimely, causing the Appellate Court for the Fourth Circuit to dismiss said appeal as being procedurally barred. Ms. Robinson has now filed this timely Writ of Certiorari.

The questions presented to this Court involve constitutional issues that may have a bearing on many a case.

REASONS FOR GRANTING THE PETITION

This case implicates an extremely important Constitutional matter involving whether or not, the Circuit Courts, should immediately disallow the petition of Notice of Appeal, when, a constitutional violation, having an effect on the deprivation of liberty, has been raised. The Fourth Circuit, did not even allow the petitioner to show cause as to why she was late in petitioning the Court with the notice of appeal.

The Fourth Circuits decision in this case conflicts with their holdings in U.S v Akinkoye, 16 F. App'x 179, (4th, 2001), holding: "we may construe an untimely notice of appeal as a motion to reopen the time to notice an appeal, if an excuse for the untimeliness is offered." Robinson was not given the opportunity to do so. She had excusable reasons as to why she filed the notice of appeal. Also, the decision in this case, conflicts with the holding in U.S. v Ford, No. 14-4482, 11/24/2014, (4th), holding: "the appeal period may still be enforced by this Court when the Rule 4(b) time bar is invoked by the government, however, in this case, the government has not invoked the rule 4(b) time bar or moved to dismiss the appeal as untimely." The Fourth took it upon themselves to do so. In the aforementioned case, the Fourth concluded that dismissal of the appeal based on the untimely notice of appeal is not appropriate.

This Court itself has stated on numerous occasions that a pro se

litigant can not be held to the same standard as an officer-of the Court. See Estelle v Gamble, 429 US 97 106 97 S.Ct 285,(1976) holding: "even in the formal litigation context, pro se litigants are held to a lesser pleading standard than other parties."

The Fourth Circuit's decision in the case of Robinson, also contradicts its decision in U.S. v Simpson, No. 09-5126, 1/6/11 holding, "where no indication that the district Court considered any other factors relevant to its excusable neglect determination, we again remand the case to the district court to determine neglect or good cause.

The decision of the Fourth contradicts the holding in the District of Columbia's case, U.S v Feuwer, 236 F.3d 725, 729, (DC 2001), In this case, the Court held: 'where a pro se appellant files an untimely notice of appeal offering some excuse for its untimeliness, that notice is properly construed as a motion to reopen the time to note an appeal under Fed. R. App P. 4(a)(6)."

SUMMARY

It is respectfully submitted that the Fourth Circuit's decision in the case at bar cannot be reconciled with the holdings of its previous decisions, nor that of the D.C. Circuit's case, U.S. v Feuwer. This Honorable Court should accept jurisdiction of this case in order to avoid inequitable and disparate treatment of offenders of different Circuits, having filed 'untimely notices of appeals', without given opportunity to show cause, and/or being held to a higher standard, than that of simply, a pro se litigant without formal training.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Asnlei Brown

Date: 5/6/2016