

No. WAP 7-22-2526
23-5458 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
JUL 21 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Kimco Conley — PETITIONER
(Your Name)

vs.

Jason Wells — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

7th circuit court of Appeal's
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Kimco Conley
(Your Name)

Racine Correctional Inst p.o. box 900
(Address)

Sturtevant, WI 53177
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

- 1.) When a criminal statute has [8] element's on it's face (wis. stat) (948.051) to be proved beyond a reasonable doubt, and the state only tries to prove [3] element's. Does this violate the 14th Amendment of the U.S. Constitution, that Requires that Due process Requires that the prosecution prove beyond a reasonable doubt all element's in the definition of the offense, (patterson v New York) 432 U.S. 197 (1977), (us v Gaudin) 515 U.S. 506 at 510 (1995).
- 2.) When a Jury instruction code like [2124] is not considered to be binding law (Nommensen v American continental inc. co) 246 Wis. 2d. 132 at 97 47 (2001) and was not made by the legislature or law maker's of the state. But was composed by Trial Judges, lawyer's, and legal scholar's, (id) (State v Trammell) 387 Wis. 2d. 156 at 97 80 (2019). In a case where it was used, should the [Rule of lenity] be applied in the Petitioner's favor? meaning that [8] elements should have been proven not just [3].
- 3.) Does (Silvestr v General motor corp) 271 F. 3d. 583, 51 Fed. R. serv. 3d. 694 (2001) = Remain good law, when evidence is destroyed in a criminal case? Thus mandating a sanction, when this occur's, which violated the 14th Amendment of the Due Process clause in a manner that Warrant's a dismissal of the [1] Count of the trafficking charge?, As a warranted sanction.

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

- (State v Conley) 960 N.W. 2d. 628 (Wis. Ct. App. 2021)
- (State v Trammell) 387 Wis. 2d. 156 at 91 80 (2019)
- (Patterson v New York) 432 U.S. 197 (1977)
- (Silvestri v General Motors) 271 F. 3d. 583 (2001)
- (US v Gaudin) 515 U.S. 506 at 510 (1995)

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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 A 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 C 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 of Appeals court appears at Appendix D to the petition and is

☐ reported at State v. Conley, 960 N.W.2d 628 (2021), 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 Feb 28, 23.

☐ 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: June 16, 23, 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 NA (date) on NA (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 NA.
A copy of that decision appears at Appendix NA.

☐ A timely petition for rehearing was thereafter denied on the following date: NA, and a copy of the order denying rehearing appears at Appendix NA.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including NA (date) on NA (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 5th Amendment of the U.S. Constitution
- 6th Amendment of the U.S. Constitution
- 14th Amendment of the U.S. Constitution

STATEMENT OF THE CASE

After a (4) day Jury trial in Milwaukee, county of case # (19c#45), evidence was destroyed of a car, which was the majority of the evidence. which stop the petitioner from discovering more exonerating evidence to go towards the element (Transportation's). Also during the trial the prosecutor used Jury Code (2124) which allows the state to reallocate the law in regard to the elements of the statute (948.051) which holds (8) elements need to be proven beyond a reasonable doubt in order to convict. But the prosecutor only used (3) elements out of the (8) elements & this is unconstitutional to the petitioner's 14th Amendment rights and this was common law, which was abolished in 1955 in (Wisconsin) See provision (Wis. Stat) (939.10). I appealed to the state courts & the federal courts, with no relief on the issues. I want a new trial or dismissal of the charge as a sanction.

REASONS FOR GRANTING THE PETITION

The petition should be granted to clarify law on Jury instruction code's that are not lawful, against all elements need to be proved beyond reasonable doubt that are on the face of the criminal statute, stopping or prohibiting reallocation of the law.

Also to clarify when evidence is destroyed and when should dismissal of all charges, should be warranted. Against the constitution.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

James Earl

Date: July 20, 2023