26-5977

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FEB 13 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

FREDRICK BURNS

_____ — PETITIONER

(Your Name)

vs.

UNITED STATES OF AMERICA

_____ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

FREDRICK BURNS

(Your Name)

Federal Correctional Institution Pekin

(Address)

P.O. Box. 5000 , Pekin, Illinois, 61555.

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

Whether the United States Supreme Court Justices have Jurisdiction and Authority to resolve the split and conflict between the Third Circuit United States District Court Case, United States V. Piccolo, 12601. August 29, 1996. And my case United States V. Fredrick Burns, case No. 8:22-CR-272, on the element of "USE" of a firearm, 18 U.S.C.§ 924(c), when the Defendant never posses or active-employment the firearm in the Indictment Count of knowingly Using and Carrying a firearm "During and in relation to" a Drug-Trafficking crime and knowingly possessing a firearm in furtherance of a Drug-Trafficking crime, in violation of 18 U,S,C,§ 924(c)(1)(A).

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:

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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

[x] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[x] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[x] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix N/A to the petition and is

[ ] reported at N/A; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the N/A court appears at Appendix N/A to the petition and is

[ ] reported at N/A; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 21, 2025.

[ ] No petition for rehearing was timely filed in my case.

[x] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 26, 2025, 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 N/A (date) on N/A (date) in Application No. N/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 N/A. A copy of that decision appears at Appendix N/A.

[ ] A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A N/A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATUTE:	Page
1: 18 U.S.C.§ 924(c)(1)(A)	4,6,7,8,
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STATEMENT OF THE CASE

On June 21, 2024, defendant Fredrick Burns, waived indictment (Filing No. 60) and pleaded guilty to a Two-Count information (Filing No.59) pursuant to a written Plea Agreement (Filing No. 64). Under the Agreement. Burns Pleaded Guilty to One Count of Knowingly and intentionally possessing " with intent to distribute 5 grams or more of Methamphetamine (Actual) and 100 Grams or more of Fentanyl Analogue. In violation of 21 U.S.C.§ 841 (a)(1) and (b)(1), and One Count of knowingly Using and Carrying a firearm during and in relation to a Drug-Trafficking Crime, and Knowingly possessing a firearm in furtherance of a Drug-Trafficking Crime in violation of 18 U.S.C.§ 924(c)(1)(A). And Mr. Burns was sentence on 2/6/2025 (Filing No. 122). And the Court sentence him to 87 Month's in prison on the Drug Charge, and 60 Month's on the Gun Charge to run Consecutive to the Drug Charges for a total of 147 Month's in prison. And the District Court had Jurisdiction of this case pursuant to 3231.

DIRECT APPEAL:

Mr. Fredrick Burns didn't file a DIRECT APPEAL in the Court case, United States V. Fredrick Burns, case No. 8:22-CR-272.

SECTION 28 U.S.C. § 2255 Motion:

Mr. Fredrick Burns filed a timely Section 28 U.S.C. § 2255 Motion on May 30, 2025, and it was DENIED on May 30, 2025, and the District Court had Jurisdiction to review this motion pursuant to 18 U.S.C.§ 3231.

CERTIFICATE OF APPEALABILTY:

Mr. Fredrick Burns filed a timely Motion to the Eighth Circuit Court of Appeals, requesting for a Certificate of Appealability, and it was DENIED on 10/21/2025. The Eighth Circuit Court of Appeals had Jurisdiction to review this Motion Pursuant to 28 U.S.C.§ 2253(c)(1): Fed R. App. P. 22(b)(1), and 28 U.S.C.§ 2253(c)(2).

REHEARING EN-BANC:

Mr. Fredrick Burns, filed a timely REHEARING EN-BANC to the Eighth Circuit Court of Appeals, and it was DENIED on 11/26/2025. The Eighth Circuit Court of Appeals had Jurisdiction to review this Motion pursuant to 28 U.S.C.§ 1291.

UNITED STATES SUPREME COURT:

Mr. Fredrick Burns filed a timely petition for WRITS OF CERTIORARI on 2/12/ 2026. And the United States Supreme Court Has Jurisdiction under 28 U.S.C.§ 1254(1).

REASONS FOR GRANTING THE PETITION

In the interest of Justices to prevent a miscarriage of Justice in the Eighth Circuit United States District Court of Nebraska case, United States of America V. Fredrick Burns, case No. 8:22CR272. Mr. Fredrick Burns, respectfully requesting the United States Supreme Court Justices to resolve the split in the Eighth Circuit and Third Circuit District Courts, on the element of "USE" of a firearm, 18 U.S.C.§ 924 (c)(1)(A), when the Defendant Mr. Fredrick Burns, was Never in possession or active-employment of a firearm during the arrest by the Omaha Drug Task Force.

Mr. Fredrick Burns was induce to plead guilty on the information count of knowingly USING and CARRYING a FIREARM, during and in relation to a drug-Trafficking crime, and knowingly possessing a firearm in furtherance of a drug-Trafficking crime, in violation of 18 U.S.C.§ 924(c)(1)(A). On the element of "USE" of a firearm, when I was never in possession or active-employment any firearm or Drugs found at the address of 3820 S. 24. Street. When I was arrested by the Omaha Drug Task Force on July 7, 2022. Please review the United States Supreme Court Case, United States V. Bailey, 516 U. S. 137(1995).

In Bailey V. United States, 516 U.S. 137 (1995), the word "Use" of a firearm, under 924(c) means Active-employment of the firearm, such that the term is an operative factor in relation to the predicate offense. Id at 143. The Court found that congress intended Use in the active sense of to avail oneself of Id. at 150. The court noted that It's decisions in Bailey was not inconsistent with Smith.

Instructing that the Active-Employment understanding of "Use" certainly includes Brandishing, Displaying, Bartering, Striking with, and Firing, or Attempting to fire the firearm.

In the Eighth Circuit District Court Case Section 28 U.S.C.§ 2255 Motion case, United States V. Fredrick Burns, case No. 8:22CR272. Mr. Burns Information Charges supports I knowingly USED and CARRYING a Firearm, during and in relation to a Drug-Trafficking Crime, and knowingly possessing a firearm in furtherance of a Drug-Trafficking Crime, in violation of 18 U.S.C.§ 924(c)(1)(A). The attached Appendix D Motion Case, United States V. Fredrick Burns, case No.

2023 U.S. Dist LEXIS 231595, case 8:22CR272, Dated Nov 28, 2023. Pg. No. 3. Supports Mr. Burns arrived at the apartment of 3820 S. 24. St. During the search by the Omaha Drug Task Force, and Mr. Burns Never Lease this apartment, and never entered the apartment during the search, or before the search, on July 7, 2022, and when I was arrested by the Omaha Drug Task Force, I wasn't in possession of any Drugs or Firearm. And the District Judge DENIED my Section 28 U.S.C. § 2255 Motion.

In the Third Circuit United States District Court Case, United States V. Salvatore Dominic Piccolo, case No. 1996 U.S. LEXIS 12601. August 29, 1996, the Honorable Judge Vacated Mr. Piccolo, Section 28 U.S.C. § 2255 Motion, and resentence him without the 18 U.S.C.§ 924(c). Consecutive Sentence of "USE" of a firearm because Mr. Piccolo, Never "USE" the firearm that was supported by the Indictment Count.

Also see case United States V. Hellbusch, 234 F.3d 1050: Oct 16, 2000 8Th. Cir. Also see United States V. Latorre, 193 F.3d. 1035: Sept 15, 1999 8th Cir.).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Frederick Brown

Date: 2/12/ 2026