

No. ██████████

20-8459

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

Deon Smith — PETITIONER
(Your Name)

FILED
JUN 16 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ADAM FLAKE ^{vs.} Kathy Newman
^{et al}
RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES Court of Appeals

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

9th
Circuit

PETITION FOR WRIT OF CERTIORARI

Deon Smith # 47234048
(Your Name)

USP Thomson, IL
(Address)

P.O. Box 1002 Thomson, IL
(City, State, Zip Code) Zip: 61285

NA

(Phone Number)

No. [REDACTED]

IN THE
Supreme Court of the United States

DEON SMITH - Petitioner

(Your NAME)

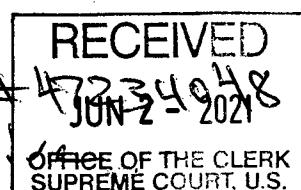
vs.

ADAM FLAKE - Respondent(s)

ON Petition for Writ of CERTIORARI
To The [REDACTED]

PETITION FOR WRIT OF CERTIORARI

DEON Smith
Administrator
P.O. Box 1002
Thomson, IL 61285



~~QUESTION(S) PRESENTED~~

How can I be A Armed Bank Robber and I'm Not The main Suspect or be A get-a-way Driver? I dont even have A Gun? I'm Not even in The Bank. I'm Not even An Accessory After the fact? How can I be convicted for A Crime I did not commit. Kathy Newman has done Some-
thing illegal Please Help.

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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

Dinkane Vs United States
Dinkane Armed Bank Robbery

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

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

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at None; 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 is unpublished.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 None; 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 is unpublished.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 None to the petition and is

reported at None; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the None court appears at Appendix None to the petition and is

reported at None; 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 March 5 2021.

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: March 26 2021, 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 NA. A copy of that decision appears at Appendix NA.

A timely petition for rehearing was thereafter denied on the following date: NA, and a copy of the order denying rehearing appears at Appendix NA.

An extension of time to file the petition for a writ of certiorari was granted to and including NA (date) on NA (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

Deon Smith moves to vacate the amended judgment of conviction - following a jury trial - for Armed bank robbery, Using and Carrying a firearm, conspiracy, aiding and abetting, and accessory after the fact entered on January 6, 2017, ECF 292, sentencing him to the custody of the Bureau of Prisons for a term of 168 months. I filed an initial Motion under 28 U.S.C. § 2255 To Vacate the conviction and Sentence on February 23, 2018, ECF 336, and a Motion To amend on May 16, 2019. The motion To amend alleged it was error to Allow the Government to admit his prior convictions under Federal Rule of Evidence 404(b). ECF 346. By order dated August 18, 2020, the Court denied the 2255 Motion but granted the motion to Amend and permitted and amendment, ~~within~~ within twenty-one days of the order, limited to the Rule 404(b) ground. ECF 379. On March 5, 2021 Deon Smith was also denied the Request for a Certificate of Appealability. I have NO ATTORNEY TO help me file. However, the court permitted the filing of this Amended petition ~~within~~ within 21 days that time expired on September 8, 2020. Smith did not receive notice of the court's order until October 13, 2020 when he spoke to Advisory counsel Michael Tanaka.

REASONS FOR GRANTING THE PETITION

Pursuant to that order, Deon Smith Alleges the following claim: The government's case against Smith rested largely upon the government's 404(b) evidence of the prior conviction admitted to support the now dismissed offense. With this offense being dismissed by the Appeals Court, the government failed to prove guilt beyond a reasonable doubt. Whereas the jury's verdict rested upon all the evidence and testimony that was presented to the jury to prove defendant was an accessory after the fact to the alleged bank robbery. No evidence was presented to prove beyond a reasonable doubt that defendant conspired with Erick Jackson to rob the bank. The improper admission of the evidence violated Smith's right to due process under the Fifth Amendment and counsel's failure to object violated Smith's right to the effective assistance of counsel under the Sixth Amendment. And because the government failed to prove the alleged armed bank robbery, the evidence was constitutionally insufficient in violation of the Fifth Amendment, the evidence was inadmissible. Its improper admission prejudiced defendant and requires the judgment and sentence be vacated.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dean Smith

Date: May 28 - 2021