

foot notes:

New Supreme Court Rulings:2026

..Barrett vs United States:(no.24-5774)(s.ct.jan 14,2026)BIG Win on *924 (c) /* 924 (J) STACKING.

*1)The rule:When one gun incident triggers both *924 (c)(gun during a violent/drug crime)and *924 (J) death results from that *924 (c) violation),the government generally cannot stack two convictions for the same act unless congress clearly authorized it. The court said congress did not.

What happend:Barrett was involved in robberies.In robbery,a co-conspirator killed a victim.Barrett wasn't the shooter but prosecutors charged:Hobbs act Robbery *924(c) *924 (j).

The legal fight:can they convict me twice for the same firearm act ?.

Because *924 (j) is built on 924 (c).Barrett argued two convictions for the same gun conduct were improper.The Supreme court agreed.IT applied the standard" same offense" analysis(often discussed throught Blockbuger)and held congress did not clearly authorize double convictions for a single firearm act under both subsections.

Who should pay attention(Quick check)

(**If your judgment shows both 924(c) and 924 (J) tied to the same incident/date/victim,Barrett can support a challenge to duplicative convictions and extra punishment**).

Important limits:Barrett does not automatically erase a conviction and does not decide every 924 (c) predicate issue.

But it does creat a clear rule:one fatal firèarm act should not produce two convictions under both 924(c) and 924 (j).

Best next step:This turns on how your counts were charged and what sentence was imposed.Get your judgement/psr reviewed before you file.A small charging detail can decide whether Barrett helps you.

2*)Belloisi vs United states:(no.24-2614)(2nd cir.Jan.16,2026)

Drug convictions reversed because the government failed to prove Belloisi knew the contraband was a controlled substance court ordered judgment of acquittal:Knowledge is a required element if proof doesn't show drug-knowledge,the conviction fall.

3*)schuster vs united states:(no.24-2942)(3rd cir.Jan.14,2026)

Court vacated the guilty plea,conviction,and sentence because the record lacked an adequate rule 11(b)(3) factual basis. (element-by-element).Case returned for re-pleading,further proceedings.

Use:A plea is not: automactic' courts must verify admitted facts actually satisfy the statute.

1 will?

2 THE DEFENDANT: Yes.

3 THE COURT: On page 10 is section 11. This section
4 point out that if you commit a crime or do anything to violate
5 the terms of this agreement, the United States Attorney does not
6 have to follow the agreement and they can ask for a higher
7 sentence.

8 And if you were to do anything like that before
9 sentencing, you should expect to receive a higher sentence. Do
10 you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And then finally on page 12 is section 12,
13 No Right to Withdraw Guilty Plea. Pursuant to Rule 11(c) and
14 (d), Federal Rules of Criminal Procedure, the Defendant
15 understands that there will be no right to withdraw the plea
16 entered under this agreement except where the Court rejects
17 those portions of the plea agreement which deal with charges the
18 Government agrees to dismiss or not to bring.

19 Do you understand under section 12 there is no right to
20 withdraw the guilty plea?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Then let me ask you formally and for the
23 record, how do you plead to the charge set forth in Count Three
24 of the Second Superseding Indictment? Guilty or not guilty?

25 THE DEFENDANT: Guilty. nt to count 1

1 THE COURT: Okay. I will accept your plea. I find
 2 that you're competent to enter the plea, you know your rights
 3 and you're doing this voluntarily. I also find that the plea
 4 has a factual basis that contains all the elements of the crime
 5 to which you're pleading guilty, so I will accept your guilty
 6 plea.

7 I will set your sentencing for Wednesday,
 8 February 15th, 2023, at 10:00 a.m., in courtroom 10 south.
 9 Objections to the Presentence Report will be due three weeks
 10 before, or on Wednesday, January 25th, 2023.

11 Counsel, will you approach sidebar, please?

12 **COUNSEL APPROACHED SIDEBAR:**

13 THE COURT: Will we be sentencing Mr. Silas before the
 14 other defendants go to trial, or when we get to February you'll
 15 be requesting a continuance?

16 MR. D'AGROSA: Yes, Judge, we can proceed in February
 17 with sentencing. I don't see any reason why it would have to be
 18 delayed until after trial.

19 THE COURT: Good. All right. Thank you.

20 MR. D'AGROSA: Thank you.

21 MS. DUFFE: Thank you.

22 **PROCEEDINGS RETURNED TO OPEN COURT:**

23 THE COURT: Mr. D'Agrosa, is there anything further
 24 from the Government?

25 MR. D'AGROSA: No, Your Honor. Thank you.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

TREMAYNE SILAS,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:24CV01348SEP
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

**UNITED STATES OF AMERICA’S RESPONSE TO PETITIONER’S
MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE**

On October 7, 2024, Petitioner Tremayne Silas (“Silas”) filed a Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody, pursuant to Title 28, United States Code, Section 2255. *Tremayne Silas v. United States*, No. 4:24CV01348SEP (“Civil Case Docket” 1)(“CVD” 1). The Court subsequently entered a Case Management Order, requiring the United States to answer the motion within 45 days. CVD 2. After being granted a request to extend the deadline, the United States herewith files its response.

For the reasons set forth below, all three of Silas’s claims fail on their face, and as such, the Court should deny his motion without a hearing.

I. PROCEDURAL HISTORY

Indictment, Guilty Plea Agreement and Guilty Plea

On October 14, 2020, a federal grand jury charged Silas in Count 3 of a superseding indictment with aiding and abetting the possession of one or more firearms in furtherance of the commission of a drug trafficking crime – conspiracy to distribute and possess with the intent to distribute fentanyl - in violation of Title 18, United States Code, Section 924(c). Because Silas caused the death of Alexander Noodel in the course of this violation, and because the killing was

Cir. 1996) (holding “[r]elief under section 2255 is reserved for transgressions of constitutional rights and for a narrow range of injuries that could not have been raised for the first time on direct appeal and, if uncorrected, would result in a complete miscarriage of justice”). If a defendant fails to show cause, a court need not consider whether actual prejudice exists. *McCleskey v. Zant*, 499 U.S. 467, 501 (1991). Furthermore, if a movant is unable to show “cause” and “actual prejudice,” he must make a “substantial claim that constitutional error has caused the conviction of an innocent person.” *Schlup v. Delo*, 513 U.S. 298, 321 (1995). Actual innocence “means factual innocence, not mere legal insufficiency.” *Bousley v. United States*, 523 U.S. 614, 622 (1998). The Eighth Circuit has emphasized the “narrowness” of the exception to procedural default “and has expressed its desire that it remain rare and available only in the extraordinary case.” *United States v. Wiley*, 245 F.3d 750, 752 (8th Cir. 2001).

A. Ineffective Assistance of Counsel

A movant “faces a heavy burden” to establish ineffective assistance of counsel pursuant to Section 2255. *DeRoo v. United States*, 233 F.3d 919, 925 (8th Cir. 2000). Claims alleging ineffective assistance of counsel are governed by the standard set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). “This standard requires [the movant] to show that his ‘trial counsel’s performance was so deficient as to fall below an objective standard of reasonable competence, and that the deficient performance prejudiced his defense.’” *Nave v. Delo*, 62 F.3d 1024, 1035 (8th Cir. 1995) (quoting *Lawrence v. Armontrout*, 961 F.2d 113, 115 (8th Cir. 1992)).

This analysis contains both a performance and prejudice prong:

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 professionally 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. *Id.* at 689. Assuming the performance was deficient, the prejudice prong “requires proof ‘that there is a reasonable probability that, but for a counsel’s unprofessional errors, the

result of the proceeding would have been different.”

Lawrence, 961 F.2d at 115 (quoting *Strickland*, 466 U.S. at 694). Failure to satisfy both prongs is fatal to the claim. *Pryor v. Norris*, 103 F.3d 710, 713 (8th Cir. 1997) (holding there is no need to “reach the performance prong if [the court] determine[s] that the defendant suffered no prejudice from the alleged ineffectiveness”); *see also DeRoo*, 223 F.3d at 925.

With respect to the first prong, in evaluating counsel’s conduct, the court should avoid “the distorting effects of hindsight,” *Strickland*, 466 U.S. at 689; and “try to evaluate counsel’s conduct by looking at the circumstances as they must have appeared to counsel at the time.” *Rodela-Aguilar v. United States*, 596 F.3d 457, 461 (8th Cir. 2010) (quotation omitted). A court “must indulge a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.” *Id.* (quoting *Strickland*, 466 U.S. at 689). Counsel’s strategic decisions “made after a thorough investigation of law and facts . . . are virtually unchallengeable,” even if that strategic decision proves unwise. *Strickland*, 466 U.S. at 690. Whether a court agrees with a defense counsel’s strategy or analysis is not the test to be followed. *Rodela-Aguilar*, 596 F.3d at 464 (citing *Wing v. Sargent*, 940 F.2d 1189, 1191-92 (8th Cir.1991)).

A court, however, may not need to determine whether a movant meets the “performance” prong of the *Strickland* test. “If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, which we expect will often be so, that course should be followed.” *Young v. Bowersox*, 161 F.3d 1159, 1160 (8th Cir. 1998) (quoting *Strickland*, 466 U.S. at 697), *cert. denied*, 528 U.S. 880 (1998); *see also Kingsberry v. United States*, 202 F.3d 1030, 1032 (8th Cir.) (holding if the defendant makes an insufficient showing on one component, the court need not address both components).

With regard to the second prong, the movant also must show that the outcome would have been different had the alleged defect been corrected. This showing must include an analysis of the

the dismissal of another pending criminal case (Cause Number 4:20-cr-421-HEA (E.D. Mo.) against Silas at the time of sentencing. *Id.* at 1. This agreement contained a provision waiving Silas's right to "appeal all non jurisdictional, non-sentencing issues, including, but not limited to, any issues relating to pretrial motions, discovery and the guilty plea, the constitutionality of the statute(s) to which defendant is pleading guilty and whether defendant's conduct falls within the scope of the statute(s)." (R. Doc. 1064 at 8). Paragraph 4 of the agreement set forth the following stipulated factual basis:

4. FACTS:

The parties agree that the facts in this case are as follows and that the government would prove these facts beyond a reasonable doubt if the case were to go to trial. These facts may be considered as relevant conduct pursuant to Section 1B1.3:

The Conspiracy

41

Beginning in 2016, Maurice Lee (hereafter "Lee") had primarily been distributing heroin in the St. Louis Metropolitan Area. The DEA and St. Louis County Police were actively investigating Lee and others relating to their drug distribution activities. After joining forces with Darryl Moore, (hereafter "Moore"), Lee began to distribute large quantities of fentanyl and "Ice" (crystal methamphetamine). Moore's source of supply was Juan Jose Gonzalez (hereafter "Gonzalez"), whom Moore met in Arizona. Moore's brother defendant Jermaine Weaver would assist Moore with transportation as he was an over-the-road truck driver. Defendant Weaver also financed the purchase of narcotics from Gonzalez.

Moore would in turn supply Lee with bulk quantities of fentanyl and Ice. Lee would then "whip up"; or stretch the raw fentanyl with a cutting agent (mainly Dormin), and distribute the capsules. The Ice was sold in bulk quantities, primarily to one customer, who in turn would redistribute the Ice. At the height of the conspiracy, Lee utilized a minimum of nine coconspirators to distribute the fentanyl to customers. On average, the conspiracy would distribute over 20,000 doses of fentanyl per week. Distribution occurred through the use of "runners" - Christopher Warlick (hereafter "Warlick"), Norris Douglas, Jr. (hereafter "Douglas"), Mikell Rayford (hereafter "Rayford"), Sherod Tucker (hereafter "Tucker"), Jerry Streeter, Jr. (hereafter "Streeter"), Jerome Fisher^{LB} (hereafter "Fisher"), Charles Guice (hereafter "Guice"), Maricus Futrell (hereafter "Futrell") and Delvin Bost (hereafter "Bost"). The runners would get a supply of fentanyl capsules from either Lee, Ramico Adams (hereafter "Adams") or Jalisa Johnson (hereafter "Johnson"). Adams assisted Lee in keeping track of the amount of capsules distributed the amount of money due back to Lee. Johnson would supply or resupply runners with fentanyl and collect money at the end of the day; Tucker and/or Warlick were skilled at stretching the fentanyl for the drug trafficking organization (DTO), in order to increase profit. Grinders and blender were used to mix the fentanyl and Dormin; which was then scraped into empty capsules sitting in a pill press or tray. Scales were used to Weigh the drugs. The capsules would then be placed in plastic bags.

The runners worked in groups and typically worked out of one or two vehicles at a time. All of them were armed with semi-automatic weapons, both handguns and assault rifles. Some of the runners were also considered to be "muscle" for the DTO and were willing to use violence, in order to protect the drugs, money and themselves from would-be thieves and rival gang members. Rival gangs were referred to by Lee and members of his DTO as "Goofies" and Lee had a standing contract to kill any Goofies. Lee offered from \$5,000 to \$15,000 for the murder of any Goofies.

On May 8, 2017 Lee was contacted by one or more co-

conspirators who were trying to confirm that a bounty was still being offered by Lee for the death of A.N. Lee considered A.N. a "Goofy" and had accused A.N. of stealing from him. After Lee confirmed that the bounty was still being offered, co-defendants Warlick, Fisher, Guice and Tremayne Silas (hereafter "Silas") armed themselves and actively sought out A.N., who was drag racing in the City of St. Louis.

After locating A.N. and confirming the bounty, Warlick, Fisher, Guice and Silas drove in two vehicles to a location where A.N. was driving with a passenger. The co-defendants jumped out of their vehicles and opened fire on A.N.'s vehicle. More than 100 rounds of ammunition were fired, scattering shell casings over the street. A.N. was struck in the head with a bullet and collapsed. His passenger climbed over his body, returned fire and managed to escape. He drove to a firehouse for assistance. A.N. was then transported to a hospital where he was pronounced dead due to a gunshot wound to his head. Lee paid the bounty for the murder of A.N.

Silas kept the automatic rifle he used in the shooting death of A.N. That rifle was eventually seized from Silas following a high speed chase when Silas was arrested by the St. Louis City Police on January 24, 2018. Ballistics confirmed that the weapon seized from Silas in January 2018 matched several shell casings found at the scene of A.N.'s murder. Silas later admitted his involvement in the shooting death of A.N.

Rayford was arrested in March, 2018. At the time of his arrest, Rayford was in possession of a semi-automatic handgun with an extended magazine, \$1,600 in U.S. currency, an AK style pistol with a drum magazine, and manufacturing paraphernalia - coffee grinders with powdery residue, a pill press, plastic bags, empty pill capsules, digital scales, rubber gloves, surgical masks and hair nets. In April 2018, the DEA arrested Moore and he consented to a search of two of his residences and his vehicle. Agents seized over 3.5 pounds of Ice (almost 100% purity), over \$7,000 in U.S. currency and eight

firearms, including an assault rifle. Moore confirmed for agents in a post-arrest interview that his source of supply was Gonzalez and that he supplied Lee with bulk quantities of Ice and fentanyl.

In June 2018, Douglas and Warlick were arrested following a high-speed chase in which Lee jumped out of the vehicle and managed to escape. Police spotted Lee in the car, which was a stolen Dodge Charger. Based upon previous surveillance, police knew that Douglas and Warlick distributed fentanyl on behalf of Lee from the stolen Charger. In a post-arrest interview, Douglas and Warlick distributed fentanyl for Lee and his DTO. Douglas possessed both fentanyl capsules and more than one firearm, which were recovered from the stolen vehicle he was riding in and from a satchel he was carrying when he was arrested.

Investigators have confirmed that Lee controlled the DTO, with Adams just beneath him. They further confirmed that Gonzalez was the source of supply for Moore, who in turn supplied Lee, with Rayford, Douglas, Futrell, Streeter, Fisher, Tucker, Warlick, Guice and Bost as runners or enforcers.

From January 2016 until the date of the indictment (March 2019) within the Eastern District of Missouri and elsewhere, Defendant Lee conspired with Gonzalez and others both named and unnamed in the indictment to distribute and possess with intent to distribute fentanyl and methamphetamine.

(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.

K

25-2547 In re: Tremayne Silas

APPENDIX. K

Eighth Circuit Court of Appeals

PRO SE Notice of Docket Activity

The following was filed on 08/05/2025

Case Name: In re: Tremayne Silas

Case Number: 25-2547

Docket Text:

PETITION for Writ of Mandamus (Rec'd by MAIL) filed by Petitioner Tremayne Silas w/service 08/05/2025. RESPONSE to the petition DUE ON 08/19/2025. [5545022] [25-2547]

The following document(s) are associated with this transaction:

Document Description: Petition

Document Description: Envelope

Notice will be mailed to:

Tremayne Silas
FEDERAL CORRECTIONAL COMPLEX
50233-044
P.O. Box 5000
Bruceton Mills, WV 26525

Notice will be electronically mailed to:

(h) Whoever knowingly receives or transfers a firearm or ammunition, or attempts or conspires to do so, knowing or having reasonable cause to believe that such firearm or ammunition will be used to commit a felony, a Federal crime of terrorism, or a drug trafficking crime (as such terms are defined in section 932(a) [18 USCS § 932(a)]), or a crime under the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.), the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), or the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901 et seq.), shall be fined under this title [18 USCS §§ 1 et seq.], imprisoned for not more than 15 years, or both.

(i) (1) A person who knowingly violates section 922(u) [18 USCS § 922(u)] shall be fined under this title, imprisoned not more than 10 years, or both.

(2) Nothing contained in this subsection shall be construed as indicating an intent on the part of Congress to occupy the field in which provisions of this subsection operate to the exclusion of State laws on the same subject matter, nor shall any provision of this subsection be construed as invalidating any provision of State law unless such provision is inconsistent with any of the purposes of this subsection.

(j) A person who, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

(1) if the killing is a murder (as defined in section 1111 [18 USCS § 1111]), be punished by death or by imprisonment for any term of years or for life; and

(2) if the killing is manslaughter (as defined in section 1112 [18 USCS § 1112]), be punished as provided in that section.

(k) (1) A person who smuggles or knowingly brings into the United States a firearm or ammunition, or attempts or conspires to do so, with intent to engage in or to promote conduct that—

(A) is punishable under the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46 [46 USCS §§ 70501 et seq.]; or

(B) constitutes a felony, a Federal crime of terrorism, or a drug trafficking crime (as such terms are defined in section 932(a) [18 USCS § 932(a)]),

shall be fined under this title, imprisoned for not more than 15 years, or both.

USCS

1

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-1490

United States of America

Appellee

v.

Tremayne Silas

Appellant

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis
(4:19-cr-00211-RLW-17)

MANDATE

In accordance with the judgment of September 13, 2023, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

November 22, 2023

*Disposal
Appeal*

Clerk, U.S. Court of Appeals, Eighth Circuit

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400
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www.ca8.uscourts.gov

November 27, 2023

Mr. Tremayne Silas
U.S. PENITENTIARY
50233-044
P.O. Box 3000
Pine Knot, KY 42635-0000

RE: 23-1490 United States v. Tremayne Silas

Dear Mr. Tremayne Silas:

I am returning your motion for reconsideration, unfiled. An order denying your previously-filed petition for rehearing was entered on November 15, 2023. The mandate was issued on November 22, 2023 returning jurisdiction of the case to the district court. The appeal is closed.

Pursuant to 8th Circuit Local Rule 40A(c), successive petitions for rehearing are not allowed. The clerk will accept only one petition for rehearing from any party to an appeal and will not accept any motion to reconsider the court's ruling on a petition for rehearing or rehearing en banc.

If you wish to proceed with your appeal to the U.S. Supreme Court, you may contact the clerk at the address below.

Scott S. Harris, Clerk
Supreme Court of the United States
1 First Street N.E.
Washington DC 20543
(202) 479-3009

Michael E. Gans
Clerk of Court

Enclosure(s)

cc:

District Court/Agency Case Number(s): 4:19-cr-00211-RLW-17

1 First Street NE
Washington, DC 20543



Search documents in this case:

Search

No. 23-6774

Title: Tremayne Silas, Petitioner
v.
United States

~~Supreme Courts
500 Indiana Avenue
NW Washington DC 20001
COURTS~~

Docketed: February 16, 2024

Lower Ct: United States Court of Appeals for the Eighth Circuit

Case Numbers: (23-1490)

Decision Date: September 13, 2023

Rehearing Denied: November 15, 2023

DATE

PROCEEDINGS AND ORDERS

Feb 13 2024

Denied

Petition for a writ of certiorari and motion for leave to proceed in forma pauperis filed. (Response due March 18, 2024)

Motion for Leave to Proceed in Forma

Pauperis Petition Appendix Proof of Service

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