

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 17-13129  
Non-Argument Calendar

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D.C. Docket Nos. 1:16-cv-22605-UU,  
1:11-cr-20700-UU-1

GERARD MANN,

Petitioner-Appellee,

versus

UNITED STATES OF AMERICA,

Respondent-Appellant.

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Appeal from the United States District Court  
for the Southern District of Florida

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(August 30, 2019)

**ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES**

Before WILLIAM PRYOR, MARTIN, and ANDERSON, Circuit Judges.

PER CURIAM:

The Supreme Court granted Gerard Mann's petition for writ of certiorari, vacated our October 26, 2018 opinion, and remanded Mann's case for further

consideration in light of United States v. Davis, 588 U.S. \_\_\_, 139 S. Ct. 2319, 2324, 2326 (2019). We **VACATE** and **REMAND** the district court's decision with instructions to allow Mann to amend his 28 U.S.C. § 2255 motion to assert a claim based on the new, retroactive rule announced in Davis. See Fed. R. Civ. P. 15; Rules Governing § 2254 Cases, R. 12 (stating that the Federal Rules of Civil Procedure may be applied to the extent they are not inconsistent with any statutory provisions or the rules therein); see also In re Hammoud, \_\_\_ F.3d \_\_\_, 2019 WL 3296800, at \*3 (11th Cir. July 23, 2019) (holding that Davis announced a new rule of constitutional law retroactively applicable to cases on collateral review by the Supreme Court).