

21-6874 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
NOV - 1 2021
OFFICE OF THE CLERK

Joshua Britt — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The 8th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joshua Britt
(Your Name)

U.S. Penitentiary, P.O. Box 1000
(Address)

Oxford, Wisconsin 53952
(City, State, Zip Code)

(Phone Number)

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QUESTION(S) PRESENTED

Whether the United States Court of Appeals for the Eighth Circuit erred in Affirming the conviction, where the District Court, without an evidentiary hearing, Denied the Defendant's Ineffective Assistance of Counsel Motion under 28 U.S.C. § 2255; Although, the defendant produced Affidavits from alleged co-defendants and family members attesting to the "affirmative misadvice" given by counsel, and a lack of foreknowledge regarding the crime of conviction, contrary to precedent established in Blackledge v. Allison, 431 U.S. 63, 75, 76 (1977); and, Dilang Dat v. United States, 920 F. 3d, 1192, 1195, 1196 (8th Cir. 2019).

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:

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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 c to the petition and is

[x] reported at Joshua Britt v. United States, No. 21-2215; 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[] is unpublished.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 E to the petition and is

reported at United States of America v. Joshua Britt, CR 8:19-CR28
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from state courts N/A

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 July 20, 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: September 29, 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 n/a (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: n/a

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

The Sixth Amendment Right to effective assistance of Counsel.

28 U.S.C. § 2255(a)(b), where factual, specific allegations, that if proven entitle a defendant to an evidentiary hearing prior to the GRANTING or DENIAL of Relief, under the statute.

Should a Certificate of Appealability be GRANTED where the Lower Court decision not to GRANT an Evidentiary Hearing conflicts with Supreme Court and Circuit Court precedent?

STATEMENT OF THE CASE

On January 31, 2019, Defendant Joshua Britt was Arraigned on charges of Hobbs Act Robbery and aiding and abetting, Robbery of personal property of the United States, Kidnapping of an officer or Employee of the United States, Carrying or possessing a firearm during and in relation to a crime of violence, and Receiving stolen Government property. Each count added an aiding and abetting element, excepting the Receiving stolen Government money or property Count. See, 18 U.S.C. § 1951; 18 U.S.C. § 2114; 18 U.S.C. § 1201(a)(5) 18 U.S.C. § 924(c)(1)(A); and 18 U.S.C. § 641, and § 2. Mr. Britt was released on his own cognizance.

After being guaranteed by his Counsel that he "would receive 84 months" and advised "not to worry" about the plea colloquy because "It is just legal jargon, they have to say it", he waived his right to trial and agreed to proceed to sentencing, although he believed himself to be innocent of having knowledge of the conduct alleged against him, stating that he was only providing a ride to his brothers. Mr. Britt was sentenced to 135 months.

Armed with Affidavits from Family, Friends, and

at least one co-defendant, Mr. Britt submitted a motion under § 2255 claiming ineffective assistance of counsel and that but for the affirmative misadvice of his counsel, he would have proceeded to trial on the counts alleged in the indictment.

Citing Hill v. Lockhart, 474 U.S. 52, 59; Slack v. McDaniel, 529 U.S. 473, 481; and Blackledge v. Allison, 431 U.S. 63, 75, 76 (1977), Mr. Britt asserted that at the very least, the District Court should have granted an evidentiary hearing to resolve the factual dispute raised in his claim, or determine the validity of the same.

At the Circuit level, Mr. Britt cited Davis v. United States, 858 F.3d 529, 539; Dilang Dat v. United States of America, 920 F.3d 1192, 1195 (8th Cir. 2019); Witthar v. United States, 793 F.3d 920, 922 (8th Cir. 2015); United States v. Coon, 805 F.2d 825 headnote #1 (8th Cir. 1986); and Delgado v. United States, 162 F.3d 981, 983 (8th Cir. 1998).

Mr. Britt petitions the Supreme Court of the United States for Certiorari to resolve the dispute of the U.S. Court of Appeals for the Eighth Circuit with Supreme Court precedent, Its own precedent, and the Rules Governing § 2255.

REASONS FOR GRANTING THE PETITION

Mr. Prays that this petition be Granted because over 90% of all federal convictions are the result of plea bargains between the Government and a Defendant and over 90% of all § 2255 claims where a defendant challenges the knowing and voluntary nature of his plea and the effectiveness of his counsel are denied.

The explosion of the Federal prison population can be attributed to the paltry number of criminal cases that obtain post-conviction review in the form of an evidentiary hearing; and, this is because the Rules Governing § 2255 motions have no teeth, and so lower, and circuit courts favor the finality of the conviction over adjudicating an otherwise meritorious claim by first granting an evidentiary hearing, where the facts alleged by a defendant such as Mr. Britt Support a favorable disposition.

But for the Errors alleged against his counsel, Mr. Britt would have undoubtedly proceeded to trial armed with the affidavits of his brothers and been found not guilty of Aiding and Abetting the crimes they were charged with. He had previously never been trouble with the Law.

Mr. Britt prays that the Court GRANT Certiorari in this Matter.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 11/01/2021