

21-6948

20-11112

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

FILED

SEP 20 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

Robert Earl Ramseur

— PETITIONER

(Your Name)

vs.

United States of America

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

To The Fifth Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Robert Earl Ramseur

(Your Name)

FCI Texarkana
PO Box 7000

(Address)

Texarkana Tx 75505

(City, State, Zip Code)

469-747-6045

(Phone Number)

RECEIVED

JAN 13 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Questions

1. Is it prosecutorial vindictiveness to have a superseding indictment after completion of the trial proceedings and sentencing without resubmission to the Grand Jury, United States v. Kearney 444 F. Supp. 1290, 1295 (SDNY 1978) citing Russell v. United States, 369 U.S. 749, 82 S. Ct. 1038, 8 L.Ed. 2d 240 (1962)?
2. Is it prosecutorial vindictiveness to withhold the documentation showing the self-surrender date and the designation location at sentencing?
3. Is it ineffective assistance for Counsel to request deferment of the sentence start date without consulting with the defendant?
4. Is it ineffective assistance for defense counsel to resign immediately after sentencing without giving any instructions of when and where to self-surrender as a first time offender?
5. Is it a violation for special agent David Williams to be inside of the courtroom during trial proceedings prior to being called as a witness?
6. Is it a violation for special agent David Williams to take the witness stand without being sworn in under oath?
7. Is it perjury and obstruction of justice for special agent David Williams to state that he did not ask the defendant for any weapons inside of his home and take it in violation of the 2nd Amendment and without a warrant in violation of the 4th Amendment?
8. Is it perjury and obstruction of justice for special agent David Williams to lie by saying that he and several others did not violently invade the privacy of my home by breaking the front door while my fiance and I were asleep?
9. Is it perjury and obstruction of justice for the U.S. Marshall to say that they stopped me in traffic when in fact it was inside of the private parking garage of my fiance's apartment complex?
10. Is it a violation to search the vehicle after making the arrest without having a probable cause nor a search warrant?

11. Is it prosecutorial vindictiveness to refuse to give the defendant information of when and where to self-surrender when he visited the Pre-trial officer(a new pre-trial officer replaced the original pre-trial officer Miss Lanita Lars, who was much more professional during her time as the defendant's officer)?

12. Is it perjury for the Pre-trial Officer to lie on the witness stand during the bond-hearing by stating that the defendant did not ask for the information of when and where to self-surrender?

13. Is it illegal to convict ~~an~~ innocent person who did not know his status as a felon being a first time offender, having never served a term of imprisonment exceeding one year, not knowingly in possession of a firearm(rusty and not tested), and not affecting commerce(handgun legally purchased more than 10 years prior as well as having a concealed handgun license)?

14. Is it prosecutorial vindictiveness and a violation of the 8th Amendment to:

1. Exceed the statutory maximum of 3 years in case #18-11591 by charging more than one offense in a single count(Rule 8(a) base upon a lie of "pocketing" in order to make it 5 years,
2. to add 4 more years after trial proceedings and sentencing by bringing a superseding indictment and without being on "supervised release",
3. to falsely accuse the defendant of obstructing justice because he simply spoke the truth?

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 AUTHORITIES CITED

CASES

Rehaif v. United States 588 U.S. 139 S. Ct. 2191, 2200, 204 L. Ed. 2d 594(2019)
United States v. Kearney 444 F. Supp. 1290, 1295(SDNY 1978)
Russell v. United States, 369 U.S. 749, 82 S. Ct. 1038, 8 L.Ed. 2d 240(1962)
Carachuri-Rosendo v. Holder, 130 S. Ct. 2577(2010)
United States v. Onick, 889 F.2d 1425(5th Cir 1989)
Brady v. Maryland 373 U.S. 373 U.S. 83, S. Ct. 1994, 10 L. Ed. 2d 214(1963)
Rocha v. Thaler, 619 F.3d 387, 397(5th Cir. 2010)
Bank v. Dretke, 540 U.S. 668, 698, 124 S. Ct. 1256, 157 L. Ed. 2d 1166(2004)
Kyles v. Whitley, 514 U.S. 419, 435, 115 S. Ct. 1555, 131 L. Ed. 2d 490(1995)

STATUTES AND RULES

Second Amendment to the United States Constitution
Fifth Amendment to the United States Constitution
Sixth Amendment to the United States Constitution
Eighth Amendment to the United States Constitution
Fourteenth Amendment to the United States Constitution

18 U.S.C. §922(g)(1)
18 U.S.C. 1621
26 U.S.C. 7206(2)
26 U.S.C. 7206(5)
Fed. R. Evid. 603

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 _____; 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 _____; 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 _____.

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: 8/1/21, 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 _____.
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

Second Amendment to the United States Constitution
Fourth Amendment to the United States Constitution
Fifth Amendment to the United States Constitution
Sixth Amendment to the United States Constitution
Eighth Amendment to the United States Constitution
Fourteenth Amendment to the United States Constitution

STATEMENT OF THE CASE

Prior to being indicted based upon falsified evidence and a racially biased "assumption" by a staff member of the Texas Department of Insurance, special agent David Williams of the FBI, a Homeland Security officer, the local sheriff department and others invaded the defendant's home in violation of the Fourth Amendment to the United States Constitution Right to Privacy, without a warrant. Special agent Williams seized the firearm at issue from the bedroom closet in violation of the Second Amendment to the United States Constitution Right to keep and bear arms. The agents forced the defendant and his guest outside of his home while they searched the house, garage, bedrooms, etc.

Several years later, a jury of less than 12 returned a guilty verdict on 26 counts of violation 26 USC 7206(2), "Aiding or Assisting in the Preparation or Presentation of False or Fraudulent Individual Income Tax Return". Without notifying the defendant, the defense counsel Camille Knight asked the judge to permit the defendant to go home before beginning a 5 year sentence, which is in excess of the statutory maximum of 3 years according to 26 USC 7206(5), which the Fifth Circuit Court of Appeals vacated and remanded due to an illegal restitution. According to sentencing transcript, the court directed the "defendant to report to the designated institution on or before 11:00 o'clock a.m. on Monday, January 21st".

Due to a Traumatic Brain Injury and Post Traumatic Stress Disorder that affects memory, mental health, balance, etc., the defendant made several attempts to obtain the "designated institution" and report date documentation from the pre-trial officer. Unfortunately, Miss Lanita Lars was replaced as the Pre-trial Officer, Miss Camille Knight withdrew as defense counsel, the government shut down and the defendant is a First Time Offender. Upon appearing in person in order to obtain the necessary documentation from the new Pre-trial Officer, the defendant was forced out of his office without any documentation stating when, where and how to report.

The US Marshall appeared as the defendant was in progress to make an attempt again to obtain the necessary information to report. The defendant was inside of the parking garage of his friend's apartment, which is located approximately 3-4 miles from the federal building in downtown Dallas, Tx. The US Marshalls arrested the defendant and as he was sitting the back seat of their vehicle, they searched the vehicle and seized the weapon at issue without a search warrant.

The court convicted the defendant on a count 1 Superseding Indictment: Failure to Surrender for Service of Sentence and Committing an Offense on Release, 18 U.S.C. 3146(a)(2) & (b)(1)(A)(iii) & 3147(1) and Count 2 Superseding Indictment: Felon in Possession of Firearm, 18 U.S.C. 922(g)(1), 924(a)(2) & 3147(1). A superseding indictment must occur during trial proceedings and the Bail Reform Act requires notice of sentence enhancement to the defendant if he commits and is convicted of another crime while on release and 18 USC 3147 is inapplicable in case of failure to give such notice. Court did not comply with requirements of 18 USC 3142 that it notify defendant of additional penalties for committing offenses while on bond. Therefore, the sentencing judge could not impose additional penalties mandated by 3147 United States v. Onick, 889 F.2d 1425(5th Cir 1989).

During trial, the government called special agent David Williams as a witness, who wasn't sworn in under oath according to Fed R. Evid. 603. He denied:

1. breaking through the front door of the defendant's home
2. seizing the firearm at issue from the bedroom closet of the defendant, where he also searched the safe containing homeownership papers

According to witness rules and procedures, a witness must not be present inside of the courtroom prior to being called as a witness under oath for such reasons. According to *Brady v. Maryland* 373 U.S. 83, S. Ct. 1194, 10 L. Ed. 2d 215(1963), it's necessary to disclose to the defense exculpatory evidence that is material. The prosecutor led special agent to lie about "material" meaning:

1. the prosecutor suppressed evidence
2. the evidence was favorable, such as exculpatory or impeachment evidence &
3. the evidence was material

It is met when the "favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict". *Rocha v. Thaler*, 619 F.3d 387, 397(5th Cir. 2010)(quoting *Banks v Dretke*, 540 U.S. 668, 698, 124 S. Ct. 1256, 157 L. Ed. 2d 1166(2004)(in turn quoting *Kyles v. Whitley*, 514 U.S. 419, 435, 115 S. Ct. 1555, 131 L. Ed. 2d 490(1995)).

During sentencing, the PSR report falsely stated that the defendant obstructed justice without giving any evidence of it. It's malicious prosecution to make false allegations simply because the defendant spoke the truth, which is his right. In addition, the PSR report contains a lie stating that the defendant was charged and convicted of "pocketing". The record does not reflect this false statement and there is absolutely no evidence of it. "Pocketing" is impossible when a taxpayer owes the IRS a large debt, which is grounds for them to always retain any refunds.

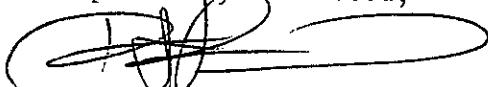
REASON FOR GRANTING THE PETITION

1. The Supreme Court granted a petition for writ of certiorari and held that prosecution for 18 USC 922(g), "the government must prove both that the defendant knew he possessed a firearm and that he knew he belonged to the relevant category of persons barred from possessing a firearm", *Rehaif v. United States* , 588 U.S., S. Ct. 2191, 2200, 204 L. Ed. 2d 594(2019).
2. It's a Fifth, Sixth, Fourteenth Amendment violation because the District Court lacked jurisdiction to give him a superseding indictment after completion of trial and sentencing procedures. The defendant "never served" a jail or prison sentence of imprisonment that exceeds one year nor was he on "supervised release." He is a first time offender.
3. Defense counsel failed to invoke and cite *Carachuri-Rosendo v. Holder*, 130 S. Ct. 2577(2010) at critical stages of proceedings in opposition to and to challenge history category points for sentencing enhancements. The defendant "never served" a minimum term of imprisonment that exceeds one year. Therefore, he should not receive any criminal history category points for sentencing enhancements.
4. It's prosecutorial vindictiveness, entrapment, cruel and unusual punishment, arbitrary prosecution, abuse of discretion, etc. in violation of the 5th and 6th Amendment to prosecute an innocent person without meeting the requirements for mens rea of knowledge or intent, nor proving the essential elements of the statue. Furthermore, it's a violation of the intent of the law in relation to drugs and violence as opposed to the original indictment of 26 USC 7206(2). Chief Judge Barbara Lynn addressed it as being "excessive", in which is evidence of the violation of the 8th Amendment as well.

Conclusion

The petition for writ of certiorari should be granted.

Respectfully submitted,



Robert Earl Ramseur

Date: