SUPREME COURT OF THE UNITED STATES

No. 99–9136

EARTHY D. DANIELS, JR., PETITIONER
v. UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[April 25, 2001]

JUSTICE O'CONNOR delivered the opinion of the Court in part.

In *Custis* v. *United States,* 511 U. S. 485 (1994), we addressed whether a defendant sentenced under the Armed Career Criminal Act of 1984 (ACCA), 18 U. S. C. §924(e), could collaterally attack the validity of previous state convictions used to enhance his federal sentence. We held that, with the sole exception of convictions obtained in violation of the right to counsel, a defendant has no right to bring such a challenge in his federal sentencing proceeding. 511 U. S., at 487. We now consider whether, after the sentencing proceeding has concluded, the individual who was sentenced may challenge his federal sentence through a motion under 28 U. S. C. §2255 (1994 ed., Supp. V) on the ground that his prior convictions were unconstitutionally obtained. We hold that, as a general rule, he may not. There may be rare circumstances in which §2255 would be available, but we need not address the issue here.

I

In 1994, petitioner Earthy D. Daniels, Jr., was tried and

convicted of being a felon in possession of a firearm in violation of 18 U. S. C. §922(g)(1). The Government then sought to enhance his sentence under the ACCA. App. 4–5. The ACCA imposes a mandatory minimum 15-year sentence on anyone who violates §922(g)(1) and who has three previous convictions for a violent felony or a serious drug offense. §924(e)(1). Petitioner had been convicted in California in 1978 and 1981 for robbery, and in 1977 and 1979 for first degree burglary. *Id.,* at 14. The District Court found petitioner to be an armed career criminal within the meaning of the ACCA and, after granting a downward departure, the District Court sentenced petitioner to 176 months. *Id.,* at 14, 18. Had petitioner not been adjudged an armed career criminal, he would have received at most a 120-month sentence. 18 U. S. C. §924(a)(2). On direct appeal, petitioner argued unsuccessfully that his two burglary convictions did not qualify as predicate offenses under the ACCA. See 86 F. 3d 1164 (CA9 1996) (table).

Petitioner then filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U. S. C. §2255 in the United States District Court for the Central District of California. Section 2255, a postconviction remedy for federal prisoners, permits "[a] prisoner in custody under sentence of a [federal] court" to "move the court which imposed the sentence to vacate, set aside or correct the sentence" upon the ground that "the sentence was imposed in violation of the Constitution or laws of the United States." Petitioner asserted that his current federal sentence was imposed in violation of the Constitution because it was based in part on his 1978 and 1981 robbery convictions. Those prior convictions, he alleged, were themselves unconstitutional because they both were based on guilty pleas that were not knowing and voluntary, and because the 1981 conviction was also the product of ineffective assistance of counsel. App. 51–52. He did not

contend that §2255 relief was appropriate because his current sentence was imposed in violation of the ACCA. Cf. Brief for Petitioner 13.

The District Court denied the §2255 motion, App. 58–67, and a panel of the Ninth Circuit Court of Appeals affirmed, 195 F. 3d 501 (1999). The court held that our decision in *Custis* "bar[s] federal habeas review of the validity of a prior conviction used for federal sentencing enhancement unless the petitioner raises a . . . claim [under *Gideon* v. *Wainwright,* 372 U. S. 335 (1963)]." 195 F. 3d, at 503 (internal quotation marks and citation omitted). Because the Courts of Appeals are divided as to whether *Custis* bars relief under §2255 as well as in federal sentencing proceedings, we granted certiorari. 530 U. S. 1299 (2000).

II

The petitioner in *Custis* attempted, during his federal sentencing proceeding, to attack prior state convictions used to enhance his sentence under the ACCA. Like petitioner here, Custis challenged his prior convictions as the product of allegedly faulty guilty pleas and ineffective assistance of counsel. 511 U. S., at 488. We held that with the sole exception of convictions obtained in violation of the right to counsel, Custis had no right under the ACCA or the Constitution "to collaterally attack prior convictions" in the course of his federal sentencing proceeding. *Id.*, at 490–497. While the "failure to appoint counsel for an indigent defendant was a unique constitutional defect" that justified the exception for challenges concerning *Gideon* v. *Wainwright,* 372 U. S. 335 (1963), 511 U. S., at 496, challenges of the type Custis sought to bring did not "ris[e] to the level of a jurisdictional defect," *ibid.*

Two considerations supported our constitutional conclusion in *Custis:* ease of administration and the interest in promoting the finality of judgments. With respect to the

former, we noted that resolving non-*Gideon*-type constitutional attacks on prior convictions "would require sentencing courts to rummage through frequently nonexistent or difficult to obtain state-court transcripts or records." 511 U. S., at 496. With respect to the latter, we observed that allowing collateral attacks would "inevitably delay and impair the orderly administration of justice" and "deprive the state-court judgment of its normal force and effect." *Id.*, at 497 (internal quotation marks and brackets omitted).

A

Petitioner contends that the *Custis* rule should not extend to §2255 proceedings because the concerns we articulated in *Custis* are not present in the §2255 context. Brief for Petitioner 22–26. We disagree. First, a district court evaluating a §2255 motion is as unlikely as a district court engaged in sentencing to have the documents necessary to evaluate claims arising from long-past proceedings in a different jurisdiction. While petitioner is quite right that federal district courts are capable of evaluating fact-intensive constitutional claims raised by way of a habeas petition, *id.,* at 22–23, institutional competence does not make decades-old state court records and transcripts any easier to locate.

The facts of this case only reinforce our concern. For example, petitioner contends that he entered his 1978 and 1981 guilty pleas without a full understanding of the essential elements of the crimes with which he was charged, and therefore the resulting convictions violated due process. App. 40–42, 50–51. These claims by their nature require close scrutiny of the record below. Yet petitioner has not placed the transcript from either plea colloquy in the record. In fact, he has admitted that the 1978 transcript is missing from the state court file. Cf. *id.,* at 38, n. 3. Under these circumstances, it would be an

almost futile exercise for a district court to attempt to determine accurately what was communicated to petitioner more than two decades ago.

With respect to the concern for finality, petitioner argues that because he has served the complete sentences for his 1978 and 1981 convictions, the State would suffer little, if any, prejudice if those convictions were invalidated through a collateral challenge under §2255. Brief for Petitioner 24–26. To the contrary, even after a defendant has served the full measure of his sentence, a State retains a strong interest in preserving the convictions it has obtained. States impose a wide range of disabilities on those who have been convicted of crimes, even after their release. For example, in California, where petitioner committed his crimes, persons convicted of a felony may be disqualified from holding public office, subjected to restrictions on professional licensing, and barred from possessing firearms. See U. S. Dept. of Justice, Office of the Pardon Attorney, Civil Disabilities of Convicted Felons: A State-By-State Survey 29–32 (Oct. 1996). Further, each of the 50 States has a statute authorizing enhanced sentences for recidivist offenders. *E.g.*, Cal. Penal Code Ann. §667 (West 1999). See also *Parke* v. *Raley,* 506 U. S. 20, 26–27 (1992).

At oral argument, petitioner suggested that invalidating a prior conviction on constitutional grounds for purposes of its use under the ACCA would have no effect beyond the federal proceeding. Tr. of Oral Arg. 8–10. Although that question is not squarely presented here, if a state conviction were determined to be sufficiently unreliable that it could not be used to enhance a federal sentence, the State's ability to use that judgment subsequently for its own purposes would be, at the very least, greatly undermined. Thus, the State does have a real and continuing interest in the integrity of its judgments.

B

On the most fundamental level, petitioner attempts to distinguish *Custis* as a decision only about the appropriate forum in which a defendant may challenge prior convictions used to enhance a federal sentence. The issue in *Custis*, according to petitioner, was "'where, not whether, the defendant could attack a prior conviction for constitutional infirmity.'" Brief for Petitioner 14 (quoting *Nichols* v. *United States*, 511 U. S. 738, 765 (1994) (GINSBURG, J., dissenting) (original emphasis deleted)). The appropriate forum for such a challenge, petitioner argues, at least where no other forum is available, is a federal proceeding under §2255. Brief for Petitioner 16.

The premise underlying petitioner's argument– that defendants may challenge their convictions for constitutional infirmity– is quite correct. It is beyond dispute that convictions must be obtained in a manner that comports with the Federal Constitution. But it does not necessarily follow that a §2255 motion is an appropriate vehicle for determining whether a conviction later used to enhance a federal sentence was unconstitutionally obtained.

Our system affords a defendant convicted in state court numerous opportunities to challenge the constitutionality of his conviction. He may raise constitutional claims on direct appeal, in postconviction proceedings available under state law, and in a petition for a writ of habeas corpus brought pursuant to 28 U. S. C. §2254 (1994 ed. and Supp. V). See generally 1 J. Liebman & R. Hertz, Federal Habeas Corpus Practice and Procedure §5.1.a (3d ed. 1998).[1] These vehicles for review, however, are not

[1] JUSTICE SOUTER is concerned that a defendant may forgo "direct challenge because the penalty was not practically worth challenging, and . . . collateral attack because he had no counsel to speak for him." *Post*, at 5 (dissenting opinion). Whatever incentives may exist at the time of conviction, the fact remains that avenues of redress are gener-

available indefinitely and without limitation. Procedural barriers, such as statutes of limitations and rules concerning procedural default and exhaustion of remedies, operate to limit access to review on the merits of a constitutional claim. See, *e.g., United States* v. *Olano,* 507 U. S. 725, 731 (1993) ("'No procedural principle is more familiar to this Court than that a constitutional right . . . may be forfeited in criminal as well as civil cases by the failure to make timely assertion of the right before a tribunal having jurisdiction to determine it'" (quoting *Yakus* v. *United States,* 321 U. S. 414, 444 (1944))). One of the principles vindicated by these limitations is a "presumption deeply rooted in our jurisprudence: the 'presumption of regularity' that attaches to final judgments, even when the question is waiver of constitutional rights." *Parke, supra,* at 29.

Thus, we have held that if, by the time of sentencing under the ACCA, a prior conviction has not been set aside on direct or collateral review, that conviction is presumptively valid and may be used to enhance the federal sentence. See *Custis*, 511 U. S., at 497. This rule is subject to only one exception: If an enhanced federal sentence will be based in part on a prior conviction obtained in violation of the right to counsel, the defendant may challenge the validity of his prior conviction during his federal sentencing proceedings. *Id.*, at 496. No other constitutional challenge to a prior conviction may be raised in the sentencing forum. *Id.,* at 497.

After an enhanced federal sentence has been imposed pursuant to the ACCA, the person sentenced may pursue

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ally available if sought in a timely manner. If a person chooses not to pursue those remedies, he does so with the knowledge that the conviction will stay on his record. This knowledge should serve as an incentive not to commit a subsequent crime and risk having the sentence for that crime enhanced under a recidivist sentencing statute.

any channels of direct or collateral review still available to challenge his prior conviction. In *Custis*, we noted the possibility that the petitioner there, who was still in custody on his prior convictions, could "attack his state sentences [in state court] or through federal habeas review." *Ibid.* If any such challenge to the underlying conviction is successful, the defendant may then apply for reopening of his federal sentence. As in *Custis*, we express no opinion on the appropriate disposition of such an application. Cf. *ibid.*

If, however, a prior conviction used to enhance a federal sentence is no longer open to direct or collateral attack in its own right because the defendant failed to pursue those remedies while they were available (or because the defendant did so unsuccessfully), then that defendant is without recourse. The presumption of validity that attached to the prior conviction at the time of sentencing is conclusive, and the defendant may not collaterally attack his prior conviction through a motion under §2255. A defendant may challenge a prior conviction as the product of a *Gideon* violation in a §2255 motion, but generally only if he raised that claim at his federal sentencing proceeding. See *United States* v. *Frady,* 456 U. S. 152, 167–168 (1982) (holding that procedural default rules developed in the habeas corpus context apply in §2255 cases); see also *Reed* v. *Farley,* 512 U. S. 339, 354–355 (1994).

JUSTICE SOUTER says that our holding here "rul[es] out the application of §2255 when the choice is relief under §2255 or no relief at all." *Post*, at 3–4 (dissenting opinion). This all-or-nothing characterization of the problem misses the point. As we have said, a defendant generally has ample opportunity to obtain constitutional review of a state conviction. *Supra*, at 6. But once the "door" to such review "has been closed," *post*, at 2, by the defendant *himself*– either because he failed to pursue otherwise available remedies or because he failed to prove a consti-

tutional violation– the conviction becomes final and the defendant is not entitled to another bite at the apple simply because that conviction is later used to enhance another sentence.

To be sure, the text of §2255 is broad enough to cover a claim that an enhanced federal sentence violates due process. See *ibid.* See also n. 2, *infra.* But when such a due process claim is predicated on the consideration at sentencing of a fully expired prior conviction, we think that the goals of easy administration and finality have ample "horsepower" to justify foreclosing relief under §2255. Were we to allow defendants sentenced under the ACCA to collaterally attack prior convictions through a §2255 motion, we would effectively permit challenges far too stale to be brought in their own right, and sanction an end run around statutes of limitations and other procedural barriers that would preclude the movant from attacking the prior conviction directly. Nothing in the Constitution or our precedent requires such a result.

C

We recognize that there may be rare cases in which no channel of review was actually available to a defendant with respect to a prior conviction, due to no fault of his own. The circumstances of this case do not require us to determine whether a defendant could use a motion under §2255 to challenge a federal sentence based on such a conviction.[2] Cf., *e.g.,* 28 U. S. C. §2255 (1994 ed., Supp. V)

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[2] After comparing the text of §§2254 and 2255, JUSTICE SCALIA concludes that "Congress did not expect challenges to state convictions (used to enhance federal convictions) to be brought under §2255." *Post*, at 3 (opinion concurring in part). This is, of course, true. But it is also beside the point, as the subject of the §2255 motion in this circumstance is the enhanced federal sentence, not the prior state conviction.

(allowing a second or successive §2255 motion if there is "newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense"); *ibid.* (tolling 1-year limitation period while movant is prevented from making a §2255 motion by an "impediment . . . created by governmental action in violation of the Constitution or laws of the United States").

III

No such claim is made here. The sole basis on which petitioner Daniels challenges his current federal sentence is that two of his prior state convictions were the products of inadequate guilty pleas and ineffective assistance of counsel. Petitioner could have pursued his claims while he was in custody on those convictions. As his counsel conceded at oral argument, there is no indication that petitioner did so or that he was prevented from doing so by some external force. Tr. of Oral Arg. 3–4, 6.

Petitioner's federal sentence was properly enhanced pursuant to the ACCA based on his four facially valid prior state convictions. Because petitioner failed to pursue remedies that were otherwise available to him to challenge his 1978 and 1981 convictions, he may not now use a §2255 motion to collaterally attack those convictions. The judgment of the United States Court of Appeals for the Ninth Circuit is therefore affirmed.

It is so ordered.