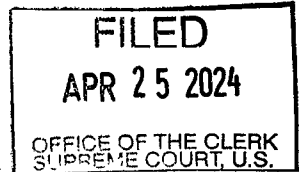


23-7665

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



KENNETH OTENG DUODU — PETITIONER
(Your Name)

vs.

CHADWICK DOTSON — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

KENNETH OTENG DUODU
(Your Name)

GREENSVILLE CORRECTIONAL CENTER, 901 CORRECTIONS WAY
(Address)

JARRATT VIRGINIA 23870
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Whether the failure of the Fairfax County Police Department and associated authorities to notify the Consulate of Ghana of the petitioner's arrest and subsequent legal proceedings, in contravention of established consular notification rights violates the petitioner's rights under the United States Constitution and relevant international agreements?

Whether the violation of the petitioner's consular notification rights, as guaranteed under the Vienna Convention on Consular Relations and recognized under Article VI of the United States Constitution, constitutes a breach of the United States' international obligations and undermines the petitioner's rights to due process under the Fifth and Fourteenth Amendments?

Whether the failure to adhere to mandatory consular notification requirements, as listed by the United States Department of State's official guidance on consular notification and access, warrants intervention by this Court to uphold the rule of law and ensure justice is served for the petitioner?

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

Duodu v. Dotson, No. 22-cv-410, U.S. District Court for the Eastern District of Virginia. Judgment Entered September 19, 2023.

Duodu v. Dotson, No. 23-7009, U.S. Court of Appeals for the Fourth Circuit. Judgment Entered February 6, 2024.

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A Decision of the United States Court of Appeals

APPENDIX B Decision of the United States District Court

APPENDIX C Findings and recommendations of the United States Magistrate Judge.

APPENDIX D Court Order that Substitutes Chadwick Dotson for Harold W. Clarke as a party to this proceeding.

APPENDIX E Constitution and Statutory Provisions Involved

APPENDIX F Countries and Jurisdictions with Mandatory Consular Notifications

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Vienna Convention on Consular Relations, Article 36:	3
Breard v. Greene, 523 U.S. 371 (1998)	4
Avena and Other Mexican Nationals (Mexico v. United States), 2004 I.C.J. 12 (March 31)	5
Medellin v. Texas, 552 U.S. 491 (2008)	
Sanchez-Llamas v. Oregon, 548 U.S. 331 (2006)	5

STATUTES AND RULES

United States Constitution, Fifth Amendment	3
United States Constitution, Fourteenth Amendment	3
Foreign Relations Authorization Act (FRAA)	3
Foreign Affairs Reform and Restructuring Act (FARRA)	3
Federal Rules of Appellate Procedure (FRAP)	
Article VI of the United States Constitution	3

OTHER

U.S. Department of State's official guidance on Consular notification and access	4
--	---

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 February 6, 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: _____, 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

Article VI of the United States Constitution (Supremacy Clause)

"This Constitution, and ^{the} laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the Supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

Fifth Amendment of the United States Constitution (Due Process Clause)

"No person shall be ... deprived of life, liberty, or property, without due process of law..."

Fourteenth Amendment of the United States Constitution (Equal Protection Clause)

"No State shall ... deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Vienna Convention on Consular Relations, Article 36
(Consular Notification Rights)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Foreign Relations Authorization Act (FRAA) section 4

FRAA Section 4:

"(d) Consular Notification Compliance: The Secretary of State shall ensure that all appropriate authorities are notified of the requirement under Article 36 of the Vienna Convention of Consular Relations to inform detained foreign nationals of their right to Consular notification and access."

Foreign Affairs Reform and Restructuring Act (FARRA) Section 2242:

FARRA Section 2242:

"(a) Policy: It shall be the policy of the United States not to expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture, regardless of whether the person is physically present in the United States."

(b) Regulations: Not later than 120 days after the date of the enactment of this Act, the heads of the appropriate agencies shall prescribe regulations to implement the obligations of the United States under Article 3 of the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations and provisions contained in the United States Senate resolution of ratification of the Convention."

STATEMENT OF THE CASE

I. BACKGROUND

The petitioner, Kenneth Oteng Duodu, is a citizen of Ghana who was arrested by the Fairfax County Police Department in 2016. Subsequently, the petitioner was detained, tried, convicted, and sentenced to prison in Fairfax County Circuit Court, Virginia.

II. RELEVANT FACTS

Arrest and Detention:

On June 14th, 2016, the petitioner was arrested by the Fairfax County Police Department on charges of Statutory Rape.

Following the arrest, the petitioner was detained in custody pending trial.

Legal Proceedings:

The petitioner's trial took place in 2016 in Fairfax County Circuit Court. During the trial, the petitioner was represented by legal counsel. The petitioner was convicted of the charges against them and subsequently sentenced to prison.

Consular Notification Rights Violation:

Throughout the entirety of the petitioner's arrest, detention, trial, and sentencing, the Fairfax County Police Department and associated authorities failed to notify the Consulate of Ghana of the petitioner's status.

Despite Ghana being listed among countries and jurisdictions that require mandatory consular notification, as per the United States Department of State's official guidance, the petitioner was deprived of his consular notification rights.

STATEMENT OF THE CASE

II. RELEVANT FACTS

Continuation of Consular Notification Rights Violation :

In *Breard v. Greene*, 523 U.S. 371 (1998), the Supreme Court acknowledge the requirement under the Vienna Convention on Consular Relations for authorities to inform detained foreign nationals of their Consular rights. Despite this, the Fairfax County Police detectives failed to notify me, a Ghanaian national, of my rights to Consular access, thus violating the Consular notification provisions mandated by the Foreign Relations Authorization Act (FRAA) and the Vienna Convention on Consular Relations (VCCR).

Petitioner was unaware of these rights at the time, and the failure to inform the Consulate deprived Petitioner of potential assistance and advocacy from the Ghanaian government. This Omission Compromised the fairness of the legal proceeding and Petitioner's ability to mount an effective defense.

STATEMENT OF THE CASE

III. PROCEEDINGS IN LOWER COURTS

In the lower Court proceedings, neither I nor my attorney were aware of the violation of my Consular Notification rights. At that time, I had no knowledge of the Vienna Convention on Consular Relations and its implications for individuals detained by law enforcement. The issue of my citizenship was raised during interactions with law enforcement and during my sentencing hearing, where I truthfully stated that I was not a U.S. citizen.

However, due to my lack of understanding of the law and my rights, I did not realize the significance of these statements in relation to Consular Notification. It was only after coming to prison that I learned about the Vienna Convention and began to understand that my rights had been violated by the Fairfax County Police Department and associated parties. Therefore, while the violation of my Consular Notification rights was not explicitly raised during the lower court proceedings, it is evident upon reflection and legal study that my rights were indeed infringed upon.

STATEMENT OF THE CASE

IV. LEGAL ISSUES

The central legal issue in this case revolves around the failure of the Fairfax County Police Department and associated authorities to notify the Consulate of Ghana of the petitioner's arrest and subsequent legal proceedings. This failure constitutes a violation of the petitioner's consular notification rights under both the United States Constitution and relevant international agreements.

V. RELIEF SOUGHT

Petitioner respectfully request that the Supreme Court of the United States review my case and provide appropriate relief to rectify the violation of my consular notification rights. I seek redress in the form of a reconsideration of my legal proceedings with full adherence to the requirements of consular notification under domestic and international law.

REASONS FOR GRANTING THE PETITION

I. IMPORTANCE OF CONSULAR NOTIFICATION RIGHTS

Consular notification rights are not merely procedural formalities but fundamental protections rooted in the principles of due process and international law. The failure to uphold these rights undermines the integrity of the legal system and jeopardizes the rights of foreign nationals within the United States. Thus, the question of whether consular notification rights were violated in this case is of paramount importance, as it directly impacts the fair treatment and rights of individuals subject to arrest and detention in the United States.

II. NATIONAL SIGNIFICANCE

The issue presented in this case transcends the individual circumstances of the petitioner and carries significant implications for foreign relations, constitutional rights, and the rule of law in the United States. A definitive ruling from this Court on the interpretation and application of consular notification rights under both domestic and international law is essential to provide clarity and consistency in legal proceedings across the country.

III. JUDICIAL CONSISTENCY AND UNIFORMITY

Ensuring uniformity in the application of consular notification rights is crucial to maintaining confidence in the justice system and avoiding disparate outcomes based on jurisdictional differences. The resolution of this issue by the Supreme Court will provide guidance to lower courts and law enforcement agencies, promoting consistency and adherence to established legal principles.

REASONS FOR GRANTING THE PETITION

IV. PRESERVATION OF INDIVIDUAL RIGHTS

Granting Certiorari in this Case is essential to Safeguarding the Constitutional and international rights of individuals, regardless of their nationality. Upholding Consular notification rights reinforces the principles of fairness, equity, and due process enshrined in the United States Constitution and international agreements.

V. RESOLUTION OF CONFLICTING INTERPRETATIONS

The question of Consular Notification rights has given rise to Conflicting interpretations among lower Courts, leading to uncertainty and inconsistency in legal practice. Resolving these Conflicts and providing a definitive interpretation of the relevant Constitutional and Statutory provisions is essential to promote judicial clarity and ensure the uniform application of the law nationwide.

In light of these Compelling reasons, the petitioner respectfully urges this Court to grant Certiorari and provide clarity and guidance on the critical issue of Consular notification rights.

By addressing the national importance of the issue and emphasizing the need for judicial consistency and protection of individual rights, this section seeks to demonstrate to the Court why granting Certiorari is warranted in this Case, due to the

REASONS FOR GRANTING THE PETITION

Significant violation of Petitioner's Consular notification rights under the Vienna Convention on Consular Relations (VCCR) and the Foreign Relations Authorization Act (FRAA). The failure of law enforcement to comply with these mandatory notification requirements denied Petitioner critical Consular assistance, impacting the fairness of the trial and violating due process rights under Fifth and Fourteenth Amendments. The FRAA's provisions are designed to prevent such violations and ensure that foreign nationals receive the necessary Consular support, making this issue of utmost importance for review by this Court.

It also raises significant federal questions regarding the violation of Consular notification rights under the Vienna Convention, as highlighted in *Arens and Other Mexican Nationals (Mexico v. United States)*, 2004 I.C.J. 12, and *Sanchez-Llamas v. Oregon*, 548 U.S. 331 (2006). These precedents underscore the obligation of the United States to comply with international Consular notification requirements and the impact of such violations on the integrity of legal proceedings.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kenneth Oteng Duodu

Date: May 29th, 2024