

RAY v. UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT

No. 86-281. Argued April 28, 1987—Decided May 18, 1987

Upon his convictions for one count of conspiracy to possess cocaine with intent to distribute and two counts of possession of cocaine with intent to distribute, petitioner was sentenced to concurrent prison terms on all three counts and to concurrent special parole terms on the two possession counts. The Court of Appeals affirmed the conspiracy conviction and one of the possession convictions, but, applying the so-called "concurrent sentence doctrine," declined to review the second possession conviction because the sentences on the two possession counts were concurrent.

Held: The judgment below is vacated, and the case is remanded for the Court of Appeals to consider petitioner's challenge to his second possession conviction. Since, in addition to the concurrent prison and parole terms, the District Court imposed a \$50 assessment on petitioner on each count pursuant to 18 U. S. C. § 3013 (1982 ed., Supp. III), and since petitioner's liability to pay the total \$150 assessment depends on the validity of each of his three convictions, petitioner is not in fact serving concurrent sentences.

791 F. 2d 929, vacated and remanded.

Joseph A. Connors III argued the cause for petitioner. With him on the brief was *Matias Morin, Jr.*

Deputy Solicitor General Bryson argued the cause for the United States. With him on the brief were *Solicitor General Fried*, *Assistant Attorney General Weld*, and *Andrew J. Pincus*.

PER CURIAM.

Petitioner was found guilty of one count of conspiracy to possess cocaine with intent to distribute, and two counts of possession of cocaine with intent to distribute. He was sentenced to concurrent 7-year prison terms on all three counts, and to concurrent special parole terms of five years on the two possession counts. The Court of Appeals affirmed peti-

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Per Curiam

tioner's conspiracy conviction and one of his possession convictions. *United States v. Sandoval*, 791 F. 2d 929 (CA5 1986) (judg. order). Applying the so-called "concurrent sentence doctrine," the court declined to review the second possession conviction because the sentences on the two possession counts were concurrent. We granted certiorari to review the role of the concurrent sentence doctrine in the federal courts. 479 U. S. 960 (1986).

It now appears, however, that petitioner is not in fact serving concurrent sentences. Title 18 U. S. C. § 3013 (1982 ed., Supp. III) provides that district courts shall assess a monetary charge "on any person convicted of an offense against the United States." Pursuant to this section, the District Court imposed a \$50 assessment on each count, in addition to the concurrent prison and parole terms, for a total of \$150. Since petitioner's liability to pay this total depends on the validity of each of his three convictions, the sentences are not concurrent. The judgment of the Court of Appeals is therefore vacated, and the cause is remanded to that court so that it may consider petitioner's challenge to his second possession conviction.

It is so ordered.