

20-5980

No. _____

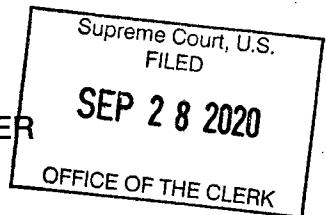
ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

pro "se"

Anthony Brawner — PETITIONER
(Your Name)



vs.

D.C. Appeals court — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Appeals court of the District of Columbia
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

pro "se"
Anthony Brawner
(Your Name)

USP coleman II ³³⁵²¹
Po. Box 1034 coleman FL
(Address)

Coleman, FL 33521

(City, State, Zip Code)

W/A
(Phone Number)

QUESTION(S) PRESENTED

- (1). Can a valid claim of subject-Matter-jurisdiction overcome a procedural barr?
- (2). What burden of proof is required to show the court's lack of subject-matter-jurisdiction?

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

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~~5/1/20~~ April 30, 2020

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TABLE OF AUTHORITIES CITED

CASES

Bleck Kor v. U.S. (1981, CA4 VA.) 657 F.2d 629
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State v. Baldwin, 305 A.2d 555 (Me: 1973)

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STATUTES AND RULES

D.C. code 11-923

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OTHER

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Sixth Amendment right to tryed by state wherein
crime shall have been committed.

fifth and fourteenth Amendment right of due process

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 is unpublished.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 _____ 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 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 _____ 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 _____.

[] 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 _____.

[] 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).

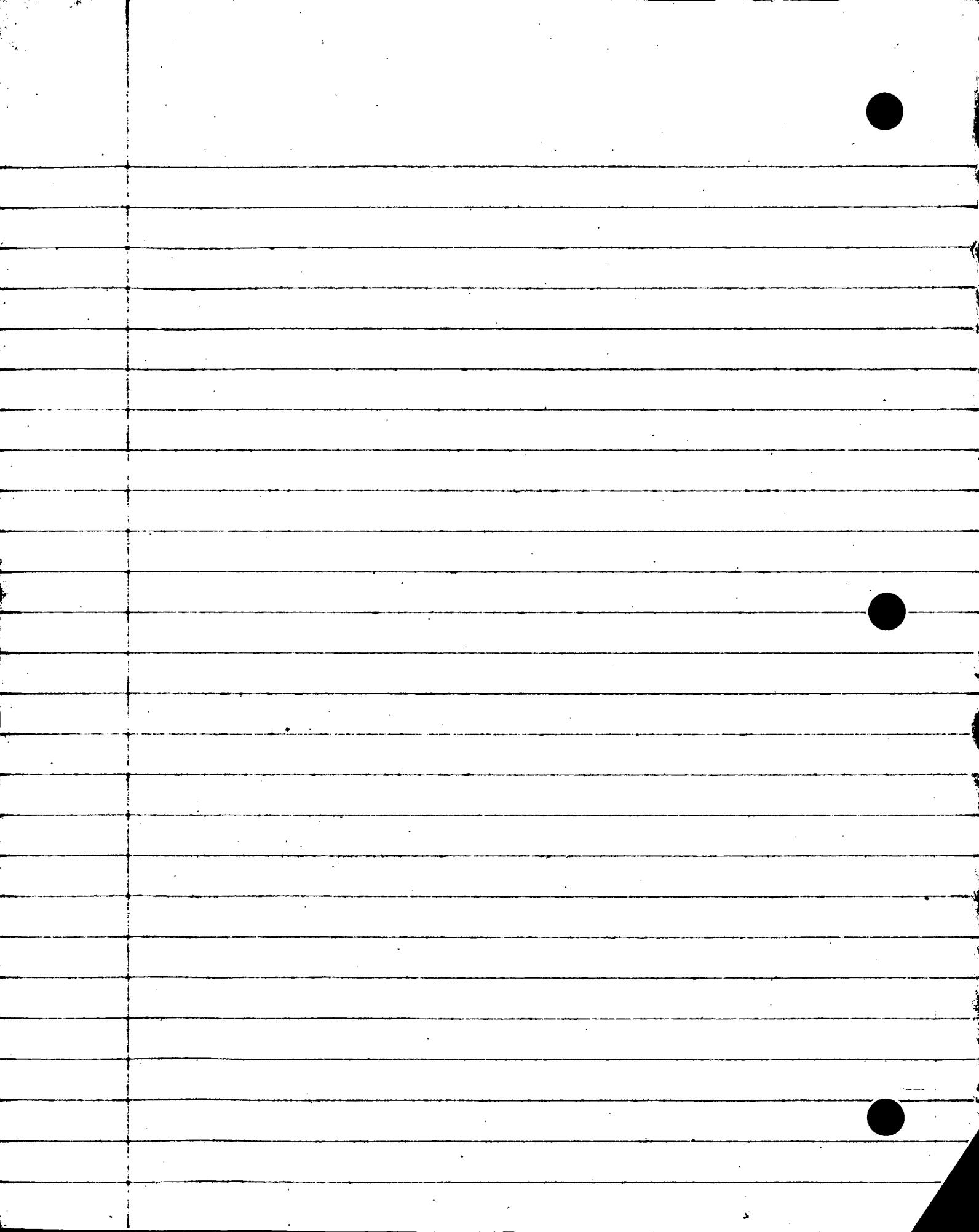
Statement of Case

The Above action is to Clear up a matter of importance, Where the superior court of the District of Columbia have charged the petitioner for a carjacking that clearly took place in the State of Maryland, Outside the jurisdictional bounderies of the District of Columbia; D.C. code 11-923 (D.C reorganization Act of 1970). u

On March 29, 2005, The petitioner plead guilty in the D.C. superior court to seven offenses, including a count of Armed Carjacking. The carjacking charge stemmed from a 2004 incident in which Appellant, Armed with a gun, robbed a victim in front of her Maryland apartment and forced her into the trunk of her own car, and drove away. Case number (FEL-963-03) D.C. superior court.

The petitioner who has been denied relief by the Superior court in four different motions has challenged the court's jurisdiction and showed the domino effect of violations it has caused, such as; Double jeopardy, ineffective assistance of counsel, and due process violation to his rights.

Further more the petitioner's factual claims that the State of Maryland also have charged him for the carjacking while Armed (which has been ignored by the Superior court and Appeals court) clearly show the infringement of the the state of Maryland's jurisdiction by the District of Columbia court's.



In the Appeal of the petitioner's motion to withdraw his guilty plea (denied 4/30/20), the Appeals court claim that his motion should be procedurally barred as second and successive which brings the petitioner to his first question.

Can subject - Matter - jurisdiction overcome a procedural barr?

Of course this honorable court understands, that allowing a "valid" claim of subject - Matter - jurisdiction to be procedurally barred is to allow the lower court's to disrespect the power upon which they were ratified. If any court lacks jurisdiction the sentence should not stand.

Subject - Matter - jurisdiction like
Actual innocence are both based on
factual evidence that can prove that
elements of the Accussed crime are
false. More so Subject - Matter - juris-
diction shows the courts jurisdictional
limitations, Boundaries they have clearly
over stepped.

Sixth Amendment unequivocally man-
dates trial in "State and District" wherein
crime shall have been committed, and proof
of venue is therefore essential part of gover-
nments case without which there can be no
conviction. *Bleck Kor v. U.S.* (1981) CA4 VA 657
F.2d 629 CCF 81838 (1982) 454 U.S. 1150, 102
S.Ct 1016, 71 L.E.d 2d 304.

What burden of proof is required to show the court's lack of jurisdiction?

Many states require proof beyond a reasonable doubt. Annotation, proving venue, territorial jurisdiction, 67 A.L.R.3d 988, 1004 (1975). Thus, for example, in State v. Baldwin, 305 A.2d 555 (Me: 1973); Annotation Supra, 67 A.L.R.3d at 1004, the Supreme Court of Maine reasoned that a stringent standard of proof reflects the gravity of the effect of an erroneous jurisdictional determination upon the judicial process and upon the rights of defendants and, because jurisdiction can never be waived nor conferred by consent, would insure that when a court acts, it does so with authority and best avoid the risk that a defendant already tried might be tried in a second jurisdiction for the same offense where the first court was without jurisdiction. 305 A.2d at 559-60,

In the instant case were the District of Columbia charged the petitioner for Armed Carjacking and the State of Maryland again charged the petitioner for the same carjacking shows the Supreme's Court of Maine concerns in such matter's. The bigger question of the matter is, Should two state's charging a petitioner with the same crime cause doubt in the mind of the court?

The petitioner is sure this honorable court understands that a jurisdictional claim by the court accuses the defendant of committing the crime within the boundaries of the State. Two state's claiming jurisdiction of the carjacking should caused doubt.

Clearly in the above case a burden of proof to decide a jurisdictional determination is needed. But further proof of the location of the crime can be found in the Appeals court denial of the motion to withdraw guilty plea. Were the court admit that the victim was robbed in front of her home in forestville, Maryland outside the jurisdictional boundaries of the District of Columbia.

The petitioner claim that no elements of the carjacking took place in D.C. But the lower court still claim right's over such crimes. Even after being alerted that the state of Maryland would claim right's over the carjacking.

Reasons for granting writ

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page

In the above action were the superior Court have charged the petitioner for a carjacking while Armed that took place in the State of Maryland, the petitioner will now give this honorable court good cause to grant the writ of Certiorari.

The Appeals court have decided a federal question that has not been, but should be decided by this court. Supreme Court Rule 10(c).

The questions asked in this petition are question that have not yet been decided by this court and pose a threat to federal and state jurisdictions, And would cause a hardship to defendant in future proceeding. This issue is of clear national importance.

This honorable court has pointed out the need of the lower courts to look to the substantive offense to indicate where congress considered place of commission to be, locus delecti. Bleckor v. U.S. (1981, CA4 V.A.) 657 F.2d 629 C.C.F 81B38 (1982) 454 U.S. 1150, 102 S.Ct 1016, 71 L.E.D. 2d 304.

In the instant matter D.C. code 22-2803 (A act of congress) statue for Armed car-jacking only gives two prongs that complete the offense of carjacking. The first is the force, to obtain the vehicle. The second would be the immediate and Actual possession of the motor vehicle. This honorable court can see from the facts given, that the force and the immediate and Actual possession of the motor vehicle was gained by the petitioner in the state of Maryland See; Appendix A.

If this honorable court were to allow the Appeals court erroneous decision to stand, it would allow future court's to wrongfully speculate the jurisdictional boundaries of there court. In the instant matter, where the superior court of the District of Columbia and the state of Maryland have charged the petitioner with the same carjacking, should of caused doubt in the mind of any reasonable fact finder. But instead the petitioner was giveⁿ time for the carjacking while armed by the District of Columbia, then was charged by the state of Maryland for the lesser included offense of use of a fire during a violent crime.(Which would consist [REDACTED] of the same crime, see: Block berger v. United States). (Double jeopardy).

And what this honorable court should also see is the mistake of procedurally barring a petitioner with such a valid claim. The requirement of subject - Matter jurisdiction should be immune from waiver or forfeiture by a defendant, and courts would bear an independent obligation in every case - and every level of appellate review - to assure its satisfaction, regardless of whether a party were to raise it. See id.; Arbaugh, 546 U.S. at 514.

The petitioner now ask this honorable court to look at these important questions. And to guide the lower court. And to help stop confusion.

The petitioner prays this honorable court will shift the burden, Were the superior court and the State of Maryland have charge him for the same carjacking. And answer these important questions to clear up problems of the future.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Anthony Brower

Date: September 26 2020