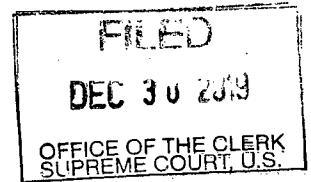


ORIGINAL

No. 19-8298



In the
Supreme Court of the United States

David Kissi, Petitioner

vs.

United States, Respondent

**On Petition for a Writ of Certiorari
to the District Court of Maryland, Baltimore**

Petition for a Writ of Certiorari

David Kissi, Pro Se
PO Box 2185, S. Fern St.
Arlington, VA 22202
202-210-3933

Question Presented

Whether the trial court overlooked evidence that the FBI had Petitioner arrested and searched his home with writs that were inadmissible because they were based on hearsay? And wasn't Petitioner's Due Process violated when upon the said arrest the FBI failed to read him his Miranda Rights?

List of Parties

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

List of Related Cases

| Case # | Caption | Court | Date Judgment Entered |
|---------------|---|---|--------------------------------------|
| 05-673 CBD | Application and Affidavit for Search Warrant | U.S. District Court of Maryland, Southern District – Greenbelt, MD | 02/23/2005 |
| 05-1983 WC | Application and Affidavit for Arrest Warrant | U.S. District Court of Maryland, Southern District – Greenbelt, MD | 05/24/2005 |
| 05-cr-0254 | U.S. v David Kissi | U.S. District Court of Maryland, Southern District – Greenbelt, MD | 8/2007 |
| 08:13-mc-33 | In re: David Kissi, Respondent | U.S. District Court of Maryland, Southern District – Greenbelt, MD | 3/13/2013 |
| 19-151 | In re: David Kissi, Petitioner | 4 th Circuit Court of Appeals | 10/4/2019 |

Table of Contents

| | Page |
|--|------|
| Opinions Below | 6 |
| Jurisdiction | 6 |
| Constitutional and Statutory Provisions Involved | 7 |
| Statement of the Case | 8 |
| Reasons for Granting the Writ | 10 |
| Conclusion | 10 |

Index to Appendices

| | |
|---|----|
| Appendix A - 4 th Circuit Order in case # 19-151 (Kissi's appeal of the Judge Chasanow's Pre-filing Injunction) | 13 |
| Appendix B - Judge Chasanow's Memorandum Opinion in case # 8:13-mc-33 | 17 |
| Appendix C - Judge J.R. Goodwin's Judgment of Conviction in case # 05-cr-00254 | 18 |
| Appendix D - Search Warrant by FBI Agent Thomas Simmons case # 05-673CBD | 19 |
| Appendix E - Arrest Warrant by FBI Agent Thomas Simmons | 30 |
| Appendix F - Affidavit of Edith R. Truvillion, spouse of David Kissi | 40 |

Table of Authorities Cited

| | Page |
|--|-------------|
| Strickland v. Washington, 466 US 668, 1984 | 11 |
| Cromer, 390 F. 3d at 818 | 10 |
| Frank v Delaware, 458 US 154 (1978) | 9 |
| Taylor v Alabama, 102 S.Ct. 2664 | 9 |
| Miranda v Arizona, 384 US 436, 86 S.Ct. 1602, 16 L.ED. 2d 695 (1966) | 9, 10 |

Statutes and Rules:

| | |
|---|------|
| Federal Rule 60(b)(3) | 8,10 |
| Maryland Rule 2-311(f) | 10 |
| Federal Rules of Evidence Rule 803 – Hearsay | 9 |
| Federal Rules of Evidence Rule 605 – Competency of Judge as Witness | 12 |

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 judgement 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 unpublished.

The opinion of the United States District court appears as Appendices B and C to the petition and both are unpublished.

Jurisdiction

For case from federal courts:

The date on which the United States Court of Appeals decided my case was October 4, 2019.

No petition for a rehearing was filed in my case.

Constitutional and Statutory Provisions Involved

Fourth Amendment - The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Due Process Clause- The Fifth and Fourteenth Amendments to the United States Constitution each contain a due process clause. Due process deals with the administration of justice and thus the due process clause acts as a safeguard from arbitrary denial of life, liberty, or property by the government outside the sanction of law.

Fifth Amendment - No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Fourteenth Amendment - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of 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 laws.

Miranda Rights – “You have the right to remain silent and refuse to answer questions. Anything you say may be used against you in a court of law. You have the right to consult an attorney before speaking to the police and to have an attorney present during questioning now or in the future.” See *Miranda v Arizona*, 384 US 436, 86 S.Ct. 1602, 16 L.Ed. 2d 695 (1966).

Statement of the Case

Introduction:

I am filing this Writ of Certiorari pro se and as indigent because a lower court had given me a waiver from paying filings fees. See my Motion to Proceed In Forma Pauperis and Affidavit of Indigency for this case. This Writ is different from the two previous pleadings before this court for it seeks Relief or dismissal of my conviction on the grounds that the trial court erroneously overlooked the fact that my conviction was based on inadmissible writs.

Now since my then counsel poorly represented me, it took over 12 years before I realized that the Search and Arrest Warrants the FBI had used to have me convicted did amount to inadmissible evidence for they contained hearsay and that makes the Judgment of Conviction dismissible. See pp. 19 - 29 Appendix D (Search Warrant) and pp. 30 - 39 Appendix E (Arrest Warrant).

Statement of the Case:

The 4th Circuit Court of Appeals issued a judgment on October 5, 2019 that summarily dismissed my petition to reverse U.S. District Court Judges Deborah K. Chasanow and Peter J. Messitte's pre-filing injunction that prohibit me from seeking dismissal of the trial court's judgment that sent me to prison in 2007 even if newly discovered evidence favored me. See Federal Rule 60(b)(3). Also, see p. 13 Appendix A.

Thus, the pre-filing injunction #8:13-mc-00033 arbitrarily has given the lower courts in this case automatic right to reject my pleadings regardless of merit even if the Constitution says I am entitled to relief. See p. 17 Appendix B. Even though I just found out I was arrested with an inadmissible arrest and search warrants, the 4th Circuit would not void a pre-filing injunction that the trial court has imposed. That pre-filing injunction blocks me from being able to ask to get my freedom back. And this violates my 4th and 5th Amendment Rights and my Due Process. See Federal

Rules of Evidence Rule 803. Also, see *Frank v Delaware*, 458 US 154 (1978) on how hearsay nullifies a warrant and *Taylor v Alabama*, 102 S. Ct. 2664 which demonstrates a defendant who is entitled to have his Miranda Rights read to him upon arrest. And for copies of the FBI Search and Arrest Warrants in question see Appendices D and E and their Hearsay that make them inadmissible, see pp 19-39.

Argument I:

When FBI Special Agent Thomas E. Simmons wrote on his application for a Search Warrant that he has relied on his 'observations with some unknown lawyers and individuals that there is a probable cause that I have in my possession at home documents and records that I have used to commit fraud in a bankruptcy case, Magistrate Judge Day did err in issuing the FBI a warrant to search our home or my then Beltsville office or my office on the Hill. This is because the request did amount to hearsay for neither Simmons nor his FBI associates until they searched our home in February 2005 had ever been inside our home or Capitol Hill Office during business hours. In other words, Simmons did not have a firsthand knowledge of his claim in his search assignment. Also, he never asserted he is making those statements under oath under threat of perjury. In sum, collectively Simmon's Affidavit amounts to Hearsay and should be inadmissible and my conviction in trial court case # 05-cr-0254 should be voided for the conviction was obtained with that hearsay. See p. 18 Appendix C (Judgment of Conviction).

Argument II:

That in May 2005, when FBI Agent Simmons and his associate showed up at our Beltsville home, the two agents had no warrant, but rather they simply asked me a question and as I tried to answer, they simply concluded I was inclined to harm some 'people'. FBI Agent Simmons claims he obtained this information from some other "professionals". Who these people are remains unknown. Therefore, the trial court ought not to have convicted me on hearsay. Upon my arrest I wasn't read

my Miranda Rights nor was I given a copy of the arrest and search warrants. See pp. 30-39 Appendix E (Arrest Warrant). See *Miranda v Arizona*, 384 US 436, 86 S.Ct. 1602, 16 L.ED. 2d 695 (1966).

In tandem with all the above, I would say that Judges Chasanow and Messitte's Pre-filing Injunction arbitrarily imposed in 2013 is both invalid and unconstitutional for that injunction seeks to block legitimate appeals involving the false FBI warrants that were used to arrest me and seize our assets. See "Cromer". They were calculated to block me from going forward to seek Relief for they are inadmissible writs that constitute newly discovered evidence that should now be heard to void my conviction. See Maryland Rule 2-311(f) and Federal Rule 60(b)(3) and p. 18 Appendix C (Judge J.R. Goodwin's Judgment of Conviction).

Conclusion – Reason for Granting a Writ of Certiorari:

FBI Agent Thomas Simmons was then stationed in Calverton, MD. From the looks of both the warrant for the search and the warrant for the arrest, both started with identical statements purporting that Mr. Simmons had sworn he was making his assertions. But none of his statements made were true because even though he claimed he was 'sworn' he wasn't actually sworn under Oath with the threat of perjury that could have even sent him to jail for perjury. Simmons never asserted he has a firsthand knowledge about my alleged activity and that he was inclined to step forward to back his assertions under Oath and that whosoever was inclined should do so point by point and word by word or else all who fail will not have the chance to contest him under Oath forever.

Now, since Simmons wasn't bound by the threat of perjury, he could say whatever pleased him to get Magistrate Judge Day to issue bogus warrants to search our home and haul away anything he wanted and then had me arrested. He even doesn't bother to mention that he is at least 18 years of age – a requirement demanded on an official Affidavit form or procedure. Simmons even got bolder and ask Judge

Day to issue him a warrant to have me arrested on the grounds that he had spoken to some 'unknown individuals' and some "professionals", about my behavior and therefore I should be locked up. This is pure hearsay and the High Court should rule the Search and Arrest Warrants as inadmissible and void all existing prehearing permanent injunctions and prefilng injunctions of the trial court had all been calculated by Judge P. J. Messitte and Judge D. Chasanow to prevent me from recovering about \$ 2 million that Pramco II, LLC's Attorney Emil Hirsch took from us with no standing in a bankruptcy estate where Pramco falsely claimed it had acquired those notes in the secondary market.

I also pray this court should grant me this Writ of Certiorari for I should be able to vote, adopt a baby, and travel to Canada and recover the \$2 million in assets Emil Hirsch, Esq. and Pramco II, LLC took from us. These are some of the things I cannot presently do under my conviction.

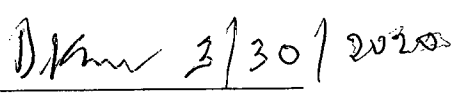
Moreover, the intent of this plea for certiorari is that the High Court should dismiss my original conviction of 36 months, plus a 10-month stretch for probation violation in 2013, plus a prefilng injunction and a permanent injunction for the trial court used inadmissible evidence in the form of hearsay driven affidavits to build a case that unlawfully threw me into jail for 36 months and another 10 months in 2013. See p. 17 Appendix B (Judge Chasanow's Prefiling Injunction). Unbelievably since my trial Attorneys F.W. Bennett and Michael Schatzow were incompetent, the outcome of these cases would have been different, if they had been otherwise. See *Strickland v. Washington*, 466 US 668, 1984. For example, Schatzow from the beginning wanted me to take a plea and Attorney Bennett never called witnesses who could have vowed I was not violent. He even refused to subpoena the SBA to testify that their records couldn't account that our loan the SBA had guaranteed was free standing and that Hirsch and Pramco had no standing to make declarations and sell our warehouses.

In 2013 both Judges Messitte and Chasanow imposed further injunctions claiming I had flooded the courts with pleadings. Their injunctions don't fully inform the court that those cases these judges were referring to were state court matters where federal courts have no jurisdiction. See p. 17 Appendix B. So, these cannot be counted against me for I had good intent in those matters too.

That it should also be noted that since Judge Chasanow doesn't know anything at all about the background to my criminal and civil matters, she has made several erroneous statements in her prefiling order. For example, she makes unsubstantiated claims that the trial court has had hearings on the said PJM03-2241 injunction including her injunction that summarily bars me from all federal courts in Maryland. Contrary to what Chasanow is saying, there has been no hearing on her injunction nor has there been any hearing on the inadmissible Search and Arrest Warrants Judge Messitte still continues to sit on my cases even though he once tried me in a criminal contempt case and then served as a government witness during my trial on 8/2/2006. Well, this conflict of interest is prohibited by Federal Rules of Evidence Rule 605. Now, the Record shows that Judge Messitte presided over my cases PJM 03-2241 and 05-cr-0254 from the year 2000 until my conviction in 2007. Then upon release from a federal camp in 2009, Judge Messitte now and then would assign the above cases to Judge Chasanow for brief periods. This explains her limited knowledge of these cases.

Thus, having shown good cause, I deserve Relief from all alleged civil and criminal violations on the Record.

Respectfully Submitted by

 3/30/2020
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