

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ROWN WASHINGTON — 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 Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Rown Washington
(Your Name)

FCI Coleman Medium- P.O. Box 1032
(Address)

Coleman, Florida 33521-1032
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Whether Mathis is a substantive change in the law, with the Supreme Court's decision, for Petitioner's Title 28 U.S.C. Section 2255(f)(3) motion.

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:

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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☒ is unpublished.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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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 2/2/18

☒ 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

The United States Constitution

Amendment Five
Six
Eight

Title 28 U.S.C. Section

2253(c)(2)
2255(f)(3)

United States Sentencing Guideline Section

4B1.1(a)(2)
4B1.2

Florida State Statute Section

893.13

STATEMENT OF THE CASE

Petitioner's Career Offender status is unconstitutional, based on his state priors that were unconstitutionally applied to him. Petitioner was not eligible for a Title 21 U.S.C. Section 851 enhancement. Petitioner was indicted for and charged with a conspiracy to possess with intent to distribute five kilograms or more of cocaine and 50 grams or more of cocaine base, in violation of Title 21 U.S.C. Section 846 (Count one); and possession with intent to distribute and distribution of a quantity of cocaine base, in violation of Title 21 U.S.C. Section 841(a)(c) and Section 841(b)(1)(c) (Counts 2 & 3).

Petitioner pled guilty to Count two of his indictment and was unconstitutionally declared a Career Offender and enhanced for a Section 851. However, Mathis v. United States, 136 S.Ct. 2243-2248 (2016) states that the Petitioner is serving an unconstitutional sentence.

REASONS FOR GRANTING THE PETITION

Petitioner understands that the U.S. Supreme Court does not have to accept this petition for a writ of certiorari, because the Honorable Supreme Court has discretion to reject and/or accept any case it deems appropriate. Petitioner however, requests that the Honorable Court accept this petition, based on a substantive change in the law, in regards to Mathis v. United States, 136 S.Ct. 2243-2248 (2016), and the effects that it's substantive change affects other U.S. District Courts and Court of Appeals throughout the United States. Petitioner is stating that Mathis is a substantive change in the law, but several other Circuit Courts and U.S. District Courts state that Mathis is not a substantive change in the law. Petitioner thereby, submits this writ of certiorari for the Honorable U.S. Supreme Court's decision.

*Please See Attached Memorandum Of Law.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Rown Washington

Date: 4-25-18

IN THE
SUPREME COURT OF THE UNITED STATES

ROWN WASHINGTON,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

CASE NO.:
(To be assigned by the Court)

PETITION FOR WRIT OF CERTIORARI
MEMORANDUM OF LAW

COMES NOW, Petitioner files this Petition For Writ Of Certiorari Memorandum Of Law, pro-se. Petitioner is a layman of the law, unskilled in the law, and therefore, requests that this Petition be construed liberally. Haines v. Kerner, 404 U.S. 519 (1972).

ARGUMENT

Petitioner's Career Offender Status, And Title 21
U.S.C. Section 851 Status Is Unconstitutional
According To Mathis v. United States,
136 S.Ct. 2243 (2016) And Petitioner Is Jurisdictionally
Eligible For A Mathis Claim According To
Title 28 U.S.C. Section 2255(f)(3).

1) According to Mathis v. United States, 136 S.Ct. 2243 (2016),
Petitioner's State of Florida state priors for 4/25/1994, Cocaine Possession
with Intent/ 12/5/1995, Cocaine Possession with Intent / Marijuana-Cannabis
Possession with Intent dated 3/20/2000 / Cocaine Possession with Intent in
Florida on 3/20/2000 / Cannabis possession with Intent on 3/17/2004 / Possession
of Less than One (1) Gram of Ice-Crack Cocaine on 9/18/2002. These state priors

based in the State of Florida are ambiguous and too broad, and they lack Shepard v. U.S., 544 U.S. 13, 26 (2005) Documentation, a modified categorical approach, an indivisible or divisible approach, and they are only means, ways, and conduct of ways of committing these above stated cases. Mathis states that all of these state of Florida priors lack the required elements to a Jury determination beyond a reasonable doubt. Alleyne v. U.S., 133 S.Ct. 2151 (2013); Molina-Martinez v. U.S., 136 S.Ct. 1338 (2016). Petitioner's state priors violate his Fifth Amendment Rights to a Jury Determination beyond a reasonable doubt, and his Sixth Amendment Right to a Jury Determination to the elements, and his Fifth Amendment Right to Shepard Documentation; his modified categorical approach, his Taylor v. U.S., 495 U.S. 575 (1990), Categorical Approach, his Descamps v. U.S., 133 S.Ct. 2275-2283 (2013), indivisible/divisible element approach, and Appellant's Mathis element approach based on way, means, and conduct of the offense, to the Jury based on the required element approach for which a Jury determination is required.

Petitioner wishes to inform the Honorable Court that no Shepard / Taylor / Descamps / nor Mathis approaches were ever done in this case. Nor did the Government ever present any Shepard Documentation to the court to verify these State of Florida state priors for which were unconstitutionally used against the petitioner to Career him and Section §851 enhance the petitioner to 188 months. Petitioner requested Counsel to object to his Career Offender status and Section §851 status. However, Counsel refused to object and/or forgot to object to these state priors. Nevertheless Mathis states that petitioner state priors do not qualify for Career Offender status, nor Section §851 status. Because of the ways, means, and conduct as to how they were used against the petitioner, rather than through the Elements to a Jury beyond a reasonable doubt. Honorable Justices, how is it that a Presentence Report

can determine a defendant is guilty when no Shepard documentation was ever presented to the Court to verify Petitioner's state priors for Career Offender status and a Section 851 enhancement. Without Shepard documentation, the Petitioner should have received the least culpable offense. Moncrieffe v. Holder, 133 S.Ct. 1678-1683 (2011). However, Petitioner was unconstitutionally enhanced for state priors that he did not plead guilty to those specific offenses. And therefore, without any Shepard, Taylor, Descamps, and/or Mathis approaches, the Petitioner's sentence is unconstitutional based on Mathis' element approach, to a jury determination beyond a reasonable doubt. And violates the Petitioner's Fifth Amendment Rights to Due Process to his Shepard documentation, and his Sixth Amendment Right to the Element approach, and his Eighth Amendment Right against Cruel and Unusual Punishment for as long as he remains incarcerated.

2) According to Title 28 U.S.C. Section 2255(f)(3), Petitioner's Mathis v. U.S. claim is a substantial change in the law for Petitioner's FIRST Title 28 U.S.C. § 2255(f)(3) claim. See Dobb v. United States, 545 U.S. 353-357 (2005); Richardson v. U.S., 526 U.S. 813-817 (1999). Petitioner pursued his Mathis claim within the one (1) year requirement of Section 2255(f)(3) time limitation requirements under the filing of a Section 2255(f)(3). See U.S. v. Jarmes, No. 2:15-cv-9479-JWL (KSD July 16, 2016); U.S. v. Ballard, No. 03-810 (PAED 7/7/2017); U.S. v. Solomon, No. 16-7350 (4th Cir. Aug. 2, 2017); U.S. v. Collins, No. Cr-03-51 S (RID Nov. 2, 2016); U.S. v. Sabetta, No. 00-cr-135-S-PAS (RID Oct. 24, 2016); U.S. v. Gambill, No. 1:10-cr-13 (VAWD Oct. 7, 2016); and Holt v. U.S., 2016 U.S. App. LEXIS 22136 (7th Cir. 12/13/2016) (held that Mathis applies in a first section 2255 Motion; that Mathis did not apply in a second or successive 2255 motion; because the Supreme Court had not made it retroactive; and that section 2241

motion may be used to attack the validity of a conviction with Mathis). Therefore Mathis is a "substantial change in the Law" case that applies to a first section 2255(f)(3), such as in Petitioner's case in point.

3) New substantive rules generally apply retroactively, including decisions that narrow the scope of a criminal statute by interpreting its terms. (Quoting Summerline, 542 U.S. at 351) The reason to apply substantive rules retroactively to cases on collateral review is that "decisions that narrow the scope of a criminal statute by interpreting its terms necessarily raise the risk that people who have been convicted of violating that statute or whose punishment has been enhanced for violating that statute 'stand convicted of an act that the law does not make criminal or face a punishment that the Law cannot impose upon them.'" Summerline, 542 U.S. at 352.

Petitioner's Mathis issue is a substantial change in the law which applies to the Petitioner's first Section 2255(f)(3) Motion. See also Summerline, 542 U.S. at 351. It verifies that Mathis, supra, is a substantial change in the Law, on Petitioner's first Section 2255(f)(3) Motion. See also Summerline, 542 U.S. at 352.

4) The Lower Court cannot rely on an undisputed Presentence Report for facts without violating the Sixth Amendment. This stems from the categorical approach, under which "courts may look only to the statutory definitions- i.e., the elements of a defendant's prior offenses and not to the particular facts underlying those convictions. As was the case in Petitioner's case in point. See Mathis v. United States, 136 S.Ct. 2243-2248 (2016). See also Apprendi v. New Jersey, 530 U.S. 466 (2000). Because Petitioner never invoked nor waived his constitutional right to a Jury to find these above stated facts

beyond a reasonable doubt during the earlier criminal proceeding.

Petitioner therefore, requests remand of his unconstitutional Career Offender status and his unconstitutional § 851 enhancement, based on all of the above stated reasons and that the Lower Court had Jurisdiction to hear this Section 2255(f)(3) motion according to Mathis; Richardson; and Dobbs, supra.

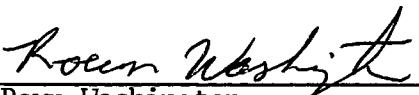
Jurists of reason would agree with the Petitioner that his Title 28 U.S.C. Section 2255(f)(3) is a substantial change in the law by the U.S. Supreme Court, based on all of the above stated reasons. Buck v. Davis, 137 S.Ct. 759-774 (2017).

CONCLUSION

Petitioner hopes and prays for a remand of his unconstitutional Career Offender and Section 851 enhanced sentence, because it violates the Laws, Constitution, and the U.S.S. Guidelines. Petitioner hopes this Honorable Supreme Court will accept this petition for a writ of certiorari.

Respectfully Submitted,

4-25-18
Date


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