

Supreme Court, U.S.
FILED
MAY 30 2023
OFFICE OF THE CLERK

No. 22A1065

IN THE
SUPREME COURT OF THE UNITED STATES

Avery Smartt — PETITIONER
(Your Name)

vs.

U.S. of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The U.S. Court of Appeals for the Seventh Circuit

MOTION For BAIL
ON
RECOGNIZANCE

Avery Smartt
(Your Name)

Federal Correctional Institution/P.O. Box 6001
(Address)

ASHLAND, KY. 41105
(City, State, Zip Code)

606-982-6414 - F.C.I. Ashland
660-233-6661 - Message Phone
(Phone Number)

(S. CT. R. 22) TO JUSTICE KAGAN & ALL OTHER JUSTICES OF THE COURT

PETITIONER IS APPLYING FOR "BAIL" AS PETITIONER REQUESTS TO BE RE-
LEASED ON PETITIONER'S OWN RECOGNIZANCE PENDING DISPOSITION OF PETITIONER'S
"PETITION FOR WRIT OF CERTIORARI."

- FACTS ON WHICH RELIEF IS BASED -

THE GOVERNMENT, BELOW COURTS, PROSECUTION, HAS TOTALLY UNFAIRLY & AR-
BITRARILY DEPRIVED PETITIONER OF LIFE, LIBERTY & PROPERTY. PETITIONER: HAS NO
CRIMINAL HISTORY - IS NOT & NEVER BEEN A FLIGHT RISK - IS & HAS ALWAYS BEEN
THE TYPE OF PERSON THAT IS WILLING TO DO THE RIGHT THING & THINKS BEFO-
RE ACTING - IS NOT & NEVER BEEN A HARM NOR THREAT TO CHIEF WITNESS/S.
S. NOR THE COMMUNITY NOR NATION - DID NOT PLEAD GUILTY - DID NOT AGREE TO
NOR SIGN ANY STIPULATIONS FOR TRIAL - DID NOT ACCEPT RESPONSIBILITY AT SEN-
TENCING - WAS NOT ORDERED TO PAY RESTITUTION. PETITIONER WAS WRONGFULLY
ARRESTED DETAINED & PROSECUTED. ALL ORIGINALLY FROM ONE (1) SINGLE UNIDENTI-
FIABLE NUDE IMAGE THAT WAS FORGED WITH "S.S." / CHIEF WITNESS INITIALS & P-
RESENTED TO THE D.A. BY F.B.I. SPECIAL AGENT "TYRONE FORTE" - CLAIMING
THAT CHIEF WITNESS/S.S. HAD IDENTIFIED & INITIALED THE UNIDENTIFIABLE IMAGE,
BUT IN FACT, CHIEF WITNESS DID NOT ORIGINALLY IDENTIFY NOR INITIALED THE
UNIDENTIFIABLE IMAGE. PROSECUTION HAS TAMPERED, FABRICATED, REARRANGED, RECO-
VERED FROM DELETE STATUS, & HAS COMPLETELY ADDED INFORMATION/TEXT ME-
SSAGES THAT NEVER EVEN EXISTED WITHIN PETITIONER'S ONE (1) & ONLY MO-
BILE DEVICE (STUDIO BLU MODEL), & USED THIS TAINTED EVIDENCE TO FACILI-
TATE A WRONGFUL PROSECUTION UPON PETITIONER. PROSECUTION PRESENTS NO

SUFFICIENT EVIDENCE TO THEIR CLAIM NOR TO HAVE LAWFULLY & CONSTITUTIONALLY CONVICTED PETITIONER. PROSECUTION COERCED THE ONE (1) & ONLY RELEVANT CHIEF WITNESS/S.S. TO LIE UNDER OATH AT TRIAL JUST TO SUSTAIN A CONVICTION, FOR WHICH PROSECUTIONS SUSTAINING IS CURRENTLY INSUFFICIENT. IT IS CLEAR AS VIEWED FROM THE RECORD THAT GUILT WAS NOT FOUND, PROVEN, NOR RENDERED BEYOND A REASONABLE DOUBT. IT IS CLEAR AS VIEWED FROM THE RECORD THAT PETITIONER'S 6TH AMENDMENT U.S. CONSTITUTIONAL RIGHT TO AN IMPARTIAL JURY TRIAL HAS BEEN VIOLATED. IT IS ALSO EVIDENT FROM THE RECORD THAT PETITIONER'S TRIAL WAS BY A BIAS JUDGE. IT IS ALSO CLEAR THAT THE BELOW C.A. JUDGMENT / OPINION IS ERRONEOUS / CONTRARY TO THE RECORD IN REGARDS TO THE JURISDICTIONAL / MENS REA / COMMERCE ESSENTIAL REQUIRED ELEMENT, AS WELL AS THE C.A.#7 OPINION IS HIGHLY DUPLICIOUS, MISLEADING, & NOT SPEAKING ON FACTS IN MANY OTHER AREAS WITHIN THE OPINION IN REGARDS TO THE "PROOF". THE C.A.#7 OPINION IS DEFECTIVE, DECLARED UNCONSTITUTIONAL, & SHOULD BE CONSIDERED VOID, AS ALSO PETITIONER'S SENTENCE.

- ARGUMENT -

"And regardless of its ultimate reasonableness, a sentence that lacks reliability because of unjust procedures may well undermine public perception of the proceedings." "A substantive reasonableness is an entirely separate inquiry from whether an error warrants correction under plain-error review" (See ROSALES-MIRELES v. U.S., 585 U.S. ___, 138 (S. CT. 2018)). PETITIONER RECEIVED A 25 YEAR SENTENCE THAT IS WELL BEYOND WHAT IS REASONABLE ACCORDING TO FACTS, LAW, & THE RECORD, & IS ALSO

UNCONSTITUTIONAL. PETITIONER'S SUBPOENA - REQUEST MOTION - TO ORDER CHIEF WITNESS TO APPEAR FOR SENTENCING WAS DENIED BY CHIEF JUDGE ROSENSTENGEL. AUSA MS. REPECT PRESENTED FABRICATED EVIDENCE AT SENTENCING TO WRONGFULLY ENHANCE PETITIONER'S SENTENCE. PETITIONER OBJECTED TO THE ENTIRE PSR. PETITIONER WAS REPRESENTED BY A TOTAL OF SIX (6) INEFFECTIVE ATTORNEYS THAT WERE ALL A CONFLICT OF INTEREST. PETITIONER'S SENTENCE IS IN TOTAL VIOLATION OF THE CONFRONTATION CLAUSE AS JUDGE ROSENSTENGEL RELIED ON FABRICATED TAINTED EVIDENCE & EXTENSIVE HEARSAY. PETITIONER'S SENTENCE IS SUBSTANTIVELY UNREASONABLE DUE TO UNJUST PROCEDURES & IN VIOLATION OF SUBSTANTIVE & PROCEDURAL DUE PROCESS OF PETITIONER'S & CHIEF WITNESS RIGHTS OF THE 5TH, 6TH & 14TH AMENDMENTS OF THE U.S. CONSTITUTION.

REVIEWING THE EXPEDITIOUS FINDING OF FACTS IN "APPENDIX-A" & "APPENDIX-F-V7" (& OR THE RECORD) OF PETITIONER'S "PETITION FOR A WRIT OF CERTIORARI", THE FINDING OF FACTS WOULD REVEAL THAT PETITIONER'S 6TH AMENDMENT U.S. CONSTITUTIONAL RIGHT TO AN IMPARTIAL TRIAL/JURY TRIAL HAS BEEN VIOLATED, ESSENTIAL REQUIRED ELEMENTS OF THE ALLEGED CRIMES HAS NOT BEEN PROVEN BEYOND A REASONABLE REASONABLE DOUBT, & A MISCARRIAGE OF JUSTICE CURRENTLY EXISTS PREJUDICING & DEPRIVING PETITIONER OF HIS LIBERTY.

"THE COURT (U.S. SUPREME COURT) REPEATEDLY HAS REVERSED JUDGMENT FOR PLAIN ERROR ON BASIS OF INADVERTENT OR UNINTENTIONAL ERRORS OF THE COURT OR THE PARTIES BELOW" (SEE ROSALES-MIRELES V. U.S., 585 U.S. ___, 138 (S. CT. 2018) CITING WITHIN - SILBER V. U.S., 370 U.S. 717 (S. CT. 1962)). ACCORDING TO U.S. V. OLANO, 507 U.S. 725 (S. CT. 1993), & ON PAGE 9 & 40 OF PETITIONER'S "PETITION

For writ of Certiorari, Petitioner presents Plain Error. According to the "Reasons For Granting The Petition" Starting on Page 38 (& NOT TO BE LIMITED TO) OF PETITIONER'S "PETITION FOR WRIT OF CERTIORARI", PETITIONER DECLARES THE REASONS ARE FINDINGS OF FACT, & OR SUPPORTED BY THE RECORD & EVIDENCE THAT PETITIONER HAVE PROVIDED. IF THE BELOW COURTS & PROSECUTIONS ERRONEOUS UNLAWFUL UNCONSTITUTIONAL PRACTICES ARE NOT CORRECTED OR AT LEAST CURBED, THE NATION WITHIN THE 7TH CIRCUIT ARE GOING TO UNWARRANTABLY CONTINUE TO BE GREATLY PREJUDICED, DEPRIVED OF LIBERTY, & JUST SUFFER, ALL FROM THE CAUSE OF UNRESTRAINED COMPLICITOUS PROSECUTORIAL MISCONDUCT.

THE BELOW COURTS JUDGMENT IS ERRONEOUS & UNCONSTITUTIONAL, & ANY PRESENTED STAY BY THE BELOW COURTS TO STAY ITS ORDER PENDING DISPOSITION OF PETITIONER'S "PETITION FOR WRIT OF CERTIORARI" SHOULD BE DEEMED DENIED (SEE GRAVES V. BARNES, 405 U.S. 1201 (S. CT. 1972)).

THIS COURT LEAVING THIS CASE IN THE BELOW COURTS HANDS (WHEN IN FACT, THE BELOW PARTIES NEVER RIGHTFULLY/DUE PROCESS NOR LAWFULLY SATISFIED THE PREREQUISITES FOR SUBJECT-MATTER JURISDICTION TO BEGIN WITH), & WITH THE GREAT HIGH DEGREE OF BIASNESS & MALFEASANCE COMING & COMMITTED BY THE BELOW COURTS/PARTIES, ITS GOING TO LEAD TO IRREPARABLE HARM TO PETITIONER, TO WHERE AS ALL PARTIES BELOW HAS DECEITFULLY ORCHESTRATED IT TO WHERE IRREPARABLE HARM HAS ALREADY STARTED TO SET IN UPON PETITIONER. PETITIONER IS RAPIDLY DETERIORATING FROM - AS DR. "SZYHOWSKI" HAS DIAGNOSED PETITIONER WITH - "MAJOR MENTAL DEPRESSION DISORDER ON THE 5TH EDITION LEVEL" ETC. (SEE : APPENDIX-B, @ 6), PAGE 5 OF 13 @ * 1, TILL PAGE 7 OF 13 @ * 2; - ALSO SEE PETITIONER'S

"Petition For writ of Certiorari" Page 14, LAST Paragraph & Going onto Page 15 Till Line Just Before [2]). Petitioner would also like to make a correction on Page 15 (of Petitioner's "Petition For writ of Certiorari") AT TOP, FIRST Sentence, LAST word "Men-", its meant to be "Mental Disorder".

"AT A minimum, A Bail Applicant must demonstrate A reasonable Probability That Four Justices OF THE UNITED STATES Supreme Court Are LIKELY To vote To Grant Certiorari in order To Be Granted Bail Pending Disposition OF THE Applicant's Petition For writ of Certiorari" (See JULIAN v. U.S., 463 U.S. 1308 (S. CT. 1983)).

Petitioner's "Petition For writ of Certiorari", & what Petitioner limitedly Explains Herein This Application/Motion For Bail, demonstrates A reasonable Probability That Four Justices OF THIS Court - & According To "ROGERS v. ALABAMA, 192 U.S. 226 (S. CT. 1904)" "Exercise of Jurisdiction BY Supreme Court To Protect Constitutional Rights Cannot Be Declined when it is plain That Fair Result of Decision is To Deny Rights" - Are LIKELY To command THE vote OF Four Justices To Grant certiorari.

- CONCLUSION -

WHEREFORE, Petitioner PRAYS, That Honorable Justice KAGAN, & ALL OTHER JUSTICES OF THE U.S. SUPREME COURT Can Please, Grant Petitioner A very Smart Relief, & Release Petitioner Smartt on His (Petitioner) own Recognizance under ANY TYPE OF Conditions This Honorable Court Deem Appropriate, During THE Pendency

OF PETITIONER'S "PETITION FOR WRIT OF HABEAS CORPUS"

THANK YOU & GOD BLESS THE UNITED STATES OF AMERICA

RESPECTFULLY SUBMITTED → INCLUDING "LAST SECOND NOTE"

Avery Smart / Avery Smart
DATE: MAY 28TH, 2023

"LAST SECOND NOTE": See Appendix-F-v3, @ 1, Page 6 @ *3, To Page 7 @ *4, & ALSO on THE SAME Page 7 @ *1, To Page 8 @ *2. ALSO See From THE Record (C.A.#7 DOC.34 FILED 01/06/22) AS ALSO LISTED on Page 10 & 11 in THIS SAME Appendix-F-v3 @ 1, "CHARACTER Letters." WITH ALSO "ALL EXHIBITS" in Appendix-F-v7. AS Chief witness/s. S. STATES in Her NOTARIZED STATEMENT/COMPLAINT (See Appendix-F-v7, @ 1 & 2), THAT THIS WHOLE Case is A Lie, THAT S.S. WAS Coerced To Lie AT Trial To SAY THAT An unIDENTIFIABLE nude image was OF Her/S.S., BUT in FACT, THE image is NOT OF S.S., AS S.S. ALSO STATES in Her COMPLAINT THAT THE unIDENTIFIABLE image was/is NOT OF Her/S.S.. S.S. ALSO STATES in THE COMPLAINT THAT SHE/S.S. DOES NOT want PETITIONER in Jail For SOMETHING THAT PETITIONER DID NOT DO.

WHAT'S ALL STATED & TO BE REFERENCED to in THIS "LAST SECOND NOTE" - & NOT TO BE LIMITED TO - is To Support PETITIONER'S Motion For BAIL.

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Avery Smartt — PETITIONER
(Your Name)

VS.

U.S. of America — RESPONDENT(S)

PROOF OF SERVICE

I, Avery Smartt, do swear or declare that on this date, MAY 30th, 2023, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and MOTION FOR BAIL on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Supreme Court of the U.S., 1 First Street, N.E., Washington, D.C. 20543
Solicitor General of the U.S., Room 5616, DOJ, 950 Pennsylvania Ave., N.W., Washington, D.C. 20530
Laura Reppert, Office of the U.S. Attorney, 9 Executive Dr., Fairview Heights, IL 62208

I declare under penalty of perjury that the foregoing is true and correct.

Executed on MAY 30th, 2023

Avery Smartt
(Signature)

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

January 21, 2022

By the Court:

| | | |
|---------------------------|----|-----------------------------|
| UNITED STATES OF AMERICA, | |] Appeal from the United |
| Plaintiff-Appellee, | |] States District Court for |
| | |] the Southern District of |
| No. 21-1637 | v. |] Illinois. |
| | |] |
| AVERY SMARTT, | |] No. 3:18-cr-30138-NJR-1 |
| Defendant-Appellant. | |] |
| | |] Nancy J. Rosenstengel, |
| | |] Chief Judge. |

Pursuant to this court's order of December 16, 2021, **IT IS ORDERED** that Amir Mohabbat, CHICAGOLAND & SUBURBAN LAW FIRM, P.C., 248 S. Marion Street, Oak Park, IL 60302, amir@chicagolandlawfirm.com, is appointed to represent defendant-appellant Avery Smartt pursuant to the provisions of the Criminal Justice Act. Counsel is directed to contact the defendant-appellant immediately.

Briefing shall proceed as follows:

1. Defendant-appellant shall file his brief and required short appendix on or before April 21, 2022.
2. Plaintiff-appellee shall file its brief on or before May 23, 2022.
3. Defendant-appellant shall file his reply brief, if any, on or before June 13, 2022.

IT IS FINALLY ORDERED that the District Court add attorney Amir Mohabbat to their CM/ECF database for purposes of accessing District Court documents.

Important Scheduling Notice !

Hearing notices are mailed shortly before the date of oral argument. Please note that counsel's unavailability for oral argument must be submitted by letter, filed electronically with the Clerk's Office, no later than the filing of the appellant's brief in a criminal case and the filing of an appellee's brief in a civil case. *See* Cir. R. 34(b)(3). The court's calendar is located at <http://www.ca7.uscourts.gov/cal/argcalendar.pdf>. Once scheduled, oral argument is rescheduled only in extraordinary circumstances. *See* Cir. R. 34(b)(4), (e).