

NOT
20-5969

In The
Supreme Court of the United States

Robert O. Dinkins,
Petitioner,

v.

United States of America,
Respondent.

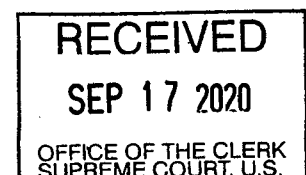
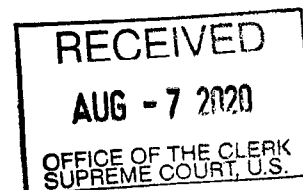
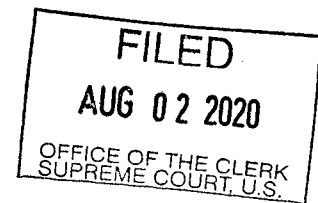
ORIGINAL

- Conditional Release -
An Petition for a Writ of Certiorari to the
United States Court of Appeals
for the ~~Eleventh Circuit~~ 8TH CIR

PETITION FOR A WRIT OF CERTIORARI

Pro Se-Robert O. Dinkins
42737-044
USP/FCI ATL P.O. Box 150160
Atlanta, GA 30315-0160

Date _____
Supp.Add.2



QUESTION PRESENTED

Whether the Court should grant Certiorari, vacate the judgement below, and remand for reconsideration in light of Rehaif v. United States, 139 S.Ct. 2191 (2019).

and generally, if Chief Dotson of the St. Louis Police Department, who managed the Gun Buy Gun Program, annoced publicly that all types of criminals may participate in the program by getting stolen and illegal guns off the streets to assist in combating the threats of gun violence in the communities (Which Petitioner's Non Profit NEAAC was similar situated as, and assitfully managed by a person who was allowed to manage the gun that Petitioner possessed in its adverse possession division, See Annual Registration Report of the NEAAC) does his Public Annoucement qualify as Influencing under the Webster's New World College Dictionary, and program, placed its participators as non borred.

ALSO, UNDER CLISBY V JONES, 11 CIR, SHOULD HAVE THE USDC, AND 8TH CIR PRIOR TO RULING ON PETITIONER 28 USC 2241 CERTIFIED FORM (WHICH INCLUDED A 28 USC 2255 CLAIM) AND SUCESSIVE RULED ON THE 28 USC 2241, AND GENERALLY, ALL OF ITS MERITS AND ALL OF ITS CONSTITUTIONAL CLAIMS, EVEN IN THE SUCESSIVE.

ALSO,

IS THE JUDGES ETAL MISCONDUCT, PER FONTENOT V ALLBAUGH VIOLATION

PARTIES TO THE PROCEEDINGS

The caption contains the names of all
of the parties to the proceedings.

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TABLE OF AUTHORITIES

CASES

- (1) Rehalf v. US 139 S.Ct. 2191 204 (3d 2d 594 6-21-2019
- (2) Boose v. Marske 2019 US dist lexis 156342 wd wls Sep 13 2019 At 5
- (3) Bousley v. US 523 US 614 623 118 S.Ct. 1604 140 Led 2d 828 1998
- (4) House v. Bell 547 US 518 536-37 126 S.Ct. 2064 165 Led 2d1 2006 quoting Schlup v. delo 513 US 298 316 115 S.Ct. 851 130 Ed 2d 808 1995
- (5) US v. Chealy 185 Fed Appx 928 11 cir. 2004
- (6) US v. Garth 188 F3d 99 109 1999, US v. Jones 172 F3d 381 384-385 1999 US v. Hellbush 147 F3d 782 784 Cab 1998
- (7) 18 USC 2241 C3
- (8) Indictment Contract
- (9) Brown v. Caraway 719 F3d 583 7th Cir 2013
- (10) 2243
- (11) Richards v. Jefferson County 517 US 793 799 1996 quoting Mullane v. Central Hanover Bank & Trust Co. 339 US 306 314 1950
- (12) Green Holtz v. Inmates of Neb penal & Correctional Complex 442 US 1 1116 1979 Swihart v. Wilinon 209 F Appx 456 459 6th Cir. 2006
- (13) Calderon v. Thompson 523 US 523 US 538 549 1998
- (14) War daws
- (15) Ethics Law
- (16) EG US v. Tolliver 116 F3d 120 123 5th Cir. 1971
- (17) Davis v. US 65 417 US 333 346 1974
- (18) Smith v. O'Grady 312 US 329 334 1941 (5th Amend)

Statutes

18 USC 922 g1

passim

18 USC 924 A2

passim

ACCA

1

28 USC 1254

1

Other authorities Stacy v. US Memorandum
for US (US No. 19-5383) filed Aug 30 2019

Equal Protection Clause under the
14th Amendment of the US Fed Const.

Rule 19

338 US 912 917-918 1950

28 USC 2241

SUCCESSIVE

28 USC 242 241

NOTE - SEE CASES IN CASE
and Fontenot v AILBAUGH
AND Clisby v Jones

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully seek a Writ of Certiorari to review a judgement of the US Court of Appeals for the ~~Eighth Cir~~ 8TH CIR

8TH CIR

Opinions below

The ~~Eighth Cir~~. opinion is reprinted at NA
and is reproduced as appendix (opp).

Jurisdiction 8TH CIR

The ~~Eighth Cir~~. issued its decision July 102, 2020
this Court has
jurisdiction under 28 USC 1254 1

Statutory provisions involved

Section 922g 1 of title 18 of the US Code provides that it shall be unlawful for any person who has been convicted of a Felony to possess a firearm' Section 924 a 2 provides that whoever knowingly violates subsection g of section 922 10 years note petitioner sentence was enhanced under the ACCA.

Note

BUT THE 2015 FELON POSSESSION GUN RIGHTS
IN ST LOUIS 5TH AMENDMENT LAW SAY
FELONS CAN POSSESS,

Also

the 28 USC 2241 statute allows
federal prisoners to present innocence
claims attaching all types of defenses
Attacking sentence, conviction, not
restricted by 1 2254 of 96 ATPDA
Supp.Add.8

Statement 1

This is also a challenge to the sufficiency of proof that the gun traveled in Interstate Commerce in that gun in and Commerce prior to defendant possessing gun now in light of Rehalf 2019. The 922 g 1 and 924 a2, the evidence to determine whether a reasonable jury viewing the evidence and all reasonable inferences there from in the light most favorable to the government could find the defendant Dinkins guilty as charged beyond a reasonable doubt of being in violation of 922 g 1 and 924 A2.

STATEMENT 1

this is also a challenge to the sufficiency of proof that the gun traveled in interstate commerce in that gun in and commerce prior to defendant possessing gun now in light of rehoif 2019 the 922g 1 92402 the evidence to determine whether a reasonable jury viewing the evidence and all reasonable inferences there from in the light most favorable to the government could find the defendant Dinkins guilty as charged beyond a reasonable doubt of being in violation of 922g 1 924A2

1 procedural background

on 7-8-15 a one-count indictment charged movant with felon in possession of a gun in violation of 18 USC 922g 1 and 9241 USV DINKINS CASE NO 415 CR 314 CBT1 Ed mo movant waived his right to a jury trial and requested a bench trial At trial the Court found movant guilty and subsequently sentenced him as an armed career criminal to 180 months of imprisonment with the assistance of counsel movant filed a timely appeal to the 8th Cir Court of Appeals in his appeal movant argued that the district Court

STATEMENT 1

ERRED in finding him guilty of being a felon in possession of a gun because he was legally justified in possessing the gun to protect himself and the Community from imminent danger on 5-26-17 the 8th Cir Court of appeals affirmed the judgement of the district Court US v DINKINS 688 F app X 408 8th Cir 2017

BOOSE v MARSH 2019 dist LEXIS 156342
wa wis 9-13 2019 at 5

that following a recent US Supreme Courts decision his felon-in possession conviction should be vacated because the government didnt prove that he knew he was a felon when he possessed ammunition reholfv US 139 S ct 2191 204 1 Ed 2d 6-21 2019 (this creates a equal application of law and equal protection 14 amend fed Const issue) to convict a defendant the government therefore must show that the defendant knew he possessed a gun and also that he knew he had the relevant status when he possessed it (which the gun buy back didnt state to movant)

"
the government doesnt oppose the motion to amend as procedurally improper and it concedes at least for purpose of this

1 SUPP add 9 A

Statement

motion - that § 2241 is the proper avenue for this type of challenge and that relief applies retroactively, especially regarding defective indictment issues. So I will consider boose motion

"boose motion"

boose can succeed on this 2241 petition if he can show that he is actually innocent of the charged crime see eg Hill v Wierlinger 695 F3d 644 648 7th Cir 2012

"ACTUALLY INNOCENCE" MEANS FACTUAL INNOCENCE, not mere legal insufficiency of proof of guilt Bouley v US 523 US 614 623 118 S Ct 1604 140 LEd 2d 828 1998

boose need to present evidence so strong that it is more likely than not no reasonable juror would have found petitioner guilty beyond a reasonable doubt House v Bell 547 US 518 536-37 126 S Ct 2064 165 LEd 2d 1 2006 quoting Schlup v Delo 513 US 298 316 327 115 S Ct 851 130 LEd 2d 808 1995 which the defense includes proving lack of intent. here movant's have justified his burden based on evidence

Statement

in the trial record

US v CHEALY 185 Fed Appx 928 11th Cir 2004

We have consistently upheld the Constitutionality of 922g SEE 392 F3d at 1280 indeed we have noted that the phrase in or affecting Commerce indicates a Congressional intent to assert its full Commerce clause power and that enactment of 922g 1 is not an unconstitutional exercise of Congressional power US v Nichols 124 F3d 1265 1266 11th Cir 1997 SEE also US v McAllister 77 F3d 387 389-90 11th Cir 1995 holding that 922g 1 is Constitutional and stating that the statute is an attempt to regulate guns that have a connection to interstate Commerce the statute explicitly requires such a connection and because the government demonstrated that the defendant's gun previously had traveled in interstate Commerce the statute was Constitutional as applied to him only the Supreme Court or this sitting EN BANC judicially overrules a prior panel decision Wright 392 F3d at 1280 to the extent CHEALY raises an as-applied challenge to 922g we have held that the in or affecting Commerce language of 922g is a jurisdictional element of the offense that the government

Statement

is required to prove by demonstrating that the gun and ammunition possessed by Chealy traveled in interstate commerce *US v Clay* 355 F 3d 1281 1286 11th Cir 2004 thus the dispositive issue is whether a jury could rationally conclude based on the evidence that the gun and ammunition seized from Chealy was possessed in and affecting interstate commerce id this applies to petitioner priors used to enhance his time by the OCCA which was found unconst.

if a prisoner asserts that he lacked that knowledge and therefore was actually innocent the district court in a great many cases may be required to hold a hearing order that prisoner be brought to court and make a credibility determination as to the prisoner's subjective mental state at the time of the crime which may occurred years in the past *SEE US v GARTH* 188 F3d 99 109 1999 *US v Jones* 172 F3d 381 384-385 1999 *US v Hellbusch* 147 F3d 782 784 CA8 1998 *US v Benbow* 157 F3d 1181 1184 CA9 1998 now based on *Reholf* 2019 which is a new rule clarifying the statutory elements that must be proved by a

preponderance of the evidence under
18 USC 922g and 924a2 particularly
the MENS REA requirement because
Rehaif 2019 new rule interprets a
statute it furnishes ample grounds
for authorization under 18 USC 2241's
relief for movant

" indictment is a breach of Contract "

"
REASONS For Granting movants USA v
DINKINS 2241 petition "

see brown v CALAWAY 719 F 3d 583 7th cir
2013o granting section 2241 relief because
supreme Court decision issued after
imposition of federal sentence established
that state conviction of ARSON should
not have been classified as crime of
violence for purposes of career offender
enhancement under federal sentencing
guideline see also 28 USC 2241 c 3 2243

the writ of HABEAS Corpus shall not extend
to a prisoner unless he is in custody in
violation of the Constitution (state and fed)
or laws or treaties of the US (in this case, 12
5, 68, 14, 13 amend due process) section 2243
statement 2 Supp add 9 &

Statement

issuance '2243' of writ return; hearing;
decision.

" A district Court cannot deny SVA Spont's
2241 C 3 2243 Applications seeking relief
under REHAIF v US 139 Sct 2191 2019 if
movant show evidence that he is actually
innocence of the crime charge

Petitioner submitted reliable laws
in his 2241 including trial transcript
of pd testifying that petitioner told
them after Asked why had the gun
that he have a business that permit
him (which was do to the gun buy back)
this showed petitioner didn't know
he was prohibit by 922g and under
influences, or gun buy back criminals
was not barred from temporary carrying,
possession and transition therefore
transition is a defense lawyer failed to
litigate.

the due process clause guarantees a litigant
both notice of the proceeding and the right
to be heard Richards v Jefferson County 517 US
793 799 1996

" Shift the burden to government
as supervised release forms violator
due process and is non influenceable "

pnk Correctional Center in Connection
with the parole board, see free
hampton v city of chicago, issued
petitioner fraud and inadequate
supervised release form that intentionally
intended to deprive petitioner and
prisoners generally of their self defense
rights which is not taken away base
on ones felony status or 9229 see
us v gomez, patton v us, domax,
us v blanketship and gun buy gun. also
pnk and the parole board negligently
failed to manage a system that allow
prisoners prior to their release

STATEMENT 2 Supp add 9

to a hearing where they can present
evidences, allegations of imminent
dangerous of programs relating to
guy buy back that will justify possession
of warrant relocate to safer regions
required by Const and Stat. Supervised
release forms are not above the Const
and does not exclude one's right
to self defense of possession see
US v Gomez, Lomax, Urena v Dist
of Columbia therefore Pnk supervised
release forms is not grounds that
petitioner knew he was prohibit
which he was not as attempting
to use such a claim against
petitioner while are aware of his
trial, 2241 claims will be fraud
and fabricated prohibit by Bivens

influence in justifiable

see Dinkins v State of Maryland

STATEMENT I SUPP Add 9 J

because of threshold petitioner
now seeks the benefit (required
by the 5,14 amendment due process
equal protection) of that intervening
decision which overruled CIR precedent
see griffith v kentucky 479 US 314 328 1987

THIS COURT INCLUDING THE LOWER COURTS HAS INHERENT POWER TO RECALL A MANDATE IN FACE OF EXTRAORDINARY CIRCUMSTANCES TO AVOID A MISCARriage OF JUSTICE, CALDERON V THOMPSON 523 US 538 549 1998, AND IS JUSTIFIED IN DOING SO, AS HERE, WHEN A SUBSEQUENT DECISION BY THE SUPREME COURT RENDERS A PREVIOUS APPELLATE DECISION DEMONSTRABLY WRONG SEE EG US V TOLLIVER 116 F3d 120 123 5 CIR 1971

MORE SPECIFICALLY IN REHAIF V US 588 US 2019, THE SUPREME COURT METICULOUSLY UNDERSCORED THAT DEFENDANTS STATUS IS THE CRUCIAL ELEMENT SEPERATING INNOCENT FROM WRONGFUL CONDUCT SLIP OP. AT SECTION III

CONSEQUENTLY, IT IS THEREFORE THE DEFENDANTS STATUS, AND NOT HIS CONDUCT ALONE, THAT MAKES THE DIFFERENCE. WITH OUT KNOWLEDGE OF THE STATUS, THE DEFENDANT MAY WELL LACK THE INTENT NEEDED TO MAKE HIS BEHAVIOR WRONGFUL. HIS BEHAVIOR INSTEAD MAY BE AN INNOCENT MISTAKE TO WHICH CRIMINAL SANCTIONS DO NOT ATTACH REHAIF SUPRA 588 2019 SLIP ON AT SECTION II

3 REASON FOR GRANTING ~~THE~~ petition SUPP add 10

SINCE the REHAIF Courts holding that A SUBSTANTIVE federal criminal FIRE ARM STATUTE DOES NOT REACH CERTAIN CONDUCT, PLACING CONDUCT LACKING THE INTENT NEEDED TO MAKE THE BEHAVIOR WRONGFUL BEYOND THE POWER OF THE CRIMINAL LAW MAKING AUTHORITY TO PROSCRIBE BOUSLEY 523 US AT 621 IT NECESSARILY CARRY A SIGNIFICANT RISK THAT THE DEFENDANT STANDS CONVICTED OF AN ACT THAT THE LAW DOES NOT MAKE CRIMINAL SEE BOUSLEY SUPRA AT 621 QUOTING DAVIS V US 417 US 333 346 1974 THERE CAN BE NO ROOM FOR DOUBT THAT SUCH A CIRCUMSTANCE INHERENTLY RESULTS IN A COMPLETE MIS CARRIAGE OF JUSTICE id

1 ACTUAL INNOCENCE

PETITIONER IS ACTUALLY INNOCENT OF THE USC 922 G AND 924 A 2 FIRE ARM STATUTE VIOLATION WHERE,

(1) PETITIONER DID NOT KNOW, NOR DID THE GOVERNMENT PROVE, BEYOND A REASONABLE DOUBT, THAT HE KNEW HE BELONGED TO THE RELEVANT CATEGORY OF PERSONS BARRED FROM POSSESSING A FIRE ARM REHAIF 588 US 2019 AND

(1) A IN LIGHT OF ALL THE EVIDENCE IT IS REASON FOR GRANTING ~~CE~~ ~~CE~~ PETITION SUPP ADD 10 A

~~REPT OF CASE A~~

11, 3 REASON for granting
petition supp Add 10 b

MORE likely than not that NO REASONABLE
JUROR would HAVE Convicted him bousley
SUPRA 523 USA+ 623 quoting Schlup
V Delo 513 US 298 327-328 1995

(2) THE RECORD REVEALS THAT NEITHER
HE, HIS COUNSEL, THE DISTRICT COURT
ETAL bousley SUPRA 523 US AT 618-619
AND EVERY SINGLE COURT OF APPEALS
THROUGHOUT THE FEDERAL CIRCUITS, INCLUDING
THIS COURT TO A DEGREE AND FACTFINDERS
WETHER JUDGE OR JURY CORRECTLY UNDER
STOOD THE ESSENTIAL STATUS ELEMENT
OF THE CRIME WHICH HE WAS CHARGED
bousley SUPRA AT 618 RENDERING THE
CONVICTION AND SENTENCE CONSTITUTIONALLY
INVALID Id AT 619

(3) NEITHER THE PETITIONER NOR THE
FACTFINDER RECEIVED REAL NOTICE
OF THE NATURE OF THE CHARGES AGAINST
HIM THE FIRST AND MOST UNIVERSALLY
RECOGNIZED REQUIREMENT OF DUE
PROCESS bousley SUPRA AT 618 quoting
SMITH V O'GRADY 312 US 329 334 1941
ALSO 5, 14 AMENDMENT

(4) THE 18 USC 922G AND 924 A 2

~~300~~

(3)

~~REASON FOR GRANTING~~

III 3 REASON for granting
petition Supp add 10C

CONVICTION AND SENTENCE VIOLATES THE
SEPERATION OF POWERS doctrine

(5) THE COURT LACKS SUBJECT MATTER
JURISDICTION BECAUSE THE INNOCENT
CONDUCT THE INDICTMENT ALLEGES
CONSTITUTES A NON OFFENSE WITH OUT
A PERSON KNOWING HE BELONGS TO THE
RELEVANT CATEGORY OF PERSONS BARRED
FROM POSSESSING A FIRE ARM. THE CONDUCT
WAS NEVER A CRIME UNDER 922 G AND
924 A 2

(6) THE INDICTMENT MUST BE DISMISSED AS
DEFECTIVE BECAUSE IT CHARGES NO CRIME
AT ALL

II LEGAL PRINCIPLES AND APPLICATION OF LAW

TO BE SURE PETITIONER IS ACTUALLY
INNOCENT OF VIOLATING SECTION 922
AND SECTION 924'S FIRE ARM PROVISION
WHERE PETITIONER DID NOT KNOW NOR
DID THE GOVERNMENT PROVE BEYOND A
REASONABLE DOUBT THAT HE KNEW HE
POSSESSED A FIRE AND THAT HE KNEW HE
BELONG TO THE RELEVANT CATEGORY OF PERSONS

(*) 302

ASPO for granting
101 SUPP Add 100

11

~~REPPRECEASE~~

BARRED from possessing a FIRE ARM REHAIF
SUPRA 588 US 2019 ALSO SEE IN RE WINSHIP
397 US 358 364 90 S Ct 1068 1073 1970
holding the DUE PROCESS CLAUSE requires
proof BEYOND A REASONABLE DOUBT of
EVERY FACT NECESSARY to CONSTITUTE the
CRIME which he is charged

the PETITIONER'S STATUS IS the CRIMINAL
ELEMENT SEPERATING innocent from
Wrongful Conduct REHAIF 588 US 2019
AND UNEQUIVOCALLY IS AN ABSOLUTE FACT
NECESSARY to CONSTITUTE the CRIME which
he is charged IN RE WINSHIP SUPRA AT 363

INCONTROVERTIBLE in light of all the
EVIDENCE AVERED by the GOVERNMENT
IT IS MORE THAN NOT THAT NO REASONABLE
JUROR WOULD HAVE CONVICTED him bousley
SUPRA AT 623 AND for A FEW Good
IMPRATICAL REASONS.

first the record is devoid of sufficient
INDICIA Support of both the DEFENDANT
knowing he possessed a FIRE ARM AND that
HE KNEW HE BELONG to the RELEVANT
CATAGORY OF PERSONS barred from possessing
A FIRE ARM REHAIF 588 US 2019

(8) 30

Reason For granting
tion SUPP Add to §

III

~~NOTED FOR CASE~~

Nothing in the record proves beyond a REASONABLE doubt that this PETITIONER possessed the requisite CRIMINAL CULPABILITY NECESSARY to be held CRIMINALLY LIABLE under the FIRE ARM Statute.

SECONDLY, Compounding this faulty premises the REHAIF Court ESTABLISHES that the defendants LACK of CRIMINAL CULPABILITY CAN BE USED AS AN AFFIRMATIVE DEFENSE during A PROSECUTION under 922 G AND 924 A2 to NEGATE AGAINST GUILT of A FIRE ARM VIOLATION SEE REHAIF 588 US 2019 Slip op AT SECTION III

ACCORDINGLY had PETITIONER BEEN PERMITTED to present ANY ADMISSIBLE EVIDENCE of PETITIONERS INNOCENCE i.e. LACK of CRIMINAL INTENT EVEN if that EVIDENCE WAS NOT PRESENTED during A PLEA COLLOQUY OR JURY TRIAL ETC A WOULD NOT NORMALLY HAVE BEEN OFFERED before the decision in REHAIF SEE BOUSLEY SUPRA AT 624 PETITIONER WOULD HAVE EXERCISED his SIXTH AMENDMENT SECURED AUTONOMY AND TESTIFIED in his own BEHALF MCCOY V LOUISIANA 138 SC+ 1500 2018 Submitting EXCULPATORY EVIDENCE including

~~WORTHLESS CASE~~

3 REASON For granting
PETITION SUPP Add 10 F

III

but not limited to LACK of SERIOUS
MEMORY LOSS AS A RESULT FROM AN
EXTENSIVE AND INTENSIVE ALCOHOL
AND OR DRUG ABUSE TO NEGATE AGAINST
GUILT of CRIMINAL Culpability

thirdly the indictment AFFIRMATIVELY
ALLEGED A SPECIFIC COURSE of CONDUCT
THAT IS NOT PROSCRIBED BY THE CHARGING
STATUTE CONSTITUTING A NON OFFENSE
INDEED WITH OUT THE INDICTMENT
ALLEGING THAT PETITIONER KNEW HE
BELONGED TO THE RELEVANT CATEGORY of
PERSONS BARRED FROM ~~possessing~~ possessing
A FIRE ARM. THE CONDUCT WAS NEVER
A CRIME SEE US V PETER 310 F3d 709
713 11th CIR 2002 IT IS THE DEFENDANTS
STATUS AND NOT HIS CONDUCT ALONE THAT
MAKES THE DIFFERENCE. WITH OUT KNOWLEDGE
of THE STATUS ~~the defendant~~ the
DEFENDANT MAY WELL LACK THE INTENT
NEEDED TO MAKE HIS BEHAVIOR WRONGFUL
HIS BEHAVIOR INSTEAD MAY BE AN
INNOCENT MISTAKE TO WHICH CRIMINAL
SANCTIONS DO NOT ATTACH SEE FEHAI
SUPRA 588 US 2019 Slip op AT SECTION
II

(22)

(23) 300

Reason for granting
on Supp odd 10 G

III

~~MEANS OF CASES~~

AS IN PETER SUPRA HERE ALSO IT IS CLEAR
UNDER THESE CIRCUMSTANCES THAT THE
GOVERNMENT'S PROOF OF THE ALLEGED
CONDUCT, NO MATTER HOW OVERWHELM-
INGLY WOULD HAVE BOUGHT IT NO CLOSER
TO SHOWING THE CRIME CHARGED THAN
WOULD HAVE NO PROOF AT ALL THE
GOVERNMENT AFFIRMATIVELY ALLEGED A
SPECIFIC COURSE OF CONDUCT THAT IS
OUTSIDE THE REACH OF THE STATUTE
ACTUAL INNOCENCE OF THE CHARGED OFFENSE
APPEARS FROM THE VERY ALLEGATIONS
MADE IN THE INFORMATION PETER 310
F3d AT 315 WITH OUT THE REQUISITE
CRIMINAL CULPABILITY WHEN CONFRONTED
WITH THESE CIRCUMSTANCES, IN LIGHT
OF ALL EVIDENCE IT IS MORE LIKELY
THAN NOT THAT NO REASONABLE JUDGE
WOULD HAVE CONVICTED HIM

III LACK OF KNOWLEDGE OF THE ESSENTIAL STATUS ELEMENT

THE RECORD PELLUCIDLY REVEALS THAT
NEITHER PETITIONER, HIS COUNSEL THE
DISTRICT COURT BOUSLEY SUPRA 523 US
AT 618-19 THE GOVERNMENT NOR A SINGLE
CIRCUIT COURT OF APPEALS INCLUDING

~~300~~ (8)

reason for granting
on supposed 10 H

merits of case

this Court to a degree and fact
finders whether judge or jury
correctly understood the essential
status element of which he was
charged id AS A CONSEQUENCE THE
18 USC 922 G AND 924 A 2 CONVICTION
AND SENTENCE IS CONSTITUTIONALLY
INVALID id

AT A MINIMUM THE CIRCUIT COURTS WERE
UNANIMOUS THAT THE GOVERNMENT DOES NOT
HAVE TO PROVE A CRIMINAL DEFENDANTS
STATUS IS INCOMPLETE ABSENCE OF OTHER
WISE INNOCENT CONDUCT BY A REASONABLE
DOUBT WHICH ALSO CONSTITUTES CONSPIRACY
TO DEPRIVE DEFENDANTS OF THEIR DUE PROCESS
RIGHTS IN VIOLATION OF 1985 3 SEE FED
HAMPTON V CITY OF CHICAGO

MORE SPECIFICALLY, NOT A SINGLE PERSON
PRESENT AT ANY TIME DURING PETITIONERS
DIRECT CRIMINAL PROCEEDINGS UNDERSTOOD
THE CRIMINAL STATUS ELEMENT REQUIRING
AND REQUIRED A DEFENDANT TO KNOW AND
THE GOVERNMENT TO PROVE BEYOND A
REASONABLE DOUBT IN ABSENCE OF
INNOCENT CONDUCT BOTH THAT THE
DEFENDANT KNEW HE POSSESSED A FIRE ARM

Reason for granting petition
pp add 10 I

~~RECORDS OF CASE~~

AND KNEW he " belonged to the
RELEVANT CATEGORY of PERSONS BARRED
from POSSESSING A FIRE ARM REHAIF
SUPRA 588 US 2019

the first AND most UNIVERSALLY RECOGNIZED
REQUIREMENT of due process demands more
SEE HENDERSON V MORGAN 426 US 637
49 L Ed 2d 108 1976 quoting Smith V
O'GRADY 312 US 329 334 1941 ALSO SEE
BOUSLEY SUPRA AT 618-19 THE RECORDS
REVEALS THIS CONSTITUTIONAL INFIRMITY

VACATUR of the 18 USC 922 G AND 924
A 2 CONVICTION and SENTENCE (COMPANION)
IS WARRANTED and Demand back to
the district Court IS APPROPRIATE

violation of the SEPARATION OF POWERS
doctrine

THERE CAN BE LITTLE DISPUTE IF ANY
THAT THE APPEALS COURTS AND EVERY
OTHER SISTER COURT CRIMINALIZED A SCOPE
of CONDUCT THAT EVEN CONGRESS ITSELF
CHOOSE NOT to MAKE CRIMINAL NAMELY
CONDUCT IN ABSENCE of A VICIOUS WILL
or OTHERWISE SAID LACKING INTENT

(11)

20

REASON for granting
tion Supp odd 10 J

101

~~MERITS OF CASE~~

NEEDED to make his behavior wrongful
or AN INNOCENT MISTAKE to which
CRIMINAL SANCTIONS do not ATTACH REHAIF
SUPRA 588 US 2019 Slip op AT SECTION 11

this directly CONTRAVENES the SEPERATION
of powers doctrines underlying
FUNDAMENTAL principle that for UNDER
our federal system it IS only CONGRESS
and not the Courts which CAN MAKE
CONDUCT CRIMINAL bousley SUPRA AT
620-21 LANIER 520 US 259 267-268
N 6 117 SCt 1219 1997

INDEED the APPEALS Courts Et al Applied
the FIRE ARM provision to a much
BROADER RANGE of CONDUCT than that
CONTEMPLATED WITHIN the AMBIT of
the LEGISLATIVE intent by ENCOMPASSING
CONDUCT IN ABSENCE OF A VICIOUS WILL
FATHER THAN NARROW the SCOPE of the
FIRE ARM Statutes REACH by limiting
ITS SWEEP to CAPTURE SOLELY CONDUCT
of CRIMINAL CULPABILITY SEE US V DAVIS
588 US 2019 Slip op AT SECTION 11

ONLY the peoples ELECTED REPRESENTATIVES
in the LEGISLATURE ARE AUTHORIZED to
MAKE AN ACT A CRIME QUOTING US V

~~101~~ 200

Reason for granting " "
tion Supp odd 10 K

~~NOT HIS - FEE CASE~~

HUDSON 7 CRANCH 32 34 1812

VACATUR of the 18 USC 922G AND
924 A2 CONVICTION AND COMPANION
SENTENCE IS WARRANTED AND REMAND
BACK to the district Court with further
proceedings is APPROPRIATE

WHERE NEITHER THE PETITIONER NOR THE
FACT FINDER RECEIVED REAL NOTICE OF THE
TRUE NATURE OF THE CHARGES AGAINST HIM
IN VIOLATION OF DUE PROCESS

THE RECORD IS CLEAR AT NO TIME DURING
DEFENSE PHASE OF THE DIRECT CRIMINAL
PROCEEDINGS DID EITHER THE PETITIONER
OR FACT FINDER WHETHER JUDGE OR JURY
RECEIVE NOTICE OF THE TRUE NATURE
OF THE CHARGES UNDER 922G AND 924 A2
WHERE NOBODY WAS AWARE UNTIL REHAIF
588 US 2019 THAT A DEFENDANT'S STATUS
IS THE CRUCIAL ELEMENT SEPARATING
INNOCENT FROM WRONGFUL CONDUCT AND IS
AN ABSOLUTE FACT NECESSARY TO CONSTITUTE
THE CRIME FOR WHICH HE IS CHARGED IN RE
WINSHIP SUPRA AT REQUIRING PROOF
BEYOND A REASONABLE DOUBT ID IN
ABSENCE OF INNOCENT CONDUCT

(122) 322

3 PRAYER FOR GRANTING
PETITION SUPP ODO 10 L

~~NOTICE OF CASE~~

NEITHER did the petitioner or factfinder
understand that with out knowledge of
the status the defendant lacks the intent
used to make his behavior wrongful
his behavior instead is an innocent
mistake to which criminal sanctions
do not attach REHAIF SUPRA 588 US
2019

however there is one thing that we do
know the first and most universally
recognized requirement of due process
demands that a criminal offense require
REAL NOTICE of the true nature of the
charge against him see Henderson v Morgan
426 US 637 49 L 2d 108 96 SCt
2253 1976 quoting Smith v G-ray
312 US 329 334 1941 ALSO see obviously
SUPRA at 618-19 this simply did not
happen in this case Sub Judice

VAGABOND of the convictions AND COMPANION
SENTENCE IS WARRANTED AND REMAND BACK
to the district court for further
proceedings IS APPROPRIATE

VI Subject matter jurisdiction

SON for granting ~~NOTICE OF APPEAL~~
ON SUPP Add 10 M

111

A federal Court LACKS SUBJECT MATTER
JURISDICTION WHEN FACTS ALLEGED IN THE
INDICTMENT DESCRIBES CONDUCT THAT IS
NOT PROSCRIBED BY THE CHARGING STATUTE
OR WHEN THE INDICTMENT IS DEFECTIVE
BECAUSE IT CHARGES NO CRIME AT ALL
CONSTITUTING A NON OFFENSE SEE EG
US V PETER 310 F3d 709 11 CIR 2002 PER
CURIAM

THAT IS PRECISELY THE ISSUE HERE / ~~REACHING~~
~~WITH OUT THE GRAND JURY EVER~~
~~INDICTMENT~~ (WITH OUT THE GRAND JURY EVER
FINDING NOR THE GOVERNMENT CHARGING IN
THE INDICTMENT THAT THE PETITIONER KNEW
HE BELONG TO THE RELEVANT CATEGORY OF
PERSONS BARRED FROM POSSESSING A FIRE
ARM REHAIF SUPRA 588 US 2019 THE
INDICTMENT WAS DEFECTIVE BECAUSE IT
CHARGED NO CRIME AT ALL PETER SUPRA
310 F3d AT 714

THIS IS SO BECAUSE WITH OUT KNOWLEDGE
OF THE STATUS THE DEFENDANT LACKS
THE INTENT NEEDED TO MAKE HIS BEHAVIOR
WRONGFUL HIS BEHAVIOR INSTEAD IS
AN INNOCENT MISTAKE TO WHICH
CRIMINAL SANCTIONS DO NOT ATTACH REHAIF

(2)

(#) 32

588 US 2019

AS IN PETER SUPRA HERE ALSO THE VIOLATION OF PETITIONERS RIGHTS TO BE FREE OF PROSECUTION FOR A NON OFFENSE BARS HIS CONVICTION EVEN IF HIS FACTUAL GUILT HAS BEEN ESTABLISHED VALIDLY 310 F3d AT 713 QUOTING US V MEACHAM 626 F2 AT 510

JURISDICTIONAL ERRORS HAVE HISTORICALLY BEEN RECOGNIZED AS FUNDAMENTAL IN NATURE SEE US V ADDONIZIO 442 US 178 185 1979 ALSO SEE EG MORGAN 346 US AT 509 N15

HERE THE GOVERNMENTS AFFIRMATIVE ALLEGATIONS OF SPECIFIC INNOCENT CONDUCT NOT PRESCRIBED BY THE CHARGING STATUTE PETER SUPRA 310 F3d AT 714 BETTER THE COURTS JURISDICTION

THIS UNEQUIVOCALLY RENDERED THE PROCEEDING ITSELF IRRIGUIOR AND INVALID MORGAN SUPRA 346 US AT 509 N15 BECAUSE THIS COURT TO A DEGREE AND THE UNANIMOUS FEDERAL CIRCUIT COURTS APPLIED THE FIFTH PROVISION BROADLY TO CAPTURE EVEN NON CRIMINALLY CULPABLE CONDUCT RATHER THAN THE LEGISLATIVELY INTENDED NARROW RANGE REASON FOR '13' 302 GRANTING PETITION SUPPOD.

3 REASON for granting petition SUPP add 10 R

Even though petitioner didn't raise reboif claims (as to recent grounds) in its original 2255, successive, trial, direct appeal, it didn't bar relief SEE US v FRIESTMAN who filed multi 2255 and was still allowed to file a 2241 and generally SANTILLANA who was allowed to file actual innocence under a 2241 including boost

this Court has held that it is fatal error to permit an individual to be convicted on a charge the grand jury never made against him STIRONE v US 361 US 212 219 1960

MORE OVER all four prongs of plain error review would be satisfied even if it applied there is error, that error is now plain under reboif SEE HENDERSON v US 568 US 266 2013

It affected petitioner's substantial rights as the right to have the grand jury make the charge on its own judgement is a substantial right which can not be taken away with or without Court amendment STIRONE

3 REASON for granting petition Supp add 105

361 US At 219 This also creates a
Equal protection violation, modify
Summons and 5th amendment Concerns.

and Convicting him of an unindicted
offense seriously affected the fairness
integrity and public reputation of
judicial proceedings, despite a Conspiracy
of deliberate of defective indictment
and failure to reindict. SEE PLATO

Finally the 11th cir Court which has
jurisdiction over petitioner unlawful
holding, has establish precedent
recognizing that the failure to allege
a crime is a jurisdictional defect that
can be raised at any time US VIZURISTA
710 F3d 1179 11 cir 2013 SEE US V
McIntosh 704 F3d 894 902-03 11
cir 2013 US V PETER 310 F3d 709 713-15
11 cir 2002 US V StHubert 909 F3d
335 342-44 11 cir 2018 (reaffirming
these precedents)

Therefore the usdc atl div, 11th cir
stating petitioner should have raise
reheif in his original 2255 or general
is a successive war unconst SEE US V BT

3 REASON for granting petition supposed to +
hubert 909 F3d 335 342-4411 cir 2008
also it should be noted that a 2241
is universal and general regarding
letting federal prisoners assert
actual innocence claims or generally
attacking their time see 2241 Stat
and boots citing us v bousley which
overturns any default procedural

thus the 11th cir should be given
a chance to address petitioner's
2241 in the first instance or alternative
to prevent further punishment, and
subjecting to Covid 19 as a emergency
this Court should confirm and
send petitioner back to usdc of mo
only if necessary.

again petitioner didn't raise these
claims in his first 2255, successive,
trials direct appeal which since
the merits wasn't ruled on make
them litigational also is no bar
to relief as defective indictment
is key to litigation now the 11th
cir who has jurisdiction over petitioner
unlawful holding regarding of its
first arresting and conviction location

3 REASON for granting petition Supp odd 100

SEE 2241, 2243, 4th cir 2241

Johnson claims by former USPAC
prisoner

Now the 11th cir has repeatedly held that
where the district Court fails to "ensure"
that the defendant understood the nature
of the charges that failure affects his
substantial rights and requires automatic
REVERSAL of the Conviction and the opportunity
to plea a new US v Symington 781 F3d
1308 1314 11cir 2015,

therefore the Court error for not
investigating a law that will serve
movant as a summon type out of
respect of his substantial right protected
by the 1, 5 14 amend due process and
allow him to plea new therefore deliberate
subjecting movant to Covid, 19 8th amend
violations

also stating that relief is not
retroactive is irrelevant as lacking
understanding of the nature of charges
and indictment defective warrants reverse
of Conviction SEE US v Symington 781 F3d
1308 1314 11cir 2015 and Bouley v US.

3 reason for granting petition Supp odd 10 v

finally after this Court decided Rehaif
it granted several petitions for certiorari
vacated the judgments below and
remanded for reconsideration in
light of Rehaif (this is now a equal
protection and 514 amend due process
issue)

FEED V US SCT 2019 WL 318317 6-28-2019
No 187490 ALLEN V US SCT 2019 WL
2649798 6-28-2019 No 187123 HALL V
US SCT 2019 WL 2649770 No 17-9221
(6-28-2019) MOODY V US SCT 2019
WL 1980311 6-28-2019 No 189071

the government has recently agreed
to a GVR in a pending petition
in the same posture as this one
is similar

STACY V US MEMORANDUM for US1-2
US No 19-5383 filed Aug 30 2019,
this also creates a equal protection issue
by the government see plato, for the
forgoing reason the same results is
warrant here (note Dinkins v USA's
420 CV 00133 - AGF (whole case is reserved))

7 Conclusion

for the foregoing reasons the Court
should grant the petition vacate the

~~PROPOSED (WORK)~~

the judgement below and demand
for reconsideration in light of
reheif under a 2241 for the
USAC of ATL

PRO SE Robert O -
Dinkins 42737-044
USP ATL pobox 150160
Atlanta Ga 30315

8-2-2020

truly submitted

Conclusion

supp odd A