

ORIGINAL

23-7134

FILED

MAR 21 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Daniel Louis Jackson — PETITIONER
(Your Name)

vs.

United States of America — 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

Daniel Louis Jackson #16958-029

(Your Name)

FCI McDowell, PO Box 1009

(Address)

Welch, WV 24801

(City, State, Zip Code)

N/A

(Phone Number)

RECEIVED

APR - 3 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Can a reviewing judge rely on information not provided to the issuing magistrate for determining whether substantial basis was shown to the magistrate judge? If not, do a judge make a mistake of law under Rule 60(b)(1) when looking outside the four corners of the affidavit that supported the arrest warrant?

Whether misapplying controlling case law to record facts is consistent with a mistake of law under Rule 60(b)(1)?

Is it the habeas courts duty to review the supporting affidavit of a search warrant when movant challenges the search through ineffective assistance of counsel? If so, does the failure to review create a defect in the habeas proceeding under Rule 60(b)(6)?

Whether the Court of Appeals erroneously denied Jackson's COA application?

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

Jackson v. United States, Case No. 6:19-cv-2017-LTS-KAR (N.D. Iowa August 12, 2021), 2021 U.S. Dist. LEXIS 152336

Jackson v. United States, Case No. 23-3700

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Estelle v. McGuire, 502 U.S. 62 (1991)	6
Gerstein v. Pugh, 420 U.S. 103 (1975)	6
Illinois v. Gates, 462 U.S. 213 (1983)	7
Kemp v. United States, 142 S.Ct. 1856 (2022)	5, 7
Swarthout v. Cooke, 131 S. Ct. 859 (2011)	5
United States v. Bell, 54 F.3d 502 (8th Cir. 1995)	6
United States v. Farlee, 757 F.3d 810 (8th Cir. 2014)	5

STATUTES AND RULES

28 U.S.C. 2255	3
Fed. R. Civ. P. 60(b)(1)	3-5
Fed. R. Civ. P. 60(b)(6)	3

OTHER

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A *Eighth Circuit Court of Appeals Judgment*

APPENDIX B *Eighth Circuit Court of Appeals Order denying rehearing/en banc*

APPENDIX C *Northern District of Iowa Order denying Jackson's Rule 60(b) motion*

APPENDIX D

APPENDIX E

APPENDIX F

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 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 January 18, 2024.

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: March 08, 2024, 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

- 28 U.S.C. 2255 federal habeas provision allows a prisoner to attack a sentence that was imposed "in violation of the Constitution or laws of the United States..."
- Fed. R. Civ. P. 60(b)(1) allows a court to relieve a party from a final judgment if a judge made a mistake of law
- Fed. R. Civ. P. 60(b)(6) allows a court to relieve a party for any other reasons not listed in (1)-(5).
- U.S. Const. Amend. IV - "No warrants shall issue, but upon probable cause, supported by oath or affirmation and particularly describing the place to be, search and the persons or things to be seized"
- U.S. Const. Amend VI - defendant must "have assistance of counsel for his defence."

STATEMENT OF THE CASE

Jackson filed a Rule 60(b)(1) motion to reopen his 2255, on the basis that the district judge made a mistake of law when (1) he did not stay within the four corners of Sheriff LeClere's affidavit when reviewing whether counsel was ineffective for failing to suppress evidence from an illegal arrest; (2) he overlooked counsel statements in her affidavit and (3) he misapplied case law to record facts of the case. Jackson then filed a supplement motion under Rule 60(b)(6), arguing that the district judge did not review Agent Pearson's affidavit that supported the search of Jackson's Facebook. Judge Strand construed Jackson's Rule 60(b) motion as a second or successive 2255 and denied Jackson's motion. The Eighth Circuit Court of Appeals denied Jackson's COA application

REASONS FOR GRANTING THE PETITION

This court had recently confirmed that the term "mistake" in Rule 60(b)(1) includes all errors of law made by a judge, including "misapplying controlling law to record facts." see Kemp v. United States, 142 S.Ct. 1856 at 1862 & n.2. Judge Strand made a mistake of law when he relied on information in the discovery that was not disclosed in Sheriff LeClere's affidavit. It has been a well-establish law that when a magistrate relies solely on an affidavit to issue a warrant, only that information which is found within the four corners of the affidavit may be considered in determining the existence of probable cause. see United States v. Farlee, 757 F.3d 810, 819 (8th Cir. 2014). Such mistake would deter the Fourth Amendment Constitution and due process because the mistake allows a habeas/trial judge to base probable cause on information known to them, rather than reviewing what information was disclosed to the issuing magistrate for such warrant.

Judge Strand agreed with both counsels - Jackson's counsel and the government - that Jackson's arrest did not violate Iowa law. This also was an error of law because errors of State law are not cognizable in federal habeas proceedings. See Swarthout v. Cooke, 562 U.S. 216, 131 S.Ct. 859 (2011).

Judge Strand overlooked counsel's statement in her affidavit that Sheriff LeClere's complaint was "silent on the facts on the exact basis why [LeClere] believed that Jackson was the perpetrator. " And Judge Strand overlooked that counsel relied on Iowa law as to why she believed that Jackson's arrest was legal. Federal courts' is limited to deciding whether a conviction violated the constitution, laws, or treaties of the United States. see Estelle v. McGuire, 502 U.S. 62, 68, 112 S.Ct. 475 (1991). Judge Strand should not have looked to Iowa law in deciding the lawfulness of Jackson's arrest. see United States v. Bell, 54 F.3d 502, 504 (8th Cir. 1995).

Judge Strand misapplied Gerstein v. Pugh, 420 U.S. 103, 95 S.Ct. 854 (1975) to Jackson's case, because unlike Gerstein, Jackson was arrested based on an arrest warrant. The difference is the timing of probable cause. In Gerstein, the officer would have to show probable cause after the arrest in a preliminary hearing. While on the other hand, a warrant must show probable cause before the arrest is made.

Judge Strand's analysis was not one under federal law or Constitution, but one under State law.

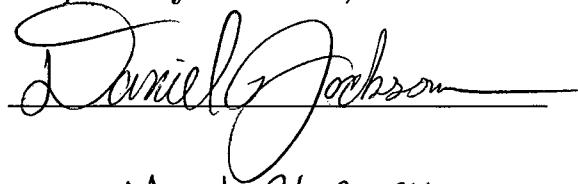
Lastly, Judge Strand abandoned his duty when he failed to review Agent Pearson's affidavit that supported the search warrant for Jackson's Facebook. Agent Pearson's affidavit could not be found in Jackson's discovery according to Jackson's counsel Jill Johnston, and was not put on record for an in camera review. This court has stated "In order to ensure that such an abdication of the magistrate's duty does not occur, courts must continue to conscientiously review the sufficiency of the affidavits on which warrants are issued."

quoting Illinois v. Gates, 462 U.S. 213, 239, 103 S.Ct. 2317 (1983). It is highly unusual for a reviewing judge not to review a supporting affidavit, especially when it is being challenged. The appeals court erroneously denied Jackson's COA because a reasonable jurist would find Jackson's argument debatable in light of Kemp v. United States, 142 S.Ct. 1856 (2022).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



A handwritten signature in black ink, appearing to read "Daniel Johnson". The signature is fluid and cursive, with a large, stylized 'D' at the beginning.

Date: March 21, 2024