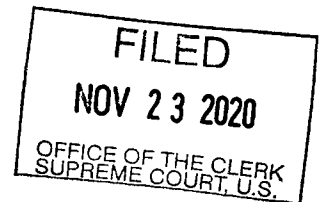


No. 20-6678

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Larry David Davis PETITIONER
(Your Name)



prison Director Dexter Payne, ^{vs.} (Attorney General) Lisa Rutledge RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO Supreme Court of the United States

Eighth Circuit Court of APPEALS of St Louis, Mo
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

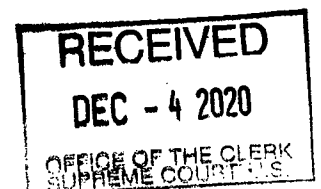
PETITION FOR WRIT OF CERTIORARI

Larry David Davis
(Your Name)

880 East Gaines
(Address)

Dermott, ARKANSAS 71638
(City, State, Zip Code)

870-538-2000
(Phone Number)



QUESTION(S) PRESENTED

1. Do the Filed information that I Pleded no contest to state the element of a owner name or a victim?
2. Do this Filed information that I Pleded no contest to charging commercial Burglary, Theft of Property, and Breaking or Entering State an address or a town?
3. Do the information that I Pleded no contest to state a business?
4. Do the information state the intent element of knowingly intended to deprive the owner of property
5. can a information just state the language of the statute?
6. is a information suppose to be supported by the oath of a prosecutor with a statement from a victim and signed by the victim and the Prosecutor signature and title?

7. If The information do not state a owner name, or any person name, and don't state a specific place to a theft, and Burglary charge, is the information fatally defective on its face and require reversal?

8. Should I have got a evidentiary hearing on my rule 37 Petition?

9. do a plea require a Factual Bases to determine if I was actually guilty?

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:

Prison Director Dexter Payne Respondent

Attorney General Lisa Rutledge Respondent

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STATUTES AND RULES

24.6 of Arkansas Rules of criminal procedure: Determining
accuracy of Plea State that the court shall not enter a
Judgement upon a plea of guilty or nolo contendere without
making such inquiry as will establish that there is a factual basis
for the plea.

37.3(a) State when a rule 37 is denied the trial court is required to
make written Findings specifying the parts of the record that form the
basis of the trial courts' decision, and if the trial court fails to
make such Findings, it is reversible error, unless the record before
the reviewing court conclusively show that the petition is without
merit.

Federal rules of criminal Procedure Rule 11, 18 U.S.C. A
guilty Plea is an admission of all elements of Formal charges

OTHER

14th Amendment, of the United States constitution
5th Amendment of the United States constitution
6th Amendment of the United States constitution

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 D C 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 ARKANSAS CIRCUIT COURT 6th circuit court appears at Appendix D 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 September 3rd, 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: October 5th, 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 11-7-18.
A copy of that decision appears at Appendix D.

☐ 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

U.S. Constitution Amendment 5

no person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval Forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall any person be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Constitution Amendment 14

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Constitution Amendment 6

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained.

STATEMENT OF THE CASE

Filed 6-26-2017

The information that I Plead no contest to is fatally defective on its face in that it does not state a owner name or any victim at all, it do not have a address to a business or resident it do not state intent, and the plea was obtained by coercion by my lawyer who never made a warrantless arrest motion for me and asked him to make motions 2 months before I was coerced into this plea. Intent must be alleged in indictment or information of Theft, and a owner name must be in a information or indictment of Burglary and Breaking or Entering because a owner name and intent is a essential element of the offenses charged, and if it does not, a conviction based thereon is fatally defective on its face *Cole v. ARKANSAS* 333 U.S. 196, 68 S.Ct 514, 92 L.Ed. 644 (1948) where a owner name is a essential element and a statute alone does not set forth all the essential elements of the offense, the indictment or information is insufficient

which simply tracks the language of the statute.
United States v. opSta 659 F2d 848 (8th Cir 1981).
The information is void where it just state this in its
intire complete charge: information: comes now the
Prosecuting Attorney For the ninth East District of the
Criminal Division of Clark county, ARKANSAS. and in the
name and by the Authority of the state of ARKANSAS,
charges Larry David Davis with the crimes of
Burglary-Commercial, The Ft of Property >5000 <250
00, Breaking or Entering as Follows:

count 1: Burglary-commercial. ARK. code ANN. 5-39-201.
The said defendant in the ninth East District of
the criminal Division of Clark county, ARKANSAS
did unlawfully and feloniously on or about April
4th, 2017 enter and remain unlawfully in a commerci
al occupiable structure with the purpose of
committing the Ft of property in violation of
A.C.A 5-39-201 against the peace and dignity of
the State of ARKANSAS.

Penalty: Habitual Offender - C Felony: imprisonment
in the ARKANSAS Department of correction For a term
not less than three years nor more than thirty years
or a Fine not exceeding 10,000 dollars or both such Fine

and imprisonment.

Count 2: Theft of Property 75,000 < 25,000 ARK. CODE ANN. 5-36-103. The said defendant in the ninth East District of the Criminal Division of Clark County ARKANSAS did unlawfully and feloniously on or about April 4, 2017 take or exercise unauthorized control over the property of another person with the purpose of depriving the owner thereof in violation of A.C.A. 5-36-103 against the peace and dignity of the State of ARKANSAS.

Penalty: Habitual Offender Class C Felony: Imprisonment in the ARKANSAS Department of Correction for a term not less than three years nor more than thirty years or a fine not exceeding 10,000 dollars or both such fine and imprisonment

Count 3: Breaking or Entering ARK. CODE ANN 5-39-202. The said defendant in the Ninth East District of the Criminal Division of Clark County, ARKANSAS did unlawfully and feloniously on or about April 4th, 2017 he did break or enter into a vault, safe, cash register or money depository in violation of A.C.A. 539-202 against the peace and dignity of the State of ARKANSAS,

I just reiterate and stated my complete Information that Clark County Filed against me 2 months and 5 days after they had the Memphis, Tennessee Sheriff deputies to take me From my home in Memphis, TN at 686 Ayers Street 38107 without a warrant and without probable cause. 30 days later From 4-21-17 when I was taken From my house 5-18-17 Clark County transport officer picked me up From 201 Poplar Street which is the Shelby County Jail in Memphis, Tennessee and took me over 2 hundred miles across the state line to Clark County Jail in ARKadelphia, Arkansas and when they charged me with this theft, Commercial Burglary, Bor E, I knew that I did not commit this Theft and I knew that the crime did not happen. I had my Lawyer to go and Find the store when he came and visited me and take pictures of the store and send them to me the tile on the Floor is a totally different Shape and Size tile than the tile on the Floor at the Front entrance than the tile on the Floor at the Front entrance of the store that the prosecutor had. I hadn't been to the store in which I already knew that I had not been to the store, I had not heard of ARKadelphia, or Clark County until they took me there to they Jail illegally, and if this court give me the opportunity

I will send the evidence of what I am stating to prove to this court that I did not commit this crime, there is no victim to the these accusations that was made against me, the Detectives Brought these accusations, there is no victim in the information that took the place of a indictment by a grand jury, and there is no victim in the warrant, and there is no victim name in the Affidavit, and the information is 3 to 5 lines for each count tracking the language of the state, and the Affidavit is only 3 lines long saying that he has reason to believe and upon reasonable cause does believe that the within named Defendant Larry Davis committed the act of commercial Burglary, Theft of property, and Breaking or Entering on or about the 4th day of April 2017 in Clark County, Arkansas against the peace and dignity of the State of Arkansas, with no Judge Signature, and no victim Signature in violation of the 4th and 14th Amendment no warrant shall issue, but upon probable cause, supported by oath or affirmation, there is no police report to this crime. the Clark County Judicial System was able to make me plea to this with the help of my Lawyer, I am detained on these charges contrary to the Provisions of the 5th, and 14th, Amendments to the United States

constitution. pertaining to there is no victim to these charges in the information stating a owner, and the information do not state intent to deprive the owner of property, which intent is an essential element of theft by obtaining control over stolen property. there is not one element stated in the information of theft of property, Commercial Burglary, and Breaking or Entering, and a indictment or information that is missing the elements of a owner name and intent of a Commercial Burglary, and property stolen invalidate the information Illinois v. Somerville 410 U.S. 458, 93 Sct 1066, 35 LEd2d 425 pertaining to theft. conviction upon charge not made is a denial of due process of law of the 14th, Amendment to the United States constitution and my plea proceedings on this was fundamentally unfair due to lack of fair and reasonable notice of the offense charged, the requirement of fair notice is only met if those words of themselves fully, directly and expressly, without any uncertainty set forth all the elements necessary to constitute the offense intended to be punished. United States v. Carl 105 U.S. 611, 612, 26 LEd 1135 (1882) State v. Abraham, 189 Neb. 728, 729-30, 205 NW2d 342, 343 44 (1973)

Goodloe V. Robert Parrot 605 F.2d 1041 (8th cir 1979)
Larry Led Ford v. Brantley 46 1112d 419 263 NE2d 27
The Supreme court of Illinois held that the
indictments, For Burglary, was fatally defective
For Failure to allege ownership of the dwelling
burglarized, and Plea of guilty did not waive error
in Failing to allege, in burglary indictment ownership of
dwelling Burglarized. United States v. opsta 659 F.2d
848 (8th cir 1981) State where a statute alone does not
set forth all the essential elements of the offense,
the indictment is insufficient which simply tracks
the language of the statute. United States v.
Robert J. VESAAS 586 F.2d 101, 104 an indictment will
ordinarily be held sufficient unless it is so defective
that by no reasonable construction can it be said to charge
the offense for which the defendant was convicted.
United States v. camp 541 F.2d 737 State that
the sufficiency of his indictment was not challenged
until appeal from conviction was not a basis for
denying review where indictment omitted an essential
element of offense and thus, became so defective
that by no reasonable construction could it be said
to charge an offense for which defendant could be convicted.

These Fatal defects is Jurisdictional and without a owner name and intent included in a information strips the trial court of Jurisdictional possession and require reversal, There was no Factual basis For my plea, There was no evidence that a crime had even happen, and I Knew that I had not committed this crime, I was so mad and hurt that I was unconstitutionally taken away From my grandchildren, and I was had been maneuvered into a position where I had to plea to 30 years to keep From getting one hundred and Five years From what my lawyer was telling me, so I just said yes and no all the way through my plea proceeding. because I did not Know any Fact to say to these Charges because I was From memphis, Tennessee which is over 2 hundred miles away From Clark county, ARKANSAS, I did not Know where the store was at, and I did not even Know what the store look like, I have made this claim of no Factual basis to my plea because I had to say yes and No at the the plea in my post conviction Rule 37 For Relief to the trial court, then to the court of appeals in ARKANSAS, then to the Federal district court here in ARKANSAS Then I made the claim to the Federal court of appeals

of the 8th circuit in ST Louis, Mo in my application
For certificate of appealability. William J
McCarthy v. United States 394 U.S. 459 89 Sct
1166 22 LEd2d 418 state that the supreme
court, Mr Chief Justice Warren, held that
Judge who accepted defendants Plea of
guilty without personally addressing defendant
and determining that plea was made with
understanding of nature of charge failed to
failed to comply with rules as to procedures
on acceptance of pleas, although the defendants
attorney had represented that he had explained
the charges to the defendant, and guilty plea
would be set aside and case remanded to give
defendant an opportunity to plead anew, and
McCarthy v. United States state that where defendant
stated his desire to plead guilty and was informed
by judge of consequences of Plea, Judge
could not properly assume that defendant was
entering plea with a complete understanding of
charge against him although defendants attorney
represented that he had explained charges to
defendant, Federal Rules of Criminal Procedure
rule 11, 18 U.S.C.A. Guilty plea is an admission

of all elements of formal criminal charges, a guilty plea cannot be truly voluntary unless defendant possesses an understanding of law in relation to the facts, under rule relating to procedure for acceptance of guilty pleas, judge must determine that conduct which defendant admits constitutes offense charged in the indictment or information. and this is also ARKANSAS Rules of Criminal procedure Rule 24.6 State: Determining Accuracy of Plea the court shall not enter a judgement upon a plea of guilty or nolo contendere without making such inquiry as will establish that there is a factual basis for the plea. Snelgrove v. State of Arkansas 728 S.W.2d 497, 500. From this time forward that there will be a factual basis for guilty plea and nolo contendere required since the sentencing power of the court is not reduced upon the entry of the nolo plea, it is equally important to make certain that the accused actually be guilty of the offense to which the nolo plea is offered. While the insistence upon a factual basis may make the nolo plea less attractive because a disclosure because a disclosure of the accused misdeeds will be made

Public Snelgrove v. State of ARKANSAS 728
S.W.2d 497 Headnotes #2 State that Factual
Basis For a guilty plea or nolo contendere plea
may be established at post conviction hearing,
if not sufficiently determined during plea
proceedings. Rules 24.1 et seq. 24.6, 37.1 et seq.
The requirement of a Factual basis refers
to the presence of sufficient evidence,
adduced at the taking of a guilty plea or nolo
contendere, upon which a judge may fairly
conclude that a defendant could be convicted
if the defendant elected to stand trial,
once my Lawyer and the prosecutor maneuvered
me into a plea right before my trial. the
court rushed me through the plea. the prosecutor
and court wasn't concerned with a Factual basis
for my plea of no contest, because they knew
there was no Factual basis. For my plea of
no contest because the crime did not happen,
when I did this rule 37, The Prosecuting
Attorney response to my warrantless arrest without
probable cause April 25th, 2017 in Memphis Tennessee
at my home was that I was arrested June 20th, 2017

and that I was charged by criminal information Filed June 26th, 2017 and upon Filing of said information, the court also issued an arrest warrant For me on June 26th, 2017 and based upon the Affidavit of probable cause accompanying the Filed information, I have the paper documents to prove that the prosecuting attorney Response to my rule 37 Petition For post conviction relief pertaining to my arrest was falsified information, I have my Booking Sheet From when the Memphis, Tennessee Sheriff's Deputies Phillips and Deputy Lewis had me booked into Shelby County Jail in Memphis, Tennessee 4-21-17 case # 17008805 the Book in Sheet Description of me is Fugitive From Justice without a warrant. and it is no Affidavit accompanying they Filed information, and I have my extradition Records From Memphis, Tennessee where Memphis, TN Jail Authorities called Clark County 5-18-17 to come and pick me up, and I got my Book in Sheets where Clark County ARKANSAS Booked me into they Jail 5-19-17, which was 2 month before they got they warrant that was Signed by the clerk not a judge and did not have a Affidavit with the warrant, setting out probable cause in Violation of the 4th and 14th Amendment to the United States Constitution stating that no warrant shall issue, except upon probable cause

on may 19th, 2017 Clark county came and picked me up From Shelby county jail in Memphis, Tennessee without a warrant and without probable cause Affidavit setting out specific Facts constituting probable cause, and without an indictment by a grand Jury or a information is controlled by the Federal constitution and statutes was not suppose to be a deceitful game knowing that I may would trust that Clark county had a warrant and legal documents For a Extradition requirement of an indictment, and my Lawyer knew that they did not have a Affidavit or indictment or a information, and said nothing to they court, and made no motions, or arguments, instead worked against my best interest, my lawyer had the responsibility to argue and make motions For these constitutional Violations calling the Violations to the courts attention and Preserving the issue For appellate review. The constitution guarantee me a Fair court proceeding Through the Due process clauses. the 6th Amendment to the united States constitution requirement is that counsel act in the role of an advocate. if my Lawyer been Functioning as required by the 6th Amendment to the U.S. constitution I would have proceeded to trial 11-29-17. my Lawyer deficient performance and representation For my constitutional right prejudiced me

Pge 13 of Statement of the case

The judge did not give me an evidentiary hearing on this rule 37. I was deprived of my due process right to an evidentiary on my rule 37 Petition. Khalin collins v. State of ARKANSAS 2018 ARK 115 542 S.W.3d at 2, 3, 864 State that when the trial court concludes without a hearing that the petitioner is not entitled to post conviction relief, the trial court is required to make written Findings specifying the parts of the record that form the basis of the trial courts decision, and if the trial court fails to make such finding, it is reversible error, unless the record before the reviewing court conclusively show that the petition is without merit This is ARKANSAS Rules of criminal Procedure 37.3(a). collins v. ARKANSAS 2018 ARK 115 542 S.W.3d at 14, 864 State that when no hearing is held on a Rule 37.1 petition, the trial court has an obligation to provide written Findings that conclusively show that the petitioner is entitled to no relief. Turner 2016 ARK. 96 496 S.W.3d 757 in doing so the trial court shall specifying any parts of the Files, or records that are relied upon to sustain the courts Findings ARKANSAS Rules of criminal Procedure 37.3 (2013) and this is Federal rules of criminal Procedure requirement that an Evidentiary hearing be held on a rule 37 Petition For Post conviction relief.

REASONS FOR GRANTING THE PETITION

is that I was never arrested, I was taken from my home in Memphis, Tennessee on April 21st, 2017 30 days later brought to ARKANSAS Jail where all my municipal court was denied and skipped where the court present the evidence then Bound a person over to circuit court. I was just taken to circuit court then held in jail for 2 months and 5 days then they got an illegal warrant signed by the court clerk June 26th, 2017, without a Affidavit, then got this information June 26th, 2017 without a victim just tracking the language of the statute, which state no intent, there is no victim in no paperwork just the unwritten statute with no name or place which is in violation of the 5th, and 14th Amendments to the United States Constitution which affects the fairness of my conviction under it, there is no specific criminal conduct in the information which deprive me of fair and reasonable notice of a crime if any that I had to defend against in court, and this missing elements in my information is in conflict with 9th circuit cases and rulings U.S. V. Keith 605 F.2d 462, and 8th circuit cases Goodloe V. Parrat 605 F.2d 1041, U.S. V. Opsta 659 F.2d 848, U.S. V. Vernon 483

F.2d 1093 (8th cir 1973). U.S. V. Camp 541 F.2d 737 (8th cir 1976). U.S. V. VESTAS, 586 F.2d 101 (8th cir 1978).

This information is in conflict with Supreme court of the United States ruling on a ARKANSAS case: Cole et al V. ARKANSAS. 333 U.S. 196 68 S.Ct. 514 21 LRRM (BNA) 2418 at 201 which U.S. Supreme court state that no principle of procedural due process is more clearly established than that notice of the specific charge and a chance to be heard in a trial of the issues in a criminal proceedings in trial raised by that charge if desired, are among the constitutional rights of every accused in a criminal proceedings in all courts, state and Federal. Cole case go on 4 lines down to state by this court that it is as much a violation of due process to send an accused to prison following conviction of a charge on which he was never tried as it would be to convict him upon a charge that was never made.

The Supreme court of ARKANSAS state in McElHannon, V. ARKANSAS 329 ARK 261 948 Sw.2d 89 that an information or other charging instrument is not defective if it sufficiently apprises the defendant of the specific crime with which he is charged to the

Page 2 of Reasons For granting the petition

or conviction. #10 Larceny indictment, naming natural persons, Followed by inc was sufficient to show ownership in corporation capable thereof, and was sufficient allegation of ownership for plea of former acquittal or conviction. *Purtiel v. State* 135 Neb 811 824 N.W. 321 41 L. R.R.M. (BNA) Supreme court of Nebraska State To charge a statutory offense, the information or complaint must contain a distinct allegation of each essential element of the crime as defined by law creating it, either in the language of the statute or its equivalents. I know that this crime did not happen that's why it do not state a victim or a owner name in the information, ARKANSAS Should not be allowed to bring me from Tennessee to 2 hundred miles across they state line and frame me and illegally hold me in they jail for seven months until they can get me to plea no contest to a charge that they know that I did not commit, with nothing to show that a crime happen but just because I pleaded to the charge Make it stand with the help of a ARKANSAS Lawyer and the lawyer never made a motion for me for this defective on it's face information and I told my Lawyer that I had not been indicted by a grand

I pray that this Supreme Court of the United States reverse my conviction to this matter or reverse and remand to the trial court, and instruct a Factual Bases and a evidentiary hearing.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Larry Davis

Date: 11-10-20