

No. 23 - 7284

FILED
MAR 28 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

NEAL MERRELL WALKER — PETITIONER
(Your Name)

VS.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

NEAL MERRELL WALKER
(Your Name)

2680 HWY 301 SOUTH
(Address)

JESUP GA, 31599
(City, State, Zip Code)

INCARCERATED
(Phone Number)

QUESTION(S) PRESENTED

- (1). Does the fatal Variance from the indictment violate Mr. Walker's Due process rights, when he is convicted of and imprisonment for "**Controlled Substance**" named in the indictment, that the lab results proved not to be the substances Sold, or controlled substance at the time of the investigation.
- (2). Does Petitioner Walker being enhanced under Conspiracy for the **Money Laundering** and also being charged separately for Money Laundering Constitute duplicitous sentencing and violate Mr. Walker right to be sentenced to serve one punishment for one particular crime as stated in the constitution of the United States, Does not the Consecutive 5years sentence for money laundering and the 2 point enhancement for money laundering violate duplicitous sentencing.
- (3). Does not Mr. Walker serving an unjust sentence for controlled substances from 2018-2020 when in fact the substances sold were not controlled substances from 2018. The substance Eutylone became a controlled substance only 6 months before the indictment and a-PiHP became a controlled substance 3 months after Mr. Walker's indictment and again the substances named in the indictment were controlled substances, but the lab results ultimately proved that the drugs named in the indictment were not the substances sold. Does not Mr. Walker being calculated under "**Controlled substance**" offense for substances the lab results proved were not "**Controlled Substance**" from 2018-Oct 2020 for the Eutylone and April 2021 for the a-PiHP constitute an imperative fundamentally unjust sentence and incarceration considering the indictment remanded unchanged.
- (4). Did the government intentionally and deliberately violate Mr. Walker due process when, during sentencing, when asked by the Judge what in fact the drugs were that were tested, and the government read the information for A-PVP and MDMA instead of the information for the actual substances sold which was a-PiHP not a controlled substance offense at the time of the indictment and Eutylone which only became a controlled substances 6 months before the indictment. Did not this fatal error by the government mislead the judge and bias the outcome of Mr. Walker sentence violating his right to due process.
- (5). Did the government violate due process when they calculated Mr. Walker's substance sold as a "**controlled substance**" from 2018 when neither substance "actually and factually" sold was a controlled substance before Oct, 2020. And even then only Eutylone became a controlled substance. Did the Misrepresentation of the substance as a "**controlled substance**" from 2018 cause Mr. Walker base level calculation to be prejudiced and incorrect.
- (6). Was the conspiracy charged in this case "**factually unlawful**" when it relied on the "**controlled substance**" clause to make it unlawful, yet the lab results proved the substances "**actually sold**" not to be "**controlled substances**". Conspiracy in and of itself is not a crime. Conspiring to sell sugar which is not a controlled substance is not a crime, therefore considering Mr. Walker sold substances that were not "**controlled substances**" would that not constitute his conspiracy not criminal and not a crime.
- (7). Considering Mr. Walker was not engaging in the sell of "**controlled substances**" from 2018 as the government contended and the lab results proved, did not Mr. Walker have the 4th Amendment right to possess and bear arms to protect his home as he has reiterated time and time again throughout his case that his possession of his .38 caliber firearm was intended to be used for?

QUESTION(S) PRESENTED

(8). According to the constitutionally correct law and process of law a person must know and intentionally commit the crime for which they are charged with the intent to commit it. The question to be raised here is considering neither substance became a "controlled substance" until Oct 2020 was Mr. Walker forewarned and forearmed with the knowledge he was selling a "controlled substance" (NO) and in selling a "substance" with the intent to support his family constitute mens rea considering he was unaware any substance he sold had became a "controlled substance".

(9). Did Walker violate any laws under the Constitution or any laws against the United States before being indicted and at the time of his Indictment 05/13/21.

(10). Walker asserts that he is Actually and Factually Innocent of committing any Crime against United States Constitution or any laws under the United States.

(11). IS WALKER ACTUALLY AND FACTUALLY OF COMMITTING ANY CRIME BEFORE AND AT THE TIME OF HIS INDICTMENT.

(12). SEE MILLER V FLORIDA 482 U.S.423 435-36 L.Ed.2d.351 107 2446 (1987)(holding that applicable State Sentencing Statute not in effect when defendant committed offense violates ex post facto provision. Review UNITED STATES V SWANGER 919 F.2d.94(8th Cir 1990)(holding that application Federal Sentencing amendments not in effect when defendant committed offense violated ex post facto clause. Walker was Actually and Factually Innocent of committing a crime or criminal act during the time of his Indictment.

Walker states that he actually and factually Innocent.

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- [x] 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:

1.) Kimberly Michelle Clairdy Walker	7.) Brandiesa Tylese Williams
2.) Marcus Antonio Peterson	8.) Porschee Laneal Walker
3.) Ramone Laza Astin	9.) Antwan LeQueze Major
4.) Alfred Eugene Bell	10.) Michelle Shaquille
5.) Marquez Maurice Mickler	11.) Eugene Antwonn Farmer
6.) David Lee Geathers	

RELATED CASES

3:23-cv-00950-TJC-PDB-Forfeiture Case

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
UNITED STATES V CHARLES Apprendi Jr. No.120 S.CT.2348	
UNITED STATES V PHIFER NO.17-10397	
UNITED STATES V JACKSON NO.21-13063	
UNITED STATES V MCFADDEN NO.14-378	
UNITED STATES V BRUEN NO.20-843	
UNITED STATES V DUPREE NO.57 F.4th 1269, 1277 (11th Cir 2023)	
MILLER V FLORIDA 482 U.S.423 435-36 L.Ed.2d.351, 107 S.CT.2446 (1987)	
UNITED STATES V SUAREZ 911 F.2d.1016 1021-22 (5th Cir 1990)	

STATUTES AND RULES

UNITED STATES CONSTITUTIONAL AMENDMENT 4,5,6,8,14
21 U.S.C. § 846
21 U.S.C. § 841(a)
18 U.S.C. § 922(g)-2pt enhancement
18 U.S.C. § 1956 (h)
DUE PROCESS
MEAS REA

OTHER

FIREARM ENHANCEMENT- VIOLATED PETITIONERS 4th Amendment Rights Money Laundering Enhancement-is duplicitous punishment considering petitioner is charged separately money for laundering.

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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

[X] 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 _____; 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 Dec 5, 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

CONSTITUTIONAL AMENDMENT-4
CONSTITUTIONAL AMENDMENT-5
CONSTITUTIONAL AMENDMENT-6
CONSTITUTIONAL AMENDMENT-8
CONSTITUTIONAL AMENDMENT-14

922(g)-2pt enhancement
21 U.S.C. § 846
21 U.S.C. § 841(a)(1)
18 U.S.C. § 1956(h)

DUE PROCESS
MENS REA

STATEMENT OF THE CASE

On January 31,2023 Convicted Petitioner Neal Merrell Walker and his co-defendants for Conspiracy to distribute A-PVP a-pvp and MDMA and Money Laundering.Mr.Walker received 20 years on the conspiracy to the distribute A-PVP and MDMA and a consecutive 5 year sentence for the money laundering conviction.

REASONS FOR GRANTING THE PETITION

Due to the variance between the dangerous listed "controlled substances named in the indictment and the results of the lab testing of the "actual" substances seized and tested, and the fact that the indictment remained unchanged a fatal and substantially harmful error occurred that prejudiced the conviction and sentencing in Mr. Walkers case. This fatal error also caused a number of Constitutional Amendment Rights violations, due process violations, and also leaves to question whether the grand jury was misled into believing that the substances sold were indeed the substances named in the indictment to secure an indictment, especially considering that there was a second super-ceeding indictment that gave the government the opportunity to correct the error but they chose to leave the indictment unchanged constituting a fatal variance from the indictment. Mr. Walkers Conspiracy charge stemming from 2018 technically was not criminal as it relied on substances that were not "controlled substances" as the indictment indicated and the controlled substance" clause not only falsely deemed the Conspiracy unlawful, but also caused a wrongful calculation of the Petitioners base level offense a caused an unwarranted 2pt gun enhancement that infringed on Mr. Walkers 4th Amendment rights. Mr. Walker is also duplicitously sentenced due to the fact that he is sentenced due to the fact that he is enhanced under conspiracy for money laundering and convicted separately and serving a second sentence for money laundering consecutive. Petitioners Constitutional Amendments Rights named have been violated, as well as his due process rights as supported by the cases named and exhibits attached and he is serving a fundamentally unjust sentence for substances he never sold and a Conspiracy that wasn't technically lawful.

Timely Motion requesting
Certiorari

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Neal Merrell Walker

Date: 3/28/24