

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

Adam Joseph Winarske v. United States of America

913 F.3d 765 (8th Cir. 2019) · No. 17-2367 · Decided January 14, 2019

SUMMARY

The Eighth Circuit affirmed the denial of Adam Winarske’s successive motion under 28 U.S.C. § 2255 challenging his fifteen-year Armed Career Criminal Act sentence. The court held that *Johnson v. United States* did not provide a basis for reviewing Winarske’s argument concerning the ACCA’s enumerated-offenses clause, and that *Mathis* and *Descamps* were not newly announced retroactive rules for purposes of a successive motion. The court also held that the burglary claim had been presented in Winarske’s prior § 2255 motion.

CASE DETAILS

COURT	United States Court of Appeals for the Eighth Circuit
WRITING FOR THE COURT	Loken; Smith; Gruender
JURISDICTION	Federal
DECIDED	January 14, 2019
DOCKET	17-2367
DISPOSITION	affirmed
PROCEDURAL POSTURE	Winarske appealed the denial of his second motion under 28 U.S.C. § 2255 to vacate his mandatory minimum fifteen-year sentence imposed under the Armed Career Criminal Act.
STANDARD OF REVIEW	De novo review of the denial of a successive motion for relief under 28 U.S.C. § 2255.
PRECEDENTIAL VALUE	published_precedential
PARTIES	Adam Joseph Winarske v. United States of America

TOPICS

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QUESTIONS PRESENTED

1. Whether Winarske's second § 2255 motion satisfied the statutory requirements for a successive motion based on *Johnson v. United States*.
2. Whether Johnson supplied a new constitutional rule with a nexus to Winarske's claim that his North Dakota burglary convictions did not qualify as ACCA violent felonies under the enumerated-offenses clause.
3. Whether *Mathis v. United States* or *Descamps v. United States* supplied a qualifying new rule permitting review of Winarske's enumerated-offenses-clause challenge.
4. Whether Winarske's claim was barred because the district court had already rejected the same enumerated-offenses-clause argument in his first § 2255 motion.

HOLDINGS

1. Johnson's rule invalidating the ACCA residual clause had no nexus to Winarske's claim, which challenged whether his burglary convictions qualified under the ACCA's separate enumerated-offenses clause.
2. Mathis and Descamps did not announce new rules of constitutional law made retroactive to cases on collateral review and therefore could not independently satisfy the successive-motion requirements.
3. Winarske's successive claim was barred because the district court had already rejected the same enumerated-offenses-clause challenge in his first § 2255 proceeding.

KEY QUOTATIONS

“For these reasons, the district court properly denied Winarske’s successive § 2255 motion.” (at 769)

“The residual clause was not an issue when Winarske was sentenced as an armed career criminal, or when he challenged that determination in his first § 2255 motion.” (at 768)

FACTUAL BACKGROUND

Winarske pleaded guilty in 2012 to being a felon in possession of a firearm. His presentence report identified more than seven prior felony convictions, including five burglaries, and the district court imposed the ACCA's mandatory minimum fifteen-year sentence after finding at least three prior violent-felony convictions. His later collateral attacks argued that North Dakota burglary convictions did not qualify as generic burglary under the ACCA's enumerated-offenses clause.

PROCEDURAL HISTORY

Winarske pleaded guilty to being a felon in possession of a firearm and was sentenced under the ACCA based on multiple prior burglary convictions. The district court denied his first § 2255 motion, and he did not appeal. The Eighth Circuit later authorized a second or successive § 2255 motion based on *Johnson v. United States*. The district court denied the second motion on the merits and granted a certificate of appealability; the Eighth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Taylor v. United States, 495 U.S. 575, 599 (1990)
- United States v. Winarske, 715 F.3d 1063 (8th Cir. 2013), cert. denied, 572 U.S. 1003 (2014)
- Descamps v. United States, 570 U.S. 254, 260 (2013)
- United States v. Webster, 636 F.3d 916, 920 (8th Cir. 2011)
- United States v. Sonczalla, 561 F.3d 842, 845-46 (8th Cir. 2009)
- Johnson v. United States, 135 S. Ct. 2551, 2563 (2015)
- Welch v. United States, 136 S. Ct. 1257 (2016)
- Donnell v. United States, 826 F.3d 1014, 1016 (8th Cir. 2016)
- Walker v. United States, 900 F.3d 1012, 1014 & n.2 (8th Cir. 2018)
- United States v. Stitt, 139 S. Ct. 399 (2018)
- United States v. Kinney, 888 F.3d 360, 363-65 (8th Cir. 2018)
- Stanley v. United States, 827 F.3d 562, 564 (7th Cir. 2016)
- Martin v. United States, 904 F.3d 594, 597 (8th Cir. 2018)
- In re Baptiste, 828 F.3d 1337, 1339 (11th Cir. 2016)