

No. 24-5840

IN THE
SUPREME COURT OF THE UNITED STATES

DAVID R. SCHACHTNER,
PETITIONER,

VS.

CHRIS BREWER, WARDEN, CRCC,
RESPONDENT,

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

PETITION FOR REHEARING

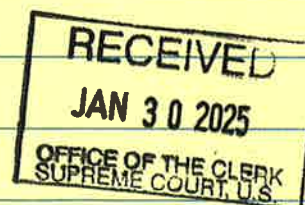
David R. Schachtner

1284153

Crossroads Correctional Center

1115 E. Pence Road

Cameron, Mo 64429



PETITION FOR REHEARING

Sup. Ct. R. 44.2

Appellant presents his petition for a rehearing of the above-entitled cause, and, in support of it, respectfully shows:

Grounds for Rehearing

A rehearing of the decision in the matter is in the interests of justice because appellant was overcharged by the state of Missouri with committing statutory sodomy. The state, at trial, acquitted petitioner of that charge and proceeded to the jury with a lesser charge of attempted statutory sodomy. The judge orally pronounced a conviction as well as a written judgment and sentence for attempted statutory sodomy was without any evidence of attempt being presented at trial or found by the jury. The judge sentenced appellant to life in prison, the maximum for the crime of committing statutory sodomy not the lesser included of attempt to commit. Because of these errors the state of Missouri as well as the United States Court of Appeals For the Eighth Circuit claim the

conviction can be interpreted as statutory sodomy, statutory sodomy or attempted statutory sodomy, or even as two separate convictions, one for statutory sodomy and a concurrent life sentence for attempted statutory sodomy. None of these courts will affirm his conviction for one count of attempted statutory sodomy because the findings of the jury were insufficient to support a conviction. The jury's findings of fact were that appellant "licked near" the alleged victims genitals. (her leg) The sentence of life in prison is clearly not for this, but for a crime he was clearly acquitted of and is claimed as findings of fact and described as the outcome in all Probation + Parole, Department of Corrections, and appellate documents as a conviction for statutory sodomy where "He pushed victim's pants and underwear aside, and touched victim's genitals with his hands and mouth." Which he disproved at trial. The courts so far have been a "rubber stamp" for the prosecutors disproven narrative and appellant being sentenced and held for a crime he was not convicted of. This is done as retaliation by the state with the deliberate purpose of defamation and to impose a harsher punishment.

A conviction for committing statutory sodomy has a maximum sentence of life in prison calculated as 30 years and serving 85% minimum before parole eligibility while attempted statutory sodomy would have a maximum of one class lower or half, so 15 years and not classified as a "dangerous felony" requiring 0% mandatory minimum before parole.

1. On December 16, 2024 this Court entered an order and denied the petition for a writ of certiorari.
2. The Court denied this petition without opinion or clarification of the rulings in the United States Court of Appeals for the Eighth Circuit that denied Appellant's application for Certificate of appealability on April 3, 2024 mandated May 20, 2024 when appellant sought to appeal the unconstitutional and unjust order of the United States District Court for the Western District of Missouri Southwestern Division denying Petition for Writ of Habeas Corpus and denying certificate of appealability on November 28, 2023.

3. The grounds for the order denying petition for writ of Habeas Corpus departs from the accepted and usual interpretations of law in order to sanction and "rubber stamp" a deception by Missouri state courts as to call for an exercise of this courts supervisory power. The applicant has rebutted the presumption of correctness by the lower courts by "clear and convincing evidence."
4. Petitioner was not granted counsel at any point in the Habeas Corpus process to present an adequate legal argument.
5. Petitioner, to the best of his ability presented crucial Questions for Review and a decision on the matters are in the interests of justice because they deal with evidentiary issues of Brady material, propensity witnesses, cross-examining witnesses, DNA evidence, best evidence rule, sentence information, prosecutorial and judicial misconduct

Conclusion

For the reasons just stated, David R. Schachtner, urges that this petition for a rehearing be granted, and that, on further consideration, the Petition for Certiorari be granted or the judgment of the lower courts be reversed or remanded as appropriate.

January 6, 2025

Respectfully submitted,



David R. Schachtner

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Certificate of Good Faith

I, David R. Schachtner, certify that this Petition for Rehearing is presented in good faith and not for delay and that it is restricted to the grounds specified in Supreme Court Rule 44 of the Rules of this Court.



David R. Schachtner

CERTIFICATE OF SERVICE

I, David R. Schachtner, do swear that on this Sixth day of January, 2025, I have placed in the prisons mail, the enclosed Petition for Rehearing on Petition for Certiorari which includes Certificate of Good Faith to be sent by U.S. Mail to the Office of the Clerk, Supreme Court of the United States, Washington D.C. 20543. I have also mailed a copy of the Petition and Certificate to opposing counsel Andrew Bailey, Attorney General for the State of Missouri P.O. Box 899 Jefferson City, Mo 65102.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 6, 2025



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