

20-6348

IN THE
SUPREME COURT OF THE UNITED STATES

William J. O'Brien, III — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THIRD CIRCUIT APPELLATE COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

William O'Brien #71915-066
(Your Name)

FCT-HAZELTON, P.O. Box 5000
(Address)

BRUCESTON Mills, WV 26525
(City, State, Zip Code)

N/A
(Phone Number)

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"D"

STATUTES AND RULES

U.S. CONSTITUTION	
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OTHER

QUESTION(S) PRESENTED

- ① Is it a Constitutional Violation of Due Process for the government's Prosecution, AND Agents, to LIE 41 times to the grand jury, MATERIAL EVIDENCE known to be perjured, to obtain an indictment? Knowingly & purposefully suborn perjury.
- ② Is it a Violation of the 4th Amendment to use that indictment for "probable cause" to obtain a WARRANT for search & seizure? Knowing and purposefully suborn perjury 41 times.
- ③ Is it a Sixth Amendment Violation IF the defendant INSTRUCTS Appellate Counsel to file issue ① and ② on Direct Appeal, IT IS NOT done, AND NOW Defendant IS IN "procedural default" AND CANNOT LITIGATE THESE ISSUES.
- ④ Isn't this a "structural error"? My 6th AMENDMENT AUTONOMOUS RIGHT IS EITHER RESPECTED, OR DENIED (Here) BUT CANNOT BE "HARMLESS."

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

U.S. District Court for the EASTERN DISTRICT of PENNSYLVANIA
20-cv-92 a FREEDOM OF INFORMATION Act CLAIM. directly
related to this same case 15-cr-021

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 C.A. No 20-1342; 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☐ is unpublished.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 Crim. Action #15-0021-1; Civil Action No. 19-1810; 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 July 21, 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: Aug 21, 2020, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

United States Constitution RIGHT TO DUE PROCESS, in
the FIFTH Amendment.

United States Constitution Fourth Amendment
- illegal search and seizure: Re: No Probable Cause

United States Constitution SIXTH Amendment
- "Ineffective Assistance of Counsel"

STATEMENT OF THE CASE

The government Agents, and prosecutor, lied 41 times to the grand jury to obtain the original indictment. Each lie is documented in my 2255 petition, with supporting Trial transcripts. The prosecutor admitted to telling the agents "how to answer" the lies no material. For example 1) It is illegal to prescribe narcotics for headaches? A) YES THAT'S NOT TRUE, AND THEY KNEW IT. & 2) The charts were altered? YES. AND THIS WAS VERIFIED? YES. BUT AT TRIAL "No, they weren't." WAS IT VERIFIED? "How could we verify the charts being altered without the charts." BUT the grand jury INDICTED with 41 KNOWN LIES, SUBORNED PERJURY.

THAT INDICTMENT WAS USED TO SECURE WARRANTS FOR SEARCH AND SEIZURE. THAT'S HOW THE GOV'T OBTAINED ALL OF THE DOCTOR'S CHARTS. THERE WAS NEVER "PROBABLE CAUSE." THE GOV'T THEN SPERSEDED O'BRIEN TWICE USING ONLY INFORMATION OBTAINED FROM THE ILLEGAL SEARCH WARRANTS.

O'BRIEN INSTRUCTED his Appellate Atty to file these exact issues in the Direct Appeal. THE ATTY DID NOT. PROOF OF THE INSTRUCTION IS IN THE 2255. BECAUSE OF THE ATTY NEGLIGENCE, O'BRIEN NOW FILES "PROCEDURAL DEFAULT", WHEN IN FACT - THIS IS STRUCTURAL ERROR.

- ① When the gov't suborns perjury 41 times to obtain an indictment the indictment is fatally flawed. KNOWINGLY & PURPOSEFULLY telling material lies obviously is a "DUE PROCESS" violation
- ② USING THAT INDICTMENT, WHICH THE AGENTS & PROSECUTOR KNOWS IS FLAWED, TO OBTAIN WARRANTS FOR SEARCH & SEIZURE IS A VIOLATION OF THE 4th AMENDMENT
- ③ THE ATTY WHO DOES NOT FOLLOW THE DIRECTION AND INSTRUCTION OF his DEFENDANT IS NOT "EFFECTIVE" COUNSEL. IT IS THE DEFENDANT'S RIGHT TO APPEAL WITH THE DEFENDANT KNOWS IS ILLEGAL, AS IN THIS CASE. "PROCEDURAL DEFAULT" CAN NOT BE APPROPRIATE IN THIS CASE.

(5)

REASONS FOR GRANTING THE PETITION

THERE IS A CONFLICT BETWEEN THE THIRD CIRCUIT, AND the 2ND, 6TH, 7TH, 8TH, 9TH, 11TH CIRCUITS. See Appendix D. All other circuits have found that DELIBERATE PERJURY, WITH MATERIALITY, OR purposefully misleading the grand jury, NECESSITATES DISMISSAL OF THE INDICTMENT. The 3RD CIRCUIT STATES THAT IF YOU ARE CONVICTED, FOUND GUILTY, AT TRIAL - there is NO CAUSE to DISMISS the indictment. U.S. v Console, 13 F.3d 641, 672 (3d Cir. 1993); U.S. v Muhammad, 336 F. App'x 188, 193 (3d Cir. 2009). "[T]he guilty verdict delivered by the ~~petite~~ jury cured any defect in the grand jury proceedings. U.S. v Mechanik, 475 U.S. 66 (1986).

Every SCRAP of EVIDENCE, in this trial, came from an illegally obtained search warrant BASED ON AN INDICTMENT WITH SUBORNED PERJURY 41 TIMES. "O'BRIEN ALTERED THE CHARTS." AND "IT WAS VERIFIED" IS MATERIAL TO THE grand jury. AT TRIAL "NO, NOTHING WAS ALTERED," AND "HOW COULD WE VERIFY IT WITHOUT THE CHARTS?" 2 of the 41 MATERIAL LIES.

So, there is a CIRCUIT SPLIT. ALSO, AND MORE importantly, the BLACK LIVES MATTER (BLM) movement has SHOWN A BRIGHT LIGHT ON these grand jury decisions. The Supreme Court NEEDS to ADDRESS the LIES AND purposefully MISLEADING the grand jury. SECRECY IS NOT TO BE USED TO ABUSE the system. If PROSECUTORS, AND AGENTS, CAN LIE - why even HAVE a grand jury. "YOU CAN INDICT A HAM SANDWICH" BUT... YOU CAN'T LIE TO DO IT. The 3RD CIRCUIT SAYS YOU CAN. The SISTER CIRCUITS SAY YOU CAN'T. The Rule of BASANTO (9TH Cir.) is only quoted once in the 3RD CIRCUIT, in a NON-PRESIDENTIAL opinion. U.S. v Rodriguez, 88 F. App'x 548, 549 (3d Cir. 2004)

THE GOVERNMENT, AGENTS AND PROSECUTORS, KNEW THE TESTIMONY WAS PERJURED. THE TESTIMONY IS MATERIAL AND MISLEADS THE JURY. IF the jury had heard 41 TRUTHS, there is NO WAY they INDICT. The government KNEW this, LIED 41 TIMES, AND OBTAINED AN INDICTMENT... then WARRANTS... then Supersede twice - NEVER correcting 39 of the 41 LIES.

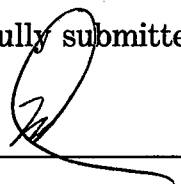
For Question (3), the court, in not hearing defendant's arguments because of "procedural default", even though defendant proved his instructed counsel to file those issues, violates defendant's protected autonomy right. Counsel usurped control of an issue within defendant's sole prerogative. THIS IS A "STRUCTURAL" error. A SIXTH AMENDMENT-SECURED AUTONOMY. THE RIGHT IS "EITHER RESPECTED OR DENIED BUT CANNOT BE HARMLESS" U.S. v. GONZALEZ-LOPEZ, 548 U.S. 140, 150 (2006)

CONCLUSION

BECAUSE OF THE Circuit Split, 3rd vs. 2nd, 6th, 7th, 8th, 9th, 11th AND THE BLACK LIVES MATTER MOVEMENT... THE "PUBLIC" NEEDS TO KNOW THAT PROSECUTORS CANNOT SUBORN PERJURY TO OBTAIN AN INDICTMENT. (TO THE "SECRET" GRAND JURY)
The petition for a writ of certiorari should be granted.

FOR NATIONAL INTEREST AND A VERY
GLARING Circuit Split.

Respectfully submitted,


WILLIAM J. O'BRIEN, III

Date: November 5th, 2020