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United States v. Mason:
**The Fourth Circuit Clarified the Career Criminal Classification of the
Federal Sentencing Guidelines**

By : Katherine Kiemle

In *United States v. Mason*, the Court of Appeals for the Fourth Circuit clarified the career criminal classification of the federal sentencing guidelines. *United States v. Mason*, 284 F.3d 555 (4th Cir. 2002). The court held a prior state conviction for unarmed robbery committed when Mason was a juvenile cannot be counted as a predicate offense for purposes of career offender sentencing. *Id.* at 562.

In April 2000, James Anthony Mason ("Mason") pleaded guilty to illegal distribution of cocaine base. Mason's probation officer, on whom the court relied for a sentencing determination, assigned Mason a total offense level of twenty-nine, placing him in criminal history category VI. The probation officer's recommendation relied entirely on Section 4B1.1 of the federal sentencing guidelines, which stipulates among other qualifications that a defendant have at least two prior felony convictions of either a crime of violence or a controlled substance offense. In Mason's case, the probation officer's recommendation relied on a 1990 federal conviction for a controlled substance committed when Mason was twenty-six and a conviction for unarmed robbery

committed when Mason was a juvenile.

Mason was sentenced to 151 months in federal prison and three years of supervised release as a result of his category IV criminal history. Prior to sentencing, Mason objected to the court's reliance on the juvenile conviction in determining career criminal classification. The district court overruled Mason's objection. Mason appealed. The Fourth Circuit reviewed the case *de novo* and vacated and remanded for new sentencing.

In its evaluation, the Court of Appeals for the Fourth Circuit dissected Sections 4B1.1 and 4B1.2 of the federal sentencing guidelines. *Id.* at 558. The court began with Section 4B1, which sets forth requirements for the career criminal offender classification. The issue with regard to Mason lay with the third and final element of the classification, which states a "defendant has at least two prior felony convictions of either a crime of violence or a controlled substance offense." *Id.* The court agreed with Mason that the first felony conviction relied upon by the court was questionable because, although convicted as an adult, he received a juvenile sentence. *Id.* at 559.

The court, however, did not find the statute necessarily determinative. *Id.* For further analysis, the court reviewed commentary to Rule 4B1.2, which defines prior felony conviction as a prior adult federal or state conviction. *Id.* at 559. As such, a juvenile conviction cannot be counted in determining whether a defendant was a career offender. *Id.*

The court acknowledged in its reading of Section 4B1.1 that the appropriate elements of criminal sentencing have typically been determined with reference to Section 4B1.2. *Id.* at 559. However, the court found Section 4A1.2(d) provided potentially determinative information in this case. *Id.* Section 4A1.2(d) deals with whether offenses committed prior to age eighteen are included in the criminal history calculation. *Id.* The commentary clarifies that such offenses are counted only if the adult sentence exceeds one year and one month. *Id.* at 560. Therefore, the court reasoned if the commentary was followed, Mason's juvenile robbery conviction counted for purposes of career offender classification only if he was both convicted and sentenced as an adult. *Id.* at 560.

The court examined whether

the commentary was inconsistent with the guidelines and, by relying on the rule's plain language, determined it was not. *Id.* at 560. The Commission used the word "imprisonment" in Section 4A1.1 (1), which refers to adult convictions and sentencing. *Id.* The Commission then used the word "confinement" in Section 4A1.1 (2), which covers both juvenile and adult dispositions. *Id.* The court reasoned the Commission was deliberate in its wording of the rule. *Id.* The Commission used the harsher term "imprisonment" to refer to adult adjudication. It used the less harsh term "confinement" to refer to juvenile adjudication. *Id.* These terms were, therefore, intentionally used to indicate different criminal dispositions. *Id.* For Mason's juvenile conviction to count toward career offender purposes, he must have received an adult conviction and an adult sentence. *Id.*

The court then analyzed whether Mason was both convicted and sentenced as an adult for his juvenile robbery offense. *Id.* at 560. In making a determination, the court must, according to the rule, examine the sentencing and conviction guidelines of the particular jurisdiction where the defendant was adjudicated. *Id.* Mason had been adjudicated in West Virginia. *Id.*

The court assumed for purposes of its evaluation that Mason received an adult conviction. *Id.* A juvenile convicted under adult jurisdiction in West Virginia is not automatically sentenced as an adult. *Id.* at 561. Under West Virginia

code, a circuit court may remand a minor offender to juvenile jurisdiction after adjudication as an adult by sentencing the offender as a juvenile. *Id.* Mason was sentenced as a juvenile under these guidelines since the judge sentenced him to placement in a rehabilitation center for youthful offenders. *Id.* Therefore, the court concluded Mason was sentenced as a juvenile. *Id.*

Mason's 1981 juvenile sentence meant, therefore, his conviction could not serve as a predicate felony under Section 4B1.1. *Id.* at 562. As such, Mason did not qualify for career offender status under the federal sentencing guidelines. *Id.*

As a footnote to its holding, the Fourth Circuit recognized its decision was not necessarily consistent with decisions in other circuits. *Id.* at 562. The court's holding, in this case, may be read as a liberal interpretation of the federal sentencing guidelines. The court did permit a three-time felon to avoid the strict career offender classification based on, what some might read as, a technicality. However, the Fourth Circuit followed the strictest reading of the rule. Federal sentencing guidelines do not permit courts to rely on juvenile felony offenses as predicate offenses for purposes of career offender sentencing. With its *Mason* decision, the Fourth Circuit made a bold statement. If the Legislature desires a different interpretation, it must change the rule accordingly.

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