

26-5551
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Kenneth D. White — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Kenneth D. White
(Your Name)

FCI-Forrest City-Low, P.O. Box 9000
(Address)

Forrest City, AR 72336
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. DOES PETITIONER'S CONVICTION AND SENTENCE UNDER 18 U.S.C. §2423(b) VIOLATE THE TENTH AMENDMENT TO THE U.S. CONSTITUTION?
2. DID THE GOVERNMENT FAIL TO PROVE EACH AND EVERY ESSENTIAL ELEMENT?

LIST OF PARTIES

- [x] 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 of America v. Kenneth D. White, Case No.20-CR-40051-SPM, United States District Court for the Southern District of Illinois.
- United States of America v. Kenneth D. White, No21-2381, United States Court of Appeals for the Seventh Circuit.
- Kenneth D. White v. United States of America, Case No.3:22-cv-oo546-SPM, United States District Court for the Southern District of Illinois.
- Kenneth D. White v. United States of America, No.24-1529, United States Court of Appeals for the Seventh Circuit.
- In Re the matter of: Kenneth D. White, No.25-1308, United States Court of Appeals for the Seventh Circuit.

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OTHER

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☐ is unpublished.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 A to the petition and is

☒ reported at 4:20-cr-40051-SPM-1; 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☐ is unpublished.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 March 6, 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: April 7, 2025, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

Amendment X	1,2,3,4,5,6,7,
Amendment V	10
18 U.S.C. §2423(b)	3,4,5,9
28 U.S.C. §2255	4

STATEMENT OF THE CASE

On May 5, 2021, a jury returned a verdict against this Petitioner for travel with the intent to engage in illicit sexual conduct in violation of 28 U.S.C. § 2423(b). See United States v. White, 20-cr-40051-SPM (May 5, 2021)(Doc. 50). The Court sentenced Petitioner to 151 months on the custody of the Bureau of Prisons. See id. (Doc. 73). White appealed his judgment to the Seventh Circuit on July 27, 2021. See id. (Doc. 76); see United States v. White, No. 21-2381 (7th Cir. 2022). White filed a Motion to Dismiss Appeal on March 1, 2022, which the Seventh Circuit granted the same day. See id. (Doc. 20, 21).

Petitioner subsequently filed a §2255 Petition attacking his sentence on March 7, 2022. (See Doc. 1). The Court ordered Petitioner to file an amended motion (see Doc. 8) which was filed on November 14, 2022. (See Doc. 9). The Court granted Petitioner leave to file a Supplement, which was filed on May 2, 2023. (See Doc. 18). The Government responded to the Motion on June 1, 2023. (See Doc. 20). The Court granted Petitioner leave to file a response to the Motion on June 1, 2023. (Doc. 21). Petitioner's Amended Motion broadly raised the following claims:

- Claim 1: Ineffective Assistance of Counsel
- Claim 2: Withholding Exculpatory Evidence
- Claim 3: Prosecutorial Misconduct
- Claim 4: A Collateral Attack on His Sentence
- Claim 5: Actual Innocence

In addition, Petitioner had filed a NOTICE OF APPEAL which was more akin to an omni-motion filed in the district court alleging all sorts of claims, of which some were the subject of an appeal and a motion for rehearing which will be discussed infra.

REASONS FOR GRANTING THE PETITION

In this case, Petitioner had been looking for adult swingers to have adult fun for the night with. Petitioner was actually looking for a guy to join he and his lady friend. They were open to role-playing. But when the alleged child's parent made the statement about having a live child in the role-play, I didn't think it was real, because if we are supposed to be role-playing, there is no need for a real child. At the outset, Petitioner made clear that he was looking for adult swingers, and the federal agent swayed the conversation and directed it towards a little girl, though fictional, it was never-the-less the government who suggested it, and steered this Petitioner's conversation towards children so as to snare Petitioner into doing something he never originally intended. Which brings us to the very relevant issue.

I. DOES PETITIONER'S CONVICTION AND SENTENCE UNDER 18 U.S.C. §2423(b) VIOLATE THE TENTH AMENDMENT TO THE U.S. CONSTITUTION?

Section 2423 originated in the White-Slave Traffic (Mann) Act, chapter 395, §3, 36 Stat. 825 (1910). For decades, the statute covered only situations in which the minor victim of certain sex crimes was transported across state or federal borders. Whether the perpetrator accompanied the victim in the travel or arranged the transportation from afar was irrelevant. See United States v. Barrington, 806 F.2d 529, 534 (5th Cir. 1986) (holding that perpetrator's "own travel, distinct from her causing others to travel," was unnecessary for §2423 conviction); cf. United States v. Jones, 909 F.2d 533, 540, 285 U.S. App. D.C. 294 (D.C. Cir. 1990) ("[O]ne need not physically carry or accompany a person interstate in order to 'transport' her").

To address the situation where the perpetrator traveled but the victim stayed put, Congress added the offense currently codified in §2423(b) to punish persons who travel in interstate or foreign commerce "for the purpose of engaging in [a prohibited] sexual act." Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, §160001(g), 108 Stat. 1796. Proving that foreign travelers intended to engage in

sexual misconduct with children at the time they left the United States turned out to be difficult. The 1994 law resulted in only a handful of such convictions nationwide, see Karen D. Breckenridge, Comment, Justice Beyond Borders: A Comparison of Australian and U.S. Child-Sex Tourism Laws, 13 P. RIM L. & Policy J. 405, 415 (2004), prompting Congress to amend the statute again less than a decade later. See Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003 ("PROTECT Act"), Pub. L. No. 108-21, §105, 117 Stat. 650.

In this case, Petitioner was charged under the (d) provision of the statute which required the Government to prove the element of intent. Notwithstanding this fact, the Tenth Amendment to the Constitution for the United States says: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

The Tenth Amendment's use of the word "reserved" does not help the majority view of the Tenth Amendment. It was said in U.S. Term Limits, Inc. v. Thornton, 115 S.Ct. 1842, 131 L.Ed.2d 881, 514 U.S. 779, 852 (1995), "[t]he majority is therefore quite wrong to conclude that the people of the State cannot authorize their state government to exercise any power that were unknown to the States when the Federal Constitution was drafted." That case also said --- "In an effort to defend its position, the majority points to language in Garcia v. San Antonio Metropolitan Transit Authority, 469 U.S. 528, 549, 83 L.Ed.2d 1016, 105 S.Ct. 1005 (1985), which it takes to indicate the Tenth Amendment covers only "the original powers of [state] sovereignty." Ante, at 802, 131 L.Ed.2d, at 899. But Garcia dealt with an entirely different issue: the extent to which principles of state sovereignty implicit in our federal system curtail Congress' authority to exercise its enumerated powers. When we are asked to decide whether a congressional statute that appears to have been authorized by Article 1 is nonetheless unconstitutional because it invades a protected sphere of state sovereignty, it may well be appropriate for us to inquire into what we have called the "traditional aspects of state sovereignty." See National League of Cities v. Usery, 426 U.S. 833,

841, 849, 49 L.Ed.2d 245, 96 S.Ct. 2465 (1976); see also New York v. United States, 505 U.S. 144, 156-157, 120 L.Ed.2d 120, 112 S.Ct. 2408 (1992). The question in this case is whether the Tenth Amendment is violated when Congress authorized §2423(b)? It is Petitioner's contention that Congress lacked the authority in this case, because the protection of children is a traditional concern of the State, not the Federal Government. In United States v. Lopez, 514 U.S. 549, 115 S.Ct. 1624, 131 L.Ed.2d 626 (1995), the Court said that "'This framework has been sufficiently flexible over the past two centuries to allow for enormous changes in the nature of government. The Federal Government undertakes activities today that would have been unimaginable to the Framers in two senses: first, because the Framers would not have conceived that any government would conduct such activities; and second, because the Framers would not have believed would not have believed that the Federal Government, rather than the States, would assume such responsibilities. Yet the powers conferred upon the Federal Government by the Constitution were phrased in language broad enough to allow for the expansion of the Federal Government's role.'" New York v. United States, 505 U.S. 144, 157, 120 L.Ed.2d 120, 112 S.Ct. 2408 (1992)(emphasis omitted). Petitioner could not agree more with that statement. The Federal government has been guilty of overreach in this case. And have been allowed to violate the law in order to do it.

Case in point, The UNITED STATES filed for bankruptcy and went into receivership. Under bankruptcy laws, once a corporation (which the UNITED STATES is) the most it can do is wrap up old business, and not start anything new. But instead of closing the shop and shutting down business, the receivers of the bankruptcy, the International Bankers, "changed the form of Government from a Republic to a Democracy. The Constitution for the United States of America. If this is true, how are we still conducting business when according to the law, we don't exist? Case in point, How can America be a Democracy and yet operate under a Republican Constitution. And, when asked, the Framers of the

of the Constitution told a woman that "we gave you a Republican form of government, if you can keep it." Really, the Republic was dead just seven years after the Declaration of Independence. Yet, America went right on as if it had not went into receivership. We know that the Founders/Framers of this Nation said that, "democracy is anathema to the people." If democracy is curse and a damnation to the people, why did our Government push the Nation to that?

So then, how does the UNITED STATES use the Constitution that we have all agreed is the Supreme Law of the Land? Democracy makes us disloyal to this Country. If I pledge allegiance to the United States of America. And to the Republic for which it stands. One Nation under God. Justice and liberty for all. The question is, since we no-longer live in a republic, we can't get justice, and liberty is seriously restricted.

This Court said in Lopez, supra, "[j]ust as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. In the tension between federal and state power lies the promise of liberty". Gregory v. Ashcroft, 501 U.S. 452, 458-459, 115 L.Ed.2d 410, 111 S.Ct. 2395 (1991). 514 U.S. at 576. This writer considers it an abuse when the Federal Government and State Governments lie to the people and commit fraud. Every judge, lawyer, prosecutor and other in power of government are stealing the American people's money. Making ens legis and corporate soles, claiming them to be people and getting substantial financing on those entities. "The security of a tyrant is an ignorant populous." If the Government misinforms the people it can do as it pleases. That is exactly what what both branches of government are doing. Stealing the American people's money that rightfully belongs to the people as an inheritance. The States are responsible for collecting and sending birth certificates and social security cards to the Depository Trust Company, and levaging loans, and using the securities to generate funds for the

Constitution told the lady who'd asked, "We gave you a republican form of Government if you can keep it. I am born here and I have never witnessed the Republic. If it is true that the Republic only lasted 7 or 8 years, how were we allowed to use the Constitution for the republic to govern us in a democracy, when both governments are in contention with one another. The Constitution is the charter for America. Our government operates only because of it. But it does not exist because it went into bankruptcy with the nation.

Anyway, we have gotten off track with the Commerce Clause. Now it is said that I am charged under (18 U.S.C. §2423(b)). It is also said that that particular charge is considered governed by the "in commerce" prong of the Commerce Clause. See e.g., United States v. Pendleton, 658 F.3d 299, 304 (3rd Cir. 2011) ("§2423(c) targets the same individuals as does §2423(b)- namely, persons traveling in commerce for the purpose of engaging in illicit sex-[b]ut it does so by focusing the court's attention on the defendant's actual conduct in the foreign nation").

In this case, Petitioner, did not have sex with a minor. And the record reflects that he told the agent who was posing as the father of a little girl, that he would meet with him. But that he only wanted to talk. This defendant's charge is purely a State issue. And his conviction and sentence violates due process and fundamental fairness. As when he got to the destination and met with the agent, he only talked. He did not agree to engage in sexual conduct, and the Agent is misleading the Court as to Petitioner's intent. Which we will discuss next. We must understand that cases of this ilk requires proof of commerce, a commercial exchange, the purchase of a ticket for transportation, or they were about prostitution a commercial sex act, so there was a purchase or sale at either the beginning or end of the travel. Either the object or purpose of the travel needs to be commercial, as in commercial intercourse, to be "in commerce". And thus, simply crossing a state line under these circumstances and facts isn't enough. Showing purely interstate travel. Petitioner's conviction and sentence should be reversed for infirmness. As there was never any financial exchange/intercourse. Making Petitioner's travel protected by the Tenth

Amendment People's Right. As it is Petitioner's prerogative to travel or not. So long as his travel did not have a nefarious intentions. And he was prejudiced.

2. DID THE GOVERNMENT FAIL TO PROVE EACH AND EVERY ESSENTIAL ELEMENT?

In this Case, there was never any intent to have sex with a minor. The record shows that Petitioner was interested in the dad. Petitioner admitted to being bi-sexual. And he asked questions relative to whether the dad was willing.

It is a historical fact that the prosecutors have been struggling to prove the "intent element" of 18 U.S.C. §2423. See United States v. Clay, 128 F.4th 163 (2024) ("prosecutors sometimes have trouble proving the intent of that offense, and citing H.R. Rep. No. 107-525, at 2-3 (2002)).

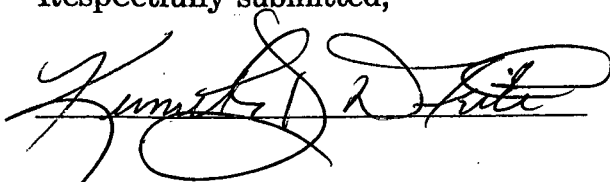
Moreover, "when the defendant offers lack of intent as a defense, even though the government does not have to prove subjective intent as an element of the offense, the circumstances surrounding the making of the call becomes relevant. The evidence offered clearly was probative of defendant's state of mind and tends to counter his allegation of benign purpose." See United States v. Cox, 957 F.2d 264 (6th Cir. 1992). This Petitioner's never intended to have sex with a minor as there was no cash ever exchanged. And he told the Agent before he came that he only wanted to talk. It was the agent who was prodding and suggesting that he engage with his daughter. Even suggesting that he watch as Petitioner have sex with his daughter, and saying that he has always had sex and role plays with the daughter. But Petitioner maintained his composure everytime the agent would suggest his daughter. At the end of the conversation, Petitioner asks if the dad was interested in trying a guy. And what would it take to get you to try those things? That shows that Petitioner was trying to date the dad.

Simply put, the Government failed to prove each and every element of the 2423(b) charge when they were required to do so. And this Petitioner asks that this Court to overturn his conviction and sentence. A violation of Amendment V.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kenneth D. White", written over a horizontal line.

Date: 7-1-25