

21-5297

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JUL 26 2021

OFFICE OF THE CLERK

KURZIE LEE CURTIS

— PETITIONER

(Your Name)

vs.

DAVID SHINN, DIR. A.D.C. et al.

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court District of Arizona

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

PETITION FOR WRIT OF CERTIORARI

KURZIE LEE CURTIS #042251

(Your Name)

A.S.D.C. FLORENCE - EAST UNIT
P.O. BOX 5000

(Address)

FLORENCE, ARIZONA 85132

(City, State, Zip Code)

N/A

(Phone Number)

RECEIVED

AUG 3 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Questions of Law In Relation To Indictment

1. When a Mandatory Directive is an Authoritative instrument that dictates the actions of the Grand Jury, Prosecutors, Courts, Judges can't be ignored, e.g. Rule 12, Provision of Rule (d)(6), USCS Fed. R. Crim. Proc. R 6, Requirement of Rule 12(c) that every indictment (must be found by at least 12 Grand Jurors) does not this disobedience constitute an automatic dismissal of the indictment?

2. Does not the law implicitly state, "Any action taken against this defendant after the illegal indictment was sanctioned against him is [Null and Void]?" e.g. all State Court appearances, all State Court Rulings, All State Court hearings, Motions, Conferences, etc.,

3. Isn't a Procedural Error made by the Prosecutor covered by the Mandatory Directive that insures the Petitioners Rights (Due Process), United States Constitution and Amendments, Federal and State Law, Substantial Procedural Law and Mandatory Provisions?

4. Under the Mandatory Directive aren't rudimentary violations of Federal Law impermissible? e.g. Procedural Rights see United States v. Hill 981 F.2d 422, 425 (4th Cir. 1992)

QUESTION(S) PRESENTED

- | | | |
|-----|---|-------|
| 1. | | cont. |
| 2. | | |
| 3. | ^{5.} Isn't FED. R. Crim. P. 52(b) A Rule of Plain Error that affects | |
| 4. | Substantial Rights AND DOESN'T ARIZ. R. Crim. P. Rule 12.6(a), 12.1 | |
| 5. | (1), 12.1(c), 12.23 hold firm to PROCEDURES of Indictments which | |
| 6. | MUST BE FOLLOWED to the LETTER of the LAW in ACCORDANCE to sub- | |
| 7. | DIVISION (f) USCS FED. R. Crim. P. 12.6 18 U.S.C. {FORMER} § 554 | |
| 8. | INDICTMENTS AND PRESENTMENTS; must be held by 12 JURORS? SEE | |
| 9. | GANTHER v. UNITED STATES, 413 F.2d 1061, 134 U.S. APP. D.C. 154 (D.C. | |
| 10. | Cir. 1969)... | |
| 11. | | |
| 12. | QUESTIONS in RELATION to DENIAL of CDA | |
| 13. | | |
| 14. | When the ENTIRE COUNTRY is in a UPRHEAVAL AND (ALL) RESOURCES | |
| 15. | HAVE BEEN CLOSED DUE TO COVID-19, how is it POSSIBLE for AN | |
| 16. | INMATE in the AZ. DEPT. of CORRECTIONS to GAIN ACCESS to the RULES | |
| 17. | GOVERNING the TIME FRAMES [that ARE BEHIND A LOCKED CLOSED DOOR] | |
| 18. | IN ORDER to make a timely submission of his "Filing of Petition for | |
| 19. | Certificate of Appealability? The United States Supreme Court recognizes | |
| 20. | how COVID-19 has taken a toll on the AMERICAN PEOPLE including PEOPLE | |
| 21. | of INCARCERATION, yet the Ninth Circuit has taken it upon themselves to | |
| 22. | DISPLAY (NO) CONSIDERATION to RESTRICTIONS DUE to COMPARTMENTALIZATION? | |
| 23. | How is it that the Ninth Circuit instructed PETITIONER on what was | |

REQUIRED TO EXCUSE HIS UNTIMELY FILING OF PETITION FOR COA
AND THEN PETITIONER COMPLIES WITH DIRECTIVE ONLY TO BE TOLD HIS
PETITION IS DENIED². SEE ATTACHMENT(S) APPENDIX A,
CONTAINING:^A MOTION FOR RE-CONSIDERATION FOLLOWING DENIAL
OF REQUEST FOR A CERTIFICATE OF APPEALABILITY^B - MOTION FOR EXTENSION
OF TIME PURSUANT TO FRAP 4, 4(a), FRAP (5)(a)(ii), PARTLY SHOWS
EXCUSABLE NEGLECT OR GOOD CAUSE -^C MOTION TO APPEAL BY PERMISSION,
PURSUANT TO FRAP 5(a)(1) UNDER 28 USC § 636(c)(5) -^D MOTION
REOPENING THE TIME TO FILE AN APPEAL, PURSUANT TO FRAP(6) -^E MOTION
FOR RECONSIDERATION PURSUANT TO CIV. APP. PROC. RULE 22 -^F AFFIDAVIT
ACCOMPANYING MOTION FOR MOTION FOR RECONSIDERATION -^G TABLE OF
AUTHORITIES -^H MEMORANDUM OF POINTS AND AUTHORITIES -^I CERTIFICATE
OF SERVICE

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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APPENDIX A	<i>Motion For Reconsideration Following Denial of Request for COA, 2. Motion for Extension of Time, 3. Motion to Appeal By Permission, 4. Motion Reopening the Time to File an Appeal, 5. Motion for Reconsideration, 6 Affidavit 7. Table of Authorities, 8. Memorandum Points and Authorities, 9. Certificate of Service</i>
APPENDIX B	<i>1. The Opinion of the United States Court of Appeals 2. A Copy of the Order Denying Rehearing</i>
APPENDIX C	<i>1. the opinion of the United States District Court</i>
APPENDIX D	<i>Transcript of minutes of the Yavapai County Grand Jury sitting in regular session.</i>
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CASES

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Gaither v. United States, 413 F.2d 1061, 134 U.S. App. D.C. 154-

- (D.C. Cir. 1969) " " (2)

Sullivan v. Storz, 156 Neb. 177 N.W.2d 499, 34 -

- A.L.R. 2d 1142 Statement of the Case (1)

Wainwright v. Sykes, 433 U.S. 72 (1977) (1)

United States v. Barker, 623 F. Supp. 823, 1985 -

- U.S. Dist. LEXIS 13504 (D. Colo. 1985) statement of the case (2)

STATUTES AND RULES

Rule 12. Provisions of Rule 6(b)(2) Question(s) Presented (1)

USCS Fed. R. Crim. Proc. R6 " " (1)

Requirement of Rule 6(c) " " (1)

Fed. R. Crim. P. 52(b) " " (2)

Amz. R. Crim. P. Rule 12.6(a), 12.1(1) " " (2)

Amz. R. Crim. P. Rule 12.1(c), 12.23 " " (2)

sub division (f) USCS Fed R. Crim. P R6-

- R6 18 U.S.C. § 3554 " " (2)

FRAP 4, 4(a), (5)(A)(ii), 5(a)(1), (6) " " (3)

OTHER

Preiser v. Rodriguez, U.S.N.Y. 1973, 93 S.Ct. 1827, 411 U.S. 475, -

- 36 L.Ed. 2d 439, Habeas Corpus 441; 464; 474; 503.1; 522.1

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CASES

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United States v. Roberts, 481 F. Supp. 1385, 1980 -

- U.S. Dist. LEXIS 9743 (C.D. Cal. 1980) statement of the case (2)

United States v. Anzelmo 319 F. Supp. 1106, Fed. Sec. L. Rep. -

-(CCH) 92957, Fed. Sec. L. Rep. (CCH) 92957 (E.D. LA 1970) -

-

- statement of the case (3)

Rose v. Clark, 478 U.S. 570, 57778 (1986) statement of the case (4)

Vasquez v. Hillery, 474 U.S. 234, 26364 (1986) " " " " (4)

United States v. Hayward, 420 F.2d 142, 136 U.S. App. D.C. 300, 1969 -

- U.S. App. LEXIS 10009 (D.C. Cir. 1969) statement of the case (4)

Wilborg v. United States, 163 U.S. 632, 16 S. Ct. 1127, 41 L. Ed. -

- 289, 1896 U.S. LEXIS 2295 (1896) - statement of the case (4)

Clyatt v. United States, 197 U.S. 207, 25 S. Ct. 429, 49 L. Ed. -

- 726, 1905 U.S. LEXIS 1211 (1905) - statement of the case (4)

TABLE OF AUTHORITIES CITED

STATUTES AND RULES PAGE NUMBER

28 USC § 636(c)(5)	Question(s) Presented	(3)
Civ. App. Proc. Rule 22	" "	(3)
Rule 12	Statement of Case	(1)
Fifth Amendment	" " "	(2)
Rule 6(f)	" " "	(2)
Rule 12.1	" " "	(2)
§ 1623	" " "	(2)
Rule 12.2	" " "	(3)
Rule 52	" " "	(4)

Other

Stack v. Boyle U.S. Cal. 1951. 72 S.Ct. 1, 342 U.S. 1, 96 L. Ed 3 H.C. @ 447

Gunter J. Pettol, W.D. VA 1968, 281 F. Supp. 928 Habeas Corpus @ 452

U.S. CA, Const. Amend. 14 demands of the states. Peterson v. Henderson, E.D. - Tenn. 1967, 271 F. Supp. 30, Habeas Corpus @ 452

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 B 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 C 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 JUNE 21, 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: MAY 11, 2021, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

U.S. Constitution Amendments 4th, 5th, 6th and 14th

28 U.S.C. § 2253 (c)

28 U.S.C. § 2254 Part 1 of 5 (A)(i)(B) and (F)

18 U.S.C. [formerly] § 554

Substantial Procedural Rights

Subject Matter Jurisdiction

Mandatory Provision

Mandatory Constitutional Provision

Full and Fair Proceedings

Procedural Rights

Due Process

Cognizable Claim

Manifest Constitutional Error

Manifest Error

Obstruction of Justice

Violation of Constitutional Laws or Treaties, Statute Violations

True Bill

Plain Error

28 U.S.C. § 1867 (e)

Double Jeopardy Clause

Fundamental Fairness Doctrine

Rules Establishing Act

The Federal Statute of June 19, 1934

(1 of 2)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

cont.

28 U.S.C. §§ 723(b), 723(c) AND the 14th Amendment
28 USC § 636(c)(5)

Q

STATEMENT OF THE CASE

Petitioner was illegally indicted by the Yanapai County Grand Jury by failing to comply with Substantial Procedural Rights. State Court (did not) have "Subject Matter Jurisdiction to Proceed". The Mandatory Provision in a Statute is one which if not followed renders the proceeding to which it relates "Illegal and Void". The Indictment falls under a 'Mandatory Constitutional Provision'. This issue must be respected and observed. see Sullivan v. Stoltz, 156 Neb. 177, 55 N.W. 2d 499, 34 ALR 2d 1142. Full and Fair Proceeding(s). Illegal acts within the indictment. Lack of objection by Defense Counsel. Lack of correction by Prosecutor or Office of Prosecutor. No attempt to amend indictment. Refusal to follow State and Federal Guidelines. District Court refused to cure and correct errors made by State Court. Prosecutors opening statement did not begin with the words "The Indictment was found by less than 12 Grand Jurors" and only 9 members were present and some of the 9 people departed before the closing of the session and never returned according to the recorded documented minutes of the Grand Jury Minutes Keeper. (see Grand Jury Minutes Appendix D) Prosecutor willfully hid exculpatory evidence under Brady from Courts and Defense Counsel, evidence being Grand Jury Errors / Illegal Acts. Prosecutors abuse of discretion suggests Yanapai Prosecutors Office acted in concert with abuse of process inter alia Structural Errors defy Harmless Error Analysis see Wainwright v. Sykes, 433 U.S. 72 (1977) (citations omitted) Grand Jurors in the case at hand committed perjury a forethought in order to obtain an indictment by willfully disregarding and violating Rule 12. Grand Jurors continued with violation of Provision of Rule

Statement of the Case cont.

1. Grand Jury removed themselves before the closing of the session and
2. never returned. see Grand Jury Minutes Page 4 line 21/22
3. APPENDIX D. These actions of Grand Jury clearly indicate
4. that the Grand Jury displayed bias or prejudice against this
5. Petitioner/Defendant and showed favor for the State which in
6. conjunction to the host of other violations adds the Rule 12.2.
7. Petitioner has plainly described the reasons under Rule 4(b) as to why
8. dismissal of indictment is warranted. see United States v. Anzelmo 319
9. F. Supp. 1106, Fed. Sec. L. Rep. (CCH) 92957, Fed. Sec. L. Rep. (CCH) 92957
10. (E.D. LA 1970); State Grand Jurors committed intense fraud by lying under
11. oath. Petitioner's case evolves around this key and essential element
12. (the law and the facts). Court documents point directly to the
13. laws broken by Government Employees i.e. the Prosecutor, Prosecutors
14. Office and Courts and the facts are the minutes with the transcripts
15. that substantiate what this Petitioner says to be true. Substantive
16. law and Constitutional determinations covered by statute dismiss the
17. State(s) power to punish. Petitioner's Protected Liberty Interests were
18. violated when his Due Process Rights were disregarded. Petitioner is
19. faced with a MISCARRIAGE OF JUSTICE from the onset of this case.
20. Petitioner does not have a Predatory or Capital Crime yet the disparate
21. treatment he is receiving clearly indicates a manifest miscarriage
22. of Justice and Fundamental Miscarriage of Justice which is [any]
23. element which is not correctly adjudicated e.g. [the indictment,
24. indictment proceedings, less than 12 Person Grand Jury and Perjurious
25. statements of Grand Jury.

Statement of The Case

cont.

1. Petitioners case clearly has Constitutional Errors which require
2. reversal without regard to the evidence because they render the proceedings
3. fundamentally unfair see, Rose v. Clark, 478 U.S. 570, 577 (1986)
4. see also, Vasquez v. Hillier, 474 U.S. 254, 263 (1986) see also United
5. States v. Hayward, 420 F.2d 142, 136 U.S. App. D.C. 300, 1969 U.S. App.
6. LEXIS 10009 (D.C. Cir. 1969). Petitioner avows that the District
7. Court disregarded Rule 52 since this rule is as binding as any
8. statute duly enacted by Congress, thus Federal Courts have no
9. more discretion to disregard Rules mandate than they do to
10. disregard Constitutional or Statutory Provisions. If Plain Error
11. is committed in matter so absolutely vital to defendants,
12. Supreme Court is at liberty to correct it. see Wiborg v.
13. United States, 163 U.S. 632, 16 S. Ct. 1127, 41 L. Ed. 289,
14. 1896 U.S. LEXIS 2295 (1896); Claff v. United States, 197
15. U.S. 207, 25 S. Ct. 429, 49 L. Ed. 726, 1905 U.S. LEXIS 1211
16. (1905).
17. The vote of the Grand Jury (MUST) be made by 12 persons
18. not (9); there were no opposing votes because the Quorum had
19. a substandard amount of Grand Jurors!

REASONS FOR GRANTING THE PETITION

First and foremost, is the Indictment in itself. The Indictment was obtained in error. Certain Rules of Particularity take "Precedence". When said Rules are totally disregarded and the Government Officials make (no) attempt to correct said fallacies then it becomes incumbent upon this Petitioner to seek the aid of the United States Supreme Court. The lower Courts are totally and completely aware of the (intentional wrongs) that has transpired against this Petitioner and they had ample opportunity to correct these hosts of errors but, to no avail has any corrective process taken place. The Indictment is the First step within a Criminal Case of a infamous nature. If and when this step/process has been besmirched, it or the Petitioner must seek justice through this process when the powers that were sought have chose to turn a blind eye on the matter. The United States Supreme Court can grant this Petition and order a Writ of Certiorari for this Petitioner but the United States Supreme Court is at liberty to correct said error...

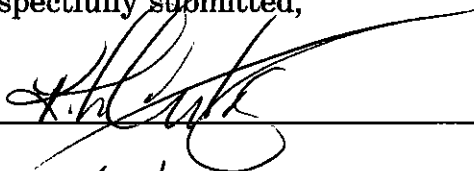
This Petitioner Kurzie Lee Curtis is respectfully asking this United States Supreme Court to free this Petitioner from arbitrary and unwarranted restraint. These rules, laws, guidelines, provisions, and procedures were enacted to serve a particular purpose [to make into law by Authorative Act, of a Statute]. Petitioners case is of a extraordinary caliber because error(s) weigh heavily upon integrity of judicial procedure and proceedings. Petitioner has presented sufficient evidence and should be permitted to pass through the gateway.

The Prima Facie of this case is the conclusive evidence (material) that corroborates this evidence. The Laws governing Indictments state, that the Grand Jury (must) perform their duties that were to them by an Oath of the United State Government, in a prescribed manner. Failure to comply with this Oath and all that it entails relinquishes the defendant of the necessity to stand before a Court of Law and be held to answer for any crimes allegedly committed. For those reasons in conjunction to the 'Statement of the Case and Questions Presented' Petitioner brings this to a close with a Prayer For Relief.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: July 26, 2021