

20-8292

ORIGINAL

No. _____

Supreme Court, U.S.
FILED

MAY 28 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Pete Anthony Tyndale — PETITIONER
(Your Name)

vs.

UNITED STATES of AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Pete Anthony Tyndale
(Your Name)

Coleman Medium, Federal Correctional Complex P.O. BOX 1032 unit B-3
(Address)

Coleman FL. 33521
(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED

Does the government have sovereign authority to dictate a particular state of its choice in which a federal trial will be prosecuted other than the state according to the DUE PROCESS STANDARD of the SIXTH AMENDMENT of where the alleged crime was committed?

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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OTHER

Criminal Procedure Constitutional Limitations

5th Ed. ISRAEL-LAFAVE

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☒ is unpublished.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☐ is unpublished.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 _____ 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☐ is unpublished.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☐ is unpublished.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 DECEMBER 30, 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

Mr. Tyndales SIXTH Amendment right was not upheld by the government to have a trial by an impartial jury of the state and district where in the crime have been committed, which district shall have been previously ascertained by law.

See ALVARADO v. State 486 P.2d

891 (SUP. Ct. ALASKA 1971; See also

PEOPLE v. JONES, 9 Cal.3d 546, 510 P.

2d 705, 108 Cal. Rptr. 345 (1973),

A divided California Supreme court held

that defendant had a constitutional right

to be tried by a jury which included the
precinct in which the crime was allegedly
committed.

STATEMENT OF CASE

Appellant Pete Tyndale was found guilty by a jury of conspiracy to distribute a controlled substance and conspiracy to commit money laundering. After a four week trial one of the five defendants was found not guilty.

Mr. Tyndale received a 348-month sentence, and was denied releaf on direct appeal.

REASONS FOR GRANTING THE PETITION

ZICARELLI v. DIETZ 633 F.2d 312

DISSENT BY: GIBBONS, Circuit Judge.

One of the grievances which the colonies adopted against King George was the practice of transporting colonials beyond the {633. F. 2d 327} seas for trial.

When those colonies became states, any purported authority of a superior sovereign to remove persons from within their geographic limits came to a end. Article III, Section 2, Clause 3, is a guarantee that "Such a trial be held in the state where

the said crimes shall have been committed", was, a reflection of the old grievance against the empire, that colonials were transported from their homes abroad for trial. The new government articles of confederation prohibited this conduct. The SIXTH Amendments geographical rule found in Article III, Section 2, Clause 3 prohibits the federal government from transporting a defendant for trial outside a district within a state {1980 U.S. App. LEXIS 54}. Much more was involved in the colonial grievance against transport for trial, including ability to raise

bail among friends, availability of witnesses, access to counsel, and proximity of friends and family. Even the very psychological pressure of incarceration while awaiting trial at a place far from home tended to operate in favor of the sovereign against the individual, and to tilt the balance against an outcome favorable to a defendant. These concerns, probably more than jury vicinage, produced the Article III geographic limitation and the refined limitation in the SIXTH Amendment. NOT ONLY was the government in

violation of Mr. Tyndale's SIXTH Amendment

but in judge GIBBON's dissent alienated

him from his four children, ex wife, relatives,

church family that unknown to the

government live and for several years

have resided in Chattanooga Tennessee,

The same district of where the

alleged crime was committed.

The SIXTH Amendment, as finally adopted

did not incorporate a geographic vicinage

requirement. The Amendment went no

further than to refine the geographic

rule already found in Article III, Section 2,

Clause 3 by prohibiting the federal government from transporting a defendant for trial outside a district within a state, if there was more than one district. Mr. Tyndale is not just challenging the venire [R. 434 Transcript, Page Id 4736-38], but the SIXTH Amendment violation [ZICARELLI v. DIETZ 633 F. 2d 312] of his rights to conduct a fair cross section of jurors in the state the alleged crime was committed. One MAIPULATE VE PURPOSE against which the SIXTH Amendment guards might be

an attempt by federal government, after event allegedly criminal had taken place, to erect a new district within a former state and district, and to appoint a judge believed to be more sympathetic to the current administrations viewpoint [R:455 TRANSCRIPT, Page Id 8153,8154]

In Tyndales case the court turning a blind eye to criminal rule 16. See

CHARLES COX v. MARK MCCULLICK CASE

N. 19-cv-12542. Mr. Tyndales request

under this rule was never addressed

See BERGER v. U.S. (1935), by the court.

where the court failed in holding government to prosecutorial misconduct under 404(b) for allowing prosecution not to correct any material perjured testimony [R. 436 TRANSCRIPT, PAGE ID 5147] of its witnesses when it knows or should know from information received, that the testimony is false. Case in point the government star witness Crawley was not impeached even when other government witnesses contradicted her testimony. She claimed never hiring or training any of the staff at the

clinic [R. 435-TRANSCRIPT, PAGE ID 4779].

Witnesses Boyd and Hankins testimonies described how they were hired and trained by Crawley [R. 437 TRANSCRIPT, PAGE ID 5539], [R. 440 TRANSCRIPT, PAGE ID 5688] and still the court took Crawleys testimony as fact.

[R. 601-TRANSCRIPT, PAGE ID 10233-34]

She was not to have any involvement with any pain clinics per her guilty plea agreement [R. 435-TRANSCRIPT, PAGE 4788-90]; [R. 435-TRANSCRIPT, PAGE ID 4843-48]

in Florida and was considered as a

target in this very case in the Eastern district of Kentucky. See *GIGLIO v. UNITED STATES* (1972). After the revelation of 404(b) of the facts the government was allowed by the court to continue this prosecutorial misconduct which was prejudicial to the due process of Mr. Tyndales SIXTH AMENDMENT rights. See *DARDEN v. WAINWRIGHT* (1986).

This is why the majority quite fairly acknowledges removal of a defendant to a new place of trial not previously ascertained by law without disclosed

good reasons, without notice and an opportunity to be heard, has serious "Due Process" resonances. Here a technical and manipulative provision of the constitution provides a ready Due Process standard. Reasoning for Government to move the trial to the state of Kentucky, certainly was perceived by the prosecutor to be beneficial to the outcome of the trial. Another MANIPULATIVE PURPOSE might be the exclusion of urban in favor of rural jurors, [R-434-TRANSCRIPT, PAGEID 4736-38] who might be thought to have

different political outlooks. Article
clauses of Article III and SIXTH AMENDMENT
prohibition against any ex post facto
manipulation of the district of trial by
the government, For whatever reason.

PRIOR TO 1868 The assertion of the
power to manipulate the place of trial
was only a matter of local concern.

But since ratification of the
FOURTEENTH AMENDMENT there should be
no reason why the national policy
reflected in previously ascertained by
law clause should apply.

IN order to tilt the scales of justice

the government chose to have a

trial in Kentucky when alleged

crime took place in Tennessee.

This favored a jury venire more effected

by the opiod epidemic, Kentucky

being the epicenter would shed

a more favorable outcome to the

governments case. I pray this

court will reverse the judgment of

the district and appeal court and

remand with directions to issue the writ

of Habeas Corpus on the ground that

Article III, Section 1 gave Congress power to ordain and establish inferior courts and presumably to define their geographic jurisdiction. In exercising that power congress obviously could not violate the prohibition in Article III, Section 2, Clause 3 against removing a defendant for trial from the geographic area of the state in which the crime occurred. If there were to be multi-state district, for example, the trial still would have to take place in the state where the crime occurred. See *ZICARELLI v. DIETZ* 633 F.2d 312

the ex parte after the fact change
in the place of trial violated the
anti-manipulative policy of the SIXTH
AMENDMENT rights of Mr. Tyndale.

Thank you, GOD Bless.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Pete ANTHONY TYNDALE

Date: MAY 28, 2021