

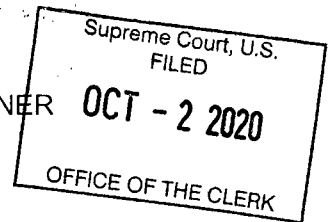
No. 20-6248

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Shawn Thomas Brooks — PETITIONER
(Your Name)



United States District Court for the District of Nebraska, Lincoln ^{VS.}
~~United States court of appeals for the Eighth circuit~~ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States court of appeals for the Eighth circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

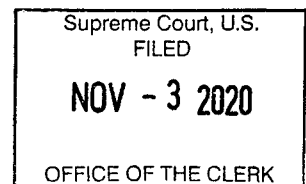
PETITION FOR WRIT OF CERTIORARI

Shawn Thomas Brooks
(Your Name)

P.O. Box 2099
(Address)

Pollock, Louisiana 71467
(City, State, Zip Code)

N/A
(Phone Number)



The most relevant question is after viewing the evidence in the right light favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt?

QUESTION(S) PRESENTED

All these questions are referenced to my case.

How can a jury be deemed reasonable if they believe a witness that has admitted to lying to several forms of law enforcement agencies about crimes he says were committed that were not related to this case, but then says the crimes were actually not committed?

How can a jury be deemed reasonable when they make a conviction relying on one sole witness who admitted to being untrustworthy and has no supporting evidence fortifying his claims and accusations?

If my jury was reasonable should they have acquitted me on one gun charge that was never presented, as in the shotgun I was convicted of was never brought to trial or examined or shown to the jury to declare if it actually existed, and another gun charge where the gun was recovered in a different city than where the crimes were committed and in a different city than where I lived also the gun didn't have my DNA, fingerprints or any other connection to me, should a reasonable jury acquit?

If a jury convicts someone of conspiracy relying on one witness testimony even though that witness has admitted to lying to all forms of law enforcement is the jury reasonable even though there was no physical, forensic or scientific evidence connecting me to any of these crimes?

If there is no evidence placing me at the scene of these crimes and no evidence of my involvement should the jury acquit.

In my case my co-defendant is the only sole person implicating me in any criminal activity but he admitted to lying about the case repeatedly, would an honorable jury with integrity and dignity discredit an ~~un~~untrustworthy witness and rely on the facts that there is no evidence that supports a conviction and no evidence that supports anything my co-defendant says? After viewing the evidence in light most favorable to the prosecution any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt?

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:

United states court of appeals for the Eighth circuit

RELATED CASES

United states vs. Moya , 895 F.3d 556 (8th circuit 2018)
United states vs. Scofield , 433 F.3d 580, 584-85 (8th circuit 2006)
United states vs. Hamilton , 332 F.3d 1144, 1148-49 (8th circuit 2003)
United states vs. Espinosa , 585 F.3d 418, 423 (8th circuit 2009)
United states vs. Burks , 934 F.2d 148, 151 (8th circuit 1991)
Jackson vs. Virginia , 443 U.S. 307, 319, 99 S. Ct. 2781, 2789 (1979)
United states vs. Serrano - Lopez , 366 F.3d 628, 634 (8th circuit 2004)
United states vs. Hodge , 594 F.3d 614, 618 (8th circuit 2010)

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A on August 14, 2020 the united states court of appeals for the Eighth Circuit affirmed the decision of the district court.

APPENDIX B on January 10, 2019 a jury for the united states District Court for the District of Nebraska, Lincoln returned a guilty verdict.

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
United States vs. Mora, 895 F.3d 556 (8th cir. 2018)	5, 6
United States vs. Espinosa, 934 F.2d 148 (8th cir. 1991)	4
United States vs. Scofield, 433 F.3d 580 (8th cir. 2006)	4
United States vs. Hamilton, 332 F.3d 1144 (8th cir. 2003)	4, 5
Jackson vs. Virginia, 443 U.S. 307 (1979)	4, 5
United States vs. Serrano-Lopez, 366 F.3d 1119 (8th cir. 2011)	5
United States vs. Hodge, 594 F.3d 614 (8th cir. 2010)	5

STATUTES AND RULES

18 U.S.C. § 1951	3, 4
18 U.S.C. § 1951 (a)	3, 4
18 U.S.C. § 924 (c)(1)(A)	3, 4
18 U.S.C. § 2113 (a)	3, 4

OTHER

28 U.S.C. § 1254 (1).	2
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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 August 4, 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: _____, 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

Certification of appealability: Must demonstrate that a procedural ruling barring relief is itself debatable amongst jurist of reason, otherwise the appeal would not deserve encouragement to proceed further.

Relief from judgment: Fed. R. Civ. P. 60 (b) (6) permits a court to reopen a judgment for any other reason that justifies relief. Fed. R. Civ. P. 60 (b) vests wide discretion in courts but judicial precedent holds that relief under rule 60 (b) is available only in extraordinary circumstances. In determining whether extraordinary circumstances are present a court may consider a wide range of factors, these may include in an appropriate case the risk of injustice to the and the risk of undermining the public's confidence in the judicial process.

Judicial precedent: observes that a court's failure to raise a legal argument at the petition stage is particularly significant in deciding whether such an exercise of discretion is appropriate. When a legal issue appears to warrant review certiorari is granted in the expectation of being able to decide that issue.

assistance of counsel: The sixth amendment right to counsel is the right to the effective assistance of counsel. A defendant who claims to have been denied effective assistance must show both that counsel performed deficiently and that counsel's deficient performance caused them prejudice.

Strickland standards: first sets a high bar a defense lawyer navigating a criminal proceeding faces any number of choices about how best to make a clients case, the lawyer has discharged his constitutional responsibilities so long as his decisions fall within the wide range of that counsel was not functioning as the counsel guaranteed by the 6 amendment that Stricklands first prong is satisfied. It is only when a lawyers errors were so serious also demonstrate prejudice i.e. a reasonable probability that, but for counsels unprofessional errors the result of the proceeding would have been different.

Interference with commerce by robbery in violation of 18 U.S.C. § 1951

Conspiracy to interfere with commerce by robbery in violation of 18 U.S.C. § 1951 (A)

Bank robbery in violation of 18 U.S.C. § 2113 (A)

Possessing a firearm in furtherance of a crime of violence in violation of 18 U.S.C. § 924 (c) (1)

Branding a firearm in violation of 18 U.S.C. § 924 (c) (1) (A)

Discharge of a firearm in violation of 18 U.S.C. § 924 (c) (1) (A)

STATEMENT OF THE CASE

Nature of the case: This is a petition by petitioner Shawn Brooks following a not guilty plea, jury trial, conviction sentence and judgment in the U.S. District Court for the District of Nebraska. Also in the Eighth Circuit Court of Appeals the court affirmed the ruling of the District Court on charges from a string of robberies.

Procedural History: On November 15, 2017 a grand jury in the district of Nebraska returned an indictment solely charging Marcus Remus with his involvement in a string of robberies. On May 22, 2018, a second superseding indictment was filed naming Marcus Remus and Shawn Brooks as co-defendants with one count of conspiracy to interfere with commerce by robbery or bank robbery in violation of 18 U.S.C. § 1951 (a), five counts of interference with commerce by robbery or bank robbery in violation of 18 U.S.C. § 1951 (a), three counts of brandishing a firearm in furtherance of a crime of violence in violation of 18 U.S.C. § 924 (c)(1)(A), and one count of bank robbery in violation of 18 U.S.C. § 2113. A jury trial for Shawn Brooks was held from January 7, 2019 to January 10, 2019. Brooks orally moved for a direct verdict under rule 29 at the conclusion of the government's case in chief (17oct 20:20) the court overruled, then I renewed rule 29 motion and the court overruled again and the jury returned a verdict of guilty on all charges. The District Court sentenced Shawn Brooks to 480 imprisonment on April 12, 2019. Brooks filed a timely appeal notice of appeal on April 16, 2019, on direct appeal the Eighth Circuit Court of Appeals affirmed the District Court's ruling on August 4, 2020.

Statement of the facts: Between November 29, 2016 and December 30, 2016 in Lincoln, Nebraska 5 gas stations and one bank was robbed. Two armed suspects masked with face coverings entered premises and demanded money. Three of the robberies the assaultants discharged a firearm. Police made no arrest at the scene of any of the robberies. Eventually, investigators developed a lead and arrested Marcus Remus and the state charged him in connection with the robberies on November 4, 2017. Prior to Remus was indicted solely in connection with the robberies. On January 17, 2018 a superseding indictment was filed naming Marcus Remus and Shawn Brooks on May 22, 2018 a second superseding indictment was filed on Brooks and Remus. On January 2, 2019 January 7, 2019 to January 10, 2019 on the third day of trial co-defendant Marcus Remus testified that he and Brooks were responsible for the robberies. Remus' testimony was the only evidence directed implicating Brooks. On January 10, 2019 the jury returned a guilty verdict on all counts. The District Court sentenced Brooks to 480 months on April 12, 2019.

Standard of Review: Brooks' claim of insufficient evidence is reviewed de novo. United States v. Seaford, 433 F.3d 580, 584-85 (8th Cir. 2016) on review the court views the evidence presented in the light most favorable to the government, resolving conflicts in the evidence supporting the jury's verdict. United States v. Espinoza, 585 F.3d 410, 423 (8th Cir. 2019). This means the relevant question is whether, after viewing the evidence in light most favorable to the government, contains substantial evidence sufficient to prove the elements of the crime beyond a reasonable doubt.

Merits: The jury convicted Brooks based solely on Remus' testimony. Remus testified in court after executing a plea deal to only two charges and the others dismissed. Based on state charges Remus faced up to 370 years imprisonment from at Remus' residence, TR P.19, 358 recovered gun, TR, P.22 fingerprint on plastic bag, TR, P.22 no fingerprint DNA on gun, TR, P.40 clothing recovered. During Remus' testimony he admitted to lying to investigators that a shotgun had been stolen from him (TR, P.546:4-24) Remus could not keep straight whether he traded the shotgun straight up or included \$50 purchase in the trade (TR, P.567:29-569:9) These blatant contradictions render Remus' testimony wholly lacking in credibility which was fear of personal safety, worry about being away from family, worry throwing his future away, worry about how much time he would serve (TR, P.537:7-19) these admissions surely raise doubts in the minds of any reasonable juror as to the motive behind and veracity of any of Remus' testimony to the point no reasonable juror could find his testimony credible.

Despite the lack of evidence directly implicating Brooks the jury never the less found Brooks guilty beyond a reasonable doubt. The insufficiency of evidence provided by the government precludes any reasonable juror from such a finding.

REASONS FOR GRANTING THE PETITION

Petitioner Shawn Thomas Brooks believes that reasons for granting the petition is that the Government failed to meet their burden of proof in presenting sufficient evidence for a reasonable Jury to find him guilty beyond a reasonable doubt to all counts of the second superseding indictment. Mr. Brooks further contends that co-defendant Remus' testimony the only direct evidence of his involvement was so lacking in credibility that no reasonable Juror could find it credible. As a fraction of the remaining Government's evidence was merely circumstantial, Brooks asserts that the Government failed to present evidence that was sufficient for any reasonable Juror to find him guilty as to all elements of all counts in the second superseding indictment. U.S. vs. Moya, 895 F.3d 556 (8th cir. 2018)

On review, the court views the evidence presented in light most favorable to the government resolving conflicts in the government's favor and accepting all reasonable inferences that support the verdict. United States vs. Hamilton, 332 F.3d 1144, 1148-49 (8th cir. 2003). The relevant question is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Jackson vs. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789 (1979). The court will not overturn a conviction unless "no reasonable jury could have found the defendant guilty beyond a reasonable doubt. United States vs. Serrano-Lopez, 366 F.3d 628, 634 (8th cir. 2004). The Appellant in Hodge made the same rejection argument that Brooks now offers on appeal except the only sole witness in Brooks' case ~~that~~ directly implicating him lacked credibility due to inconsistencies in his statements and an incentive to lie to reduce their own sentences. United States vs. Hodge 594 F.3d 614, 618 (8th cir. 2010)

Shawn Brooks contends that all elements of all counts of the second superseding indictment did not have sufficient evidence to convict on all charges by a reasonable jury. Not only was Marcus Remus the sole witness alleging Brooks involvement and no supporting or corroborating evidence fortifying Remus' claims, in fact not only does Marcus Remus contradict himself but all other Government evidence contradict Remus' claims. Remus was completely unreliable, contradicting and untruthful throughout the whole indictment and trial. Remus admitted to originally lying to investigators about other crimes as well as this case. Remus could not keep a straight story even while testifying. The Government presented evidence that was insufficient in establishing each element of each charge. A handgun recovered from Remus' residence in connection with the robberies supplied no DNA or fingerprints but Brooks was still convicted nonetheless. A ~~ghost~~ ghost shotgun that was never presented at trial was another charge Brooks was convicted of but there is simply no evidence that supports the conviction except Remus' contradicting and unreliable testimony. Also the evidence in the elements of the robbery charges were not sufficient the sole and only evidence was Remus' testimony which was again contradicting, unreliable and non credible and ~~not~~ no other evidence supported Remus' testimony or places Brooks at the scene of any of the robberies.

The Jury made a tremendous error in convicting Brooks solely off of Remus' testimony and not taking all of the other evidence into consideration and not realizing that Remus' testimony alone doesn't hold any weight without any support and facts to fortify his claims. This deems the jury was an unreasonable jury to convict on all charges.

It is very important to have the supreme court decide the question involved which is really "did the Government present sufficient evidence for a reasonable jury to find Shawn Thomas Brooks guilty beyond a reasonable doubt as to all counts and elements of the second superseding indictment". U.S. Vs. Moua, 895 F.3d 556 (8th Cir. 2018) The supreme courts Jurisdiction is powerful accross America and balances the Constitution, equality, fairness and the law on its shoulder among many other things. To have this case reviewed with the professional, expert and elite wisdom and knowlege of the honorable supreme court would speak volumes of the fairness, power, integrity and strength that it holds in The United States of America. It is important for the supreme court to make the necessary corrections of the lower courts that dont always judge correctly in the court of law.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Shawn Thomas Brooks

Date: September 30th, 2020

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Shawn Thomas Brooks — PETITIONER
(Your Name)

VS.

United States District Court for the District of Nebraska, Lincoln
— RESPONDENT(S)

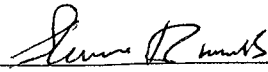
PROOF OF SERVICE

I, Shawn Thomas Brooks, do swear or declare that on this date, September 30, 2020, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 30, 2020


(Signature)