No.: 26-5285

In The
Supreme Court of the United States

Daniel Robert Beaty
Appellant

v.

United States of America
Appellee

On Petition for a Writ of Certiorari
From the United States Court of Appeals for the 8th Circuit
Case No.: 25-1355

PETITION FOR WRIT OF CERTIORARI

Appellant:
Daniel Robert Beaty
BOP #: 07268-511
United States Penitentiary McCreary
P.O. Box 3000
Pine Knot, KY 42635

Appellee:
Solicitor General of the United States

QUESTIONS PRESENTED

1) Can a defendant be found responsible for relevant conduct unrelated to the single count of 21 U.S.C. §841(a)(1), (b)(1)(A) that he was charged and pled guilty to when he was not charged with 21 U.S.C. §846?

Beaty answers "no".

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LIST OF PARTIES

All parties appear in the caption of the case on the cover page, except for co-defendant on Count 1: Angela Phillis. (Daniel Beaty, United States of America.)

RELATED CASES

There are no related cases.

OPINIONS BELOW

The opinion of the United States Court of Appeals denying rehearing/ en banc appears at Appendix A to this petition and is unpublished.

The opinion of the United States Court of Appeals appears at Appendix B to this petition and is unpublished.

JURISDICTION

Beaty's appeal was denied by the 8th Circuit Court of Appeals in an opinion dated February 4, 2026.

Beaty's petition for rehearing was denied on March 12, 2026. In the same order, his petition for en banc review was also dismissed.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Amendment V - No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury...

2. Title 21, U.S.C. §841 Prohinited Acts (a) Unlawful Acts. Except as authorized by this title, it shall be unlawful for any person knowingly or intentionally- (1) to manufacture, distribute, dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.

There is a circuit split as to whether §841(a)(1) is a "continuing crime" (like 21 U.S.C. §846, Conspiracy is) or if it is a "distinct offense". The 8th Circuit has held that it is a continuing crime, others that it is a distinct offense.

By the plain language of the statute it is not a continuing crime. Each delivery must be charged seperately. Relevant conduct unrelated to the actual delivery cannot be used to enhance a defendant. As such, as Beaty was not charged with 21 U.S.C. §846, but was found responsible for conspiracy amounts, his 5th Amendment right to have a Grand Jury indict him on all charges was violated.

STATEMENT OF THE CASE

This is a direct appeal by the defendant, Daniel Beaty, following his pleas of guilty to: (1) Count 1, possession with intent to distribute a mixture and substance containing a detectable amount of methamphetamine, in violation of 21 U.S.C. §841(a)(1), (b)(1)(C); and (2) Count 3, possession of a firearm by a felon in violation of 18 U.S.C. §922(g)(1). Beaty challenges the sentence he received, as the district court impermissably found Beaty responsible for relevant conduct that was unrelated to the single cout of possession with intent to deliver a detectable amount of methamphetamine, as Beaty was never charged with and did not plea guilty to 21 U.S.C. §846, Conspiracy.

Beaty was arrested following a traffic stop by the Iowa State Patrol on January 20, 2024. PSR para. 12. During the stop, the Trooper searched Mr. Beaty's vehicle and found methamphetamine and a handgun. PSR para. 17. Mr. Beaty made further admissions to the methamphetamine. PSR para. 18. His co-defendant also made statements that implicated Mr. Beaty. PSR para. 19. Mr. Beaty was indicted and charged with the above offenses.

An indictment was foled on March 27, 2024, in the Southern District of Iowa, charging Mr. Beaty with three counts: Count 1, possession with intent to distribute a mixture and substance containing 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§841(a)(1), (b)(1)(C); Count 2, possession of a firearm in furtherance of a drug trafficking offense in violation of 18 U.S.C. §924(c)(1)(A)(i); and Count 3, possession of a firearm by a felon in violation of 18 U.S.C. §922(g)(1). Plea Transcript 27:4-13 (attached as Appendix C).

A sentencing hearing was held on February 18, 2025. Prior to sentencing, Mr. Beaty filed objections to the PSR in regards to the weight of the methamphetamine attributable to Mr. Beaty. R.Doc 83. Mr. Beaty believed that statements by his co-defendant should not have added additional weight such that it increased his sentencing guidelines, as it was unrelated to the methamphetamine found during the traffic stop and charged in Count 1. Sent. Tr. 14. Mr. Beaty argued that even if the District Court did believe the additional weight was supported by a preponderance of the

evidence, again, any prior sales of methamphetamine cannot be considered relevant conduct for the purposes of sentencing Beaty on Count 1. Sent Tr. 33.

At sentencing, the government called Agent Anthony Pearson to testify in support of the additional weight, offering hearsay evidence about what the co-defendant claimed, even though the co-defendant was at the same jail as Beaty and was available to testify. Sent. Tr. 15:14. At the sentencing hearing, the District Court found the prior methamphetamine sales were relevant conduct, supported by a preponderance of the evidence, and thus overruled the objection. Sent. Tr. 36:21-24.

Beaty filed a timely appeal. In a pro se supplement, he claimed that the District Court cannot find drug weight unrelated to Count 1 as relevant conduct:

> Beaty was found responsible for drug weight due to relevant conduct that was unrelated to the single count of possession with intent to deliver methamphetamine (21 U.S.C. §841(a)). Both the prosecution, as well as the District Court, were under the misapprehension that Beaty was being sentenced for 21 U.S.C. §846, conspiracy. He was not.

Defendant's Pro Se Supplement at 2.

> 21 U.S.C. §841 is not a conspiracy offense, and relevant conduct unrelated to the single count of possession with intent to deliver cannot be used to enhance Beaty.

Defendant's pro se Supplement at 4.

> Relevant Conduct Outside the Transport/ Delivery Cannot be Used at Sentencing.

Defendant's Pro Se Supplement at 7.

21 U.S.C. §841(a)(1) is a "distinct offense", not a "continuing crime".

REASONS FOR GRANTING THE PETITION

A. There is a circuit split as to whether 21 U.S.C. §841(a)(1) is a "distinct offense" or a "continuing crime". In the 8th Circuit, it is the later, in the 2nd, 3rd, 4th, 6th, and 9th Circuits it is the former.

B. The plain language of 21 U.S.C. §841(a)(1) shows that it is not a "continuing crime". To hold Beaty responsible for drug weight outside the actual delivery he was charged with, the government must have also charged him with 21 U.S.C. §846, which it did not do. As no Grand Jury ever indicted him on a charge of 21 U.S.C. §846, his 5th Amendment rights were violated.

SUMMARY OF ARGUMENT

A. 21 U.S.C. §841(a), Possession with Intent to Distribute a Controlled Substance, is not a "continuing offense" like 21 U.S.C. §846, Conspiracy to Possess with the Intent to Distribute a Controlled Substance. As such, when Beaty was found responsible for drug weight outside of that found during a traffic stop and charged in Count 1, his 5th Amendment right to have a Grand Jury indictment on all counts was violated. There is a circuit split between the 8th Circuit, where 841(a)(1) is a continuing offense, and the 2nd, 3rd, 4th, 6th, and 9th Circuits, where it is not.

ARGUMENT

A. Relevant Conduct Outside the Transport/ Delivery Cannot be Used at at Sentencing.

At Sentencing, Counsel objected to ¶20 of the PSR, which contained drug amounts outside the delivery as charged in Count 1, 21 U.S.C. §841(a). See Sent. Tr. 7:20-21.

Beaty claims that, under 21 U.S.C. §841(a), a single delivery cannont include conduct unrelated to that particular delivery:

> Under 21 U.S.C. §802(11), distribution occurs when a controlled substance is delivered. Delivery is "the actual constructive, or attempted transfer of a controlled substance." 21 U.S.C. §802(8). Our sister circuits have held that "[t]he plain language [of §841(a)] indicates" that "each unlawful transfer [is] a distinct offense." U.S. v. Lartey, 716 F.2d 955, 967 (2nd Cir. 1983). See U.S. v. Mancuso, 718 F.3d 780, 793 (9th Cir. 2013); see also U.S. v. Elliott, 849 F.3d 780, 793 (4th Cir. 1988) ("the more precise terms 'deliver' and 'transfer' suggest that Congress intended the statute to criminalize individual acts, rather than a continuous course of conduct. We agree with their reasoning and hold that "seperate acts of distribution of controlled substances are distinct offenses under 21 U.S.C. §841(a), as opposed to a continuing crime." Mancuso, 718 F.3d at 793.

U.S. v. Rose, 919 F.3d 752, 759 (3rd Cir. 2018). As such, evidence provided as relevant conduct at sentencing, such as text messages extracted from Beaty's phone, or hearsay testimony regarding statements made by Beaty's co-defendant that were unrelated to the delivery that Beaty was actually charged with are not properly used as aggregated weight.

Beaty was actually found with roughly a pound and a half of methamphetamine. The indictment charged him with possession with intent to distribute 500g to 1.5kg of methamphetamine. The plea agreement references word for word the indictment, again 500g to 1.5kg. This is the amount that Beaty actually pled guilty to. Beaty's counsel asked that he be sentenced

in accordance with this offense level. See Sent. Tr. 14:3-15. At CHC VI, this would have resulted in a guidelines range of 188-235 months.

To be sure, possession with intent to distribute is a continuing crime in the 8th Circuit. U.S. v. Granados, 117 F.3d 1089, 1091 (8th Cir. 1997). But the evidence has to support the charge, and in this case it did not.

The evidence brought up in the PSI and at sentencing were statements made by Beaty's co-defendant, and images and a text message extracted from Beaty's phone, both hearsay from "Special Agent" Anthony Pearson from the Iowa Division of Narcotics. Sent Tr. 15:24 to 29:3. The evidence was a supposed statement that Beaty's co-defendant said that he moved a certain amount of methamphetamine per week, images of various drugs extracted from his phone, and a text message train between the co-defendant and a "Big Homie" where the co-defendant appears to be trying to facilitate a sale. All this was "during the three to four-month time frame leading up to the traffic stop". Sent. Tr. 28:20-21.

Beaty's claim is that, as charged and as he pled, he cannot be held responsible for the additional weight unrelated to the traffic stop. He was not charged with conspiracy, 21 U.S.C. §846. His co-defendant was charged with the same count of possession with intent to distribute and the same weight as Beaty. Perhaps, if the government had indicated a time frame in their indictment that included these "three to four months", it could support the additional weight with Count 1, but it did not. Perhaps if it had included the additional weight in the indictment, it could support the additional weight with Count 1. Perhaps if it had only mentioned "50 grams or more" it could support the additional weight. But as Beaty was indicted and as he pled, it could not support the additional weight, because the additional weight is from evidence of a conspiracy between Beaty, his co-defendant, and Mr. "Big Homie" (unindicted co-conspirator).

Another related issue is that Beaty did not knowingly plead guilty to these additional weights. The indictment did not indicate that these additional weights existed. The first time Beaty found out about them was when he received and read the PSI. At that point, he had already pled

guilty. It was not a knowing and intelligent plea as a result.

Basically, the government played "rope-a-dope" with Beaty. It made him believe that he was pleading guilty to the methamphetamine in the car and the pistol, but then dropped a conspiracy on him at sentencing. This cannot be. Beaty never had fair warning that this additional weight even existed.

In its order dismissing Beaty's appeal, the 8th Circuit said:

"As to his challenges to the drug quantity, the district court properly relied on testimony from an investigating officer regarding a co-defendant's proffer statements, and messages and photographs of controlled substances taken from Beaty's cellphone. See U.S. v. Karam, 37 F.3d 1280, 1286 (8th Cir. 1994) (district court's findings on witness credibility when making drug-quantity determination are virtually unreviewable on appeal."

Order, 25-1355 at 2. But this does not really address Beaty's claim. The issue is, does the witness' testimony support the charge: 21 U.S.C. §841(a), possesion with intent to distribute. It did not. It seems that Beaty was held responsible for conspiracy amounts, while never being charged with conspiracy. Again, this cannot be.

The 8th Circuit continues:

> In any event, the district court noted that it would have imposed the same sentence regardless of drug quantity. See U.S. v. Jackson, 594 F.3d 1027, 1030 (8th Circuit 2010) (where there is clear record that district court intended to impose same sentence and took into account potential impact of specific sentencing error alleged, it is appropriate to treat alleged error as harmless).

Order at 2. But this is a mistake of fact. The PSI alleged (and counsel agreed) that Beaty was a career offender. Sent Tr. 12:19-22. In fact, Beaty was not a career offender. Instead of level 37 (career offender), he argued that, with only the methamphetamine found in the car, he was offense level 34. Sent. Tr. 14:16. But the range to be considered was either offense level 37 (career offender), Sent. Tr. 13:21-23, or Level

38. Sent Tr. 12:14-18. So, the context of the court statement at Sent. Tr. 36:25- 37:7 that it would sentence Beaty the same no matter what the offense level was between Level 37 and Level 38. It was not the context where the Court understood that Beaty was not a career offender (again, a mistake of fact by the 8th Circuit: "while Beaty challenges his designation as a career offender, the presentence report noted but did not ultimately apply the enhancement") and therefore Level 34, not Level 38. As such, Jackson, 594 F.3d is inapposite, and the court's sentencing at the wrong offense level, and thus guidelines range, was not harmless.

CONCLUSION

For the foregoing reasons, Beaty respectfully requests that the petition for writ of certiorari be GRANTED.

Respectfully Submitted,

x _____

Daniel Robert Beaty, pro se
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I swear under the penalty of perjury that I deposited the foregoing into the USP McCreary Prison Legal Mail System on this 30th day of April, 2026 with First-Class postage pre-paid.

CERTIFICATE OF SERVICE

I swear under the penalty of perjury that I deposited one copy of the foregoing into the USP McCreary Prison Legal Mail System on this 30th day of April, 2026 with First-Class postage pre-paid and addressed to:

Solicitor General of the United States
950 Pennsylvania Ave.
Washington, D.C. 20530-0001