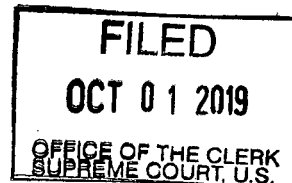


NO. **19-6246**



**IN THE
SUPREME COURT OF THE UNITED STATES**

SHAFIA M. JONES- PETITIONER

Vs.

STATE OF WISCONSIN, JUDGE RICHARD NUSS, ATTORNEY

GENERAL JOSH KAUL-RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO

WISCONSIN COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

**Shafia Jones DOC#342469 (Pro Se petitioner)
Taycheedah Correctional Institution
POST OFFICE BOX 3100
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QUESTIONS PRESENTED FOR REVIEW

1. Whether state law that interferes with and conflicts with the Federal Bank Robbery Act and Federal Statute 18 USCS § 2113, that was intended to comprehensively state offenses committed against a National or Federal bank.
2. Does the State of Wisconsin possess criminal jurisdiction of bank robbery of Guaranty Bank which is a Federal Savings Bank, and is not amongst the financial institutions defined pursuant to Wis. Stat. §943.80 (2) for crimes under §943.81-943.90 or any other felony committed against a financial institution to include robbery of a financial institution pursuant to Wisconsin State Statute 943.87?
3. Does the State of Wisconsin have to adhere to and yield to the laws of the United States and the United States constitution whereas the Bank

4. Robbery Act and Federal Statute 18 USCS § 2113 comprehensively gives jurisdiction of National and Federal banks to the United States?
5. Since the State of Wisconsin laws interfere, and are in conflict of paramount federal law, would the State of Wisconsin be preempted to prosecute and convict for a crime of bank robbery against a federal bank.
6. If the laws of the United States are the Supreme law of the land pursuant to the Supremacy Clause of the United States Const. Art. VI Cl. 2; by what authority does the State of Wisconsin have preemptive power over the laws of the United States in regards to bank robberies of a Federal bank
7. Can a defendant be convicted upon a permitted withdrawn Alford Plea in any state or federal court against the defendants desires to reinstate the withdrawn plea

8. Does the conviction by a jurisdiction whom lacks legal jurisdiction violate the defendants due process rights within the meaning of the 14th amendment of the Due Process Clause of the United States Constitution
9. Is it a violation of the 8th amendment cruel and unusual punishment for a conviction of one which they're both substantively and procedurally innocent
10. Would a conviction pronounced by a court that lacks legal authority but assumes jurisdiction by want of jurisdiction be void ab initio

LIST OF PARTIES

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

The petitioner is Shafia Jones, a prisoner at Taycheedah Correctional Institution in Fond Du Lac WI.

The Respondents are Joshua Kaul Counsel for the State of WI and Fond du Lac County Circuit Court Judge Richard Nuss

RELATED CASES

State v. Jones, 2017AP2463, Wisconsin Court of Appeals for the II/IV District.
Judgment entered on February 19, 2019

State v. Jones No. 2017AP2463, L.C. #2015CF188 Wisconsin Supreme Court.
Judgment entered July 10, 2019 denying review.

State of Wisconsin v. Shafia Jones, 2015CF188, Fond du lac County, Circuit Court.
Judgment entered January 22, 2016

State of Wisconsin v. Maranatha Henderson, 2015CF187, Fond du lac County,
Circuit Court. Judgment entered October 22, 2015

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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

The opinion of the highest court state court to review the merits appears at

Appendix A to the petition and is unpublished

The order of the Wisconsin Supreme Court denying review appears at Appendix B

to the petition and is unpublished

JURISDICTION

The date on which the highest state court decided my case on the merits was February 19, 2019: and a copy of that decision appears at Appendix A.

A timely petition for review to the Wisconsin Supreme Court was thereafter denied on July 10, 2019: and a copy of the order denying the petition for review appears at Appendix B.

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

This case raises a question of interpretation of the Due Process Clause of the 14th amendment along with the Commerce Clause and Supremacy Clause to the United States Constitution.

CONSTITUTIONAL AND STATUTORY PROVISIONS

Procedural due process imposes constraints on governmental decisions which deprive individuals of "liberty or "property" interests within the meaning of the Due Process Clause of the U.S Const. amendment XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law nor deny to any person within its jurisdiction the equal protection of the law.

STATEMENT OF THE CASE

This case raises a question of interpretation of the Due Process Clause of the 14th amendment along with the Commerce Clause and Supremacy Clause to the United States Constitution and federal preemption.

The petitioner was convicted of Robbery of a Federal Savings Bank in the Circuit Court of the State of Wisconsin; however the State of Wisconsin is not a competent court and lacks legal authority and subject matter jurisdiction.

The petitioner was denied both her substantive and procedural due process rights as she was convicted of Robbery of a Financial Institution PTAC Wis. (party to a crime) Wis. Stat. 943.87 in the State of Wisconsin, Fond du Lac County Circuit Court. The petitioner's substantial due process rights were violated as she is innocent of the crime in which she was convicted of, as she had no active participation in the planning or commission of the crime. Petitioner Shafia Jones

was also denied her procedural due process rights as she was convicted by a non-competent court.

On March 15, 2015 Guaranty Bank was robbed by Maranatha Henderson. The bank that was robbed was Guaranty Bank located inside of a Pick 'N Save store in Fond du Lac WI, Guaranty Bank is a "full retail-service Federal Savings Bank" and not a "Commercial Bank" chartered by the comptroller of currency, as a "Commercial Bank" chartered by the Office of the Comptroller of Currency is a "National Bank".

The State of Wisconsin Statutes does not afford the State of Wisconsin legal authority to prosecute for bank robberies of Federal Savings Banks. The State of Wisconsin lower courts argue that the Wisconsin State Constitution VII, § 8. Give the Circuit courts of Wisconsin original subject matter jurisdiction over all criminal matters within the state. This has been misinterpreted and is a contravened contradiction of the Supremacy Clause to the United States Constitution.

REASONS FOR GRANTING WRIT ARE LISTED AS FOLLOWS

A. *CONFLICTS WITH DECISIONS OF OTHER COURTS*

Conflicts with decisions of the United State and other appellate courts that the States have original jurisdiction for crimes within their state to include robberies of Federal Savings Banks is contrary to the holding of state and federal cases, *Easton v. Iowa* 188 US 20, *United States v. Patton* 120 F. 2d 73. *Kaski v. First Federal Sav. & Loan Asso.*, 72 Wis. 2d 132, *M&I Marshall & Isley Bank v. Guar Fin* 2011 WI App 82.

The issue of importance is enhanced by the fact that the lower courts of the State of Wisconsin have seriously misinterpreted their constitution and have overstepped their legal judicial boundaries. The constitutional authority for making bank robbery a federal crime is not in doubt. It is firmly rooted in the **Commerce Clause** **United States Const. Art. I § 8 Cl.3** financial institutions are instrumentalities

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and channels of interstate commerce and thus protection from robbery is well within Congress commerce clause power. *United States v. Rollins* 301 F. 3d 511

The commonsense understanding of the separation of powers is clearly invested in the United States and the State of Wisconsin Constitutions as well as in the Supremacy Clause of the United States Const. Art. VI Cl. 2, federal preemption of a matter deprives a state court of subject matter jurisdiction and the word "felony" as used in the Bank Robbery act 18 USCS § 2113 does not include a felony under the law of the State in which bank is situated. *United States v. Patton* 120 F. 2d 73

The Bank Robbery Statute 18 USCS § 2113 does not violate the 10th amendment on grounds of federal interference with police power of state as Congress has power to legislate in banking field and to make criminal any act which would impair efficiency of banking system. *Clark v. United States* 184, F. 952 (10th Circuit)

The lower court's reasoning that Wisconsin Circuit courts have original subject matter jurisdiction over all criminal matters in their state to include bank robberies

of Federal Savings Banks are unconvincing, as the lower courts have not only misinterpreted the constitution of the State of Wisconsin Art. VII § 8, but they have omitted the phrase "except as otherwise provided by law" (which is the heading of the article) the Circuit Courts of Wisconsin shall have original jurisdiction of all matters civil and criminal within the state.

It is clear by Federal Bank Robbery Act of 1933 and Federal Statue 18 USCS §2113, that that federal courts of the United States retain jurisdiction of Federal Banks, as the statue comprehensively intends prosecutions over federal banks, which preempts the State of WI of jurisdiction to prosecute of a crime of robbery of Guaranty Bank, a full retail-service Federal Savings Bank.

Nothing in federal statue 18 USCS §2113 is contrary of its intent to exclusively prosecute bank robberies of federal banks as it is also reiterated in 18 USCS § 3231 that "District courts shall have original jurisdiction exclusive of the courts of the States of all offenses against the laws of the United States". **United States v. Rollins**,

301 F. 3d 511

State of Wisconsin does not possess subject matter jurisdiction nor does it possess dual sovereignty in regards to a bank robbery against Guaranty Bank " a federal savings bank" as Guaranty Bank is under the sole authority of the United States and is not a "financial institution" defined in *Wis. Stat. § 943.80 (2)* thus preempting State of Wisconsin from exercising jurisdiction. State law that conflicts with federal law is without effect under the Supremacy Clause and federal preemption of a matter deprives a state court of subject matter jurisdiction. See *M&I Marshall & Isley Bank v. Guar Fin* 2011 WI App 82.

States have legitimate powers to define and punish crimes by general laws applicable to all persons within its jurisdiction. So likewise it may declare, by special laws certain acts to be criminal offenses when committed against its own banks and institutions. But it is without lawful power to make such special laws applicable to banks organized and operating under the laws of the United States. See *Easton v. Iowa* 188 US 20.

State laws and regulations could be applied to Guaranty Bank only if the laws were applicable to *Federal Savings Banks* operating in the State of Wisconsin. Federal agencies may promulgate regulations that pre-empt state law. Their authority flows from the **Supremacy Clause of the United States Const. Art. VI Cl. 2** which gives Congress the authority either to enact legislation preempting state law or to delegate the same authority to its executive agencies. Federal regulations have no less pre-emptive effect than federal statutes. See *Gorton v. American Cyanamid Co.* 194 Wis. 2d 203 and *WFS Fin, Inc v. Dean* 79 F. Supp. 2d 1024.

B. IMPORTANCE OF THE QUESTIONS PRESENTED

The preemptive effect of a federal law generally presents a question of law. This case presents a fundamental question of the court's decision in **Barnett Bank, N.A. v. Nelson**, 517 U.S. 25

LD

The Supremacy Clause requires courts to follow federal law not state law. Whereas the petitioner was convicted in the State of Wisconsin based upon the laws of the state and not the laws of the federal government in relation to bank robbery of Federal bank.

The questions presented are of great national and public importance because it affects the operation and jurisdiction of the judicial system in all 50 states, the District of Columbia, and all cities and counties therein.

In view of the large amount of prosecutions of bank robberies, guidance on the question is also of great importance to the defendants, because it affects their due process rights of the 14th amendment and their 6th amendment right to be tried a

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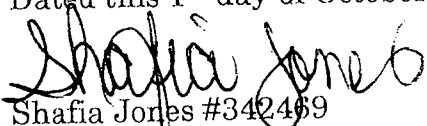
competent court possessing legal jurisdiction that may result in incarceration for a crime that is outside of the jurisdiction of that court. As a non-competent court assumes jurisdiction by want of jurisdiction, which would result in double jeopardy if the jurisdiction that has legal authority to prosecute would also act.

CONCLUSION

For the foregoing reasons listed the United States Supreme court should grant the petitioners Writ for Certiorari.

Respectfully Submitted,

Dated this 1st day of October 2019


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