

24-62410 ORIGINAL
No.

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
SEP 18 2024
OFFICE OF THE CLERK

Justin Michael Buehler — 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 Eighth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Justin Michael Buehler

(Your Name)

Reg. No. 30582-509

United States Penitentiary terre Haute

(Address)

PO Box 33

Terre Haute, IN 47808

(City, State, Zip Code)

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Did the District Court abuse it's discretion by limiting the defendant's cross examination of the key witness and informant's criminal history?

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:

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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~~ ~~the petition and~~ ~~is NOT AVAILABLE DUE TO PRO SE STATUS, AND IS~~ ~~reported at~~ ~~2024 U.S. App. LEXIS 15269~~ ~~;~~ ~~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[] is unpublished.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[] is unpublished.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[] is unpublished.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[] is unpublished.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 April 5, 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: June 24, 2024, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
United States v. Thomas, 914 F.2d 139 (8th Cir. 1990).....	7
United States v. Brown, 956 F.2d 782 (8th Cir. 1991).....	7
United States v. Holmes, 822 F.2d 802 (8th Cir. 1997).....	7

STATUTES AND RULES

OTHER

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the Due Process and Confrontation Clauses of the United States Constitution.

STATEMENT OF THE CASE

Justin Michael Buehler was indicted in the Northern District of Iowa with two counts of distribution of a controlled substance, to wit, methamphetamine, in violation of 21 U.S.C. §§841(a)(1), (b)(1)(B), (b)(1)(C), with notice of enhancement pursuant to 21 U.S.C. §851. Buehler proceeded to trial and was found guilty on both counts. Buehler moved for a new trial, which was denied.

Buehler's advisory guidelines range was calculated at a range of 262-327 months. The District Court adopted this calculation by the probation department. The government moved for an upward variance, and the Court granted the motion, sentencing Buehler to a term of imprisonment of 360 months with a supervised release term of 6 years. Buehler maintained his innocence throughout the procedures.

Buehler appealed, and the Eighth Circuit affirmed the judgment and sentence. Buehler now files this Petition for Certiorari.

REASONS FOR GRANTING THE PETITION

At trial, Buehler motioned the District Court for permission to thoroughly cross examine the government's key witness (the informant who initiated the case for cash payments) regarding his prior criminal history, pursuant to F.R.E. 609(b)(2). The District Court acknowledged the witness' bias, motive to testify, and impeaching the witness being an important component of cross-examination, as well as the right to confrontation. The Court further recognized the concern that the witness had a continuous record of criminal convictions, and such reflected an attitude of disregard for the Rule of law and societal standards, all relevant to Buehler's examination and the theory of defense.

However, because of the nature and age of some of the witness' criminal history, the Court limited the parties to address the prior criminal history as nothing more than "multiple felony convictions." Buehler should have been able to more thoroughly describe for the jury the actual criminal conduct of the witness, especially in light of the fact that the witness continued to commit crimes, even while under the supposedly strict supervision of the police. His disrespect for rules in general, the police handling the case, and his criminal conduct would surely have substantially affected the verdict.

"[P]rior convictions are highly probative of credibility 'because of the common sense proposition that one who has transgressed

society's norms by committing a felony is less likely than most to be deterred from lying under oath.'" United States v. Collier, 527 F.3d 695,700 (8th Cir. 2008). The witness' credibility was clearly at issue in this case, indeed, a central issue, because the jury heard two conflicting versions of the events occurring on the date s in question. Only two people present, so it was one of these people's descriptions of what occurred that the jury had to choose as fact. Therefore, credibility is literally the only thing that could sway their opinion, making credibility determinations critical. The Collier Court noted: "Because the jury had to consider such contradictory versions on the only contested element of the charge against [the defendant], permitting evidence relevant to his credibility regarding a felony that is not highly prejudicial, was reasonable and not an abuse of discretion." Id. So the same logic should be applied in these circumstances. Because the jury had to consider contradictory versions regarding the only contested elements of the charges against Buehler, permitting evidence relevant to credibility of the witness upon whose credibility the case centered should have been liberally permitted.

""[w]here the credibility of one witness must be weighed directly against that of another, the probative value of a prior conviction may well be enhanced, rather than diminished.'" United States v. Thomas, 914 F.2d 139,143 (8th Cir. 1990). Buehler's desired examination was "paramount," id., or, using the language of United States v. Brown, 956 F.2d 782 (8th Cir. 1992), a full,

thorough examination of the key witness' disregard for the law, disregard for the rules, and disregard for the rights of others when his own desires and incentives are at issue, was a "critical factor." Id., at 787 ("In the present case, the jury essentially had to choose between one version of events presented by the government's witness and another version presented by the defendant's. Under these circumstances, the credibility of the various witnesses was necessarily a critical factor in the jury's choice. Brown's 1969 burglary conviction [at 1991 trial], therefore, was highly probative as impeachment evidence.); see also United States v. Holmes, 822 F.2d 802,804-05 (8th Cir. 1987)("Because of his lengthy and steady record of criminal activity, dating from his youth and continuing to the time of the conviction under which he was in custody when he took his unauthorized leave from the V.O.A., Holmes is in a poor position to claim entitlement to the presumption that the probative value of prior convictions decreases over time . Clearly, the District Court reasonably could find the probative value of the impeachment evidence to be substantial. As the Court noted, credibility was necessarily a major factor in the jury's determination of innocence or guilt.").

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Justin Michael Buehler

Date: September 13, 2024