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No. 4:19-cr-00211 (SEP)

ORIGINAL

Supreme Court, U.S.
FILED
OCT 30 2025
OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

In Re Tremayne Silas — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF MANDAMUS

PETITION FOR WRIT OF MANDAMUS

Tremayne Silas

(Your Name)

Federal Correctional Institution Hazelton

P.O. Box 5000

(Address)

Bruceton Mills, WV 26525

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Whether this Court should summarily reverse the Eighth Circuit Court of Appeals dismissal of the mandamus when it applies to a claim that Silas's guilty plea was involuntary and his Constitutional rights were violated on his 2255?

Both Rule 11 and the Constitutional requirement that pleas be knowingly and voluntary?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[x] 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:

Honorable Judge Sara E. Pitlyk

Honorable Judge Ronnie L. White

RELATED CASES

Boykin v. Alabama, 395 U.S 238,242-244 (1969)

Kalay v. U.S, 571 U.S 320,328-29 (2014)

Larson v. U.S 833 F.2d 758,759 (8th Cir. 1987)

Strickland v. Washington, 466 U.S 668,688 (1984)

U.S v. Askew, 958 F.2d 806,810 (8th Cir. 1992)

U.S V. Garcia-Hernandez, 530 F.3d 657,662 (8th Cir. 2008)

U.S v. Hernandez, 299 F.3d 984,992 (8th Cir. 2002)

U.S v. Huggans, 650 F.3d 1210,1217 (8th Cir. 2011)

U.S v. Manthei, 979 F.2d 124 (8th Cir. 1992)

U.S v. Thompson, 991 F.3d 910 (8th Cir. 2020)

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U.S v. Bousley, 523 U.S 614,618 (1998)	11,15
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STATUTES AND RULES

28 U.S.C § 1275

18 U.S.C § 924(c)(1)(A)

18 U.S.C § 924(j)

OTHER

Supreme Court Rules 13.3, 20(b), 22, & 29.6

Federal Rules of Criminal Procedure Rule 11

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of mandamus issue.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix M 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 is unpublished.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 13, 2023

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: November 22 2023, and a copy of the order denying rehearing appears at Appendix N.

An extension of time to file the petition for a writ of certiorari was granted to and including February 13, 2023 (date) on March 18, 2024 (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

U.S Const. Amend. V.

The Fifth Amendment to the United States Constitution provides:
No person shall be held to answer for a capital, or otherwise
infamous crime, unless on a presentment or indictment of a grand
Jury

U.S Const. Amend. VI

The Sixth Amendment to the United States Constitution provides:
No person shall...be deprived of life, liberty, or property,
without due process of law."

U.S Const. Amend. XIV

The Fourteenth Amendment to the United States Constitution
provides: "No State shall...deprive any person of life, liberty,
or property, without due process of law; nor deny any person
within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE

On ~~O~~ctober 14, 2020, the United States filed a twenty-three count superseding indictment against Silas and sixteen other-co-defendants. The indictment charged in Count 3 that Silas had possessed a firearm in furtherance of drug trafficking crime, resulting in death, in violation of 18 U.S.C § 924(c)(1)(A) and punishable under § 924(j). This is the only count in which Silas was charged.

Silas entered into a signed plea agreement with the government to which he would enter a guilty plea to Count 3. Also, as part of the plea agreement, the government agreed to move for the dismissal of another pending criminal case against Silas at the time of sentencing. This agreement contained a provision waiving Silas's right to "appeal all non jurisdictional, non-sentencing issues, including, but not limited to, any issues related to pretrial motions, discovery and the guilty plea, the constitutionality of the statute to which defendant is pleading guilty and whether defendant's conduct falls within the scope of the statute(s)." On November 15, 2022, Silas pled guilty to Count 3. On February 15, 2023, the district court sentenced Silas to 216 months' imprisonment. The district court allowed Silas to file a notice of appeal out of time.

In his appellate brief, Silas argued that the Eighth Circuit Court of Appeals should entertain his appeal despite the appeal waiver. Specifically, Silas contended that his guilty plea to the charge of possession of a firearm in furtherance of a drug traff-

icking crime lacked an adequate factual basis under Rule 11 and violated his constitutional rights to a knowing and voluntary plea.

After Silas filed his brief, the government filed a motion to dismiss the appeal on basis of the appeal waiver. The government argued that Silas; appeal was within the scope of the waiver, that his guilty plea was knowing and voluntary, and that the dismissal of his appeal would not amount to miscarriage of justice. The Eighth Circuit granted the government's motion to dismiss Silas's appeal.

REASONS FOR GRANTING THE PETITION

The District Court persistently and without reason refused to adjudicate a case properly before it. Silas is being illegally detained under an improper charge that failed to state a crime.

In his plea agreement, Silas waived his right to "appeal all non jurisdictional, non-sentencing issues, including, but not limited to, any issues related to pretrial motions, discovery and the guilty plea, the constitutionality of the statutes to which defendant is pleading guilty and whether defendant's conduct falls within the scope of the statute(s)." (emphasis added). Silas argued on appeal that his guilty plea was not knowing and voluntary because there was neither an admission nor was there any factual basis that he possessed a firearm in "furtherance of" a drug trafficking crime as required by 18 U.S.C § 924(c)(1)(A).

By pleading guilty, the criminal defendant waives not only his right to a fair trial, but also the following rights and privileges: the privilege against self-incrimination guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution and the right to confrontation as guaranteed by the Sixth and Fourteenth Amendments. See *Boykin v. Alabama*, 395 U.S 238, 243 (1969). A defendant may not be convicted upon a guilty plea unless the record affirmatively shows that his plea was knowingly and voluntary. *Id.* at 242-44. A guilty plea is "knowing" only if the

defendant "correctly understands the essential elements of the crime with which he was charged." *Bousley v. United States*, 523 U.S. 614, 618 (1998). To help protect that constitutional right, Federal Rule of Criminal Procedure 11 specifies procedures a district court must follow before accepting a guilty plea. Among other things, the court must "determine that there is a factual basis for the plea," Fed.R.Crim.P. 11(b)(3)--i.e., "that the conduct which the defendant admits constitutes the offense charged in the indictment...to which the defendant has pleaded guilty." *Libretti v. United States*, 516 U.S. 29, 38 (1995) (quoting *McCarthy v. United States*, 394 U.S. 459, 467 (1969))(emphasis added).

"Requiring this examination of the relation between the law and the acts the defendant admits having committed is designed to "protect a defendant who is in the position of pleading voluntarily with an understanding of the nature of the charge but without realizing that his conduct does not actually fall within the charge. *McCarthy*, 394 U.S. at 467 (quoting Fed.R.Crim.P. 11 advisory committee notes).

Silas contend that he was never charged, indicted for any predicate offense, i.e., (a crime of violence or drug trafficking crime) or the 924 (c) firearm penalty enhancement, for him to be indicted and liable for the 924(j) penalty. A 924(j) charge and conviction is entirely predicated on 924(c) conviction. Because Silas was never charged with a crime of violence or drug trafficking crime/predicate offense, a 924(c).

Silas avers that to be held liable for a 924(J), the government was required to conduct a tripple charge process. First, the defendant was to be indicted for a crime of violence or drug trafficking crime. (Predicate offense) Second, the defendant was to be indicted for a 924(c) firearm penalty enhancement. Third, the defendant was to be indicted for a 924(J) enhancement. Without steps one & two being fullfilled, the third step, 924(J) charge is invalid and cannot stand alone.

924(J) Provides: A person who, in the course of violation of subsection (c) cause the death of a person through the use of a firearm, shall--..the plain language of the statute makes 924(J) liability is entirely contingent on a predicate crime of viol ence or drug trafficking offense. (Drummond v. U.S 886 F.3d 488 (5th Cir. 2018)

Silas was not charged with a specific predicate offense, crime of violence or drug trafficking crime. Moreover, the district court was without jurisdiction to impose the sentence upon Silas. Therefore, thus the court must vacate Silas conviction & sentence and remand. Under the performance prong. The court must apply an objective standard and determine whether, in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance, Strickland, 46 U.S at 690, while at the same time refraining from engaging in hindsight or second-guessing of trial counsel's strategic decisions. Assuming the performance was deficient. (Jones v. Shell, 572 F.2d 1278 (8th Cir. 1978)..(Cain v. Missouri, 518 F.2d 1180 (8th Cir. 1975). Silas met both prongs of ineffective assistance of counsel under Strickland and the government admit it, that is why he do not want a evidentiary hearing or any hearing the truth will come out and it would be a

miscarriage of justice regarding Silas.

(Government's response to 2255 motion): with respect to the first prong in evaluating counsel conduct, the court should avoid the distorting effects of hindsight, *Strickland*.. and try to evaluate counsel's conduct by looking at the circumstances as they must have appeared to counsel at the time. Silas claims should be denied on the merits count three of the superseding indictment, to which Silas pleaded guilty, clearly charged a cognizable offense under 18 U.S.C 924(c) and (J). (*Barrett v. U.S* (NO. 24-5774)(S.Ct. Jan 14, 2026)

(Silas the defendant): At no time was this explained to Silas in open court or any other time that he would be pleading guilty to both charges. (Fifth Amendment Rights: *Howard v. U.S*, 381 F.3d 873 (9th Cir. 2004)(*Hill v. Lockhart*, 474 U.S 52 (1985)

The government must present evidence to show a nexus between the defendant's possession of the charged firearm and the drug trafficking crime. The government must prove the use or carrying of a firearm during and in relation to a drug trafficking crime, firearm must have some purpose or effect to the D.T.O. (*Napue v. Illinois*, 360 U.S 264, 795 S.Ct 1173 (1959)(*Libretti v. U.S*, 516 U.S 29,38 (1995)

(Evidentiary Hearing): A petitioner is entitled to an evidentiary hearing on a section 2255 motion unless the motion and the files and the record of the case conclusively show that he is entitled to no relief. The court must consider petitioner's allegations as true and a hearing should be held unless they are contradicted by the record, inherently incredible, merely conclusions, or would

not entitle petitioner relief. (U.S. Neemann, 2025 U.S. Dist. Lexis 39065; 2025 Lexis 162223)(Foster v. Chatmen, 578 U.S. 488 (2016)) (Johnson v. U.S., 576 U.S. 591(2015))

(R.Doc.1064 at 3-6) The plea agreement did not include any stipulation that Silas possessed a firearm with the intent of advancing a drug trafficking crime, or how the death of the victim furthered the drug trafficking of fentanyl.

(11-15-2022) Plea hearing the district court read to Silas Count Three of superseding indictment: (R.Doc.1129 at 4-5). The district court asked the government to state the facts that it would prove beyond a reasonable doubt if the case were to go to trial. The government paraphrased the facts as set out in the plea agreement: as the factual basis of the plea. (R.Doc. 1129 at 8-15)••(U.S. v. Weeks, 653 F.3d 1188(10th Cir.2011)(Madden v. Myers, 102 F.3d 74,79 (3rd Cir. 1996) (Belloisi (NO: 24-2614)(2nd Cir. Jan. 16,2026))

The government concluded by specifically stating, without saying how, that the shooting death of Alex Noodel was in furtherance of Marurice Lee drug trafficking organization. (D.T.O) to distribute fentanyl as set out in count one of the superseding indictment. (R.Doc. 1129 at 15) and again violating Silas due process rights.

Silas conviction on count three must be vacated because, based on the conduct he admitted at his plea colloquy, he is not guilty of possessing a firearm in furtherance of a drug trafficking crime.(U.S. v. Schleimer, 2019 U.S. Dist. Lexis 192809 (8th Cir))

To possess a firearm in furtherance of an underlying crime,

requires possession with the intent of advancing the crime. Here, there is no factual basis that Silas possession of a firearm was used with the intent to further a conspiracy to distribute fentanyl as part of Lee DTO. The facts as stipulated indicate that Silas had no clue about Lee's DTO organization or bounty placed on Noodle for the drug conspiracy as charged in count one. A drug conspiracy in which the government did not even charge Silas.

Similarly, there was no factual stipulation as to how the death of Alex Noodle furthered the drug conspiracy. All the government says so Lee accused Noodle of stealing. (The clear language stealing of what? Money, cars, rims, kids, girls or drugs.) The plea agreement and the government does not one time say Lee accused Noodle of stealing drugs or guns from the (DTO), (U.S v. Bousley, 523 U.S 614 618 (1998)(McClellan v. Young, 421 F.2d 690,691 (6th Cir. 1970)

The district court failure to address those problems violated both Rule 11 and the Constitutional requirement that pleas be knowingly and voluntary. So yes, an evidentiary hearing is needed. Silas constitutional rights keep getting violated.

The district court was thus required to establish that the conduct which Silas admitted brought him within 924(c)(1)..specifically that his possession of a firearm was in furtherance of a drug trafficking crime. (McCarthy, 349 U.S at 467)(Fed.R.Crim.P 11)

District courts has made certain defendant, understood its term and elements and offense, factually supported a full complete

factual basis for all elements fo the crimes to which defendants pleadign guilty to. (And Silas case Judge Ronnie L. White) did not do and that violated Silas 5th, 6th & 14th Amendment Rights.1/

Silas was indicted 54 days later after being arrested on: alle-
gations. Silas filed a writ of mandamus on 8-05-25 to the appeals
court asking Judge Pitlyk to answer his 2255 motion. The court of
Appeals ordered Judge Sara E. Pitlyk to respond on the 2255 by
8-19-25, which she did not, then they sent Silas a motion denied
Silas.

Silas 2255 motion was filed on October 2, 2024, the district
court received Silas 2255 motion on October 7, 2024. The district
court gave the government two extensions of time motions. The gov-
ernment responded on December 30, 2024. SO now 18 months later
still no response from Judge Pitlyk why the delay.

Silas is asking for an evidentiary hearing or vacate Silas
sentence. In the interest of justice, Silas asking for the facts
presented to be reviewed and for the Honorable Court to make a
ruling in favor of the merits of the case. Thank You.

Motion: For Counsel

Motion: For Oral Argument

Motion: For Evidentiary Hearing

1/ (Schuster v. U.S (NO. 24-29-2942)(3rd Cir. Jan 14. 2026)

CONCLUSION

The petition for a writ of mandamus should be granted.

Respectfully submitted,

Tremayne Silas

Date: March 3, 2026