

22-7116

No.

22-3813

FILED

MAR 03 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

In Re Ramone Wright — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF MANDAMUS

PETITION FOR WRIT OF MANDAMUS

Ramone Wright

(Your Name)

Bennettsville FCt po Box 62020

(Address)

Bennettsville SC, 29612

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

- 1) Can a prosecutor enter additional charges in an indictment without the added counts being superceded or returned by the Grand Jury while under oath
- 2) If a Grand Jury foreman enter a return indictment of three count - can the Government submit a four count on indictment without notifying the defendant of added or amended charge
- 3) Can a typographical error on docket Record [Indictment] be corrected by a notation - counts added?
- 4) Does a notation constitute a clerical error as provided by Rule 36?
- 5) Is 11 plea of Fed R. criminal procedure binding if the government withheld proffer from defendant
- 6) If a defendant plead guilty without been fully informed by the nature of the charges against him and the consequences of his plea - Does such waiver of Fifth and Sixth Amendment trial rights based on a constitutionally invalid plea undermines the credibility and public reputation of the judicial proceedings and or constitutional principle
- 7) Does a trial Judge has the authority to ask a defendant "Do you know how strong the evidence is against you - When the defendant wish to withdraw his plea of guilty before being accepted by the court
- 8) Can a Judge take part in plea proceedings

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

NO 2116-CR059 District court
No 22-3813

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STATUTES AND RULES

Rule 7(C) Nature and contents

Rule 6(C)

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of mandamus issue.

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 12-16-2022.

☒ 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: _____, 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

The waiver of Fifth and Sixth Amendment trial right based on a constitutionally invalid plea

Fed. R. crim. p. 11 plea violation resulting in constitutional error

I. A conviction based on a constitutionally invalid guilty plea cannot be saved even by overwhelming evidence that the defendant would have pleaded guilty regardless. A guilty plea is constitutionally valid only to the extent it is voluntary and intelligent.

II. A plea does not qualify as intelligent unless a criminal defendant first receives real notice of the true nature of the charge against him, the first and most universally recognized requirement of due process.

STATEMENT OF THE CASE

See Attachment

In Re Ramone Wright

Ft. Bennettville

CASE NO

PO Box 52020

Bennettville SC, 29512

Motion - petition for an Extraordinary writ 20

Syllabus: Issuance by the court of an extraordinary writ authorized by 28 U.S.C. 1651(a) is not a matter of right, but of discretion sparingly exercised

Exhibit A shows merit that adequate relief cannot be obtained in any other form or from any other court

Rule 20 3.(a) 1) District court Southern District of Ohio Eastern Division 2) Sixth circuit court of Appeal exhaustion of [All] Appeals - Denied

Issue: Fraud upon the court: constructive indictment

Citation: A constructive amendment results when the terms of an indictment are in effect altered by the presentation of evidence and jury instructions which so modify essential elements of the offense charged that is a substantial likelihood that the defendant may have been convicted of an offense other than the one charged in the indictment

Rule 6: The Grand Jury (c) Foreperson and Deputy Foreperson: The foreperson may administer

or another juror designated by the foreperson - will record the number of jurors concurring in every indictment and will file the record with the clerk, but the record may not be made public unless the court so orders - pursuant to rule 6(c)

Citation: Rule 7(c) nature and contents (1) in general the indictment or information must be a plain, concise, and definite written statement of the essential facts constituting the offense charged and must be signed by an attorney for the government

A count may allege that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means - For each count, the indictment or information must give the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated

The trial judge abused his discretion by failing to expect the indictment which was defective from being constructively amended - in violation of petitioner's Due process, in which the government withheld exculpatory evidence favorable to the petitioner, in violation of Brady v. Maryland, 373 U.S. 83 (1963)

as to Ramone L. Wright) counts 1, 2, 3 (JK) (Entered 03/21/2016) (See Exhibit 1)

The Duplicitious Indictment was returned with 4 counts instead of the original 3 from the Grand Jury - which was placed in the record (Flawed Indictment) No principle of procedural due process is more clearly established than notice of the specific charges (see Exhibit 2) No counts are listed beside 18 U.S.C. 1951 (minus subsection (A) or (B)) - 18 U.S.C. 924(c)(1)(A) and 18 U.S.C. 2; without the counts for additional charges to the predict offense and enhancement - which was signed by Benjamin C. Glassman (Acting United States Attorney); filed 03-17-16. Count (4) was documented in the language but was never counted by the Grand Jury, upon return of Indictment

Judge Watson practice of wrongful, unconstitutional Acts and omission reflecting deliberate indifference when (1) count(s) 4 (JK) was (Entered 12/21/2016) (See Exhibit 3)

Citation Superseded charging Documents: Any superseding charging documents associated with a change of plea must be provided to the chambers by Noon of the business day preceding the proposed change of plea hearing if unsigned

Citation Fraud upon the court: using evidence or testimony, that the prosecutor knows to be false or tampered with, that constitutes a fraud upon the court Hazel Atk Glass V. Hartford emprise co, (5th case)

Judge Watson failure to investigate the above mitigating factor and advise complainant of his Constitutional rights, breach the 11(c)(1) binding plea - In Violation of the due process clause, to be sentenced based on inaccurate information (1)(7)

When (1) count(s) 4 (JK) was (Entered 12/21/2016)
(See Exhibit 3)

Citation Superseded charging Documents: Any superseding charging documents associated with a change of plea must be provided to the chambers by Noon of the business day preceding the proposed change of plea hearing if unsigned.

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Judge Watson failure to investigate the above mitigating factor and advise complainant of his constitutional rights, breach the 11(c)(1) binding plea - In Violation of the Due process clause, to be sentenced based on accurate information 873 F.3d 601 (7th Cir 2017)

Conclusion: No where in the change of plea hearing transcripts is complainant made aware of an additional charge being added or advise of his rights pertaining to superseding charge - which was never place of record. (See Exhibit change of plea hearing transcripts 1-18 pg.)

(8)

Exhibit 4, documents pending counts (2)
as Violent crime / Drugs / machine gun

The petitioner never receive proper notice of count being added (see Exhibit 3) Valentine V. Konten 395 F3d 626 (6th Cir 2006) - The clerk of court violated petitioner Due process right by employing Rule 36 to correct an error that was legal in nature, rather clerical (see Exhibit H) United States V. postell, 412 F Appx 568 569 (4th Cir, 2011)

The foreperson filed indictment on 03/17/2016 and the clerk of court entered [i]ndictment on 03/21/2016 which shows merit that count four was constructively amended

citation when the terms of an indictment are in effect altered by the presentation of evidence and Jury instructions, which so modify essential elements of the offense charged that is a substantial likelihood that the defendant may have been convicted of an offense other than the one charged in the indictment.

The fact that the Grand Jury charges was enter without a subsection listed on the Indictment (see Exhibit 2)

citation 1951. Interference with commerce by threats or Violence (see Exhibit

Fraud upon the court - constructive indictment - pending counts (2) Violent crime / Drugs / machine gun (see Exhibit 4)

Conclusion: No Where in the change of plea hearing transcripts is complainant made aware of an additional charge being added or advise of his rights pertaining to superseding charge - which was never place of record. (See Exhibit change of plea hearing transcripts 1-18 pg.)

Ground II. Violation(s) of six Amendment: (1) Right to Jury trial (2) Compulsory Process (3) Informed of the nature of charge.

Waiver of Judicial Immunity; Violation of constitutional Rights - 6 Amendment Right to Jury trial - Compulsory process

The petitioner stated in open court: "I want to plead not guilty, I want to change my plea sir Transcript 05/08/17 ECF No. 20, 21 page ID 160.

Judge Watson During the criminal proceeding made verbal comments showing that he was bias against the petitioner change of plea by stating Ramon, this is not a game. I'm going to set a trial date and we're going to go to trial if that's what you intend to do." Transcript 05/08/17 ECF No. 22, 23, 24 page ID 160. The petitioner replied "Okay" (see Exhibit A1)

Judge Watson continued making free standing comments (stereotypic) In violation of petitioner's right to a fair trial: "you've been changing your mind several times and while you're being evaluated you've been malingering. So we're going to go to trial and if you're convicted, you're looking at a long time (See Exhibit B2

the petitioner's voluntariness of plea pursuant to Federal Rule of Criminal Procedure 11(b)(3) - provides before entering judgment on a guilty plea, the court must determine that there is a factual basis for the plea

Citation: Voluntariness of plea: A plea of guilty shall not be accepted unless made voluntarily after proper advice and full understanding of the consequence of said plea, *Machibrodh v. United States*, 368 U.S. 487, 7 L. Ed. 2d 473, 82 S. Ct. 810 (1962)

Judge Watson waived his judicial immunity by stating on Record: "Do you know how strong the evidence is against you." Transcript 05/08/17 ECF No 1 page ID #16

Citation Judge(s), are not allowed to show bias or hostility toward a criminal defendant *United States v. El-Beg* 2017 U.S. App. Lexis 208 97 (7th Cir.)

The petitioner then stated "I haven't seen none of the evidence. He said it's a Jencks Act, wait a couple days before trial was beginning to start." Transcript 05/08/17 ECF No 3, 4, 5 page ID #161

The petitioner informed the court that he has not seen none of the evidence: No police statement, no exculpatory evidence, and or the proffer of neither codefendants (see Exhibit B2)

Citation: A plea of guilty, if induced by "promise" or "threat" which deprive it of the character of a voluntary act "is" void and open to collateral attack

(8)

The petitioner informed the court in regards to the evidence being examine by his party before making a decision by stating the following "I still want to weigh my options, before I go to trial" Transcript 05/06/17, ECF No 2, 3 pageID #162 -

Judge Watson replied "you don't get that you're either going to trial or you're doing this plea today" That's the way it is, so make up your mind. If you want a moment to talk with Mr. Durkin, take it. I'll be back." "I'm done playing Mr. Wright" Transcript 05/06/17, ECF No 4, 5, 6, 7, 8 (See Exhibit C3)

Citation: A defendant cannot incur the loss of liberty for an offense without notice and meaningful opportunity to defend Jackson v. Virginia 443 U.S. 307, 314 99 S.Ct. 2781 61 L.Ed 2d 560 (1979)

Citation: Judge(s) duty is to protect the constitutional rights of the defendant

The Federal recusal statute (28 U.S.C 455(A)) requires a judge to recuse himself from [A]ny proceeding in which his impartiality might reasonably be questioned. Judge Watson has violated the model code of judicial conduct (cannon) since he is an intermediary of the court and not a residing prosecutor in the above case No. - Merit and Exhibits shows he practice wrongful, unconstitutional acts and omissions, reflecting deliberate indifference to the plaintiff. The above grounds which is pending (proffer) Judge Watson had a personal bias or prejudice either against the plaintiff or in favor of any adverse party, [S]uch judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding...

Citation: Under Rule 11(d)(1), A guilty plea may be withdrawn before a court accept it "for any reason" (1)(2)

or no reason" - Courts have consistently ruled that you have a right to withdraw a guilty plea at this point and that the court lacks authority to deny a defendant withdrawal United States v. Feliz 2019 US Dist Lexis

Citation: prosecutorial misconduct, Supreme Court opinion
The United States Attorney is the representation not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar and very definite sense the servant of the law, the two-fold aim of which is that guilt shall not escape or innocent suffer. He may prosecute with earnestness and vigor - indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.
Berger v. United States, 295 U.S. 78, 88, 79 L.Ed 1314, 55 S.Ct 629 (1935)

(10)

(13)

Transcript filed: 05/08/2017, ECF No 819, page ID 173
Judge Wantson's stated (sentencing proceeding) "How do you plead to count 2, the firearm charge? (see Exhibit Z) - The petitioner's (6) SIX Amendment was violated when the sentencing court failed to inform the petitioner of the nature of charge - since he have a due process [5th] Amendment to be sentenced based on accurate information United States v. Oliver 873 F.3d 601 (7th Cir. 2007)

The District court's failure to advise a defendant of this knowledge element before accepting a guilty plea is structural error that automatically renders a guilty plea unconstitutional

Exhibit 4: documents count(2) two: Violent crime / Drugs / machine gun - which is with prejudice since count(2) two of indictment cites count(2) two as 924(C)

Citation: Rule 36 - Federal Rules of criminal procedure, provides that a court may correct a clerical error in judgment order, correct an error in the record arising from oversight or omission after giving notice to court(s) - employ Rule 36 to correct errors that are clerical rather than legal, in nature United States v. postell, 412 F Appx 568 569 (4th Cir 2011)

conclusion

The legal sufficiency of plaintiff case, scopes - its constitutional violation [merit], that Judge Watson waived his Judicial immunity by violating rule(s) of criminal procedures, which left the plaintiff in Federal custody in violation of the constitution or laws of the United States.

Thus the waiver of trial and his plea agreement was not voluntary, knowingly, or intelligence - since Judge Watson's Freestanding comments violated plaintiff's right to a fair trial.

citation: When defendants allege qualified immunity as a defense, the plaintiffs bear the burden of showing that the defendants are not entitled to qualified immunity.

The plaintiff argue [t]hat the facts in the case do support waiver of qualified immunity, the merit place on Record is beyond a reasonable doubt that Judge Watson violated the legal application of law - which is state in this claim (Grounds), Judge Watson exercise bad faith, in addition to prejudicial misconduct, his negligence of Good faith was accompanied by wanton and/or reckless disregard for the effective and expeditious administration of the business of the court. - [I]n all the open-endedness of the 3853(A) factors leave ample room for the court's discretion (United States v. Warner 742 F.3d 847 (7th Cir. 2015)) that discretion invites the risk that a Judge's personal biases will influence or appear to influence the sentence he imposes (United States v. Smith 725 F.3d 879 (7th Cir. 2015)) - The court determined that upholding sentence created a real risk of unfairness to any plaintiff.

The plaintiff has demonstrated that the information before the sentencing court relied on inaccurate information in the preliminary phase. United States v. Barnes, 907 F.2d 693 (7th Cir 1990)

Respectfully submitted

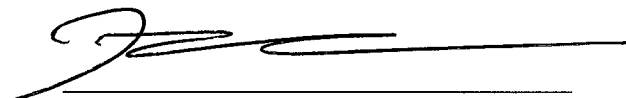
REASONS FOR GRANTING THE PETITION

Not to undermine the credibility and public reputation of judicial proceeding and to foster confidence that granting this petition will result in a fair and reliable determination of guilt rather than a conviction obtained contrary to constitutional principles - petitioner's right to due process when pleading guilty must remain paramount

CONCLUSION

The petition for a writ of mandamus should be granted.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a horizontal line.

Date: march 8, 2023