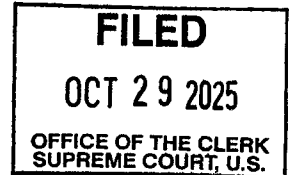


No. 25-6095

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Joseph Alfred Odir — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of appeals-Eighth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

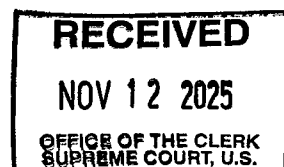
PETITION FOR WRIT OF CERTIORARI

Joseph Alfred Odir
(Your Name)

P.O. Box 4050
(Address)

Pollock, LA 71467
(City, State, Zip Code)

N/A.
(Phone Number)



QUESTION(S) PRESENTED

Whether insufficient evidence supports Odir's Conviction for possession of a firearm in furtherance of a drug trafficking crime.

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

United States Court of appeals - Eighth Circuit Case No. 24-2773
United States district Court - Southern district of IOWA
Case No. 4:22-Cr-00098-RGE-HCA

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
United States V. Birdline, 515 F.3d 842, 844 (8 th Cir. 2008)	5
United States V. Peters, 462 F.3d 953, 957 (8 th Cir. 2006)	5
United States V. Coleman, 584 F.3d 1121, 1125 (8 th Cir. 2009)	5
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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 _____ 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☒ is unpublished.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☐ is unpublished.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 September 19, 2025.

☒ 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

Due process of the law guaranteed by the fifth and Fourteenth amendments to the United States Constitution.

Possession of a firearm in furtherance of a drug trafficking crime in violation of 18 U.S.C. § 924 (C) (1)(A)(i).

Right to bear firearms guaranteed by the United States Constitution under the second amendment.

STATEMENT OF THE CASE

NATURE OF THE CASE

This is a request for a direct review of the Eighth's circuit for upholding a conviction by jury and the sentence imposed in the southern district of Iowa in one count of possession of a firearm in the furtherance of a drug trafficking crime. Petitioner argues that there is insufficient evidence to support the jury's finding that he possessed the firearms in question with the intent to further a drug trafficking crime.

FACTUAL HISTORY AND PROCEDURAL BACKGROUND

Petitioner was charged with possession of a controlled substance with the intent to distribute and possession of a firearm in furtherance of a drug trafficking crime a violation of 18U.S.C 924 (c)(1)(A)(i). Petitioner pled guilty to the possession of a controlled substance with the intent to distribute but selected to go to trial on the possession of a firearm in the furtherance of a drug trafficking crime charge. Prior to these charges, petitioner was not a felon. Therefore by the second amendment guarantee, he had every right to bear arms.

During the controlled buys, law enforcement officers never established petitioner to have been in possession of a firearm.

During the buy-bust operation orchestrated by law enforcement officers after petitioner was arrested he was not found to possess any firearms. Only the controlled substance.

At trial, the government presented evidence of firearms recovered approximately 2miles from the arrest location in a locked storage unit. These firearms were allged to have been used in furtherance of a drug trafficking crime.

The government further presented that petitioner never sold drugs at or near the storage unit where the firearms were recovered.

Therefore, the firearms recovered CANNOT be linked to the drug trafficking crime that petitioner pled guilty to.

REASONS FOR GRANTING THE PETITION

I. INSUFFICIENT EVIDENCE SUPPORTS ODIR'S CONVICTION FOR POSSESSION OF A FIREARM IN FURTHERANCE OF A DRUG TRAFFICKING CRIME

The sufficiency of the evidence to sustain a conviction is reviewed de novo. *United States v. Birdine*, 515 F.3d 842, 844 (8th Cir. 2008); see also *United States v. Peters*, 462 F.3d 953, 957 (8th Cir. 2006) (the Court “review[s] de novo the district court’s denial of a motion for judgment of acquittal”). The record is examined in the light most favorable to the verdict, allowing the government all reasonable inferences that may fairly be drawn from the evidence. *Id.* Reversal is warranted “only if no reasonable jury could have found the defendant guilty beyond a reasonable doubt.” *United States v. Coleman*, 584 F.3d 1121, 1125 (8th Cir. 2009).

Merits: “The reasonable-doubt standard plays a vital role in the American scheme of criminal procedure.” *In re Winship*, 397 U.S. 358, 363 (1970).

Requiring proof beyond a reasonable doubt “provides concrete substance for the presumption of innocence—that bedrock axiomatic and elementary principle whose enforcement lies at the foundation of the administration of our criminal law.” *Id.* (internal quotation marks omitted). A conviction imposed without proof beyond a reasonable doubt violates Fourteenth Amendment due process. *Jackson v. Virginia*, 443 U.S. 307, 317–18 (1979). “[A] properly instructed jury may

occasionally convict even when it can be said that no rational trier of fact could find guilty beyond a reasonable doubt” *Id.* at 317.

For Count IX, the jury was instructed in relevant part as follows:

The crime of possessing a firearm in furtherance of a drug trafficking crime, as charged in Count 9 of the Indictment, has two elements:

One, the Defendant committed the crime of conspiracy to distribute a controlled substance as charged in Count 1 of the Indictment, and/or possession with intent to distribute a controlled substance as charged in Count 6 of the Indictment; and

Two, the Defendant knowingly possessed a firearm(s) in furtherance of one or more of those crimes, namely one or more of the following:

- a. Ruger Standard Model .22 caliber LR (serial number 117022);
- b. H&R Model 950, .22 caliber revolver (serial number AU063734); or
- c. Romarm/Cugir Draco 7.62 x 39 millimeter (serial number DA- 5750-15).

[...]

The Government does not have to prove that the Defendant possessed all three firearms in furtherance of the crimes charged in Count 1 and/or Count 6. Rather, in order to return a verdict of guilty, you must unanimously agree that the Defendant possessed one or more of the firearms described in Count 9 in furtherance of the crime charged in Count 1 or Count 6.

The phrase "in furtherance of" means furthering, advancing, or helping forward. This means the Government must prove the Defendant possessed the firearm with the intent that it advance, assist, or help commit the crime, but the Government need not prove that the firearm actually did so.

R.Doc. 165, pp. 11–12.

Relative to the word "possession" the jury was instructed as follows:

The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may have sole or joint possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it. A person who, although not in actual possession, has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

Whenever the word "possession" or "possessed" has been used in these instructions, it includes actual as well as constructive possession and also sole as well as joint possession.

R.Doc. 165, p. 15.

Therefore, Mr. Odir could only be found guilty if the government proved each of the following propositions:

1. That Mr. Odir knew of the presence of the firearms in the storage unit;
2. That he had both the power and the intention at a given time to exercise dominion or control over any of those firearms (because there was no evidence he was in actual possession thereof); and
3. That such power and intention to exercise dominion and control over any of those firearms was had for the purpose of furthering, advancing, or helping forward a drug trafficking crime.

Reviewing each proposition in turn, it becomes clear the government failed to prove beyond a reasonable doubt all elements of count IX, and the evidence at trial was insufficient to sustain the verdicts.

A. The Government Did Not Prove Odir Knew the Guns Were Present in the Unit

While the government produced evidence that Mr. Odir accessed the unit multiple times during the two weeks before the execution of the search warrant, that evidence was only sufficient to generate speculation as to his knowledge concerning the weapons found therein, and speculation is not a sufficient basis for conviction. *See U.S. v. Diggs*, 527 F.2d 509, 513 (8th Cir. 1975) ("[A] jury is not justified in convicting a defendant on the basis of mere suspicion, speculation or conjecture.").

It must be remembered that Odir had already plead guilty to Conspiracy to Distribute a Controlled Substance and Possession with Intent to Distribute a Controlled Substance. Odir's short term visits to the unit are certainly indicative of those crimes, but they do not tend to show his knowledge of anything else in the unit beside the drugs themselves. At no point did the government show Mr. Odir leaving with a weapon. At no point did it show him depositing a weapon. At no point did it provide evidence on how long the weapons had been present or who put them there. None of Mr. Odir's personal effects were found near the weapons,

and the munitions they were found with did not match any of the weapons found in the unit. And even though Investigator Allers testified that guns and controlled substances are frequently found together, LEO did not find a gun on Odir's person during the controlled buys associated with this case, or even at the time of his arrest.

At best, the government proved Odir accessed the unit to get the drugs he needed to accomplish drug transactions. But knowledge of the presence of controlled substances does not, as a matter of law, equal knowledge of the presence of firearms. To allow the jury to draw such a thick conclusion from such thin evidence would be unjust. Simply put, the government failed to prove Mr. Odir even knew about the weapons in the storage unit, so the guilty verdict in his case cannot be affirmed.

B. Even if the Government Proved Odir Knew the Guns Were Present, it Did Not Prove He Had Power and the Intention to Exercise Dominion or Control Over Them

In this case, even if the government proved knowledge of the presence of weapons, it failed to prove the other, essential, elements of constructive possession, namely, that he had both the power and intention to exercise dominion and control over them.

Knowing something is present does not mean one has power or intention to possess that thing. Indeed, college roommates live in the same place and share the

same refrigerator, each putting their own food items therein. Every roommate knows what's inside the refrigerator. A visitor to the apartment, upon opening the refrigerator, would find food items belonging to each roommate, but not everything in the refrigerator belongs to everyone in the apartment. Rather, each individual owns the food items he put in there, and not the items placed there by his roommates. No roommate has permission to use the food items of the others in the dorm.

The storage unit in this case is like the dormitory fridge – many individuals had placed things therein over time, including Mr. Odir. But the government never proved Mr. Odir was connected to everything in the unit – just to the things found close to his personal effects – the drugs and money associated with the crimes to which he had already pleaded guilty – but not the guns.

Indeed, just as being present at a place where a thing is found does not by itself mean one knows that thing is present, knowing a thing is present in a place where one is located does not mean one has the power or the intention to exercise dominion or control over that thing. A child may know where his parents keep the keys to the vehicle, and he may even access the receptacle where they are found to gain access to other items of value – but the child may still not have power or the intention to grab the keys and go for a drive. A person may enjoy a night out at a restaurant where alcohol is sold, and may know where in the restaurant the alcohol

is kept – but he may have no intention of consuming alcohol. A woman may know where her husband keeps his baseball glove – but may never have the desire to put it on. In all of these examples and the millions more anyone can think of, knowledge does not equal intention. And it shouldn't be equal intention here. The government only proved Odir had access to the unit, which may in turn infer knowledge of the guns inside. But the government did not produce evidence to connect the inference of knowledge with the requirement that Odir have the intention to exercise dominion and control over those weapons.

C. Even if the Government Proved Odir was in Constructive Possession of the Guns in the Unit, it Failed to Prove He Did So with the Intent to Further, Advance, or Help Forward, a Drug Trafficking Crime

Certainly, there are many instances in which a person possesses weapons to further a drug trafficking crime in which he's involved. But it is not true that every weapon found anywhere near drugs, was put there to further drug trafficking. One might expect that someone possessing a firearm to further a drug trafficking crime would carry that firearm on his person or at least within his reach. In the same vein, one might expect a person to keep his firearm inside the same container or conveyance where he keeps his stash of narcotics to allow for easy and simultaneous access to both. Here, the weapons at issue were found scattered through a locked storage unit. None of them were found in the same packaging as

any of the drugs or currency located in the unit. No one testified having ever seen Josphe Odir to be in possession of any weapon, let alone the ones for which he was convicted.

The government's evidence on this point amounts to little more than a bald assertion that every gun found around drugs must be there to further crimes related to the trafficking of those drugs. That assertion is not evidence beyond a reasonable doubt, and no verdict can be based solely upon it.

In sum, the evidence at trial was insufficient to sustain the jury's verdicts.

Odir's motion for judgment of acquittal should have been granted, and the Court should reverse and remand his convictions on count IX.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

_____

Date: Oct 29, 2025