

No. 23-6286

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

NOV 28 2023

OFFICE OF THE CLERK

Kyle M. Panics

(Your Name)

— PETITIONER

vs.

USA

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eighth Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Kyle M Panics

(Your Name)

P.O. Box 33 USP

(Address)

TERAZ HOUTE IN 47808

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

CAN A petition be untimely, when ALL of the facts leading to the ALLEGATION(S) WERE NOT fully developed due to CONCEALMENT by LAW ENFORCEMENT AND GOVERNMENT ATTORNEY'S? ONLY TO BE RELEASE SEVEN YEARS AFTER ARREST AND FOUR YEARS AFTER first request for needed documents

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:

United States District Judge
John A. Ross
St Louis Division

Assistance U. S. Attorney
Joshua M. Jones

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☐ is unpublished.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 _____ 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☒ is unpublished.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 N/A; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the N/A 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☐ is unpublished.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 Sept 26, 2023.

☐ 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: Nov, 14, 2023, 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

Abuse of discretion

DUE PROCESS VIOLATION

CONCEALMENT

UNFAIR TRIAL

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Appendix G,	STATEMENT by Lemuel "Parks" promise jobs stripping"
Appendix H.	STATEMENT by Wilkins on who ask her to travel to TEXAS

Appendix i - OTT statement Parks was not at hotel when date was performed nor did he profit.

Appendix J. OTT statement that female in orange jacket concealed her true age from Parks.

Appendix K. Report of who's email was used to post backpage.com ads.

Appendix L. Documents in support of fabrication
L-L3 (L) report states "All females were allowed to gather their cell phones (L-1) Detective collected all cell phones and consent form (L-2) incident of arrest (L3) inventory of items located in van. Some cell phones collected and allege to have been forward to property control unit. Compare items 24-27, L-3 TO L1

Table of Authorities Cited

Brown v. Illinois 422 U.S. 590, 602, 45
L. Ed. 2d 416 S. CT 2254 (1975)..... pg 6

City of Canton v. Harris. 48 U.S. 378, 308;
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Matthew v. U.S. 114 F. 3d 112, 113 (8th Cir
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Olmstead v. U.S. 277 U.S. 438, 485;
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OTey v. Marshall, SUPRA AT 1156....

STAKE v. American Dredging Co.; 3
F.R.D. 300 (D. PA 1943).... pg 2

Trzuno v. Thaler, 133 S. CT. 1309;
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Wong Sun v. U.S. 371 U.S. 47 L. 486
9, L. Ed. 2d 441, 83. S. CT 407 (1963).... pg 6

U.S. v. Frady 456 U.S. 152, 165, 102
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U.S. v. STARKS (NO. 19-3256) (10th Cir
May 27, 2022) pg 7.

STATUTES AND RULES

Fed R. Civ. P. 26(A) and 37 (c)(2)

STATEMENT OF THE CASE

The dismissal of petition for untimely filing. As far back as 2018 the petitioner has been asserting law enforcement misconduct in the investigation, illegal search of Ohio office and manufacturing of evidence to obtain a tainted conviction. The 8th Cir policy deny a defendant from filing Pro Se briefs when represented by counsel. 4:18-CV-1923 and direct appeal 17-1914. In each filing the allegations of misconduct was asserted. Under 28 U.S.C. 2255 case # 4:18-CV-1923 the government conceded to the narrative that evidence in the form of cell phones were planted in the petitioner's van (the counsel for the petitioner never raised the issue on direct) yet "Due to the fact that ownership of cell phones were not a element of charge offense due process was not violated. See Gov Brief Pg 10-12 4:18-CV-1923 and counts opinion to deny release 28 U.S.C. § 2255. The petitioner continue the pursue for justice on appeal 21-3644 8th Cir, 22-2642, 22-2724, 4:22-CV-306. All stated filings were based on "the act of the misconduct". This issue before the court is "the known use of fabricated, manufactured evidence at trial to obtain the conviction. 28 U.S.C. 2244 (b)(2) record fully developed, the due process clause states in part; A defendant can not be deprived of liberty as a result of a government fabrication of evidence or the use thereof at trial. Pp —, 204 L.Ed.2d at 513. With the case at bar there's the use of planted evidence in petitioner's van (cell phones); Still photo in lobby of Red Roof Inn #12ened illegal warrantless search of Ohio office. The latter two events

BECAME KNOWN TO THE PETITIONER BY WAY OF A FREEDOM OF INFORMATION
AND PRIVACY ACT REQUEST, BOTH IN THE EARLY AND MIDDLE OF 2023
SEE APPENDIX 4 AND 5. THE DISMISSAL OF THE PETITION AS UNTIMELY
WILL UNDOUBT [2007 U.S. DIST LEXIS 12] PREJUDICE THE PETITIONER. A
PETITIONER CAN HOWEVER OVERCOME THE TIME LIMIT BY DEMONSTRATING
GOOD CAUSE. (CITING HARRIS V. REED, 489 U.S. 255, 268-269, 109
S. CT. 1038, 103 L. ED. 2D 308 (1989)). THE GOVERNMENT EN-
GAGED IN A CONCERTED, MULTI-YEAR EFFORT TO CONCEAL
ITS UNLAWFUL ACTIONS ON MULTIPLE FRONTS BY WITHHOLDING
CRITICAL EVIDENCE OF ITS MISCONDUCT. A REVIEW OF DOCKET
SHEET OF 4:18-CV-1923 AND OTHER STATED CASE NUMBERS ON PAGE
ONE OF THIS PETITION REVEALS NUMEROUS ATTEMPTS TO OBTAIN DOC-
UMENTS I.E. OHIO SEARCH WARRANT, HOTEL LOBBIE FOOTAGE. NOT
UNTIL THE SUNSET DOCTRINE CAME IN PLAY WOULD ST CHARLES
POLICE CHIEF APPROVE RELEASE. (SEE DATE OF RELEASE TOP CORNER)
COUSSEL WOULD NOT SEND THE PETITIONER ANY FORM OF DISCOVERY
THE COURT IS AWARE THE PURPOSE OF RULE(S) 26 AND 37 OF
CIVIL P. IS TO AID IN DETERMINATION OF TRUTH AND TO ELIMI-
NATE FROM FEDERAL PRACTICE OLD PROCEDURAL ELEMENTS OF
CONCEALMENT AND SURPRISE. STAKE V. AMERICAN DREDGING
CO., 3 F.R.D. 300 (D. PA 1943). CAUSE FOR UNTIMELINESS
IS THE PRODUCTION OF THE GOVERNMENT, PREJUDICE OR A FUND-
AMENTAL MISCARriage OF JUSTICE TO EXCUSE ANY PROCEDUR-
AL DEFAULT OF THESE NEW FACTUAL ALLEGATIONS; MAYLE
V. FELIX, 545 U.S. 644, 125 S. CT 2562, 162 L. ED. 2D
582 (2005); THE USE OF THE EVIDENCE AT TRIAL

WAS TOTALLY CONTRARY TO OR INVOLVED A UNREASONABLE
APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAW, AS
DETERMINED BY THE SUPREME COURT OF THE UNITED
STATES [2007 U.I. DIST LEXIS 26]. THE THRESHOLD QUEST-
ION IS CASE AT BAR IS "USE AND CONCEALMENT, did
EXISTED ON BOTH PREJUDICE THE PETITIONER. THE PETITIONER'S
TRIAL COUNSEL FAILURE TO COMPELL THE COMPLETE DISCOVERY WAS
AND SHOULD BE DEED QUALIFIED CAUSE TO EXCUSE A PROCEDURAL DEF-
ULT. APPENDIX F DOCKET SHEET REVEALS AS FAR BACK AS 1-10-19
THE PETITIONER SEEK DISCOVERY THROUGH THE DISTRICT COURT. A
PETITIONER / PRISONER MAY OBTAIN FEDERAL REVIEW OF A default-
ED CLAIM BY SHOWING CAUSE FOR THE DEFAULT AND PREJUDICE FROM
A VIOLATION OF FEDERAL LAW; MARTINEZ, SUPRA, AT 10, 132 S. CT.
1309." TREVINO V. THALER, 133 S. CT. 1309; 182 L. ED. 2d 272
(2012); THE RELEASE OF ST LOUIS COUNTY POLICE REPORTS CON-
TAINED SCENES OF EXCULPATORY AND MINOR PARTICIPATION
EVIDENCE. APPENDIX STATEMENT FROM FEMALE SUBJECT R.W
AND T.B. "PARKS had promise them jobs stripping" THIS
KNOWLEDGE IS MATERIAL AND GOES DIRECTLY TO THE HEART
OF INTENT AND MENS REA, APPENDIX 6 BOTTOM PAGE "WILKINS
SAID "SEQUOIA (female's") ASKED IF WILKINS AND MOTLEY
WANTED TO GO TO TEXAS. "SEQUOIA THEN ASKED IF SHE "WILKINS

WANTED to make some money. This interaction was before Wilkins or Motley had ever meet the petitioner. Had the government release this information the element of recruit could have been rebuttal. "Appendix i" OTT's who did not testify at trial told the detective at her interview that she over heard "black girl in orange jacket (Botes) make a "shhh" comment to OTT when talking about the unknown girl age. OTT said Parks said something about believing the unknown girl was 19 years old. The petitioner did not only have a right to these documents but he had a "Constitutional Right" and the prosecutor had a obligation to turnover the interviews of each female to the defendant. Knowingly or in reckless disregard is the very first element the government had to prove beyond a reasonable doubt. Lastly "Appendix J" OTT admit Parks was not even around when she saw her client, Parks had left and didn't know OTT was getting a date. Parks never returned, OTT kept all of the money the date provided her. This soundly establish ① mens (4)

What can be more harmful to a defendant than planting of evidence by the arresting officer, than conceal by the prosecutor and defense counsel. What can be more compelling than the evidence to show the misconduct by all. The district court in its ruling to deny § 2255 stated that evidence was planted by Detective Black, however, the cell phones were not a element of the charge offense (ownership), so due process was not violated.

A personal opinion not legally grounded by any case law anywhere. In fact the Supreme Court strongly denounce such conduct in *Wong Sun v. U.S.*, 371 U.S. 471, 486, 9 L. Ed. 2d 441, 83, S. Ct. 407 (1963); *Brown v. Illinois*, 422 U.S. 590, 602 45 L. Ed. 2d 416, S. Ct. 2254 (1975). Did the "use" of planted evidence at trial so infect the jury with unfairness as to make the resulting conviction a denial of due process. *Dechastelano* (1974)

REASONS FOR GRANTING THE PETITION

IT THE COURT DEEM THESE ISSUES TO BE TIME BARRED. PROCEDURAL DEFAULT IS ASSERTED UNDER IAC FAILURE TO INVESTIGATE AND SEEK SUPPRESSION. TRIAL AND DIRECT APPEAL. U.S. V. STARKS, (NO. 19-3256) (10th CIR MAY 27, 2022); EN MARTINEZ V. RYAN, 566 U.S. 1 (2012); SHINN V. MARTINEZ RAMIREZ (NO. 20-1009) (S. CT MAY 23, 2022); COLEMAN V. THOMPSON, 501 U.S. 722, 750 (1991); SEE ALSO U.S. V. ENOE, 456 U.S. 152, 165, 102 S. CT 1584, 71 L. ED. 2D 816 (1982); MATTHEW V. U.S. 114, F. 3d 112, 113 (8th CIR 1997). THE DATE ST LOUIS RELEASE ALL FILES, THE DATE THE JUSTICE DEPARTMENT CONFIRMED "NO WARRANT ON FILE" SHOULD BE THE STARTING POINT OF DISCOVERY! HAD THE DOCUMENT NEEDED TO ESTABLISH MALFEASANCE INSTEAD OF BARE ASSERTION

Filing would have been on point. Remand
back to Court of Appeals with instruction
to review submission member No
23-3125. There can be no just explanation
from barring the accused from raising criminal and
constitutional right issues that is unmitigably for
their benefit (Quoting) *Chavez v. Martinez*; 443
U.S. 368, 380, 99 S. Ct. 2898, 61 L. Ed. 2d 608 (1979)

CONCLUSION

REMAND & REVIEW

The petition for a ~~writ of certiorari~~ should be granted.

Respectfully submitted,

Myle W Parks

Date: 12-2-2023