26-6174

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

NIKOLAS JAMES COOK — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS, ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

NIKOLAS JAMES COOK
(Your Name)

800 SE Monterey Road
(Address)

Stuart, Florida 34994
(City, State, Zip Code)

_____
(Phone Number)

QUESTION(S) PRESENTED

(i) Whether the Court of Appeals for The Eleventh Circuit applied the invested statutory order of operations by deciding the merits of the appeal first and then denying "COA", in essence deciding an appeal without jurisdiction, when the Petitioner who was uncounseled did not have the same due process of law, than Petitioner's who are counseled?

List of Parties

A list of all parties to the proceeding in the court whose judgement is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol that symbol is also included.

Nikolas James Cook

United States of America

Related Cases

TABLE OF AUTHORITIES CITED

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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

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix C to the petition and is

[X] reported at U.S. vs. Cook, 2022 WL 1515949; 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[ ] is unpublished.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 _____ to the petition and is

[X] reported at Cook vs. United States ND-24-11092; 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[ ] is unpublished.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[ ] is unpublished.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[ ] is unpublished.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

① Fed. R. Civ. P. 60(b)(6) "permits a court to re-open a judgment for any other reason that justifies relief".

② To: 28 U.S.C. Section 2253 (c)(2) "obtain a Certificate of Appealability, a petitioner is required to make a substantial showing of the denial of a Constitutional right".

③ Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct. 1029, 154 L.Ed. 2d 931 (2003) ("jurist of reason could disagree with the district Court's resolution of his Constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further". Id. at 327, 123 S.Ct. 1029, 154 L.Ed. 2d 931.

④ Miller-El, "When a court of Appeals sidesteps [the COA] process by first deciding the merits of an appeal, and then justifying its denial of a "COA" based on its adjudication of the actual merits, it is in essence deciding an appeal without jurisdiction" Id. at 336-337, 123 S.Ct. 1029, 154 L.Ed. 2d 931.

STATEMENT OF THE CASE

1. On February 9th 2021, a federal Grand Jury in the Southern District of Florida returned an indictment, charging Petitioner Cook with four counts of production of material containing visual depictions of sexual exploitations of minor, in violation of 18 U.S.C. §§ 2251 (a) and (e) (Counts 1-4); distribution of material containing visual depictions of sexual exploitations of minors, in violation of 18 U.S.C § 2252 (a)(2) and (b)(1) (Count 5); and possession of material containing visual depictions of sexual exploitations of minor, in violation of 18 U.S.C. § 2252 (a)(4)(B) and (b)(2) (Count 6). (See: Appendix C, pg. 1-2).

2. On July 1st 2021, Petitioner Cook signed a written plea agreement under which he pled guilty to counts 4, 5 and 6, and the United States agreed to seek dismissal of counts 1, 2, and 3 after sentencing. On October 13, 2021, the Court Sentenced Petitioner Cook to 360 months as to Count 4, 240 months as to Count 5, and 240 months as to Count 6; all terms to run consecutive for a total of 840 months in federal prison. (See: Appx. "C" page 2).

3. Petitioner Cook filed a direct appeal, wherein he argued that his Sentence was procedurally and substantially unreasonable. See: United States v. Cook, 2022 WL 1515949, No. 21-13739, at *1. (11th Cir May 13, 2022). The Eleventh Circuit dismissed the appeal because Petitioner Cook's valid appeal waiver, barred his claims on appeal and because none of his claims fell within the exceptions to the waiver. (See: Appx. "C" pg. 2)

4. On August 14, 2023, Petitioner Cook filed a motion to vacate, set aside, or Correct Sentence under §2255, arguing that his trial counsel was ineffective. (CV. Ecf. no.1; 1:23-CV-23101-KMM). On March 14, 2024, the district Court denied Petitioner Cook's pro se motion to vacate under §2255. (CV-ECF-NO.16). In addition, the district Court denied Petitioner Cook from filing "COA" without allowing Petitioner Cook to file a "COA" first. (See: Appx. "C" pg 3). Thereafter, Petitioner Cook sought a "COA" in the Eleventh circuit Court of Appeals, from the denial of his §2255. The Eleventh circuit Court of Appeals denied Petitioner

Cook's "COA" on January 22, 2025. See: Cook vs. United States, No. 24-11092, at * 24 (11th Cir. 2025)(See Appx. "E").

5. On June 11, 2025, Petitioner Cook filed a motion for Relief from Judgment pursuant to Fed. R. Civ. P. 60(b)(6), moving the district court to re-open his case because the reviewing Court of Appeals, inverted the statutory order of operations by deciding the merits of the appeal and then denying "COA" based on the adjudication of the actual merits, placing a heavy burden on the Petitioner's Pleadings at the "COA" stage. In addition, Petitioner Cook claimed that he was denied due process as his case appeared to be at odds with the procedural statutory results of the handling of his case, versus Armano vs. United States, 2024 U.S. App. Lexis 26158, who was standing in the same procedural posture, but was represented by Counsel, while Petitioner Cook was not able to afford an attorney and proceeded Pro se. (See: Appx. "C" pg. 3)

6. On June 27, 2025, the Government responded, requesting the district Court to dismiss Petitioner Cook's Rule 60(b) motion as successive §2255 motion for lack of jurisdiction. (See: Appx. pg. 3-4)

7. On August 27th 2025, the Honorable District Court Judge Moore, issued an order denying Petitioner Cook's motion, and denying him the opportunity to file a "COA". (See: Appx. "B").

8. On February 23rd 2026, Petitioner Cook filed a motion for a Certificate of Appealability in the Eleventh circuit court of Appeals, from the denial of his Fed. R. Civ. P. 60(b)(6) motion. (See: Appx. "C")

9. On July 28th 2026, the Eleventh Circuit Court of Appeals issued an unpublished opinion, denying Petitioner Cook's motion for "COA". (See Appx. "A").

10. This timely Petition for writ of certiorari follows;

REASONS FOR GRANTING THE PETITION

The reasons for granting the Petition, Petioner Cook believes that the District court as well as the Eleventh circuit Court of Appeals, departed from the essential requirements of law when it inverted the statutory order of operations by deciding the merits of the appeal first and then denying "COA", based on (1) adjudication of the actual merits, placing too heavy a burden on the Petitioner at the "COA" stage, in essence deciding an appeal without jurisdiction to do so; and (2) and discriminating against Petitioner Cook who could not afford counsel, was denied due process, as he was similarly situated as Petitioner ARMAND. (Appx. "D" pg 6), who was in the same procedural posture, but had the benefit of counsel.

Petitioner Cook is a Pro se litigant, unskilled in the science of law, and prays this Honorable court not let or permit form to override substance for the relief this Court deems necessary, To not allow his poor syntax, or lack of legal reasoning expected from lawyers; his failure to cite proper legal authority.. confusion of various legal theories .. or his unfamiliarity with pleading requirements. Pro se litigants pleadings are held to "less stringent standards than formal pleadings. If a Court can reasonably read a prose pleading in such a way that it could state a claim on which to prevail, it should do so despite his unfamiliarity with pleading requirements. See: Haines v. Kerner, 404 U.S. 519, 520, 92 S.Ct. 594, 30 L.Ed 2d 652 (1972); Boag v. McDougall, 454 U.S. 364 (1982).

Rule 60(b)(6) permits a court to re-open a judgment for "any other reason that justifies relief." Buck v. Davis, 137 S.Ct. 759, 777, 197 L.Ed. 2d 1 (2017) (Appx. "C" pg. 7). In addition, a Rule 60(b) motion is not treated

as a second appeal or successive petition if it attacks "some defect in the integrity of the federal habeas proceedings": Gonzalez, 545 U.S. 532-33 (2005), as Petitioner Cook's Rule 60 b motion does.

The District court's ruling (Appx. "B"), as well as the Court of Appeals' analysis in denying Petitioner Cook's relief has omitted significant element.

In the order of the district court denying Petitioner Cook's Rule 60(b) motion, it denied his motion as a second appeal (Appx. "E") even though Petitioner's Cook's motion attacked the "defect in the integrity of the federal habeas proceedings". Id. It further deprived Petitioner Cook from even presenting a "COA" to the district court, so it would determine whether a "reasonable jurist could conclude that the district court may have abused it's discretion." Hill vs. Comm'r Ala. Dept. of Corrs, 102 F. 4th 1285, 1284 (11th Cir. 2024) (second alteration in original) (quoting Buck v. Davis, 580 U.S. 100, 123, 137 S. Ct. 759, 197 L. Ed. 2d 1 (2017)). In other words, Petitioner Cook who was uncounseled was foreclosed from presenting a motion for "COA" to the District Court Judge, because he was pro se, and the Court pre-denied a "COA" before it based on the merits, in violation of 28 U.S.C. § 2253.

Second, the court of Appeals for the Eleventh Circuit (Appx. "E") in denying Petitioner's Cook's uncounseled "COA", inverted the Statutory order of operations and first decided the merits of an appeal, justifying the "COA" denial based on its adjudication of the actual merits, placing too heavy a burden on the prisoner at the "COA" stage, in violation of Judicial precedent that flatly prohibits such a departure from the procedure prescribed by 28 U.S.C. § 2253.

The Gist of Petitioner Cook's motion was based on the procedure used by the District Court and the Eleventh Circuit court of Appeals, "inverting the Statutory order of operations and first decided the merits of an appeal", which in essence this Court has held that it is "essentially deciding an appeal without authority". Miller-El, 537 U.S. at 336-337, 123 S. Ct. 1029, 154 L. Ed. 2d 931. "Miller-El, flatly

Prohibits such a departure from the procedure prescribed by § 2255." Ibid.

Petitioner Cook argued, although similarly situated, with inmates such as Armano vs. United States, 2024 U.S. App. Lexis 26158 who was counseled in his § 2255 motion, and similar to Petitioner Cook's ground one, they both argued that their trial counsel was ineffective in failing to move to suppress evidence. However, Armano, who was counseled, received an "evidentiary hearing" by the district court. After the evidentiary hearing, the district court denied the motion concluding that Armano's trial counsel was not ineffective. Armano appealed.

The Eleventh Circuit granted Armano's counsel a "COA" allowing his counsel to brief and appeal on the merits. After briefing, the Eleventh Circuit "Affirmed" Armano's Section 2255 motion.

In contrast, Petitioner Cook who could not afford counsel, was not afforded due process, because his "COA" was denied on the merits, justifying it's denial based on the adjudication of the actual merits.

Petitioner Cook is entitled to the issuance of a "COA". Petitioner has brought his Rule 60(b) motion under the Rule's catchall category. Subdivision (b)(6), which permits a court to reopen a judgment for "any other reason that justifies relief." Rule 60(b) vest wide discretion in courts, but only in "extraordinary circumstances". Gonzalez, 545 U.S. at 535, 125 S.Ct. 2641, 162 L.Ed 2d 480. Petitioner Cook argues that he was treated unjustly, and the court's actions "undermined the public confidence in the judicial process". Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 864, 108 S.Ct. 2194, 100 L.Ed. 2d 855 (1988).

To justify the decision of the lower courts to treat Petitioner Cook differently from other defendants who are similarly situated but can afford to hire counsel for post-conviction proceedings, which Petitioner Cook could not, is a "manifest injustice".

Petitioner Cook, respectfully moves this Honorable Court to grant this petition, and to Vacate, reverse and remand the case back to the Eleventh Circuit for further consideration.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 08/23/2026

10/21/2026 NC