

18-8626 **ORIGINAL**
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
RECD

MAR 22 2019

OFFICE OF THE CLERK

Aaron Murray — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Sixth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Aaron Murray
(Your Name)

FCI Beckley, P.O. Box 350
(Address)

Beaver, WV 25813
(City, State, Zip Code)

(304) 252-9758
(Phone Number)

QUESTION(S) PRESENTED

I. Was Petitioner Aaron Murray Entitled to an initial appearance before a United States Magistrate Judge under Fed. R. Criminal P Rule 5?

II. How was Petitioner Aaron Murray's first appearance in court a plea hearing?

III. How did Petitioner Aaron Murray receive attorney Paul Laufman as defense counsel?

IV. How is it possible that Petitioner Aaron Murray signed a plea deal before he was formally arrested, charged, or informed of the charges and advised his constitutional rights in open court?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Petitioner: Aaron Murray
Register Number 73052061
P.O. Box 350 Pine A/U
Beaver, WV 25813

Respondent: United States Of America
Represented By : Anthony Springer
Assistant U.S Attorney
221 East Fourth Street, suite 400
Cincinnati, Ohio 45202

Solicitor General
United States Department Of Justice
950 Pennsylvania Avenue, N.W.
Room 5164
Washington, D.C. 20530

United States Court Of Appeals,
Sixth Circuit
Potter Stewart U.S. Courthouse
100 East Fifth Street, Room 540
Cincinnati, OH 45202

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A _____ to the petition and is

reported at 6th Cir. Case No. 18-3422 ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix C _____ to the petition and is

reported at S.D. Ohio Case No. 1:15-Cr-026(3) ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____ ; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 24, 2018.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 7, 2018, and a copy of the order denying rehearing appears at Appendix B.

An extension of time to file the petition for a writ of certiorari was granted to and including April 8, 2019 (date) on February, 23 2019 (date) in Application No. 18 A 860.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATUTES :

18 U.S.C. 1951 and 2
18 U.S.C. 924 (C) (1) (a) (ii)
18 U.S.C. 2113 (A), 2113 (D) and 2
18 U.S.C. § 3006A
18 U.S.C. § 3006A (D) (6)
28 U.S.C. § 2255
28 U.S.C. 2253 (C) (1)
28 U.S.C. § 1254 (1)
Rule 5 Fed. R. Crm. P.
Rule 5 (A) Fed. R. Crm. P.
Rule 5 (D) Fed. R. Crm. P.
Fed. R. App. Pr. 22 (b) (2)

Constitutional Amendments :

Fourth Amendment : Right Against Illegal Search/Seizures of Per.
Fifth Amendment: Due Process Initial Appearance Rights
Sixth Amendment: Right To Appointed Counsel and Choice of Counsel

STATEMENT OF THE CASE

On February 25, 2015 Petitioner Aaron Murray was summoned to the court of Common Pleas in Hamilton County Cincinnati, Ohio for a rehearing of his bond for two carrying concealed weapon charges along with a minor marijuana possession charge (SEE APPENDIX E).

Upon Petitioner Aaron Murray's arrival to the courtroom he was confronted by Federal ATF Agents and was demanded to walk into a jury room towards the back of the court room. Once there the ATF Agents retrieved a DNA sample from Petitioner Aaron Murray after threatening Petitioner Aaron Murray with "locking him up" if he hadn't agreed to give the ATF Agents a DNA swab. After releasing the DNA swab Petitioner Aaron Murray was then instructed to proceed back to the court room to attend the hearing in front of judge Melba D. Marsh. There, for the first and only time, Petitioner Aaron Murray was informed that there were accusations made against him that he had made threats to, up to this point unknown and unnamed Federal Agents and Police Officers.

Though Petitioner Aaron Murray and his Counsel denied any knowledge of the alleged threats, and no evidence of the threats were presented to the court room, Petitioner Aaron Murray's state bond was still revoked and he was thus detained in state custody at the Hamilton County Justice Center in Cincinnati, Ohio. While housed there Petitioner Aaron Murray began to receive frequent visits from the ATF Agents which resulted in numerous illegal interrogation sessions over the course of two months.

Petitioner Aaron Murray held his innocence up until Attorney Paul Laufman showed up to the jail and informed Petitioner Aaron Murray that he had been appointed by the Government to represent Petitioner Aaron Murray. Paul Laufman expressed to Petitioner Aaron Murray that the Petitioner didn't " want to go to trial with a case like this" and that his only way of avoiding a lengthy sentence was to take full responsibility. Attorney Paul Laufman then proceeded to set up a meeting with the ATF Agents who were previously conducting illegal interrogations and Assistant United States Attorney Anthony Springer in which Petitioner Aaron Murray would take full responsibility of the crimes he's now charged with. After the meeting a plea deal was brought to the same jail to Petitioner Aaron Murray by Attorney Paul Laufman. The plea deal was signed April 21, 2015.

On April 23, 2015 Assistant United States Attorney for the United States District Court for the Southern District of Ohio filed an information charging Petitioner Aaron Murray , Savoy Carpenter and James Crawford in an eight-count information. According to the information, the above-named individuals did in some way and degree unlawfully obstruct, delay, and affect, and attempt to obstruct, delay, and affect, commerce, as that term is defined in 18 U.S.C §1951 .

Specifically, four counts pertained to Petitioner Aaron Murray, (THOUGH NOT YET PUT INTO FEDERAL CUSTODY OR READ ANY CONSTITUTIONAL RIGHTS IN OPEN COURT) charging as follows: Count One, on August 17 2014, unlawfully obstructing commerce by robbery in violation of 18 U.S.C. § 1951; Count Two, on August 17, 2014, using, brandishing, or carrying a firearm during a crime of violence, in violation of 18 U.S.C § 924(C); Count Three, on October 15, 2014, bank robbery in violation of 18 U.S.C § 2113; Count Four, on October 15, 2014, using, brandishing, or carrying a firearm during a crime of violence, in violation of 18 U.S.C § 924 (C)

On June 3, 2015 Petitioner Aaron Murray was formally arrested and brought to a plea hearing to waive his indictment and plea guilty to counts 1-4 of the Information pursuant to a written plea agreement. On May 9, 2016, the U.S District Court sentenced Petitioner Aaron Murray to a term of 300 months imprisonment. A timely notice of appeal was filed by defense counsel.

REASONS FOR GRANTING THE PETITION

A. United States District Court for the Southern District of Ohio: Western Division at Cincinnati Magistrate Judge Michale Merz and Judge Susan J. Dlotts assertion in response to Petitioner Aaron Murray §2255 that Petitioner Aaron Murray was appointed counsel through The Criminal Justice Act Of 1964 §3006A is erroneous and also contradicctory since court records prove otherwise.

Petitioner Aaron Murray Questioned the lower Courts multple times as to how Attorney Paul Laufman became Defense Counsel for Petitioner Aaron Murray. Only once did the lower court acknowledge Petitioner Aaron Murrays claim that he never was afforded the opportunity to secure defense counsel and his question of how Paul Laufman became his defense counsel. Their response was simply that Petitioner Aaron Murray was appointed Counsel through the Criminal Justice Act Of 1964 §3006A. Petitioner Aaron Murray respectfully asserst that the United States District Court for the Southern District of Ohio: Western Division at Cincinnati relied upon NO FACTUAL FINDINGS whenthey determined that Petitioner Aaron Murray recieved Appointed Counsel under the Criminal Justice Act Of 1964 U.S.C. §3006A.

According to the Criminal Justice Act Plan §3006A :" Representation shall be provided for any finacial eligible person who--(1) is charged with a felony or a class A misdemeanor, (2) Is under arrest when such representation is required by law,(3) Is subject to revoacation of

parole, in custody as a material witness, or seeking collateral relief, and where a determination has been made by the court that the interests of Justice require such representation, (4) is a person for whom The Sixth Amendment to the Constitution requires the appointment of counsel, or for whom in a case which he faces loss of liberty, any federal law requires the appointment of counsel".

Petitioner Aaron Murray hadn't been Federally arrested or charged when Attorney Paul Laufman informed Petitioner Aaron Murray that he had infact been "appointed by the Government" to represent Petitioner Aaron Murray; nor had Petitioner Aaron Murray been brought to any court to be determined unable to employ Counsel.

Furthermore, under The Criminal Justice Act Plan of 1964 §3006A (D) (6) there still exsist the Requirement of Counsel of record or a Notice of Appearance. APPENDIX F will clearly reveal not only was that not the case with the "supposed appointment" of Attorney Paul Laufman upon Petitioner Aaron Murray, but also there exsist no counsel of record or notice or notice of appearance for any attorney upon Petitioner Aaron Murray. Had Petitioner Aaron Murray really been appointed counsel through the Criminal Justice Act of 1964, a CJA Form 23 would have been signed and/or filed for record on the case docket. None of this happened.

Petitioner Aaron Murray has at minimum proved that he was not appointed Counsel under The Criminal Justice Act as United States District Court Southern District of Ohio at Cincinnati has asserted in their Decision and Order Adopting Report and Recommendations on page 4, first paragraph.

B. The United States Court Of Appeals for the Sixth Circuit has not only "overlooked" Petitioner Aaron Murrays 4th, 5th, and 6th Amendment Constitutional Violation claims, but have also refused to acknowledge the law and/or respond to his plain error claims.

Petitioner Aaron Murray respectfully prays this Honorable Court reveiw the Petitioners motion seeking Certificate of Appealability pursuant to Title 28 U.S.C 2253(C) (1) & Fed. R. App. Pr. 22 (b) (2) and Motion For Reconsideration upon The United States Sixth Circuit Court of Appeals. There it will be made clear, after reveiwing the responses (APPENDIX A-B) from the United States Court Of Appeals for the Sixth Circuit, that the United States Court of Appeals for the Sixth circuit has infact "so far departed from the accepted and usual course of judicial proceedings" that Petitioner Aaron Murray has been forced to pray upon this Honorable Courts Supervisory Power.

Begginning with Petitioner Aaron Murrays motion seeking Certificate of Appealability, Petitioner Aaron Murray made it very clear in his first raised argument that he was a victim of many Constitiutional Violations. Starting on Page 8-9 of his motion seeking Certificate of Appealability Petitioner Aaron Murray explains the procedure from the point an individual is arrested by Federal Law Enforcement Authorities. Petitioner Aaron Murray explains how he was supposed to be brought to an Initial Apperance in front of a Magistrate whithout unnecessary delay to be informed of the charges against him, his constitutional rights to remain silent, and to recieve appointed counsel if he cannot afford any. Petitioner Aaron Murray expressed in bold letters that none of this happened.

Petitioner Aaron Murray then proceeded to explain how the ATF and DEA conducted illegal interrogations and how Attorney Paul Laufman became present to Petitioner Aaron Murray. Obviously this Honorable court can see that if Petitioner Aaron Murray's claims that he was never informed of the charges against him and advised his rights to counsel and to remain silent in open without unnecessary delay from the point of his arrest were in fact true, then that would mean Petitioner Aaron Murray had indeed suffered many Constitutional violations--- specifically a 4th Amendment illegal search and seizures of person violation, a 5th Amendment Due Process violation, and a Sixth Amendment right to appointed counsel and counsel of choice violation ; such as the violations expressed by Petitioner Aaron Murray in his Motion Seeking Certificate of Appealability and Motion for Reconsideration upon the Sixth Circuit Court Of Appeals (there are more which the Petitioner will not go into unnecessary detail about).

So next, the United States Court Of Appeals for the Sixth Circuit , like any other United States Court of Appeals would have done with such outrages claims from a petitioner, would just have had to review the claims made and any record or law which would dispute or agree with the Petitioner in order to give an accurate response. Instead there was ~~no response whatsoever~~ pertaining to Petitioner Aaron Murray's claims that he never received an initial appearance in front of a Magistrate to be informed of the charges and his constitutional rights from the point of his arrest without unnecessary delay (SEE APPENDIX A-B).

Of course then Petitioner Aaron Murray proceeded with a motion for Reconsideration to the United States Court of Appeals for the Sixth Circuit

to point out the "overlooked" arguments. Petitioner Aaron Murray this time around made sure to not only be very indepth and thorough in his arguments but also to submit indisputable exhibits to provide proof for his arguments. The exhibits included were a copy of a affidavit made by Petitioner Aaron Murray explaining how he was illegally put into custody and all the events that lead to Petitioner Murray having a Federal case.

Petitioner Aaron Murray also included in his exhibits a copy of the bond hearing transcripts of his state case at the Hamilton County Court of Common Pleas to also show how he was illegally put into custody so the ATF Agents could illegally interrogate him.

Throughout Petitioner Aaron Murrays whole Motion for Reconsideration to the United States Court Of Appeals for the Sixth Circuit Petitioner Murray constantly made claims of how he was never brought in front of a U.S. Magistrate Judge to be informed of the charges against him and advised his constitutional rights in open court pending his arrest without unnecessary delay. Petitioner Aaron Murray voiced many Rule 5(A) violations and cited Supreme Court Case Law such as *McNabb v. United States*, 318 U.S. 332 87 L. ED. 819, 63 S. CT. 608 (1943) and *Mallory v. United States*, 354 U.S. 449 L. ED. 20 1479, 77 S. CT. 1356 (1957) (and many more which the Petitioner will not go into unnecessary detail about). Petitioner Aaron Murray then followed up with another complete copy of Rule 5 (D) Fed. R. Crm. P. "Procedure in a Felony Case" on page 14 of his Motion for Reconsideration finishing with questioning how he possibly could have received Defense Counsel considering the circumstances.

Once again Petitioner Aaron Murray received no response from the United States Sixth Circuit Court Of Appeals as to his Rule 5 violation claims, 4th, 5th, 6th, Amendment violation claims, or to how Attorney Paul Laufaman was appointed to Petitioner Aaron Murray (SEE APPENDIX B) .

Petitioner Aaron Murray Respectfully Prays this Honorable Court clarify the issues the United States Court of Appeals for the Sixth Circuit refused to even acknowledge; for Petitioner Aaron Murray has been a victim of a miscarriage of justice and deprived the Constitutional rights every American citizen is afforded in every felony case.

C. The United States Court Of Appeals For the Sixth Circuts decision to deny Petitioner Aaron Murrays Motion for Reconsideration based off findings that his arguments were being raised for the first time is erroneous.

Petitioner Aaron Murray Respectfully asserts that the United States Court of Appeals for the Sixth Circuit erred in finding that Petitioner Aaron Murrays claim that he was interrogated without the benefit of being read any constitutional rights and delayed his appearance before a Magistrate Judge to obtain an illegal confession from him was being raised for the first time. A simple review of Petitioner Aaron Murrays prior Motion Seeking Certificate of Appealability will rebut the United States Court of Appeals for the Sixth Circuts assertion that Petitioner Aaron Murray Raised arguments for the first time in his Petition for Rehearing. Page 8-9 of Petitioner Aaron Murrays Motion Seeking Certificate of Appealability will clearly reveal that Petitioner Aaron Murrays Motion for Reconsideration was not the first time he expressed to the Sixth Circuit Court Of Appeals that he was not brought in front of a U.S. Magistrate without unnecessary

delay to be informed of the charges against him and advised of his Constitutional rights. Pages 8-9 of Petitioner Aaron Murray Motion Seeking Certificate Of Appealability will also reveal that Petitioner Aaron Murrays Motion for Reconsideration was not the first he expressed that the ATF were conducting illegal interrogations without advising him any constitutional rights.

Once again the record speaks for itself and proves that the Sixth Circuit Court of Appeals had every right to respond to Petitioner Aaron Murrays arguments instead of deeming them new arguments raised for the first time and thus denying his Motion for Reconsideration.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Aaron Murray

Date: March 22, 2019