No. 20-8318

ORIGINAL

Supreme Court, U.S.
FILED
MAR 3 1 2021
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

JASON CHARLES YOUKER — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JASON CHARLES YOUKER #11996-085
(Your Name)

9595 west quincy avenue
(Address)

Littleton,CO. 80123
(City, State, Zip Code)

FCI-ENGLEWOOD
(Phone Number)

QUESTION(S) PRESENTED

1. DO POLICE VIOLATE THE FIFTH AMENDMENT OF THE CONSTITUTION WHEN THEY PROVIDE AND AUTHORIZE NARCOTICS TO THEIR CONFIDENTIAL INFORMANTS TO BE DISTRIBUTED ON U.S.CITIZENS WITHOUT ANY RECOVERY OF THOSE NARCOTICS TO FURTHER THEIR INVESTIGATION?

2. DOES A DEFENDANT MERIT RETRIAL WHEN A TRIAL JUDGE RECUSES HIMSELF BECAUSE OF HIS WIFE'S PREVIOUS CONFLICTS WITH THE DEFENDANT?

3. WOULD JURORS OF REASON HAVE THEIR CONSCIOUS SHOCKED BY OFFICERS PROVIDING HEROIN AND METHAMPHETAMINE TO THEIR INFORMANT'S WHERE THOSE NARCOTICS WERE DISTRIBUTED TO A PREGNANT MOTHER AND DRUG USERS IN THE COMMUNITY,AS WELL AS USED TO RAPE A LADY BY THEIR OWN INFORMANT?

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

[x] 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:

SOLICITOR GENERAL OF THE UNITED STATES
ROOM 5614,DEPARTMENT OF JUSTICE
950 PENNSLVANIA AVE.,N.W.,WASHINGTON,D.C.
20530-0001

RELATED CASES

APPEALS COURT CASE NUMBERS:15-30128;NINTH CIRUIT;15-30129;15-30182;
15-30183;16-30315;18-30035;18-30158;19-36108;20-35737;20-36019 9CCA

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OTHER

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

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A/B to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix C-F to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.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

[x] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was DEC.14,2020.

[ ] No petition for rehearing was timely filed in my case.

[x] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: JAN.15,2021., and a copy of the order denying rehearing appears at Appendix A.

[x] An extension of time to file the petition for a writ of certiorari was granted to and including compliment (date) on June 12,2021 (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

CONSTIT.AMENDMENT FIVE: 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 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.

28 U.S.C. §144: BIAS OR PREJUDICE OF JUDGE

28 U.S.C. §455: DISQUAILIFICATION OF JUSTICE,JUDGE,OR MAGISTRATE

STATEMENT OF THE CASE

This is a non-violent drug offense case pursuant to statutes 21 U.S.C.§846, and 21 U.S.C.§841(a)(1),(b)(1)(B)(viii), that took place in 2014, where the sentence was enhanced under 28 U.S.C.§851 from a 10 year sentence to a 20 year prison sentence for a previous 1998 conviction.

During the pre-trial phases of the case in 2014/15, the defendant was involved in verbal arguments with a private lawfirm's secretary regarding representation that turned into ugly heated words.

Thereafter the defendant filed a outrageous government conduct motion alleging confidential informants were committing illegal unlawful acts,however stated in motion that he did not have evidence or knowledge if the acts were committed at the direction of the government.

The United States Attorney's office responded to the Outrageous government conduct motion stating that if confidential informants were committing illegal acts that it was not at the direction of their police or agents,the Court agreed there was no evidence that outrageous conduct was committed.

Contrary to the USAO representation,during trial testimony,officers disclosed that after controlled purchases with their defendants they divided narcotics on the side of the road in half with their informants,their intent was two fold,1) to allow their informants to distribute methamphetamine and heroin on drug users in the community, 2) to further their investigation against the defendant,which included obtaining enough narcotics on a narcotic deal to reach a mandatory minimum.

Officers provided unprecedented amounts of narcotics to informants which was 86 grams of heroin and 36.7 grams of methamphetamine,these narcotics it was discovery were provided too a pregnant mother,young adults,and drug addicts in the community without any intent of recovery or supervision by enforcement.

The Court appointed appellate attorney refused to bring forth the illegal conduct committed by officers in his brief or the misconduct by the USAO in fabricating unsupport facts in earlier filed outrageous conduct brief. The defendant asked for permission from the 9th circuit court of appeals to file a supplemental brief in support of these unlawful conducts committed by the USAO and officers,however the ninth circuit denied the motion to bring forth these allegations that were supported clearly by the record.

Due to Appellate counsels refusal to bring the arguments and the appellate Courts refusal to allow defendant to file his own brief,Defendant filed a §2255 Civil motion,which the Court granted on limited grounds to the unlawful police conduct that was committed by officers and scheduled a evidentiary hearing.

Defendant was put into a 23 hour lockdown on week-days,and a 24 hour lock down for all holidays and weekends for the next 9 months. During that time the defendant tried too expand the record by rule and Amend the §2255 motion,all which was denied by the Court. The Judge then denied the evidentiary hearing days prior to the scheduled hearing.

The unlawful police conduct was never addressed,the Court construed the illegal conduct grounds under a franks hearing standard,which was never requested by the defendant, and under its own conclusions dismissed the §2255 motion. Within 10 days the defendant filed a Rule 59(e) motion on the laws,which was denied,the defendant timely filed an appeal.

The District Court Judge denied an appeal stating that jurors of reason would not find it debatable in the facts presented and law in the unlawful police conduct claims and the ninth circuit affirmed in that decision never addressing any of the facts presented or law to the appeal of the Rule 59(e) Motion.

While traveling back to Colorado on Con-Air, defendant learned from a fellow traveling prisoner who was seated next to him that the prisoner had also been sentenced by the same judge,what is more he was respresent by the lawfirm that defendant had been in the ugly heated arguments with.

The prisoner passenger disclosed that the defendant had in fact called the Judge's Wife a cartel whore, and that the Judge use to be a partner to the law-firm where defendant had accused of multiple accusations years prior in the pre-trial of the case.

Immediately upon returning to his institution,defendant filed a extremem Bias Motion under both Statutes with all the facts attached with a declaration in support of said motion which was immediately granted without any hearing or any investigation.

The defendant then filed a Fed.R.Civ.Proc. 60(b) Motion to vacate the case with a new trial due to the Judges extreme Bias to both the Criminal and Civil case. The Court Ordered briefs,the USAO responded and the Court denied the motion in its belief that there was no bias conducted.

The defendant appealed the Rule 60(b) motion as well as filed an amended 28 U.S.C.§2255 pursuant to Fed.R.Civ.P. rule 15,which the district court construed as a second or successive motion,the Defendant appealed that decision as well asking the appeal court to combine the appeals under one appeal number.

The appeal court denied hearing the Rule 60(b) appeal,never making any determination on the facts or merits of the appeal and denied hearing the 28 U.S.C.§2255 appeal against the district court allegeing it fell outside the parameters of the Civ.R.Proc.15,The appellate court never looked into the facts or law in the motion.

The appellate court never scheduled any briefing ever for the defendant,always taking the District Court order on its face,defendant then appealed the last order denying any reconsideration review of those arguments to this Court.

REASONS FOR GRANTING THE PETITION

The Ninth circuit Court of Appeals has departed from the accepted and usual course of Judicial proceedings by sanctioning such departures by the lower District Court. The Lower Court rulings are erroneous and conflict with decisions in other circuits as well as this Court.

The Lower District Court believes Police Officers providing Methamphetamine and Heroin to thier informants for distribution on their citizens is not in any violation of the fifth Constitutional Amendment,or a violation of the federal narcotic laws and attorney Janet Reno's confidential guidelines,Department of justice regarding the use of Confidential Informants,(January 8th,2001)(.1.b.(iv)).

It has been stated by this Court that a 'Violation of statute justified exclusion of evidence." However not in this case, when Officers provided narcotics to be sold to drug users without any supervision or intent of recovery and the lower Court validated these acts,it was without regards to any other Courts.

The Tenth Circuit held:"Any rule that permits unlimited sales of narcotics to unknown addicts would also lack merit....The governments conduct would violate due process."United States V. Harris,997 F.2d 812,818(10th CIr.1993)

There is no dispute by the ninth circuit that there were unlimited sales of narcotics to unknown addicts by their informants,where those narcotics were provided by their officers after narcotic controlled purchases,due to the fact officers provided those facts at trial. A officers direct quote from trial: "I allowed to let a portion of the drugs to walk, what we call walk."

These tactics are egregious,the 11th circuit held: "Officials of the C.I.A. or any other intelligence agency of the united states do not have the authority to authorize conduct which would violate the constitution or statutes of the united

States,including Federal Narcotic laws. Exec.Order.12333,3 C.F.R. 200 (1982)." United States v. Rosenthal,793 F.2d 1214,1236 (11th Cir.1986).

There is no authority in law for the tactic "walk" which this is in violation of federal narcotic laws. This Court has presented a question of egregious conduct committed by officers may violate the due process clause of the 5th amendment.

This conduct warrants such a determination where drugs are being provided on american citizens in communities by law enforcement tactics of "walk", a tactic used in order to further a investigation to obtain a higher statutory sentence.

The controlled buys were recorded by their informants and the narcotics purchased. There was no need and no justification for law enforcement to split the purchased narcotics with their informants for redistribution on drug users.

The decision by the ninth ciruit allows unprecedented amounts of heroin and methamphetamine to be distributed on citizens purchased and provided by law enforcement,this is not just a departure from other circuit ruling,but lawitself. This Court should consider the question,has methamphetamine ever been supplied on the public to catch participants in drug traffic. As this Court has made the prior statement "It might be suggested that the police must on occassion supply contra band to catch participants in drug traffic,but this justification is unconvincing. If the police believe an individual is a distributor of narcotics,all that is required is to set up a "buy";the putative pusher is worth the investigation effort only if he has ready access to a supply." Hampton v. United States, 425 U.S. 484,500 footnote,sec 3.n 3. (1976)

This case also involves a judge that has a extreme bias prejudice against the defendant pre-trial,trial, and post-trial. This was due to nasty verbal ccmmunication between defendant and the judge's wife and ex-lawfirm partner that took place in the first months of defendants criminal case,prior to defendant proceeding pro se.

The Judge ORDER OF RECUSAL was ordered over 6 years later when the knowledge of who the Judges wife and ex-partner became known to the defendant.

However it was too late as the Judge had extracted his revenge in multiple senerios, 1)by placing the defendant into a 23 hour lock-down facility Monday thru friday, and a 24 hour lock-down all week-ends and holidays,where to defendant was allowed no shower,no phone,no visit,no access.

This extreme punishment took place when the Judge ordered the defendant to the facility for a 28 U.S.C.§2255 evidentiary hearing pertaining to unlawful conduct committed by the officers regarding the distribution of narcotics on citizens,the defendant was placed in that facility for 9 months waiting for the hearing.

Three days prior to the hearing the Judge ordered the defendant back to his institution without conducting the evidentiary hearing, using his own personal bias to insert facts and arguments that the defendant had never been made in the §2255 motion, and did not even exist.

The entire criminal case and §2255 was unfair and the cases were not in front of a impartial Judge. The defendant did "overcome a presumption of honesty and integrity in those serving as adjudicators." Withrow v. Larkin,421 U.S. 35,47.

Look at it this way,your a Judge, you just learned that the police provided unprecedented amounts of narcotics through their informants during trial testimony by Officers,would a un-bias Judge want to know the full extent of this illegal unlawful conduct and all the injuries thereof, especially when a pregnant mother was provided those drugs,a victim was raped by those provided drugs, and citizens were the direction of those narcotics?

Defendant moved to vacate the case under 28 U.S.C.§144 and §455 due to the blatant prejudice by the Judge. The Judge conspired with the prosecution to cover-up all the illegal acts committed within defendants case due to his extreme

bias. The defendants motion and affidavit is provided herein the Index of appendices, as well as the motions filed to the Appellate Court and the amended §2255 complaint that was also denied in Appx.-K

Defendant's reply that presented conduct committed by the Judge during the coarse of the trial and post-trial proceedings. As this Court will see, none of the ORDERS address the true facts and Merits of the case presented to any Court, the District Court focuses on Orders of the Bias Judge, not the due process clause to a fair and impartial Judge, the focus is only on the Judges bias to defendants §2255 petition, instead of the entire criminal case.

However, in the ORDER in Appendix D, the District Court acknowledges all the illegal conduct within the case and record, also with the Ninth Circuit of appeals denying a Certificate of appealability for the section §2255 petition.

The Defendant's motion to reconsider to grant a certificate of appealability which is attached herein the Appx.-A was denied without any consideration to the facts or law by the Court of appeals on Jan.15,2021, which became the appeal to this Court.

Both the District Court and the Appellate Court in the Ninth Circuit have had ample opportunities to decide these questions presented to this Court, However the Courts have been using the umbrella cloak of "would jurors of reason find it debatable" to thwart defendant time and time again, as disclosed by their orders.

So I ask this Court, Would Jurors of reason find that a Judge is Bias when a defendant has had verbal confrontations with both his wife and ex-buisness partner,where the defendant called his wife a cartel whore? Ia a Judge bias when he does not bring up the fact that the conduct was in fact committed with his family and friends, and only recuses himself immediately when those conversations are brought to the light years later,and in fact it was his own wife involved.

The Judge recused himself without any hearing, the USAO did not dispute the facts nor did the new district Judge, therefore the facts are not in dipute here, only the law, and whether the Judges bias was fair and impartial.

Even if defendant would not of prevailed, Jurists of reason would of debated whether the Judge was bias by the insults to his friends and wife. Any person of average intelligence understands the importance that one gives to their friend and most important, their spouses.

A Jurist of reason can see how this could potentially have affected a Judge's fair and impartial rulings. After all, if Judges are to be thought of as model citizens with trusted judgment over American citizens, one must assume the value they place on the family bond and close friendships. Judges are human beings after all and not except of temper and feelings,therefore prong *1 cited by the Court of appeals is met.

A claim is considered debatable "even if every reasonable jurist would agree that the petitioner will not prevail." as stated in this Court in Miller-EL v. Cockrell,537 U.S. 322,338 (2003). The lower Court departed from the coarse of judicial proceedings when it determined the outcome and the Appellate Court sanctioned that departure.

Here jurist of reason would have debated also if their conscious would be shocked by officers providing heroin and methamphetamine to their informants for distribution on the citizens,including a pregnant mother and the use of those drugs to roofie and rape a lady. Remember, none of the facts within this case have ever been disputed by any of the Judges or Prosecutors, its always been a easier policy to not deal with the facts of this case.

The fifth amendment of the Constitution was violated within this case. "Constitutional violations sufficient to violate the due process clause of the

fifth amendment require a demonstration that the United States has engaged in conduct that violated "fundamental fairness" and shocked a "universal sense of justice." United States v. Ugarle,U.S. Dist. Lexis 121915 at *9 (10th cir.2020) Citing United States v. Russell,411 U.S. 423,432 (1973).

There is no dispute to the facts within this case, as provided in Appx.-M Commander Brown states "I allowed to let a portion of the drugs walk. What we call walk." This is a tactic that law enforcement uses,however he was asked a specific question where he answers "Selling drugs is against the law. If that's what you're asking me, that's correct."

Which was followed by this question "Unless you're law enforcement and you approve of it; correct?"

Where Brown answered "That is correct."

This Court Stated in RUSSELL "while we may some day be presented with a situation in which the conduct of law enforcement agaents is so outrageous that due process principles would absolutely bar the government from invoking judicial process to obtain a conviction." Id. at 31-32.

Officer BARCUS in Appx.-N confirms what drugs were allowed to be distributed and too who, She also admits that "I broke it up into two parts" for her Confidential Informant "to go to town and sell drugs?" Which she confirmed with her reasons for that conduct. Under further questioning,she did not know where those drugs actually ended up being distributed in the community.

In the interests of justice this Court must take action in this case as all Courts in the Ninth Circuit refuse to rule on the facts and unlawful police conduct committed within this case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: June 3rd, 2021