

19-8576

PETITION FOR A WRIT OF CERTIORARI

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

FRANKLIN M. ROBINSON
PETITIONER

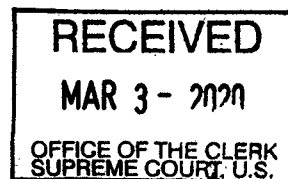
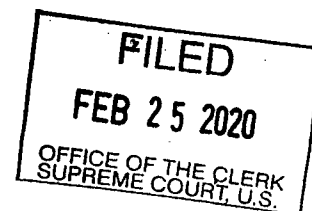
v.

THE UNITED STATES OF AMERICA
RESPONDENT

APPEAL NO:
19-7132

CASE NO:
4:10-CR-00599-RBH-1

ORIGINAL



QUESTION(S) PRESENTED

Is the Petitioner, Mr. Franklin Robinson, entitled to review The Administrative Record in his criminal case used by The United States of America in order to establish it's jurisdiction over the Petitioner?

Did the United States of America comply with the statutory mandate of Title 40 U.S.C.S. 255 (CF. 40 U.S.C.S 3112) in Petitioner's Case?

Did the United States of America have jurisdiction over Petitioner to prosecute him using nothing, but State Evidence in a Federal Grand Jury?

Did the COurt of Appeals for the Fourth Circuit erroneously deny Petitioner's appeal?

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
LIST OF PARTIES.....	3
REASONS FOR GRANTING THE PETITION.....	4
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	5
TABLE OF AUTHORITIES CITED.....	6
QUESTIONS PRESENTED.....	7
STATEMENT OF THE CASE.....	8
STATEMENT OF THE FACTS.....	8
ANALYSIS OF THE FACTS.....	11
POINTS AND AUTHORITIES.....	11
CONCLUSION.....	13

INDEX OF APPENDICES

APPENDIX A

APPENDIX B

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☒ is unpublished.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☒ is unpublished.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**:

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☐ is unpublished.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 November 26 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: _____, 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. § 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).

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:

CONSTITUTIONAL AND STATUORY PROVISIONS INVOLVED

1 - 5th Amendment Constitutional Right to a Due Process of Law.

2 - Title 5 U.S.C.S. 556 (APA)

3 - Title 40 U.S.C.S. 255

4 - Title 40 U.S.C.S. 3112

TABLE OF AUTHORITIES CITED

CASES:

1. Adams v. United States 319 U.S. 312, 314-15, 63 S. Ct. 1122
1123-24 (1943)
2. United States v. Pate 393 F. 2d 44-47, 7th Cir. (1968)
3. Manley v. Burkhardt 40 Ohio St. 3d 531 N.E. 2d 1306 (1988)
4. Hogan v. Laline 415 U.S. 577
5. Louisville RR v. Motley 211 U.S. 149 29 S. Ct. 42
6. Harford v. Davis 163 U.S. 273 16 S. Ct. 1051

STATUTES AND RULES

- 28 U.S.C.S 1291
- 5 U.S.C.S 556(d); 701-708
- 40 U.S.C.S 255
- 40 U.S.C.S 3112

STATEMENT OF THE CASE

Petitioner is currently serving a Federally imposed sentence of 360 months for alleged conviction occurring within the special maritime and territorial Jurisdiction of the United states.

Franklin M. Robinson was arrested on 9-30-10, and charged by complaint and indictment for allegedly violating 21 U.S.C.S. 841 (a)(1) and 841 (b)(1)(a).

The above named respondent has filed this action to place upon the records of proceedings (D.C. Crim. No: 4:10-CR-599(RBH)1 (District of South Carolina)). His/Her/Their Certified copy of the statutorily mandated administrative record pursuant to Title 40 U.S.C.S. 255 (CF. 40 U.S.C.S. 3112).

Hereto fore, Petitioner hereby requests "Judicial Review" (as a matter of right) to have said respondent produce a copy of said administrative records 5 U.S.C.S. 556(d) [APA] in order to legally address whether sanction/penalty can be legally imposed upon Petitioner's operation of Law.

STATEMENT OF THE FACTS

On may 25, 2011, the United States of America through it's AUSA Ms. Fisher presented the Grand Jury with a case in order to indict Mr. Franklin M. Robinson for alleged offence and violation to the 21 U.S.C.S. 841(a)(1), 841(b)(1)(a).

During the Grand Jury Proceeding, the United States used as a witness an agent from the Chesterfield County Sheriff's Office, named Christopher John Page.

During the entire cross-examination of Mr. Page or direct-examination all the testimony of this witness deals with nothing but State Evidence. Please see Grand Jury Transcript pg. 8, line 7-16. *see Appendix # C*

Mr. Franklin Robinson claims that when agent Page was asked by the United States how he proceeded to follow during Mr. Franklin Robinsons alleged investigation, he went and described how he was dealing with arrested persons at the state level, not Federal. Please see Grand Jury Transcript pg. 9, line 22-25 and pg. 10, line 1-9. *see Appendix # C*

Also Mr. Franklin Robinson claims during the direct examination of this state agent from the Sheriff's Office before the Federal Grand Jury, he provided the Grand Jury with several different irreconcilable statements regarding the alleged drugs quantity involved in the alleged state investigation. Please see Grand Jury Transcript pg. 13, line 24-25 and pg. 15, line 22-25. *See Appendix # C*

Mr. Franklin Robinson claims that even the Grand Jury had some doubts and questions about this agents testimony. Please see Grand Jury Transcript pg. 15, line 22-25 and pg. 16, line 1-12. *See Appendix C*

Also, Mr. Franklin Robinson claims that even the Grand Jury

was concerned about this case as a whole regarding how the proceedings of this case and it's Federal Jurisdiction deals with nothing but State Evidence. Please see Grand Jury Transcript pg. 16, line 14-25. *Appendix, C*

The entire evidence presented at the Grand Jury proceedings were State Evidence.

Mr. Franklin Robinson claims that during trial, the United States also presented several agent fromt he Sheriff's Department of Chesterfield.

One of the Agents was Officer John Baron Chapman. Mr. Chapman was a Sheriff Officer whom accordingly was in connection with the secret informant during the state's investigation and that allegedly was in the Narcotics Unit but was switched to another department due to diciplinary sanctions. Please see Trial Transcript pg. 106, line 1-2 and pg. 107, line 1-24. *Appendix C*

Mr. Franklin Robinson claims that the agent, Mr. Chapman, was fabricating a case against him. Please see Trial Transcript pg. 119, line 13-21. *Appendix C*

The next agent from the United States was, Staff Sergeant Dwayne Gillepsie, also from the State Sheriff's Department in the county of Chesterfield. Please see Trial Transcript pg. 120, line 1-19. *Appendix C*

Also, the information used by (AUSA) during the Trial against Mr. Franklin Robinson, regarding hte notes of the alleged witnesses and the allged drug analysis, all deal with State Evidence. The entire evidence belong to the state, it was collected by State agencies and processed by State agencies [NOT] Federal agencies. Please see Exhibit 1-A.

ANALYSIS OF THE FACTS

The facts herein demonstrate the plaintiff's assertion of Federl Criminal Subject matter Jurisdiction in case bar, however, no such establishment of foregoing assertion appear upon the face of the record.

POINTS AND AUTHORITIES

1.) The law requires proof of Jurisdiction to appear on the record of the administrative agency and all administrative proceedings. Hogan v. Laline 415 U.S. 577.

2.) It is necessary that the record present the facts establishing Jurisdiction of the tribunal. Lowe v. Alexander 15C 296; People v. Board of Delegates of S.F. Fire Dept., 14C 479.

3.) If any tribunal [Court] finds absense of proof of the Jurisdiction over the person and subject matter, the case must be dismissed. Louisville RR v. Motley 211 U.S. 149, 29 S. Ct. 42.

4.) There is no presumption in favor of Jurisdiction and the basis for Jurisdiction must be affirmatively [shown]. Hartford v. Davis 163 U.S. 273 16 S. Ct. 1051.

5.) Judicial review in instant action is necessitated to prevent a gross miscarriage of justice, as it is axiomatic that "no sanction can be imposed absent proof of Jurisdiction".

As stated supra, no Federal Jurisdiction exists absent compliance with 40 U.S.C.S. 255 (CF. 40 U.S.C.S (3112)). The statutory language incorporated within 40 U.S.C.S. 255 do not convey discretionary power upon the plaintiff regarding compliance. Indeed, 40 U.S.C.S. 255 states in the relevant part: unless and until the United States has accepted Jurisdiction over land herein after to be acquired, it shall be conclusively presumed that no such Jurisdiction has been accepted.

It is well-settled that the above statutes utilization of the word [shall] invest a liberty interest in the people of the District of South Carolina.

Accordingly, the geographical location(s) of the alleged offense, as set forth in plaintiff's indictment and charged by the Grand Jury does [NOT] encompass the special maritime Jurisdiction of the United States as charged by the Grand Jury.

Judicial review is warranted for production of the administrative records in the case at bar pursuant to the 40

U.S.C.S.

U.S.C.S. 255. The Petitioner avers the record remains silent as to the plaintiff's acceptance of legislative Federal Criminal subject matter. Therefore, to ascertain plaintiff's strict compliance with statutory provision set forth in 40 U.S.C.S. 255.

CONCLUSION

Wherefore, in the interest of Petitioner's "right to review" and the time-honored principle of Justice; You Petitioner's herein request the following;

That respondent agency be commanded to produce the administrative records (5 U.S.C.S. 552(d)), demonstrating said respondent's proper establishment of Federal Criminal Jurisdiction over the Petitioner and over the geographical location (ceded or retained land) cited in the indictment pursuant to 40 U.S.C.S. 255.

To the extent plaintiff (or other disinterested parties) objection to the Judicial review as foresaid, party shall promptly file said objection in to the clerk and movant, and all objections must set forth the specific reason(s) why Petitioner should be denied his constitutional right to redress to prosecute his case.

Submitted on the 25 day of
February, 2020.

Respectfully,


Franklin M Robinson

REASONS FOR GRANTING THE PETITION

The Peitioner's reasons for granting the Petition, are because this Honorable Court is the only one who can stop the old practices of the United States District Prosecutors of prosecuting U.S. Citizens on Federal Prosecutions with and by using [not] Federal Evidence, but State Evidence at a Federal level without jurisdiction which did in fact happen on my case.