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No. 20-5052

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
JUN 26 2020  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Jeremy E. Lewis — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Jeremy Emanuel Lewis  
(Your Name)

P.O. Box 7000, United States Penitentiary Florence  
(Address)

Florence, CO 81226  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

## QUESTION(S) PRESENTED

(1) Lewis was "completely foreclosed" through Fed. R. Crim. P. 11 sanctions from initiating an action in his Federal Habeas Corpus case without a "screening mechanism" to determine whether any motion filed by Lewis was "frivolous or vexatious". The District Court ordered the Magistrate Judge to "strike any motion filed by Lewis from the record without preparing a report and recommendations". Question: Does Lewis have a "Constitutional Right" to petition the courts under this court's precedent of "California Motor Transp. Co. v. Trucking Unlimited, 404 U.S. 508 (1972)"?

(2) Lewis pled guilty to two counts: (1) 18 U.S.C. 2113 (a), (d), and (e); (2) 18 U.S.C. 924 (b) discharging a firearm during a crime of violence. Lewis pled guilty to the 18 U.S.C. 924 (c) conviction under this court's "Pinkerton v. U.S. 328 U.S. (1946) Conspiracy Theory of Liability". - But Lewis "did not" plead guilty to a "Conspiracy Conviction".

Question: Does a defendant have to be convicted of a "Conspiracy Conviction" to be liable under a "Pinkerton v. U.S. 328 U.S. (1946) Conspiracy Theory of Liability" for a "Substantive Offense"? Since Lewis did not plead guilty to a "Conspiracy Conviction", is Lewis "actually innocent" of 18 U.S.C. 924 (c) under the "Pinkerton-Conspiracy" Theory of Liability?

**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:

**RELATED CASES**

- (1) PINKERTON V. U.S., 328 U.S. 640 (1946)
- (2) U.S. V. LOPEZ, 271 F.3d 472, 480 V.I. 311 (3rd Cir. 2001)
- (3) U.S. V. MALEY, 8 F.3d 462, 468 (7th Cir. 1993)
- (4) U.S. V. HENNING, 286 F.3d 914 (6th Cir. 2002)
- (5) CALIFORNIA MOTOR TRANSP. CO V. TRUCKING UNLIMITED, 404 U.S. 508 (1972)
- (6) U.S. V. NAKAI, 413 F.3d 1019, 1023 (9th Cir. 2005)
- (7) BHD RR. TRAINMEN V. VIRGINIA, 377 U.S. 1 (1964)
- (8) EGreen V. CITY OF SOUTH FIELD, 925 F.3d 281 (6th Cir. 2019) (Published)

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## STATUTES AND RULES

- (1) 18 U.S.C. 2113 (a), (d), (E)
- (2) 18 U.S.C. 924 (c) used, carried Discharge of A Firearm During A crime of violence

## OTHER

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 \_\_\_\_\_ 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 11A 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 FEB. 24, 2020.

☐ 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: April 29, 2020, 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).

# CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- (1) The District Court AND The Sixth Circuit Court OF Appeals Violated Lewis's 5th Amendment Due Process Rights By "Completely Foreclosing" Lewis From Initiating A Action In Federal Court.
- (2) They Violated Lewis's "Right To Petition" The Courts.
- (3) The Court OF Appeals Violated The 8th Amendment Rights OF Lewis By "Ignoring" Lewis's "Actual Innocence" claim. Lewis's opening BRIEF, Lewis is "Actually Innocent" OF 924(C) AND It is A "miscarriage OF Justice" Under The 8th Amendments Cruel AND Unusual punishment To Allow Lewis To Remain INCARCERATED UNDER A CONVICTION Lewis is "Actually Innocent" OF.

## STATEMENT OF THE CASE

- (1) Lewis has been "Completely Foreclosed" From Initiating A Action Challenging The Denial of his first 28. U.S.C. 2255 Habeas Corpus Petition. The District Court ordered The Magistrate Judge To "Strike Any motion Filed By Lewis without preparing A report & recommendations".
- The Court of Appeals "Upheld" This Rule 11 Sanction stating That The District Courts "Complete BAR out of Court" Does Not Violate Lewis's Rights, This violated Lewis's 5th Amendment Due process Rights.
  - (2) Lewis pled guilty To Two Counts of Conviction: (1) 18. U.S.C. 2113 (a), (d), and (e), (2) 18. U.S.C. 924 (e) use, carry AND Discharging A Firearm During A crime of violence. The 924 (e) Conviction is Under A "Pinkerton-Conspiracy" Theory of Liability.
  - This Court's "Pinkerton v. U.S. 328 (1946)" Decision "Held" That in Furtherance of A "Conspiracy Conviction", Crimes Committed By Codefendants - A defendant can be held Liable. In other words, This Courts Pinkerton Decision Never Allowed A "Pinkerton-Conspiracy" Theory of Liability on A defendant - Such as "Lewis" - who was "Never Convicted" of A "Conspiracy Conviction", Lewis is Therefore "Actually Innocent" of 924 (e) he pled guilty To.
  - The Court of Appeals Below "Disagree" on whether A defendant can be Convicted of Substantive Convictions Under A "Pinkerton-Conspiracy" Theory of Liability when he is Not Convicted of A "Conspiracy Conviction".
  - This Court must "Intervene" To Set The Legal precedent on this Issue.

## REASONS FOR GRANTING THE PETITION

- (1) This Court should Grant Certiorari In This Case,
  - First Issue: The District Court "Completely Foreclosed" Lewis from petitioning The Court To re-open his 28. U.S.C. 2255 Under Rule 60(b). This Rule 11 Sanction Violated Lewis's "Right To petition The Courts" Under This Courts Precedent. See CALIFORNIA MOTOR TRANSP. CO V. TRUCKING UNLIMITED, 404 U.S. 508 (1972) ("Certainly the Right to petition extends To all departments of The Government. The Right of Access To The Courts is indeed but one Aspect of The Right of Petition.")
  - The District Courts Rule 11 Sanction order - ordered The Magistrate Judge To "Strike The motions of Lewis's From The Docket Without preparing A report and Recommendation". The Court of Appeals "upheld" This order Ruling That "The District Courts Abuse of Discretion" did Not Implicate Any of Lewis's Constitutional Rights. That statement is "Contradictory" in Light That Courts own "Published precedent". See Greene V. City of Southfield, 925 F.3d 281 (6th Cir. 2019) (Published) ("The Constitution protects An Individual's Access To The Judicial System - The Right to Bring A Non-frivolous claim in A Court of Law")
  - The Sixth Circuit And The District Court are In "Collusion" To Bar Lewis out of Court & violate Lewis's Rights. This Court should Set The Record straight And Grant This petition To Let The Lower Courts Know What Rule 11 Sanctions Are Allowed.
- (2) SECOND ISSUE: Lewis pled guilty To 18. U.S.C. 924(E) ON A "PINKERTON Conspiracy" theory of Liability - But Lewis did Not plead guilty To A "Conspiracy Conviction". This Court In "PINKERTON V. U.S. 328 U.S. (1946) held that A defendant CAN be held Liable Under A "PINKERTON Conspiracy" theory of Liability for A "Substantive Offense" if The Substantive Offense is committed In furtherance of A "Conspiracy".
  - There is A "Circuit Split" on the issue whether A defendant can be guilty of A "Conspiracy Liability" ON A "Substantive Offense" - Without being Convicted of A "Conspiracy Conviction".

- The Sixth Circuit Itself has held in published opinions two "Conflicting opinions" on the Issue, *U.S. v. HENNING*, 286 F.3d 914 (6th Cir 2002) (Published) held that NO CONSPIRACY CONVICTION-NO CONSPIRACY THEORY OF LIABILITY ON SUBSTANTIVE CONVICTIONS, They found "PLAIN ERROR" IN THIS CASE.
- Then, 5 years Later, The Sixth Circuit in Another Published opinion held The "Complete opposite"- That A defendant "CAN" be guilty of a substantive OFFENSE UNDER A ~~CONSPIRACY CONVICTION~~ PINKERTON CONSPIRACY THEORY OF LIABILITY- WITHOUT BEING CONVICTED OF A CONSPIRACY CONVICTION, "See" *U.S. v. Budd*, 496 F.3d 517 (6th Cir. 2007) (Published). The Sixth Circuit "Ignored" The Doctrine OF "Stare Decisis" when it issued its "Budd" Decision.
- The 9th Circuit has held in a published opinion That A defendant must be CONVICTED OF A "CONSPIRACY CONVICTION" to get A "CONSPIRACY LIABILITY" ON A Substantive Counts, "See" *U.S. v. NAKAI*, 413 F.3d 1019, 1023 (9th Cir. 2005) (Published)

### CONCLUSION

This Court must GRANT This petition To Resolve The Circuit Split ON The "PINKERTON" Issue. This Court must Also GRANT This petition Because Lewis has been "Completely Foreclosed" From challenging His Habeas petition.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 6-6-21