

No. \_\_\_\_\_

19-6143

IN THE

SUPREME COURT OF THE UNITED STATES

CHRISTOPHER SCOTT PETITIONER

(Your Name)

ORIGINAL

vs.

GENE BEASLEY RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER SCOTT # 13610-047

(Your Name)

FC I-FORREST CITY -MEDIUM

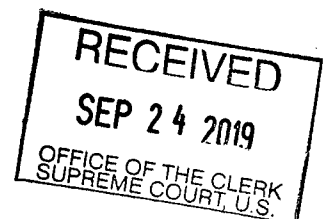
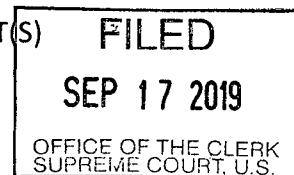
(Address)

P.O. BOX 3000 FORREST CITY, AR 72336

(City, State ,Zip Code)

N/A

(Phone Number)



## QUESTION(S) PRESENTED

DID THE FRAMER[S] OF THE CONSTITUTION BELIEVE THAT THE DOCUMENT'S  
POWER WOULD "EXONERATE" [A] MAN ?

## LIST OF PARTIES

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

[x] 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:

- CHRISTOPHER SCOTT, PETITIONER
- GENE BEASLEY, WARDEN, RESPONDENT
- SOLICITOR GENERAL OF THE UNITED STATES, RESPONDENT

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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 \_\_\_\_\_; 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☒ is unpublished.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   B   to the petition and is

☐ reported at \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

☐ For cases from **state courts**: N/A

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 MAY 21, 2019.

☐ 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: JULY 10th, 2019, and a copy of the order denying rehearing appears at Appendix C.

☐ 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. § 1254(1).

☐ For cases from **state courts**: N/A

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

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## STATEMENT OF THE CASE

### TRIAL AND SENTENCING

1). On January 15, 1992 in the District of Nebraska, an Indictment was returned naming Defendants in an 848,846 Conspiracy. At the time the Indictment was returned, most of the Defendants were in State Prison doing time for the {Overt-Acts} used to prosecute the Defendants in Federal Court. Of those named in the Indictment: Johnny Butler, Christopher Scott, Cleveland Johnson, Marcel Harris {Taco}, Roy Williams {Low} and Errol Skeete {Steville} were {All} in State Prison. The other two Defendants named were Solomon Tyars and Hester Jennings who were at liberty. All arrested on case # 8:CR92-00014.

2). Though it was a multi-count indictment at this late stage of post-conviction proceeding, the one main count, count 2, pertains to the 21 U.S.C. 848 count, known as the CCE. Only Butler and Scott were charged with the CCE. For on January 15, 1993, all codefendant{s} were tried before the Honorable Judge Strom, U.S. District Court for the District of Nebraska.

3). On February 17, 1993, all Defendant{s} were found guilty of all counts alleged in the Indictment. For count 1 was the 846 count and count 2 was the 848 count. Butler and Scott were {Both} found guilty of {Both} counts. And in the peremptory, counsel{s} for Butler and Scott "requested" the court to drop the more serious violation under 848. The court stated "we are under no obligation to drop the CCE." The court then dropped count 1, the 846.

4). On July 28<sup>th</sup>, 1993, Butler and Scott were sentenced. However, counsel{s} for Butler and Scott had motions pending before the court requesting to {reinstate} count 1, 846, and drop count 2, 848. The court stated at sentencing that "The court was under no obligation to dismiss the greater offense." Therefore, Butler and Scott were sentenced for the 848 violation. The offense levels were then determined and Butler was a {36} and Scott was a {38}.

5). During sentencing , counsel{s} for Butler and Scott argued how 848(b) had no application pursuant to the government failing to prove factually that 848(b) was not met. In fact, counsel{s} argued that the government failed to prove an 848(a) or (b) violation. The court refused the facts and gave both Defendant{s} a statutory "Life Sentence" under 848(b).

#### **DIRECT APPEAL**

6). On February 14, 1994, Butler and Scott's Direct Appeal were presented to the Eighth Circuit Court of Appeals. Several issues were raised and presented to the court. However, the Eighth Circuit affirmed all guilty verdicts. See 28 F.3d 1487 (8<sup>th</sup> Cir. 1994): 1994 U.S. LEXIS 16899.

#### **POST CONVICTION**

7). On April 4, 1997, Butler and Scott filed their 28 U.S.C. 2255 motions. The main issue was that the government failed to prove that the statutory requirement was not met under 848(a) or (b). The 2255 motions argued a Richardson type claim prior to the Supreme Court's decision in Richardson. In the court's order, his Honor stated that "The Defendant's claim should have been brought up on Direct Appeal." And therefore his Honor failed to reach the merits of the claim. The denial was on January 21, 1998.

8). A Certificate of Appealability was filed September of 1998 and was eventually granted. Briefing was submitted and on March 17, 2000, the Eighth Circuit denied the 2255 Appeal under Appendix D. In the opinion, the Eighth Circuit quotes the leading case in their Circuit of the United States v. Hiland, 909 F. 2d 1114 1139-40 (8<sup>th</sup> Cir. 1990). Yet according to their opinion, they “contradicted” the very case law they quoted. For the Petitioner presumes that {Cause} under the {Cause} and Prejudice rule has the same standard as {Cause} under STRICKLAND. Scott’s {Final} presentment by law was denied with a “Suspect” opinion. Scott was now {Stuck} with a “Statutory Life Sentence” and had no recourse by law to redress the court.

9). Scott then attempted on several occasion{s} to address various District Courts on 2241. But 2241 has a Catch-All-Limitation of “Actual Innocence.” And most pro se litigants cannot meet the procedural and substantive hurdle{s} of presentation of {Facts} to prove “Actual Innocence.” Only with the assistance of a professional at law can a true Actual Innocence claim meet the “Procedural Hurdle” and “Substantive Hurdle” under the statute.

10). So on April 28<sup>th</sup>, 2018, Scott filed a Writ of Habeas Corpus under 28 U.S.C. 2241. The 2241 was prepared by a Scrivener at Law. The Scrivener took approximately two-years preparing the 2241. For he had to speak to various codefendants, peruse all records gathered from afar and research legal material necessary to effectuate the claim. The claim was now written correctly by a professional.

11). After filing the 2241, the Magistrate {Activated} the writ and requested the Government to show cause of detention. See Appendix E, order from the District Court ordering the Government to respond. The Government's usual presentment is that the District Court "Lacks Jurisdiction" to address the merits of the claim. Therefore on 8-27-18, the Magistrate's R&R stated this very procedural foible. See Appendix B, R&R.

12). And in the peremptory, the Eighth Circuit "Summarily Affirms" the District Court's denial. See Appendix A with attached rehearing at Appendix C.

13). Therefore, Scott brings this Writ of Certiorari in good-faith to the Supreme Court of the United States. Scott presents that he was {Never} given the opportunity before to present his claim {Free} of "Procedural and Substantive Hurdles". Scott thanks the Scrivener at Law for his professional judgment at presenting the claim in such a professional manner as to allow him to {Exhaust} the judicial process. And Scott "prays" that the eminent Justices Grant Certiorari and adjudicate the merits of his claim in the Interest of Justice.

## REASONS FOR GRANTING THE PETITION

Scott presents to the High Court that the {Facts} herein prove with authority that he never violated the CCE-848 Drug Statute by Law. And according to the "Post-Conviction Relief Statute of American Jurisprudence" that makes Scott "Actually Innocent" of committing a CCE-848 violation. Therefore, the facts herein are as follow:

The Overt-Acts documented by Federal Investigators (Spawned) from Surveillance by Police Officers with the Omaha Police Force. For at no-time were FBI reports, 302's, were documented to investigate the Defendants. All Surveillance evidence was obtained from prior Omaha Police Surveillances. And any contraband found during the Surveillance(s) was prosecuted in State Court. For Omaha Police observed from Surveillance of residences with repeated car and door traffic that were allegedly selling narcotics.

The residence{s} were: (1). 4819 Boyd Street, (2). 5625 North Hampton, (3). 2400 North 30<sup>th</sup> Street, (4). 3607 North 30<sup>th</sup> Street, (5). 3516 North 39<sup>th</sup> Street, (6). 4508 North 21<sup>st</sup> Ave. and the (7). Parker Street house. In addition, persons associated with the investigation by Omaha Police Officers were followed or tipped off about the La Quinta Inn in Omaha, the Holiday Inn in Omaha and the Las Vegas Airport.

The investigation was about various individuals selling narcotics in and around Omaha, Nebraska. And the aforementioned residence{s} listed were all targeted at some point during Police Investigation. A residence in particular that eventually was used as the {Hub} of operation was 4508 North 21<sup>st</sup> Avenue house. Omaha Police raided the house on August 17<sup>th</sup> of 1988 and {No} contraband was found.

In fact, Omaha Police raided other residence{s} that were named as residence{s} used to sell narcotics. In {All} cases, no contraband was found that was used as evidence in Federal Court. For on July 9<sup>th</sup>, 1989, the Omaha Police Force raided the "Parker Street House" and a small amount of crack was found that Clifford Jameson pled guilty to in Federal Court once the Indictment was returned 3 years later. In fact, at the time the Federal Indictment was handed down in January of 92, most of the codefendants named in the Indictment were doing time in State prison for {All} the drugs named in the Federal Indictment.

Christopher Scott was in Alabama on a separate charge. Johnny Butler was just being release from California State Prison. Marcel Harris (Taco) had pled guilty in Nebraska State Court to the 18 ounces recovered in the Holiday Inn incident. Harris pled guilty to 5 to 7 years for the 18 ounces of powder cocaine. Cleveland Johnson (JR.) was in the State prison for a gun and about 4 grams of crack cocaine. Another codefendant Roy Williams (Low) was in State Prison for possession of 3.5 grams of crack. And Errol Skeete (Steville) was in State Prison for the crack he sold in the Lincoln, Nebraska bust.

The two codefendants who were also named in the federal Indictment were at liberty were Solomon Tyars and Hester Jennings. Scott wants the High Court to know that during the course of the Omaha Police Investigation, at {No} time was the FBIs, DEA or any other Federal Agency contacted about the behavior of the Defendants. The Investigation was solely handled and determined by the Omaha Police Department to be a state matter. And Police Detectives felt that the investigation was {Not} serious enough for federal involvement. For in the peremptory, most of the Defendant{s} named in the Indictment were prosecuted in State Court for the very Acts committed under state jurisdiction.

For the Government advanced the idea that the Conspiracy started in September of 1987 and continued until May of 1989. However, many of the {Over- Acts} presented by the Government at trial to prove the CCE-848 violation were conducted outside the scope of the Conspiracy. For example, the Federal Investigation began when "Errol Skeete", AKA (Steville), proffered statements in 1991. For in 1991, Steville was in Lincoln, Nebraska selling crack.

He was then busted by Law Enforcement Agents. While in custody, he proffered statements to Federal Agents that were used to initiate an investigation back in Omaha. The statements Steville proffered spoke of his {prior} illegal dealings with Butler, Scott and codefendants named in the Indictment. How he had sold crack out of a house at 4508 North 21<sup>st</sup> Ave for Butler and Scott.

Steville went on to say how different persons known and unknown in the indictment worked for or were associated with Butler and Scott. And that some of the persons named in the Indictment had got busted and were serving time in State Prison. Therefore, the "Record" is clear that various drug-busts that were used to get the Indictment were {prosecuted} in State Court. And at no-time were these Individuals associated with a "Federal Investigation."

However, after Steville proffered statements, he attempted to retract them and Federal Authorities put the press game down. Steville refused to continue to cooperate and this is why he ended up as a defendant at Trial. Therefore, once the Government began to "Construct" and "Administered" the



{Facts} of the case, Special Agent Terry Ohnoutka was appointed as the lead Agent over the case. It is Scott's propensity that the Government overlooked important details when prosecutors were constructing evidence that formed the basis to the charges. Proof of this {Act} is that Counts 3 and 4, the possession counts, were dismissed by the Court prior to Trial. The prosecutor{s} were fishing for more evidence to prove the basis of the Federal charges so they added evidence that was "Suspect". And Counts 3&4 prove this fact!

However, once the Defendant{s} were indicted, and Trial began, the Jury was under the impression that the Overt-Acts mentioned as supporting evidence were part of the Conspiracy. But the problem with this procedure is that the Jury was hearing evidence of Rule 404(b) Acts as they relate to the Conspiracy. However, the Government "Never" introduced the Defendants prior guilty acts under Rule 404(b). They introduce them as actual Overt-Acts of the Conspiracy itself.

Proof! For Marcel Harris pled guilty in State Court for the 18 ounces confiscated at the Holiday Inn. He pled to 5 to 7 years. Yet the Government brought 11 ounces of the original 18 and admitted them into evidence as part of the Federal crime. These 11 ounces were already adjudicated in State Court. So the Jury was confused about what drugs were actually part of the Conspiracy. A clear violation of Due Process of Law. For Rule 404(b) relates to "Other Crimes" or prior bad acts to show intent (or) motive. The bad acts or other crimes "Cannot" be the basis of the present charge. However, in this case they were. It is clear from the evidence that there was {No} formal or informal Federal Investigation that

Occurred during the dates of the CCE-848. However, this doesn't give the Petitioner room to say that the Investigation was "Suspect". But under F.R.C.R.P.R., the evidence must be admitted properly. And in this case, that was not what happen. The Government basically "Stack-The-Deck." For physical evidence was admitted at Trial that made the {Jury} believe that the physical evidence was a part of this crime, but it wasn't. A clear violation of Due Process of Law.

As the old saying goes, "The Government had their {Cake} and {Ate} it too"! The Trial Defendants were at the mercy of the Court and the Court allowed the Government to proceed. Scott wants the Honorable Justices to take notice that {Most} of the Trial Testimony from the Government's four main witnesses, Ivory Mitchell, Keith Johnson, Charles Morrison and Clifford Jameson, places the codefendants as "Independent" dealers out for their own personal gain. See Testimonies In The Original 2241.

An {Investigators} for the State of Omaha were {Aware} of this. Scott proclaims with authority that by Investigators being aware of the many small-time players in and around Omaha, this is why the Feds were notified by the state about the actions of the Defendants. For in the peremptory, the Government called various State Police Officers to testify about the actions of the Defendants. The Government called: William Agnew, Mark Sundermeier, Timothy Dunning, Kevin Barour, Mark Langan, Diane Moore, (Ted Green and Officer David Tampio and Jay Ehlers of The Las Vegas Police Force), Bruce Ferrell, Donald Scheits, Peter perales, Dennis Clark, Kevin Donlan, Virgin Patlan, Steven Novotny, Eric Bruske, Gary Boldt, Daniel Clark, Ronnie Buggs, Daniel Cisar, David Rieger, Joseph Schenkelberg,

Kirk Kunze and Larry Kramer (property Room Officer). In addition, the Government called several Lab Technicians: Cleve Albaugh, Leo Robertson and Richard Ingram. In fact, if one were to count the State Police Officers listed in the transcripts, there are 25 actual police officers, one property room officer and 3 police lab Technicians. Of the 25 Police Officers, all of them participated in some form or fashion with the State Investigation.

The Investigation pertained to the search of the aforementioned properties used by the Defendants and others to sell drugs. Also, there were numerous "Traffic Stops" that the aforementioned Officers did to find drugs and other contraband. In all, the State of Nebraska and the city of Omaha were "Well Aware" of what they were dealing with. The search of the various properties, vehicles and individuals listed in the Indictment prove that the Federal Government {Overreacted} when prosecutors "Constructed and Administered" the facts of the case.

It is clear that {All} the Defendant{s} charged and uncharged of the crimes listed were actually in business for themselves. And at no-time was there an informal, circumstantial or implied {Agreement} to join with others to sell drugs. For without an agreement between Butler, Scott and the Defendants, the Government was dealing with participants in the War-On-Drugs for the sake of personal financial gain. Proof! Steville, Jameson and Trawn flew to L.A. to get drugs.

On lay-over at the Las Vegas Airport, police searched their luggage and found \$12,500 dollars belonging to Steville. The money was owned by Steville, not Butler and Scott. However, the money was used to show that it was part of the CCE-848 violation Butler and Scott were charged with. However, from the {Facts} presented herein, it is clear that the {Acts} mentioned are associated because they relate to drugs in some form or fashion, not because they were part of an informal agreement to do so.

Scott never participated in orchestrating a CCE-848 with Butler and the various codefendants and Government witnesses. The {Facts} herein and in the original 28 U.S.C 2241 are Scott's {Exoneration} of the CCE-848 Conspiracy by Law. See American Jurisprudence. Scott presents to the Court that he is "Actually Innocent." Scott prays for Justice.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Christopher Scott

Date: September 10, 2019