

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

United States v. Darius Chaney

United States v. Chaney, 911 F.3d 222 (4th Cir. 2018) · No. No. 13-6491 · Decided December 19, 2018

SUMMARY

The Fourth Circuit held that an appeal from an amended judgment entered after a successful § 2255 motion, which vacated one conviction but reimposed sentences on other counts, is a criminal appeal governed by Federal Rule of Appellate Procedure 4(b)'s 14-day filing period, not the civil 60-day period under Rule 4(a); therefore, Chaney's untimely appeal was dismissed. Alternatively, the court held that the district court did not abuse its discretion under § 2255(b) by vacating only the unlawful § 922(g)(1) conviction and declining to order a full resentencing on the carjacking count, as the district court has broad remedial discretion and may correct a sentence without conducting a formal resentencing under the sentence-package theory. Key topics include appellate timeliness for hybrid § 2255/criminal judgments, district court's remedial discretion, and the effect of plea-agreement waivers.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Niemeyer; Gregory; Agee
JURISDICTION	Federal
DECIDED	December 19, 2018
DOCKET	No. 13-6491
DISPOSITION	Dismissed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Max O. Cogburn, Jr., District Judge. (3:03-cr-00040-MOC-1; 3:12-cv-00434-MOC)
STANDARD OF REVIEW	Abuse of discretion for the remedy under § 2255; timeliness issue is a question of law reviewed de novo (implicitly)
PRECEDENTIAL VALUE	Published
PARTIES	Darius Latron Chaney v. United States of America

TOPICS

- habeas corpus
- appellate procedure
- sentencing
- standard of review
- waiver

PRACTICE AREAS

Criminal Law

Habeas Corpus

Appellate Practice

QUESTIONS PRESENTED

1. Whether Chaney's appeal of the amended judgment entered after a § 2255 order is governed by Federal Rule of Appellate Procedure 4(a) (civil) or 4(b) (criminal), and thus whether his notice of appeal filed 54 days after the judgment was timely.
2. Whether the district court abused its discretion by vacating only the § 922(g)(1) conviction and sentence and not resentencing Chaney on the carjacking count.

HOLDINGS

1. An appeal from a new criminal sentence entered after a § 2255 order is governed by Rule 4(b)'s 14-day period, and thus Chaney's appeal was untimely.
2. The district court did not abuse its discretion because § 2255(b) gives broad discretion, and the court's decision to correct the sentence without full resentencing was reasonable.

KEY QUOTATIONS

"Accordingly, we dismiss Chaney's appeal in this case as untimely under Federal Rule of Appellate Procedure 4(b)." (p. 5)

"the district court did not abuse its discretion in vacating only Chaney's conviction and sentence on the § 922(g)(1) count and not ordering a resentencing on Chaney's carjacking conviction." (p. 6)

"When a prisoner appeals the aspect of the order entering the new criminal sentence, by, for example, 'challenging the relief granted — i.e., whether the relief was "appropriate" under § 2255, whether the new sentence was in conformity with the Constitution or sentencing guidelines, etc. — he is appealing a new criminal sentence.'" (p. 4)

FACTUAL BACKGROUND

In August 2003, Darius Chaney pleaded guilty to carjacking, using a firearm during a crime of violence, and being a felon in possession of a firearm. He had five prior North Carolina breaking and entering convictions that qualified as predicate felonies for the § 922(g)(1) charge and enhanced his sentence. After the en banc decision in *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011), which held that such North Carolina convictions are not punishable by more than one year, Chaney moved under § 2255 to vacate his § 922(g)(1) conviction and sought resentencing on all counts. The government conceded he was actually innocent of that conviction but opposed resentencing on the carjacking count.

PROCEDURAL HISTORY

Chaney pleaded guilty to carjacking, 18 U.S.C. § 924(c), and 18 U.S.C. § 922(g)(1) in 2003 and was sentenced to 272 months. In 2012, he filed a 28 U.S.C. § 2255 motion claiming his prior North Carolina convictions did not qualify as felonies under *United States v. Simmons*, 649 F.3d 237 (4th Cir. 2011). The government agreed to

vacate the § 922(g)(1) conviction and sentence but opposed resentencing on the carjacking count. The district court vacated only the § 922(g)(1) conviction and sentence and entered an amended judgment reimposing the other sentences. Chaney appealed 54 days later.

DISPOSITION

Dismissed

CASES CITED

- United States v. Simmons, 649 F.3d 237 (4th Cir. 2011)
- United States v. Hadden, 475 F.3d 652 (4th Cir. 2007)
- United States v. Oliver, 878 F.3d 120 (4th Cir. 2017)
- Browder v. Dir., Dept. of Corr., 434 U.S. 257 (1978)
- United States v. Hillary, 106 F.3d 1170 (4th Cir. 1997)
- United States v. Garcia, 956 F.2d 41 (4th Cir. 1992)
- United States v. Smith, 115 F.3d 241 (4th Cir. 1997)
- United States v. Hyman, 884 F.3d 496 (4th Cir. 2018)
- United States v. Urutyan, 564 F.3d 679 (4th Cir. 2009)
- Bowles v. Russell, 551 U.S. 205 (2007)
- Schacht v. United States, 398 U.S. 58 (1970)
- Ajan v. United States, 731 F.3d 629 (6th Cir. 2013)
- Andrews v. United States, 373 U.S. 334 (1963)
- United States v. Jones, 215 F.3d 467 (4th Cir. 2000)