

Rudy Davis

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To: ruddavis@yahoo.com
Subject: More Bad News

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Today the 1st Circuit ruled in the DOUGLAS case, which asked if 924(c)(3)(B) is invalidated by JOHNSON and its progeny DIMAYA. The court ruled that 924 is NOT invalidated. The court adopted the government's argument in full.

Reflecting on this decision the court had to rule this way. Seeing the developing circuit split the court, as discussed at the hearing, knows this issue is going to go to the Supreme Court. If the court ruled in our favor, invalidating 924, and then the Supreme Court upheld 924, the court would have just let prisoners out of prison that it shouldn't have. The court had to say to itself: let's just wait till the Supreme Court chimes in and settles the matter. That is why the court asked how much time we had left to serve at the hearing. The court really had no other choice at this point, that is why its decision was so quick.

Our motion for permission to take another appeal was denied without prejudice. This means we can come back and get permission if the Supreme Court strikes down 924(c)(3)(B).

We are not out of options. What happens now?

There is no appeal for us. We have to wait till one of these cases that were denied out of the 2nd, 11th and now 1st circuit, appeals to the Supreme Court. These cases will definitely be granted certiorari. Are best scenario is that the case is accepted, argued and decided this Supreme Court term. The S. Ct. only hears oral arguments till the end of April. That means the case has to be granted certiorari by mid-January to leave time for briefing prior to April. If not we'll have to wait till October of 2019 for oral arguments and a decision probably in January 2020. Putting us out of prison sometime in the spring of 2020.

The best case for appealing to the S. Ct. is the OVALLES case out of the 11th, because it has already gone en banc, meaning it is totally exhausted at the appeals court level, while the others will probably file for en banc rehearing.

Please keep an eye on this case to see if and when it files a petition for certiorari.

Keep praying, we need all the help we can get. Thank you all.