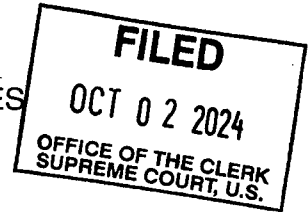


No. _____

24-5898

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Herman Felton, Jr. (Pro se) — 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 Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Herman Felton, Jr.
(Your Name)

P.O. Box 999
(Address)

Butner, NC 27509
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Why was I denied an Evidentiary Hearing?
2. What's the reason for refusing to hear my case?
3. Why did the Courts agree with the Constitutional violations that I suffered?

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

22-7065, 22-4212, 24-6465 United States Court of Appeals for the Fourth Circuit
2:21-CR-6-D-1, 2:23-CV-2-D-1 United States District Court, Eastern District

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

United States v. Carter, 454 F. 2d 426, 427 (1972)	3, 4, 5
United States v. Bailey 74 F. 4th 151; 2023	3, 4, 5
Santobello v. New York 404 US 257, 262, 92 S. Ct. (1971)	3, 5
Boykin v. Alabama 395, US 238, 242-43, 89 S. Ct. 1709	4
United States v. Mezzanatto, 513 US 196, 210 (1995)	4

STATUTES AND RULES

OTHER

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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

☒ 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☒ is unpublished.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 2:21-cr-00006-D [D.E. 116]; 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☐ is unpublished.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 June 28, 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: August 26, 2024, and a copy of the order denying rehearing appears at Appendix E.

☐ 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

Petitioner's due process right's were violated; due to the relevant arrest warrant. Because Petitioner was made a non-arrest "promise," before Petitioner self-surrendered the firearm. Please see Appendix C and D. The audio and video recording of the Interview contains the non-arrest agreement that was made before Petitioner self-surrendered the firearm. The Courts denied Petitioner an Evidentiary Hearing which is not consistent with the Court of Appeals (United States v. Bailey, 74 F. 4th 151; 2023; (United States v. Carter, 454 F. 2d 426, 427 (4th Circuit 1972); (Santabello v. New York, 404 US 257, 262, 92 S. Ct. 495. 30 L. Ed. 2d 427 (1971).

Counsel fraudulent misrepresented Petitioner by advising Petitioner that homicide detective lacked jurisdiction to make an non-arrest agreement. Which was contrary to law and fraudulent advice (Santabello v. New York, 404 US 257, 262, 92 S. Ct. 495. 30 L. ED. 2d 427 (1971); (United States v. Bailey, 74 F. 4th 151; 2023). Nevertheless, Petitioner has audio and video evidence that contains the non-arrest agreement. Please see Appendix C and D.

STATEMENT OF THE CASE

Petitioner is innocent! Petitioner was made a non-arrest "promise" by homicide detective, before Petitioner self-surrendered the firearm. There is audio and video evidence that proves my claims; because it was a homicide investigation. Counsel fraudulent misrepresented Petitioner by advising Petitioner that homicide detective lack jurisdiction to make an non-arrest agreement. Which was contrary to law and fraudulent advice. (United States v. Bailey, 74 F. 4th 151; 2023; (United States v. Carter, 454 F. 2d 426, 427 (4th Circuit 1972)).

Any fraudulent misrepresentation by Counsel voids the plea agreement (United States v. Mezzanatto, 513 US 196, 210 (1995); also (Boykin v. Alabama, 395, US 238. 242-43, 89 S. Ct. 1709 (1969)). The Courts refused to hear my case because of my guilty plea. The reason I pleaded guilty, was because of the fraudulent advice by Counsel. Nevertheless, there is audio and video evidence that proves my assertions. Please see Petition for Evidentiary Hearing Appeals Court Number 24-6465 exhibits 4 and exhibits 5; Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF).Report of Investigation. That audio and video evidence proves my Actual Innocence..

* Appendix C and D Is the audio and video evidence that contains the non-arrest agreement. This evidence proves my Actual Innocence!

REASONS FOR GRANTING THE PETITION

Petitioner's due process rights were violated. Petitioner was denied an Evidentiary Hearing, which is not consistent with the opinions of the Fourth Circuit Court of Appeals. "When an appellate court discerns that a district court has failed to make a finding because of an erroneous view of the law, the usual rule is that there should be a remand for further proceedings to permit the trial court to make the missing finding" (United States v. Bailey, 74 F. 4th 151; 2023. Petitioner asserts, that the relevant arrest warrant violated Petitioner's due process rights; because Petitioner was made an non-arrest "promise" before Petitioner self-surrendered the firearm. There is audio and video evidence in the ATF's (Alcohol, Tobacco, Firearms, and Explosives Report of Investigation that confirms the non-arrest agreement. Please see Petition for Evidentiary Hearing Appeals Court Number 24-6465 exhibit 4 and exhibit 5

Counsel fraudulent misrepresented Petitioner, by advising Petitioner that homicide detective lack jurisdiction to make an non-arrest "promise," which was contrary to law and fraudulent advice (United States v. Bailey, 74 F. 4th 151; 2023; United States v. Carter, 454 F. 2d 426, 427 (4th Circuit 1972); Santabello v. New York, 404 US 257, 262, 92 S. Ct. 495. 30 L. Ed. 2d 427 (1971). Due to Counsel fraudulent advice Petitioner pleaded guilty. Nevertheless, there is audio and video footage evidence in the ATF's Report of Investigation that proves my claims, and Acutal Innocence. Please see Petition for Evidentiary Hearing Appeals Court Number 24-6465 exhibit 4 and exhibit 5.

* Appendix C and D: Is the audio and video evidence that contains the non-arrest agreement that was made before I self-surrendered the firearm.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Herman Telton, Jr.

Date: October 18, 2024