

21-5774

ORIGINAL

No.

18-2374

Supreme Court, U.S.
FILED

JAN 09 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Joseph Dierks

PETITIONER

(Your Name)

vs.

8th Circuit Court of Appeal

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

8th Circuit

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

PETITION FOR WRIT OF CERTIORARI

Joseph Hilton Dierks

(Your Name)

Federal Correctional Institution PO Box 1000

(Address)

Sandstone, MN 55072

(City, State, Zip Code)

none

(Phone Number)

RECEIVED

JUL - 7 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

① why was my indictment not dismissed by magistrate?
C.J. Williams denied me dismissal because it was "for a jury to decide."

② Why wasn't my tweet stating "I make comedic comments, nothing to be afraid of." presented to the jury so they could make a decision based on the evidence?

③ Why was I denied appeal for my tweet stating "I make comedic comments, nothing to be afraid of." because I didn't mention the Senators name?

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

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☒ is unpublished.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☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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 10-21-2020.

☐ 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: 12/20, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

- Statement of the Case -

I was tweeting on Twitter.com - a micro blog - I tweeted, and in those tweets I mentioned the Iowa Senator. The Washington Police were alarmed by this. The Washington Police, somehow, found my city - Waterloo, IA -, and called Waterloo Police. The Waterloo Police found my address and arrived to my house. The officer asked if I was tweeting to the Senator threats. I said "they are not threats" The officer then told me to stop sending threats. I was receptive and told the officer "I'll tone it down." I then tweeted "I make comedic comments. Nothing to be afraid of." I did so for the purpose of toning it down and/or disclaiming them jokes or non-threatening. None of the tweets that

caused the Washington Police to be alarmed
were a part of my grand jury indictment.
I believe the tweets were protected free
speech. I let the officer know they
were not threats and also everyone on
Twitter by tweeting a disclaimer.

A few days later, as I mentioned
the senator again, I tweeted sarcastic
tweets that were non-sensical. Because I
let everyone in the Twittersphere know
"I make comedic comments. Nothing to be
afraid of." The freedom of speech on
1st Amendment protected me. I was
approached at work by F.B.I. and
questioned. I was then charged and
convicted by a jury for 3-counts of
Transmitting a Threatening Communication through interstate commerce.

- Reasons for Granting the Writ of Certiorari -

The reasons for granting Writ of Certiorari are as follows.

I was denied dismissal for freedom of speech protection because "It is for a jury to decide." I lost my trial because the tweet I sent after the Officer arrived to my house "I make comedic comments, Nothing to be afraid of." was declared "here say - self serving" and therefore inadmissible. The jury was not shown the picture in its entirety and I was denied evidentiary support of my exoneration. I was not given a fair trial, To my belief I would have been acquitted on that piece of evidence alone.

My appeal to the 8th circuit

was denied on the basis of that I did not mention the senator in that tweet. At the time, one tweet could not exceed 140 characters and I cannot mention everyone. I believe my disclaimer was relevant and should have been presented to the jury as well as proper instructions of what exactly a "true threat" is because these were sarcastic jokes and non-sensical also. The tweet that said

"I'll beat your ass
In front of your widow
I promise that"
was a Japanese poem called a Haiku.

Also nonsense because at the time the Senator was married to a man and is referred to as a "widower" which proves that they were non-sensical. They are also circumstantial.

I inserted smiley faces to promote the fact I am joking around.

I am a poet and comedian, and Twitter.com is where I express my artistic ability. The senator, along with everyone on Twitter, has the option to mute or block my account and will not be reminded or notified I mentioned them in my poem or joke.

A comedian named @Anthony Jeselnik has a stand up comedy joke he openly admits he is a serial killer, but because he tells everyone he is a comedian he is not charged. Freedom of speech protected him.

"If freedom of speech is taken away then, dumb and silent, we may be led, like sheep to the slaughter." - General George Washington

The petition for a writ of certiorari should be granted.
Respectfully submitted, June 14th, 2021. Joseph DiStasio