

22 No. 5921

IN THE
SUPREME COURT OF THE UNITED STATES

ANTWOYN TERRELL SPENCER - PETITIONER

VS.

UNITED STATES OF AMERICA - RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

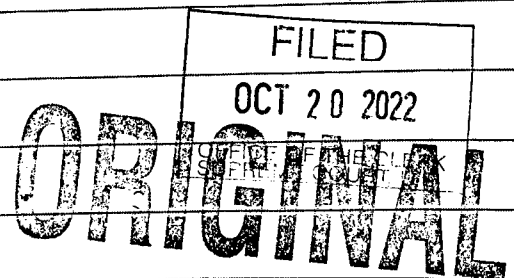
Antwoyn Terrell Spencer

#14781-041

Federal Prison Camp

P.O. BOX 1000

Duluth, MN 55814



QUESTION PRESENTED

1. Whether the Eighth Circuit Court of Appeals in its discretion should've issued a writ of Mandamus being that Petitioner is in custody in violation of the Constitution and Laws of the United States?

LIST OF PARTIES

☒ All parties appear in the caption of the case on the cover page.

RELATED CASES

United States v. Antwonn Terrell Spencer,
07-cr-174 (JRT/JTG), U.S. District for the
District of Minnesota. Judgment entered
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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.

JURISDICTION

☒ For case from Federal Courts:

The date on which the Eighth Circuit decided my case was 10/17/22

☒ No petition for rehearing was timely filed in petitioner's case.

The jurisdiction of this Court is invoked under 28 U.S.C.S. 1254(1).

Judgment was entered on 10/17/22

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fifth Amendment

STATEMENT OF THE CASE

1. On June 14, 2022, Petitioner filed a "Motion to Dismiss Indictment" in the United States District Court for the District of Minnesota. Criminal No. 07-174(JRT)(U).
2. United States district court judge John R. Tunheim without just cause refuse to take action on the motion.
3. On October 11, 2022, Petitioner filed a Petition for a writ of Mandamus requesting a command directing the district judge to take action. See United States Court of Appeals for the Eighth Circuit, appeal no. 22-3103.
4. On October 17, 2022, the Eighth Circuit denied the petition.
5. Petitioner seeks review of the appellate court's decision via writ of certiorari.
6. A judicial complaint was also submitted to the Eighth Circuit regarding this matter. JCP No. 08-22-90067

REASONS FOR GRANTING THE PETITION

Pending before district judge John R. Tunheim is petitioner's 'motion to dismiss', which is predicated on his unlawful detention.

United States District Court Judge John R. Tunheim acted without subject-matter and personal jurisdiction in petitioner's criminal proceedings.

Specifically, judge Tunheim resided over a federal trial in which the United States failed to seek a grand jury indictment as required by the Constitution and laws of this country. See U.S. District Court Crim. No. 07-174(JRT)(I), district of Minnesota, at. Indictment.

A grand jury indictment is both a prerequisite regarding prosecution

And a jurisdictional matter See *Ex parte Bain*, 121 U.S. 1, 7 S. Ct. 781 (1887).

The district court's refusal to adjudicate petitioner's motion pending before it justified issuance of the writ in *McClellan v. Garland*, 217 U.S. 268, 282, 30 S. Ct. 501 (1910), therefore the court below should've issued the writ of mandamus.

CONCLUSION

Petitioner humbly prays the petition for writ of certiorari is granted.

Antwonn Terrell Spencer submits this petition for writ of certiorari on this 19th day of October, 2022.

Respectfully Submitted,

s/ Antwonn Spencer

Dated: 10/19/22