

No. 23-6298

FILED
SEP 29 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Chet Smith — PETITIONER
(Your Name)

vs.

Cook County IL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Chet Smith 20180909024
(Your Name)

2700 S California
(Address)

Chicago IL 60608
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

1. Whether the return of an indictment, without a vote by the grand jury upon whether its terms do or do not constitute a true bill, violates the Fifth Amendment guarantee of indictment by a grand jury or Rules 6 and 7 of the Federal Rules of Criminal Procedure.
Grand Jury Signature of all panel members

2. Whether a defendant held to answer upon a void felony Complaint should be afforded any relief, upon his timely pretrial motion, where the void Complaint is the product of the Government's pattern of non-compliance with the express requirement of Rule 3 of the Federal Rules of Criminal Procedure that a Complaint be "made upon oath before a Commissioner or other officer empowered to commit person charged with an offense."

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

United States Court of Appeals for the Seventh Circuit
Decided July 25 2023 NO. 22-2969 Chet Smith V Cook County IL

United States District Court for the Seventh Circuit
1:22-cv-01678 Chet Smith V Cook County IL

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TABLE OF AUTHORITIES CITED

- ① CASES Tyrone Gaither V United States PAGE NUMBER
413 F.2d 1061 (D.C Cir 1969)
- ② Nomaque V People 1 Ill 145 (1825)
- ③ Blue V United States 119 U.S. App D.C. 315
342 F.2d 894 (1964)
- ④ Costello V United States 350 U.S. 359 362 (1956)
- ⑤ United States V Cox 342 F.2d 167 186-89 (5th Cir 1965)
- ⑥ Crosby V United States 119 US App.D.C. 245 339 F.2d at 744
- ⑦ Norris V United States 281 US 619 (1930)

STATUTES AND RULES

5th Amendment & 14th Amendment

Rules 6 (C)(f)

Rule 3

OTHER Judge Wisdom ; Stephen History of the Criminal law
Franklin Ed.

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 2023 WL 4735553; 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 B 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 ~~Aug 22 2023 C.S.~~ July 25 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: _____, 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

- I. The Indictment was Void and Complaint was Void
 - A. The Indictment was Void because the Grand Jury Never Voted as to whether it was or was not a True Bill.
 - 1. The Challenged Procedure Violates the Fifth Amendment Guarantee of Grand Jury Indictment
 - 2. The Procedure followed Herein Violated, Rules 6^{(c)(f)} ~~and 7~~ of the Federal Rules of Criminal Procedure
 - B. The Void Complaint is not moot because Petitioner was indicted.

STATEMENT OF THE CASE

- ① In 2018 a indictment was returned by the foreman and Cook County States Attorney, **NOT** the grand Jury in the Circuit Court of Cook County for attempted first-degree homicide and was remanded to the Cook County Jail for pretrial detention.
- ② Plaintiff later sued alleging that the prosecution violated his right under the 5th and 14th Amendment.
- ③ The indictment was void because the Grand Jury never voted on whether it was or was not a true bill. The indictment only stated the Plaintiff name and the Statutory designation of the offense Charge Attempt Murder. The indictment did not indicate the date of the alleged offense.
- ④ This indictment, prepared by the ~~United States~~ Cook County State Attorney Office, is not submitted to the grand Jury for a vote on whether or not it is "a true Bill". It is signed by the foreman ~~beneath~~ beneath the heading "A true bill" and is returned in open court.
- ⑤ The Challenged Procedure Violates the ~~Fifth~~ fifth Amendment Guarantee of Grand Jury Indictment. The Fifth 5th Amendment Provides, in pertinent part "No person shall be held to answer for a capital or otherwise infamous Crime, unless on a presentment or indictment of a Grand Jury.
- ⑥ The supreme court has held that: "There is every reason to believe that our Constitutional grand Jury was intended to operate substantially like its English progenitor.
Costello V United States 350 U.S. 359 362 1956

10. Draftsman of the indictment deprived the plaintiff of his right to be charged by a grand Jury for the precise offense of which he was charged Crosby V United States 119 US App DC at 245 339 F.2d at 747

11. The trial Court is without jurisdiction to convict a defendant on a felony charge different from that found by the grand Jury. Norris V U.S., Crosby V U.S., Carney V U.S. Podge V U.S., Ex Parte Bain

12. Rule 6(f) of the Federal Rule of Criminal Procedure provides "an indictment may be found only upon the Concurrence of 12 or more Jurors

13. Rule 6(c) provides that the foreman "shall keep a record of the number of Jurors Concurring in finding of every indictment.

14. Illinois Supreme Court held in *Nomaque V People* 1 Ill 145 (1825) whether the defendant could have been legally tried at all in the court below, it not appearing that there had been a finding of the grand jury on the paper purporting to be an indictment.

15. In *Tyrone Gaither V U.S* 413 F.2d 1061 (D.C Cir 1969) vacated and reversed sentence because only the foreman and Attorney U.S names was on the indictment.

16. With Cook County IL present method to return indictments, it NO way to know if an indictment been amended or the only person that agree to indict is the foreman its NO proof that the Grand Jury agreed with the foreman.

17. Nor has the Government advance any practical reason why it does not wish all the grand jurors instead of just the foreman, to see the indictment, and determine by their vote whether it accords with the evidence they have heard and believe. The indictment should be indorsed by all grand jury members

18. Cook County IL has a policy to violated citizen of their 14th ~~and~~ ^{5th} amendment right. The Criminal Complaint are not Sworn to nor verified by Magistrate nor notary.

19. This defected procedure by proxy defect the indictment the Complaint is not moot; the Subsequent return of an indictment does not cure any inadequacy. The indictment is not insulated by those defects from Judicial Correctness Blue V United States 119 U.S APP, DC, at 320 342 F.2d at 899

Note Plaintiff has filed legal malpractice Suit against Cook County Public Defender. Plaintiff defense attorney Claim Plaintiff Statutory rights 111-36 was frivolous in regard to Complaint ^{not} being verified. See Smith V Comstock 23L000341 also take Judicial notice in Smith V Public defender Office (Cook County IL) Smith V Public Defender Office 23L006903 the Circuit Court appointed Counsel other than public defender, in Criminal pending Case.

REASONS FOR GRANTING THE PETITION

where a court of appeals has rendered a decision in conflict with the decision of another court of appeals on the same matter,

- 1 The District of Columbia (D.C. Circuit) found in *Tyrone Gaither v United States* 413 F.2d 1061 (D.C. Cir 1969) that all indictment going forward must be indorsed by all grand jury member.
- 2 The U.S. Court of Appeals for the Seventh found that it was inconsequential that all of the grand jury member indorse the indictment. *Chet Smith v Cook County IL* 22-2969
- 3 Although the US Constitution does not govern State Statute, when the government does not adhere to its own laws i.e. verified Complaint, it then become a violation of the U.S. 14th amend due process.

Note Cook County IL policy, custom, and practice to return indictment not signed/voted on by the grand jury members and non-compliant Criminal Complaints that are not verified.

Plaintiff Smith respectfully prays that the Judgment in U.S. Court of Appeal for the 7th Circuit be reversed and Plaintiff is granted IPF to proceed as poor person and this ^{Honorable} ~~Honor~~ Court appoint Counsel.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Chet Smith 20180909024

Date: NOV 2 2023

7. Grand Jury was preferred by the Crown, and after hearing the witnesses, the grand jury voted that the bill was "a true bill" or "not a true bill" United States V Cox 342 F.2d 167 186-89 (5th Cir 1965) Concurring opinion Judge Wisdom; Stephen History of the Criminal Law Franklin Ed.

8. In contrast to the procedure known to the framers, the procedure followed herein deprived the ^{Plaintiff} ~~defendant~~ of the right to have the grand jury determine by its vote whether the specific charge ~~upon~~ was or was not "a true bill"

9. Plaintiff Contention is that, when an indictment has been drafted following a prior vote of the grand jury, the indictment in the specific terms in which it has been drafted must be submitted for the grand jury to vote upon whether such indictment is or is not a true bill.

10. Draftsman of the indictment deprived the plaintiff of his right to be charged by a grand jury for the precise offense of which he was charged Crosby V United States 119 US App DC at 245 339 F.2d at 747

11. The trial court is without jurisdiction to convict a defendant on a felony charge different from that found by the grand jury. Norris V U.S., Crosby V U.S., Carney V U.S. Dodge V U.S., Ex Parte Bain