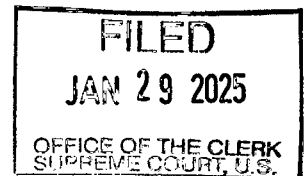


No. 24-6799

ORIGINAL

IN THE



SUPREME COURT OF the UNITED STATES

JAMES G. CHARLES, Petitioner

V.

United States of America, Respondent(s)

On Petition For A Writ of Certiorari
To The Sixth Circuit Court of Appeals

Petition For Writ of Certiorari

James G. Charles, Pro'se
Reg.#. 51535-509
F.C.I.- Beckley
P.O. Box: 350
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LIST OF ALL PARTIES

Judge Danny C. Reeves, United States District Court, Eastern District of Kentucky, Sixth Circuit, 101 Barr Street, Lexington, Ky 40507

U.S. Prosecutor G. Todd Bradbury - Office of U.S. Attorney, Eastern District of Kentucky, 260 W. Vine Street, Suite 300; Lexington, Ky 40507.

Jacob C. Beach, Office of the Solicitor General, Austin TX

Dennis G. Terez, Law Offices, Beachwood, OH.

Vincent Adams Vassor, Defendant / Appellant, Location FBOP.

Charles P. Wisdom Jr., Assistant U.S. Attorney, Eastern District of Kentucky, 260 W. Vine Street, Suite 300; Lexington Ky 40507

Jane B. Stranch, Circuit Judge, Sixth Circuit Court of Appeals, United States Courthouse, 100 East Fifth Street, Suite 540; Cin. OH 45202

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☒ is unpublished.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 _____ 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 08/15/24.

☐ 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: 11/27/24, and a copy of the order denying rehearing appears at Appendix C.

☐ 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).

JURISDICTIONAL STATEMENT

Supreme Court, Rule 10, gives Petitioner James G. Charles jurisdiction for the following reasons:

(a) United States Court of Appeals has entered a decision in conflict with the decision of another United States Court of Appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision rendered under the precedence of this Honorable, United States Supreme Court or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this court's supervisory power.

STATEMENT OF THE CASE

The government's investigation into James G. Charles began when two individuals in Richmond, Kentucky - Tonny Lawson and Zane Sloan - were arrested for drug trafficking. Transcript, R. 132 Page ID# 928.

Through all cooperation and that Sloan would not be federally prosecuted. Sloan never had a buy / seller nor conspirator relationship with James Charles as even on June 08, 2021 there was never a hand-to-hand transaction with Charles and Sloan.

QUESTIONS PRESENTED FOR REVIEW

Question One: WHETHER THE GOVERNMENT FAILED TO PROVE A CONSPIRACY

Question Two: WHETHER THE GOVERNMENT FAILED TO PROVE A FIREARM WAS USED IN FURTHERANCE OF A DRUG TRAFFICKING CONSPIRACY

Question Three: WHETHER THE GOVERNMENT FAILED TO PROVE PETITIONER POSSESSED WITH INTENT TO DISTRIBUTE HEROIN AND COCAINE

Question Four: WHETHER CONFIDENTIAL INFORMANT'S STATEMENT DURING JURY TRIAL TESTIMONY PLACED A SKUNK IN THE JURY BOX THAT PETITIONER AND OTHERS BELONGED TO A LOS ANGELES CLUB VIOLATED FEDERAL RULES OF EVIDENCE 404 (B)

REASONS FOR GRANTING THE WRIT

The government proved Charles possessed methamphetamine with the intent to distribute when he was arrested on his way to a controlled buy that never occurred due to an illegal traffic stop.

The government failed to prove Charles conspired with anyone to distribute methamphetamine, on June 08, 2021.

Furthermore, 18 U.S.C. § 924(c) charge fails because it requires a finding Charles was engaged in the conspiracy to distribute methamphetamine. Because Charles was never a part of a conspiracy. Simply possessing a firearm that was not in the vehicle he was arrested in, but found "after the fact" is insufficient to uphold Charles's § 922(g) and § 924(c) conviction.

Proof, Charles was distributing cocaine and heroin has no merits. The government

REASON FOR GRANTING THE WRIT (continue)

strongly reflected that someone else lived in the residence in Charles's basement for separate ownership under possessory rights, without more, can not support his conviction for distributing cocaine and heroin.

For trial testimony by Sloan allowing him to make false unknown statements. That Charles was dangerous because he belonged to "some kind of club" out of California. Placed a skunk in the jury box and the minds of the jurors with making a decision to find Charles guilty from prejudicially assumptions and speculative unproven damning testimony unconstitutional.

DIRECT AND CONCISE ARGUMENT

QUESTION ONE: WHETHER THE GOVERNMENT FAILED TO PROVE A CONSPIRACY

The government failed to prove a conspiracy.

A. A buyer/seller relationship is not a conspiracy. (8846).

To be guilty of a conspiracy, a defendant must share a common goal or agreement with his co-conspirators, and that agreement must extend beyond simply an agreement to distribute drugs between two people. *United States v. Warner*, 690 F.2d 545, 549 (6th Cir 1982) (The government must prove that the defendant "agreed to participate in what he knew to be a collective venture directed toward a common goal") See, *United States v. Potter*, 927 F.3d 446, 453 (6th Cir 2019); *United States v. Martinez*, 430 F.3d 317, 330 (6th Cir, 2005), (conflict) *United States v. Askew*, 403 F.3d 496, 503 (7th Cir 2005).

Charles,

DIRECT AND CONCISE ARGUMENT

(QUESTION ONE: CONTINUE)

never made a hand-to-hand transaction. Investigation independantly never reveiled that C. I. Sloan, Cloyd, or alleged co-conspire Vasson split proceeds with Charles. Nor, did they have a interest with Charles under a conspiratorial agreement. Formally required as a actual agreement. United States v. Gibbs, 182 F.3d at 408, 421-22 (6th Cir. 1999); United States v. Warner, 690 F.2d 545, 549 (6th Cir 1982). Indifference to, or even knowledge of what a seller will do with narcotics, is not sufficient and the conviction must be set aside, or granted a new trial.

QUESTION TWO: WHETHER THE GOVERNMENT
FAILED TO PROVE A FIREARM
WAS USED IN FURTHERANCE
OF A DRUG TRAFFICKING
CONSPIRACY

DIRECT AND CONCISE ARGUMENT
(QUESTION TWO: CONTINUE)

The Supreme Court has never questioned the sufficiency of circumstantial evidence in support of a criminal conviction, even though proof beyond a reasonable doubt is required. *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 100 S.Ct. 2148, 156 L.Ed. 2d 84 (2003). Firearms with drugs does not, itself, prove the guns were used in furtherance of the drug trafficking. *Mackey*, 265 F.3d, at 462; see also *United States v. Ray*, 803 F.3d 244, 262 (6th Cir. 2015).

Immediate availability of a firearm is not the sole determinant of whether a defendant can be convicted under § 924(c)(1)(A). See, *Post*, *Bailey v. United States*, 133 L.Ed. 2d 472, 116 S.Ct. 501 (1995).

Immediate availability is a necessary, but not sufficient

DIRECT AND CONCISE ARGUMENT

(QUESTION TWO: CONTINUE)

as during an illegal traffick stop Charles was not in possession of a firearm as a convicted felon § 922 (g) or was he in possession of a firearm in furtherance of a drug trafficking offense under § 924 (c) (1) (A) (iii). See United States v. Street, 614 F.3d 228, 236 (6th Cir 2010).

The facts did not show the firearms had any relationship to the drugs. Legally, the § 924 (c) conviction should be vacated.

QUESTION THREE: WHETHER THE GOVERNMENT
FAILED TO PROVE PETITIONER
POSSESSED WITH INTENT TO
DISTRIBUTE HEROIN AND
COCAINE

To sustain a conviction under 21 U.S.C.
§ 841 (a) (1) for possession with intent to

DIRECT AND CONCISE ARGUMENT

QUESTION THREE: CONTINUE)

distribute, the government must prove (1) the petitioner knowingly; (2) possessed a controlled substance; (3) with the intent to distribute. *United States v. Smith*, 20 F. App'x 258, 266 (6th Cir. 2001).

Petitioner, states constructive possession does not exist. Petitioner never had dominion and control of said narcotics knowingly in mere proximity to his knowledge or personal property or tangible materials within the residence. The record would reflect there was never a controlled buy in regards to the purchase of either heroin or cocaine duplicitiously recorded under audio or video of Charles's residence. *United States v. Johnson*, No. 00-5097,

DIRECT AND CONCISE ARGUMENT

(QUESTION THREE: CONTINUE)

2001 WL 493395 at *1 (6th Cir. May 01, 2001).

Petitioner, had no knowledge cocaine / or heroin was even present in the residence. *United States v. Morrison*, 220 F. App'x 389, 393 (6th Cir. 2007), also see; *United States v. Wright*, 12 F.3d 215, 1993 WL 465164 at *4 (6th Cir. Nov. 10, 1993).

To require less of the government would eviscerate its burden to prove all elements of a crime beyond a reasonable doubt and relieve it of its burden of vigilance in prosecuting crimes thereby violating bedrock principles of our Anglo-American jurisprudence. See, *United States v. Burgos*, 94 F.3d 849, 861 (4th Cir. 1996).

The

DIRECT AND CONCISE ARGUMENT

(QUESTION THREE: CONTINUE)

problem with Charles's conviction is the complete lack of evidence showing Charles possessed the narcotics, or that Charles intended to distribute heroin and cocaine. See, United States v. Valerio, 48 F.3d 58 (1st Cir 1995), United States v. Ocampo, 964 F.2d 80 (1st Cir. 1992); United States v. Hyson, 724 F.2d 856 (1st Cir. 1992) (same as petitioner) (conflict with 6th Circuit).

Here, the only evidence Charles unknowingly possessed heroin and cocaine with intent to distribute was the discovery of the drugs in a guest bedroom in the basement of his residence.

This would be insufficient to prove §841 (a) (1) charges for heroin and cocaine duplicitiously. Accordingly the convictions for these charged together counts shall be set aside.

DIRECT AND CONCISE ARGUMENT

QUESTION FOUR: WHETHER CONFIDENTIAL
INFORMANT'S STATEMENT
DURING JURY TRIAL
TESTIMONY PLACED A SKUNK
IN THE JURY BOX THAT
PETITIONER AND OTHERS
BELONGED TO A LOS ANGELES
CLUB VIOLATED FED. R. EVID.
404 (B)

Pursuant to Rule 404 (b), "Evidence of a crime, wrong, or other act is not admissible to prove a person's character occasion the person acted in accordance with the character, but such evidence "may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. The rule requires notice to be given before trial. See, Fed. R. Evid. 404 (b) (2) (A). No, notice of a club in Los Angeles to give the jury panel "reason to believe"... Strongly placed a "SKUNK IN THE JURY BOX".

DIRECT AND CONCISE ARGUMENT

(QUESTION FOUR: CONTINUE)

Statements in regards to petitioner being in Kentucky from Los Angeles with regards to being in a club. Placed in the minds of the jurors false narratives to swing the jurors to believe C.I. Sloan's life was in danger to receive funds and to falsify these mere assumptions tainted the juror's decision as a miscarriage of justice unconstitutionally as Charles was never in a club and this prejudiced the facts of the case objectively in the government's knowing scheme of using such tactics to find petitioner guilty. See, United States v. Jenkins, 345 F.3d 928, 937 (6th Cir. 2003) (citing United States v. Haywood, 280 F.3d 715, 720 (6th Cir. 2002)).

Courts have long recognized the substantial

DIRECT AND CONCISE ARGUMENT

(QUESTION FOUR: CONTINUE)

risk of unfair prejudice attached to gang affiliation evidence, noting such evidence "is likely to be damaging to a petitioner in the eyes of the jury" and that gangs suffer from "poor public relations." *United States v. Lewis*, 910 F.2d 1367, 1372 (7th Cir. 1990) (conflict with 6th Cir case law); *United States v. Butler*, 71 F.3d 251 (7th Cir. 1995).

Negative connotations and often invoke images of criminal activity and deviant behavior. This creates a significant possibility that a jury with propensity for committing crimes a jury has negative feelings toward gangs will influence it's verdict.

Testimony by Sloan that Charles was in some kind of club out there in California

DIRECT AND CONCISE ARGUMENT
(QUESTION FOUR: CONTINUE)

clearly suggested that petitioner was in a gang. Nowhere in the record is there any proof of gang affiliation. Nor is this sort of testimony remotely relevant to any of the charges against Charles.

This testimony was highly and particularly harmful where primary issues at trial was whether Charles was in a conspiracy as a club member with others. Sloan created significant prejudice and misled the jury. Such a significant error requires reversal of the verdict and a new trial.

CONCLUSION

Charles shall receive a new trial as a result of Sloan's prejudicial and inadmissible testimony he and others are members of a gang.

Charles's conviction for conspiracy to distribute methamphetamine, possession of a firearm in furtherance of the methamphetamine conspiracy, possession with intent to distribute heroin and cocaine should all be set aside.

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

James Charles

Date: January 29, 2025

March 9, 2025

CERTIFICATE OF COMPLIANCE

No.

JAMES G. CHARLES, Petitioner, prose

v.

UNITED STATES OF AMERICA,

Respondent(s)

As required by the Supreme Court Rule 33.1 (h), I certify that the petition for a writ of certiorari contains 5,000 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1 (d).

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

Executed on ~~January 29~~, 2025.

March 9, 2025

James Charles

SIGNATURE / DATE

DESIGNATION OF RELEVANT DISTRICT
COURT DOCUMENTS

No.

James G. CHARLES, Petitioner, pro'se

v.

UNITED STATES OF AMERICA,
Respondent(s).

Federal Courts, reported at 2024 U.S.

App. LEXIS 20823.

DATE: Decided on August 15, 2024

DATE: Rehearing filed on August 29, 2024

DATE: Rehearing denied on November 27, 2024

Respectfully submitted

James Charles

DATE: January 29, 2025

March 9, 2025