

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

John Worman v. Frederick Entzel

No. 19-2048, United States Court of Appeals for the Seventh Circuit (March 26, 2020)

SUMMARY

The Seventh Circuit held that a federal prisoner cannot use 28 U.S.C. § 2241 to challenge his sentence under the savings clause of § 2255(e) based on *Dean v. United States*, 137 S. Ct. 1170 (2017), because *Dean* announced a new procedural rule that does not apply retroactively on collateral review under *Teague v. Lane*. The court applied a three-part test for the savings clause and concluded that *Dean* is not a substantive rule or a watershed procedural rule, so it cannot satisfy the "miscarriage of justice" requirement. The case underscores the stringent limits on second or successive habeas motions and the narrow availability of § 2241 relief for sentencing errors.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	SCUDDER; BRENNAN; ST. EVE
JURISDICTION	Federal
DECIDED	March 26, 2020
DOCKET	19-2048
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the district court's dismissal of a 28 U.S.C. § 2241 petition for habeas corpus relief.
STANDARD OF REVIEW	De novo review of legal issues regarding habeas corpus and retroactivity.
PRECEDENTIAL VALUE	Published
PARTIES	John Worman v. Frederick Entzel

TOPICS

- habeas corpus
- sentencing
- criminal procedure
- appellate procedure
- statutory interpretation

PRACTICE AREAS

- Criminal Law
- Habeas Corpus
- Sentencing

QUESTIONS PRESENTED

1. Whether *Dean v. United States* applies retroactively to cases on collateral review such that Worman can use 28 U.S.C. § 2241 to challenge his sentence under the savings clause of § 2255(e).

HOLDINGS

1. Dean announced a new procedural rule that does not apply retroactively under *Teague v. Lane* because it is not a substantive rule and does not qualify as a watershed rule of criminal procedure.

KEY QUOTATIONS

“subject to narrow exceptions, Congress has limited federal inmates to one motion for habeas relief.” (at 5)

“the savings clause... affords prisoners the opportunity to request traditional habeas relief under § 2241 if § 2255 is 'inadequate or ineffective to test the legality of [his] detention.'” (at 7)

*“We analyzed the savings clause in *In re Davenport* and determined that it allows petitioners 'a reasonable opportunity' to obtain a judicial determination of 'the fundamental legality' of their convictions and sentences.”* (at 7-8)

“Step #1: the federal prisoner must seek relief based on a decision of statutory interpretation... Step #2: the statutory rule of law in question must apply retroactively to cases on collateral review... Step #3: a failure to afford the prisoner collateral relief would amount to an error 'grave enough' to constitute 'a miscarriage of justice.'” (at 8)

“Teague supplies the decisional framework for Worman's appeal.” (at 9)

“Dean is new because the rule the Court announced, the sentencing discretion it recognized, was not compelled by any prior precedent.” (at 10)

“Dean, in short, regulates sentencing procedure, with the Court leaving untouched the reach of any criminal statute.” (at 11)

*“the Supreme Court has not identified any other procedural rules qualifying for watershed status [besides *Gideon*].”* (at 11)

“If a new Supreme Court case meaningfully expanding a defendant's right to confront witnesses does not sufficiently implicate the fundamental fairness and accuracy of a proceeding to be a watershed rule, a rule governing what a judge may consider at sentencing cannot either.” (at 12)

FACTUAL BACKGROUND

John Worman mailed a pipe bomb to his former supervisor after losing his job and a business opportunity. He was convicted of multiple federal offenses, including using a destructive device in furtherance of a crime of violence under 18 U.S.C. § 924(c), which carried a mandatory minimum sentence of 30 years. The district court initially sentenced Worman to 361 months (30 years and 1 month), but the Eighth Circuit vacated the sentence, holding that the district court could not consider the mandatory consecutive sentence when imposing a reduced sentence on other counts. On remand, the district court imposed a 528-month (44-year) sentence. The Supreme

Court later decided *Dean v. United States*, which overruled the Eighth Circuit's precedent and allowed sentencing courts to consider the mandatory minimum when determining sentences on other counts.

PROCEDURAL HISTORY

Worman was convicted in the Northern District of Iowa and sentenced to 44 years' imprisonment. His direct appeal was unsuccessful, and his first motion under 28 U.S.C. § 2255 was denied. He sought authorization to file a second § 2255 motion based on *Dean v. United States*, but the circuit court denied authorization. He then filed a § 2241 petition in the Northern District of Iowa, which was transferred to the Central District of Illinois. The district court dismissed the petition, concluding that Worman could not satisfy the savings clause requirements. Worman appealed.

DISPOSITION

affirmed

CASES CITED

- *Dean v. United States*, 137 S. Ct. 1170 (2017)
- *Teague v. Lane*, 489 U.S. 288 (1989)
- *Bousley v. United States*, 523 U.S. 614 (1998)
- *Bailey v. United States*, 516 U.S. 137 (1999)
- *Schiro v. Summerlin*, 542 U.S. 348 (2004)
- *Welch v. United States*, 136 S. Ct. 1257 (2016)
- *Whorton v. Bockting*, 549 U.S. 406 (2007)
- *Crawford v. Washington*, 541 U.S. 36 (2004)
- *Gideon v. Wainwright*, *Gideon v. Wainwright*, 372 U.S. 335 (1963)
- *In re Davenport*, 147 F.3d 605 (7th Cir. 1998)
- *Webster v. Daniels*, 784 F.3d 1123 (7th Cir. 2015) (en banc)
- *Montana v. Cross*, 829 F.3d 775 (7th Cir. 2016)
- *Beason v. Marske*, 926 F.3d 932 (7th Cir. 2019)
- *Chazen v. Marske*, 938 F.3d 851 (7th Cir. 2019)
- *Suggs v. United States*, 705 F.3d 279 (7th Cir. 2013)
- *United States v. Hatcher*, 501 F.3d 931 (8th Cir. 2007)
- *United States v. Worman*, 622 F.3d 969 (8th Cir. 2010)
- *United States v. Strickland*, 261 F.3d 1271 (11th Cir. 2001)
- *United States v. Collins*, 109 F.3d 1413 (9th Cir. 1997)
- *Chaidez v. United States*, 655 F.3d 684 (7th Cir. 2011)
- *Johnson v. United States*, 135 S. Ct. 2251 (2015)
- *United States v. Dean*, 810 F.3d 521 (8th Cir. 2015)

- United States v. Hayman, 342 U.S. 205 (1952)

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