

No. 21-5242

ORIGINAL

Supreme Court, U.S.

FILED

JUL 19 2021

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Joshua Sadat Washington PETITIONER
(Your Name)

vs.

United States of America RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
The 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

Joshua Sadat Washington #09463-104
(Your Name)

Federal Correctional Complex (Medium)
P.O. Box 5000

(Address)

Yazoo City, MS 39194

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Did the district court err in denying the reopening of the suppression hearing, when there are facts relevant to the truth finding process?

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

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	9
CONCLUSION.....	10

INDEX TO APPENDICES

APPENDIX A	United States Court of Appeals - Ninth Circuit Decision
APPENDIX B	United States District Court Decisions; Verdict
APPENDIX C	United States Court of Appeals - 9th Cir.; Rehearing en banc - Decision
APPENDIX D	Supreme Court of the United States; Deadline update
APPENDIX E	
APPENDIX F	

II G
II H
II I
II J

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Supreme Court Cases;	
United States v. Jaben, 85 SCT 1365, 14 LED2D 345, 381 US 214	
Federal Cases;	
Apa Dana Oriental Rug Gallery, Inc. v Raisdana, Lexus 24774, (10th Cir. 2008)	
Sec v. Worthen, 98 F. 3d 480, (9th Cir. 1996)	
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 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 is unpublished.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 is unpublished.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 _____ 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 August 12, 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: February 18, 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).

Petitioner's lower court decisions was on August 12, 2020.
Petitioner's timely petition for rehearing was denied on February 18, 2021.
Supreme Court of the United States extended all due dates to 150 days.
Therefore the petitioners deadline to file his petition, is July 18, 2021.
(See Appendix D)

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

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

3.

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FROM: 09463104
TO: Jr, Joshua; Washington, Janeice; Washington, Janeisha
SUBJECT: Supreme Court, Petition for a Writ of Certiorari
DATE: 07/16/2021 11:57:38 AM

Supreme Court Petition Statement Of The Case

The complete facts to be presented by petitioner was relevant to his defense. In such denial of reopening the suppression hearing resulted in the instant unconstitutional conviction.

The prejudice incurred by such denial caused petitioner to be denied the right to present the following facts;

Virtually every piece of incriminating evidence used by the government against Mr. Washington at trial originated from UPS investigator Andrew Davis's warrantless search on August 16, 2016 of a box shipped from Las Vegas to Miami, Florida. Washington, through his first two lawyers, moved to suppress the contents of the box and the evidence derived from that search. Following a hearing, the district court denied the motion, finding that the search of the box was a private search, and a private search does not implicate the Fourth Amendment. Washington vigorously disputed that finding at every possible juncture, and which led to representing himself primarily to show that law enforcement directed the investigation well before Davis searched the box, and moved to reopen the suppression hearing as evidence mounted calling into question Davis's independence. The district court erred in denying his motion to reopen the suppression hearing in view of all evidence.

The Fourth Amendment of the U.S. Constitution is the part of Bill of Rights which guards unreasonable searches and seizures. The Fourth Amendment states that "The right of the people to be secure in their persons, house, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The government's case against Petitioner, Mr. Washington, flowed from the package opened by UPS investigator Andrew Davis at their facility in Florida on Tuesday, August 16, 2016. Although the district court found that the search did not implicate the Fourth Amendment because there was no government involvement, Washington personally believed that was not true. Washington repeatedly said that the Federal Criminal Complaint at his initial court appearance was supported by an affidavit detailing surveillance of him in the days before the package reached Florida also contained pending wire and mail fraud charges. Although that complaint never again surfaced, that knowledge impelled Washington to use the proceeding to prove that the police surveillance and investigation of him occurred well before the package was opened in Florida. In this the petitioner concludes, the fruits of that warrantless search and all evidence that derived from those fruits, should've of been suppress. 4

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id. See Federal Appeal Docket Documents; Example: id. 96.= Appeal 96 Document.
pg. -

The way police conduct their investigation and gather evidence affects all subsequent decisions made by lawyers, judges, juries and defendants."

The fruit of the poisonous tree is a legal metaphor that was developed by the Courts of the United States of America. The meaning of this metaphor is that, evidence (fruit) is inadmissible if it has been obtained as a result of illegal, search, arrest and coercive interrogation. (i.e. the source of the evidence is poisonous). A violation of 4th Amend.

From the inception of the case, the petitioner pointed to evidence proving that law enforcement suspected him before Davis's search of the UPS box. He informed the court (and counsel) of the discrepancy between the complaint filed in the Nevada district court and the complaint upon which he had been initially arraigned in Florida. (Initial Appearance). According to Washington, the Florida complaint alleged wire and mail fraud and the affidavit in support of the complaint detailed a bank deposit by Washington on August 13, 2016, three days before the UPS box reached Florida and four days before his arrest.

FACT 1: According to the record, on the morning of August 17, 2016, when the petitioner, Mr. Washington, showed up to pick up the package at the UPS Distribution Center, in Florida, he was arrested by Law Enforcement. *Appendix E*

FACT 2: The record reflects that this case started off by a Criminal Complaint. "So, Mr. Miller, did this case start by criminal complaint or an initial indictment? Courtroom Administrator: Your Honor, this matter did start as criminal complaint. id. 96, Pg. 9

FACT 3: The record reflect that the prosecution district of Nevada, where the FBI agent, Mr. Mollica, filled out a criminal complaint regarding petitioner's arrest. "I filled out a complaint to obtain a warrant for your arrest, yes." *id. 96 pg. 14/17*

The filing of the initial criminal complaint and the arrest that followed was the beginning of the criminal process and which started the criminal procedures in motion.

FACT 4: After petitioner's arrest in Florida, on August 17, 2016, the petitioner had his initial appearance proceeding before Magistrate Judge Goodman, the following day, "Initial Appearance, dated August 18, 2016 at 2:14 pm". A copy of the initial filed criminal complaint and charges was electronically sent to the arresting district of Florida, from Nevada, the prosecuting district and given to petitioner. "The Court: So what happens when you make an appearance in another district is the other district gets the paperwork from Nevada which is prosecuting you, the district of prosecution, and sends it to Florida, usually electronically, and then Florida has their initial proceedings and they remanded you here to the district of prosecution after they gave you a copy of the complaint. id. 96, Pg. 374; E. *5*

FACT 5: The record reflect that petitioner's Magistrate Judge, Mrs. Leen, verifies that the complaint filed in this case was filed on August 16th 2016. "The Court: And the FBI agent swore out the complaint and Judge Koppe approved it on August the 16th at 5:09. And I know that because it's on the docket and because it's stamped in chambers. And then it's sent down to the clerk's office who formally files it on the electronic docket, but that's the criminal complaint. And, so, you may have a version that is file stamped on August the 17th on the electronic docket, but it was approved, filed, stamped and sworn out on August the 16th at 5:09 pm." id. 96, Pg. 374; E.

FACT 6: The record reflect that lead prosecution government, Mr. Krief, verified that he was the one who filed the criminal complaint in this case. Mr. Krief also states that the government or law enforcement did not know anything about the petitioner, prior to the opening of the UPS box in Miami. "Mr. Krief: I filed the Complaint in this case. It's the one that was done in Florida.", "Mr. Krief: Mr. Washington and I'll say it. I'll be held by it -- to the best of my -- there is no informant; there is no confidential source of information. We found out about this case when the people in Miami opened up a package with jewelry in it. There was no surveillance on him prior to that date that I'm aware of relating to this case or any other case".

Time - Line Consideration

The overall objective in considering the list of the previous facts, "1-6" presented, is to take judicial notice of the sequence of events that occurred before and after the search and seizure of the UPS box. "Based on the record"

The government's position is that they became involved, "after" the box was opened in Florida, by a UPS employee, on Tuesday, August 16, 2016.

The petitioner's position is that the government was involved, "before" the box was opened in Florida, by a UPS employee, on Tuesday, August 16, 2016.

Consider the Following Case Containing Facts:

FACT A: Prior to the box being opened in Florida, on August 16, 2016, the record reflects that it was first opened in Nevada by an UPS employee and then investigated by the government on Monday, August 15, 2016."UPS employee; Joiner: I opened it. It wasn't anything suspicious. Closed it and that was it." ; "Q" Now my next question is do you recall the date when did law enforcement came in there asking about the package? "A" He came in on a Monday, but my manager was not there. id. District Court Doc. # 148 page 4, E. *Appendix F*

FACT B: Prior to the Chief Federal Prosecutor of the District of Nevada, AUSA, Daniel Schiess stepped up and took on his personal friend's case, in which he knew it would've been improper for him to involve himself ahead of time. "The Court:..,the only evidence you have is that he recused from the case and he stepped off the case and gave it to somebody else." id 96, page 23

FACT B-1: Prior to the statement of AUSA Daniel Schiess personal relationship with the victim, and allegedly he excluding himself from the case, Mr. Schiess was asked by Alfredo about getting some of the jewelry back, in which he stated he would look into it. See Exhibit , FD-302 Report, Bates # 813, Document # 120, page 9. *Appendix G*

FACT B-2: Prior to AUSA Daniel Schiess taking the stand after being subpoenaed, at petitioner's request for defense during trial, the government moved to quash the subpoena order in which was granted. AUSA Schiess's proposed testimony in regards to his involvement in the beginning of the case, was material and relevant to petitioner's defense.

Appendix H, District Docket # 192, 201, 202 id. 96, pg. 1371-1380 Appendix H

FACT C: A criminal complaint affidavit was filed and sworn out, before a Judge on August 16, 2016, and which contains information about petitioner's arrest that did not happened yet. Petitioner's criminal complaint reflects that he was arrested on the August 17, 2016. id. 96, Pg. 374 *See Appendix E and I*

FACT D: During petitioners first Initial Appearance in Florida, on 08/ 18/ 2016, the record reflects that a complaint contained only one initiating charging count. However later during my first Initial Appearance in Nevada, 09/ 19/ 2016, the record changes, in which now reflects two. Therefore this factual discrepancy further supports that the original complaint that was initially sent to Florida from Nevada was changed at one point, switched and replaced. id. 94 Pg. 14

Appendix J

FACT F: A criminal complaint affidavit was filed and sworn out before a Judge on August 16, 2016 and which contained personal storage information. According to the manager of Storage West, Mrs. Anderson trial testimony, she said that she did not give any information to law enforcement until she received a warrant. A warrant was issued for my storage on August 18, 2016. "Q. Nothing was given to law enforcement until after you received the warrant." ; "A" That is correct." id. 96, Pg. 550-556.

FACT G: A criminal complaint affidavit was filed and sworn out before a Judge on August 16, 2016, and which contained flight info that

Continued on the next page Have to mail out.

7

1. *Continued...*

2. I, Joshua Sander Washington, have to mail this petition
3. out today, when legal mail is called. They should be calling
4. it shortly. It is now 12:09pm my time. I just printed
5. the draft out what I been working on.

6. There is so much that I want to say. I am going to send
7. what I have prepared. This has been mentally drumming. I am
8. not crazy, I know what I had in my possessions.
The original complaint with Gunz had on me.

9. Would this court please, please. Take judicial notice of the
10. records, and please allow me to further explain why it
11. is so important to me. Please! Look at what I have
12. been saying please!

13. *Thank You*

14. *Joshua Sander Washington*

REASONS FOR GRANTING THE PETITION

Because I'm telling the truth, and I want
to be heard. Please!

Thank You—

God's Willing, I am praying
for review. Thank You — *

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Respectfully submitted,

Joshua Sargent Washington

Date: 7/16/21