No. 26-5996

ORIGINAL

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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

HENRY KONAH KOFFIE — 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 NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

HENRY KONAH KOFFIE #69701-066
(Your Name)

USP ATWATER, P.O. BOX 019001
(Address)

ATWATER, CALIFORNIA 95301
(City, State, Zip Code)

CALL THE WARDEN AT THE PRISON HERE
(Phone Number)

QUESTIONS PRESENTED

1. Whether, the lower panel(s) abused their discretion by not reviewing appellant Koffie's constitutional motions ?

   If so, did the United States court of appeals for the ninth circuit err in not reviewing appellants constitutional motions that were filed properly ?

2. Whether, the district court erred in not granting an evidentiary hearing in regards to appellants Franks motion ?

   If so, was appellants forth amendment rights violated once all of the false statements are corrected and material omissions are included ?

3. Whether, the district court and lower panel(s) erred in not granting appellants motion to suppress the Toshiba laptop ? (as the government did not have a search warrant to search the laptop, additionally the laptop was not on the consent to search form).

   If so, did the lower panel(s) and district court err in not ordering suppression and was the appellants fourth amendment rights violated ?

4. Whether, suppression is warranted to appellants search warrant(s) as the ninth circuit has noted that suppression for violation of Rule 41 (f)(1)(c) is required if an appellant/defendant is prejudiced or a deliberate disregard of the rule ?

   If so, did the lower panel(s) and district court err in not ordering the suppression and was the appellants fourth, fifth and six amendment rights violated ?

5. Whether, the district court abuse it's discretion or err by not allowing the appellant to have oral arguments for his post trial motion to dismiss ?

6. Whether, appellant showed prejudice in his (1) Brady claim from the agents witholding the surveillance that contradicts their case and (2) did the appellant show circumstantially or deliberately that two shipments were fabricated against him ?

   If so, did the lower panel(s) and district court err in not reviewing and granting appellants post trial motion to dismiss ?

   Was there a violation to the fifth amendment ?

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LIST OF PARTIES

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LIST OF PARTIES

Lower court docket numbers

U.S. District court for the district of Oregon: NO. 3:17-CR-00291-MO
U.S. Court of appeals for the Ninth Circuit: NO. 23-4199

Judges who entered the decisions below:

U.S. Court of Appeals for the Ninth Circuit (panel)
Judge Owens, Judge Van Dyke, Judge Sung, Circuit Judges

United States Court of Appeals for the Ninth Circuit
James R. Browning
United States Courthouse
95 Seventh Street
San Francisco, CA 94103-1518

Trial Judge (District Court)

Michael Mosman
Mark O. Hatfield United States Courthouse
1000 Southwest Third Avenue
Room 740
Portland, OR 97204-2802

No other parties, intervenors, or amici appeared in the proceedings below, also no stock ticker symbols.

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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.1 to the petition and is

[X] reported at No. 23-4199; or,
[X] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix B.1 to the petition and is

[X] reported at No. 3:17-cr-00291-MO; 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 _____ 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

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

The date on which the United States Court of Appeals decided my case was April 16, 2026.

[ ] 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: July 13, 2026, and a copy of the order denying rehearing appears at Appendix A.1.

[ ] 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

Fourth Amendment

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describe the place to be searched, and the persons or things to be seized.

Fifth Amendment

> No person shall be... deprived of life, liberty, or property, without due process of law.

Sixth Amendment

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

STATUTES

21 U.S.C. § 813

21 U.S.C. § 841 (a)(1)

21 U.S.C. § 841 (b)(1)(C)

OTHERS

5 U.S.C. 552 (Freedom of Information Act)

F.R. Crim P. 41 (f)(1)(C)

STATEMENT OF THE CASE

Henry Koffie was convicted following a jury trial of eight counts charged in a superseding indictment:

- Count 2: Distribution of a controlled substance analogue resulting in serious bodily injury to Jetta Taylor, in violation of 21 U.S.C. § 813 841(a)(1) and (b)(1)(C);

- Count 3: Distribution of a controlled substance resulting in the death of Wallace Curtis, in violation of 21 U.S.C. § 841 (a)(1) and (b)(1)(C);

- Count 4: Distribution of a controlled substance resulting in the death of Andrew Miller, in violation of 21 U.S.C. § 841 (a)(1) and (b)(1)(C);

- Count 5 through 9: Distribution of a controlled substance, in violation of 21 U.S.C. § 841 (a)(1) and (b)(1)(C), for five controlled purchases of furanyl fentanyl.

Those charges arose from furanyl fentanyl sales by two darknet vendors known as DNMKingpin and Narcoboss operating on AlphaBay. Before being shut down in July 2017, AlphaBay was a worldwide online marketplace, similar to eBay, for illegal products and services like drugs, guns, malware, stolen credit card information, and forged documents.

AlphaBay operated on the darknet, also known as the dark web, a portion of the internet that is not accessible through normal browsers but can be reached through "the onion router" (TOR) to hide an individual's IP address. AlphaBay buyer and vendor accounts are anonymous.

Between 2015 and 2017, DNMKingpin and Narcoboss sold a total of 19.5 kilograms of furanyl fentanyl to individual buyers on AlphaBay. The Oregon component of the investigation into those vendors was prompted by two fatal overdoses and one non-fatal overdose, after which a task force consisting of multiple federal and local law enforcement agencies collaborated to investigate who was operating those vendor sites.

Although investigators initially targeted promising suspects between April and June 2017, they quickly pivoted to Koffie as their prime suspect at the end of June 2017 and arrested Koffie on July 5, 2017, just two days before federal authorities seized the AlphaBay server.

Koffie was charged in Oregon federal district court with multiple charges of drug trafficking. The primary issues at trial were whether the government could establish that Koffie was in fact DNMKingpin and/or Narcoboss, and whether the three victims' overdoses were attributable to the furanyl fentanyl purchased on AlphaBay. '

On March 7, 2023, the jury found Koffie guilty of distribution as alleged in counts 2 through 9 and also found that the substances

distributed resulted in the overdose injury and deaths as alleged, triggering mandatory minimum sentences of 20 years on Counts 2, 3, and 4. The district court imposed life sentences for Counts 2, 3, and 4, and 240-month sentences for Counts 5, 6, 7, 8, and 9, all to be served concurrently.

Petitioner appealed to the Ninth Circuit Court of appeals; Movant was granted leave to file a pro se supplemental brief.

Counsel for the petitioner focused on issues pertaining to the Confrontation Clause, the district court erred in denying Koffie's motion to suppress laboratory results from a package seized at the border for six months, the district court erred in denying Koffie's motion for a Franks hearing and the district court abuse of discretion by denying Koffie's motion for attorney participation in voir dire without explanation.

On April 16, 2026, the Court of Appeals for the Ninth Circuit affirmed Petitioner's convictions and sentences; appellate counsel was permitted to withdraw.

Petitioner Koffie then filed a timely Petition for Rehearing and Rehearing en banc, this time asking the Ninth Circuit court of appeals to review his four constitutional motions that contain five separate constitutional issues.

On July 13, 2026, the panel voted to deny the movants petition for panel rehearing and petition for rehearing en banc (as they previously denied the pro se supplemental brief and concluded that the issues in

Koffie's supplemental brief are unpersuasive.) The order also noted that the full court was advised of the Petition for Rehearing En banc and no judge had requested a vote on whether to hear the matter en banc.

This court should vacate Koffie's convictions because of a number of constitutional violations that the district court and the lower panel(s) failed to properly review. The petitioner was not allowed to have pretrial and post trial hearings and his offer of proof prepped by his legal team was never considered, in which prevented the petitioner from receiving proper due process and receiving a fair trial.

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1. The government moved to dismiss Count 1, which charged a drug trafficking conspiracy, before trial.

REASONS FOR GRANTING THE WRIT

During the course of a very lengthy pretrial and post trial phase of the proceedings, the petitioner Henry Koffie through his attorneys filed multiple pretrial as well as a post trial motion with the district court. All of which were denied without proper explanation. Petitioner had three separate attorneys that represented him pretrial.

His first attorney Gerald Needham drafted a franks motion (DKT. 59) but withheld all of the false statements and offer of proof when he drafted the motion. Later, not mentioning these arguments at the hearing. Upon noticing this bad practice of representation, petitioner quickly fired Mr. Needham (DKT. 86).

Petitioner later requested a second attorney and received Ernest Warren as counsel (DKT. 87). Mr. Warren later filed a "revised" motion of the same motion that withheld the false statements and omissions from the affidavit (DKT. 99) and filed a motion to suppress the Toshiba laptop (DKT. 138) but later withdrew as counsel (DKT. 153). Which was granted (DKT. 155).

Finally, the defendant was appointed his third and final attorney Jim Halley. The petitioner finally had an attorney that would file his

motions properly. Previously before that, the petitioner was on pretrial detention for four years without proper representation. Mr. Halley filed multiple pretrial and one post trial motion in violation of the Fourth and Fifth Amendments to the United States Constitution. These motions are included with this petition. Also included are the exhibits that were used in these motions as an offer of proof behind these arguments.

During direct appeal, counsel for the petitioner filed her own appeal brief. The panel of three judges affirmed the petitioners conviction and sentence and in a footnote denied the petitioners request for review of his constitutional motions. Claiming that the issues were unpersuasive. Basically, giving one wholesale decision for five separate constitutional issues. Three months later, that same panel voted to deny the petitioners petition for panel rehearing and petition for rehearing en banc. The order also noted that the full court was advised of the petition for rehearing en banc and no judge had requested a vote on whether to hear the matter en banc. Those rulings are also included with this petition.

Petitioner Koffie is now asking this court to review and reverse the constitutional motions that were filed properly that the district court and lower panel(s) elected not to review. Koffie never received proper pretrial or post trial review or hearings regarding these constitutional motions.

There are four constitutional motions that are included with this petition along with governments responses as well as petitioners exhibits that the petitioner would like this court to review. The first three are pretrial Fourth Amendment motions and the fourth motion is a post trial motion that has two separate Fifth Amendment issues:

1. Document 207, Motion to Controvert the Search Warrant under Franks v. Delaware, 438 U.S. 154 (1978)

2. Document 138, Motion to suppress Toshiba laptop (also see Doc. 139)

3. Document 199, Petitioner Koffie's motion to suppress evidence due to the agents failure to provide him with a copy of the search warrant and supporting affidavit; and due to second entry

4. Document 338, Petitioner Koffie's motion to dismiss

Motion to controvert the search warrant under Franks v. Delaware

The main reason why the district court should've held a Franks hearing regarding this motion is because the arguments and the offer of proof is

substantially different from the first two Franks motions. The petitioners third attorney finally drafted the arguments in regards to the false statements and omissions within the arrest and search warrants that were investigated by the petitioners legal team.

A. The agents omitted that the investigation focused on two others as their prime suspects. This suspicion was raised due to multiple controlled buys while these targets were under surveillance up until June 2, 2017.

B. Evidence that the DOJ and USPS have no records of shipments to Koffie. Agent Ressler's affidavit allege that petitioner received shipments from known fentanyl suppliers to 300 Berbro Street in Darby Pennsylvania. Pursuant to 5 U.S.C. 552 of the Freedom of Information Act, petitioner Koffie and his legal team sent multiple FOIA request to Department of Homeland Security, Department of Justice, United States Postal Services, Customs and Boarder Protection and the Post Master General. Most of these agencies did not respond except the Department of Justice and the United States Postal Service which indicated that they don't have these "records". FOIA's core purpose is to inform citizens about what their government is up to and to check against corruption see, DOJ v. Reporters Comm. For Freedom of Press, 489 U.S. 749, 773, 109 S.CT 1468, 103 L.ED.2d 774 (1989); John Doe Agency v. John Doe Corp, 493 U.S. 146, 152, 110 S.CT 471, 107 L.Ed.2d 462 (1989). These FOIA request were done to raise a substantial question of law or fact of the authenticity and chain of custody of the purported shipping records disclosed by HSI in paragraphs 48-62.

C. Coinbase records.

Agents claimed that the account was closed due to receiving bitcoins from Alphabay. That's actually a false statement by agent Ressler. The closure was actually neutral. Petitioner has an email that is included with this petition. Second, the affidavit states that the closure happened September 28, 2016, that is long before the greater majority of the shipping labels that were purchased and shipped (including the two overdoses and non fatal overdose) in this case that were shipped after September 28, 2016 into July 5, 2017. That along with the petitioners surveillance results gives the conclusive presumption that NarcoBoss was someone else.

D. Surveillance.

Agents withheld the overwhelming majority of petitioners surveillance from the defense in discovery and omitted the results in the search warrants. Agents withheld the surveillance and the duration of the surveillance and later revealed that the petitioner was under surveillance for up to three weeks before his July 5, 2017 arrest date. Agents testified that the purpose of the surveillance was to see if the petitioner and another suspect was mailing packages. Every agent that testified admitted that the petitioner was never seen mailing any packages. This is omitted from the affidavit.

E. Email Gettheyayo8@safe-mail.net

The agents actually know that the petitioner has zero connection to that email. The Coinbase closure was sent to hkoffie@gmail.com. Additionally, there is no authenticated evidence showing the evidential

mark of the control person(s) of email user Gettheyayo8@safe-mail.net.

F. Omissions and false statement of employment and false statement of the meeting with Nassim Haouam.

Agents claimed that petitioner Koffie was unemployed but gave testimony that the petitioner routinely left his home at 10 a.m. every morning while under surveillance. The surveillance actually would've revealed that the petitioner engaged in legitimate work for 10-12 hours per day for five, sometimes six days a week. Paragraph 83 speaks on employment records but omits where the agents followed petitioner Koffie to as he left his home at 10 a.m. every morning.

The meeting with Hoauam was another false statement as Hoauam was given paperwork and the key that Koffie was seen leaving Home Depot with moments earlier, while being surveilled. The transaction was NOT a drug deal as falsely stated by agent Ressler in his search warrant affidavit. This is the only day of the three weeks of surveillance that agent Ressler mentions in his affidavit and it was a false statement that misled the magistrate that signed the search warrant. Additionally, at (DKT. 228) there was never a hearing for this motion. Judge Mosman only wanted petitioners landlord and agent Ressler to testify to get clarification on why the second entry into the petitioners apartment was done after the execution of the search warrant. All of this would've been exposed pretrial but the motion to controvert was denied without a hearing or explanation. For these reasons, the petitioner is asking this court to review and reverse the district courts and the lower panel(s) denial of this motion.

Motion to suppress Toshiba laptop

Despite the lack of probable cause to search petitioners Berbro Street or Walnut Street address once all of the false statements are excised and the material omissions are added to agent Ressler's search warrant affidavit (noted above) probable cause to search the Toshiba laptop was minimal. Petitioner's lifestyle during the June 14, 2017-June 21, 2017 controlled buy dates while under surveillance contradicted the entire case. The agents actually testified to that as well. Plus, the agents never had a warrant for that computer or consent to search, in violation of the Fourth Amendment.

Motion to suppress evidence due to the agents failure to provide him a copy of the search warrant and supporting affidavit: and due to second entry.

There is multiple pretrial and trial transcripts that confirm that agents staged a car accident or (created a rouse) to lure the petitioner out of his house at Walnut Street, later driving him away from his residence while the search was being conducted.

There was a disregard to rule 41 that prejudiced the petitioner in this case. Koffie was not sure what was going on was lawful. Agents kept Koffie in the dark about what was going on. Later, forcing him to waive his Miranda rights.

If you read this motion and rule 41, it's clear that the district and lower panel(s) abused their discretion in not properly ruling and ordering suppression and/or reversing at the appeals level. The Ninth Circuit went against their own precedent as far as why suppression is warranted when there is a violation to rule 41.

Simply put, surveillance tells a story and the surveillance in this case is material. What makes the surveillance of the petitioner material in this case is:

1. Petitioner Koffie's lifestyle and conduct during the up to three weeks of surveillance as petitioner was never seen mailing a single package (as testified by multiple federal agents). Specifically and especially petitioners conduct during the controlled buy dates (June 14, 2017-June 21, 2017). Surveillance that contradicts a darkweb case drastically changes the outcome of the proceedings whether it's probable cause, exculpatory or impeaching. The surveillance in this case is all of the above.

2. Petitioner Koffie's employment:

As noted above, agents claimed that Koffie was unemployed. Paragraph 83 of the search warrant briefly mentions employment records. The problem with the governments allegations is that the agents gave testimony that petitioner Koffie routinely left his house every morning at 10 a.m.. The government is also suppressing the surveillance because what they were reporting was false. The surveillance or notes, would've shown WHERE the petitioner routinely goes every morning. It shows Koffie going to an industrial area outside of Philadelphia and working 10-12 hours per day for 5-6 days per week, which all together disqualifies him as an active darkweb dealer.

Fabrication of evidence

The third reason that makes the surveillance material and a separate Fifth Amendment issue in this motion to dismiss is the fabrication of two drug packages that the agents associated a half kilogram of fentanyl to.

Agents allege that they found a box with a portion of a green Chinese shipping label attached (Def. ex Q) to the box at petitioner's Walnut Street address (Def. ex M). Agents also allege that they found two partial shipping labels. None of which obviously belonged to the box that was allegedly found at Koffie's Walnut Street address, as the box has a partial label, while the two labels are full and in tact. Agents claimed that these labels were addressed to Koffie at a Colgate Street address, an address which is 35 minutes away from the petitioner's Walnut Street address. Agents also submitted a report indicating that Koffie's Toshiba laptop was allegedly used to track both of the shipping labels allegedly found at Koffie's apartment. In a report, agents allege that the Toshiba laptop was used on June 29, 2017 and July 3, 2017 to track these parcels (Def. ex P-015, discovery bates Koffie_0012228).

In the same report, agents associated 500 grams of fentanyl that they allege was found at Koffie's Walnut Street residence to these two parcels.

As stated in the motion to dismiss, there was no way possible that petitioner Koffie could have and did not pick up any packages at all:

1. According to discovery, pretrial and trial testimony, petitioner Koffie's surveillance included:

A. Koffie's cell phone location being tracked as well as his phone calls.

B. Surveillance also included rolling surveillance of agents following Koffie in separate vehicles for up to three weeks and;

C. A helicopter or drone following Koffie, having an ariel view of Koffie while being surveilled.

2. None of the affidavits in this case contain anything of Koffie personally sending or receiving one single parcel or package(s).

3. This motion also includes a sworn declaration from Customs and Boarder Protection confirming that there "were no hits" or (two separate shipments) to Colgate Street addressed to petitioner Koffie.

4. Agents gave pretrial and trial testimony that they never saw Koffie send or receive a single package. Pertaining to this issue, Koffie definitely did not receive two separate packages associated with 500 grams of fentanyl. Koffie's surveillance was too extensive. Agents would have seen him receive two packages at the Colgate Street address and drive it 35 minutes away to the Walnut Street address while being surveilled. The 500 grams of fentanyl was shown to the jury at Koffie's trial and appeared for the first time in discovery during the drafting of petitioner's bank account search warrant.

5. Agents allege that Koffie's computer was tracking these two packages on June 29, 2017 and July 3, 2017, which is actually the time frame that Koffie was under close surveillance prior to his arrest. July 4 is a federal holiday, making it impossible for Koffie to receive mail on that day and

July 5, 2017 is Koffie's arrest date in which Koffie's apartment was surrounded before the agents created a ruse to lure him out of his apartment, making it impossible for the petitioner to retrieve two drug packages.

In the government's response to this motion, the government basically argued around all of the main points pertaining to these two Fifth Amendment issues of this motion.

Overall, whether it's probable cause or a Brady issue, surveillance is undisputed and it tells a story. Had the full scope of the surveillance would've been revealed, it would've shifted probable cause and would've proven to be exculpatory, impeaching and would've exposed that Koffie was actually employed (as falsely stated by the agents in this case). The surveillance would've also revealed that Koffie did not receive two packages containing 500 grams of fentanyl close to his arrest date.

In addition to the material false statements and omissions used, agents withheld surveillance which allowed them to create and attempt to control their own false narrative, contradicted themselves at the end of their case and never explained why they never wanted to record or show any surveillance notes. Plus, the motion to dismiss was denied without oral arguments as well. The district court erred in denying this motion as well and the lower panel(s) erred in not reviewing these constitutional motions at all. The cases that are cited in the table of authorities are the cases that are cited in the four motions that petitioner is asking this court to review.

Conclusion

For all of the forgoing reasons, it is respectfully requested that this petition for a writ of certiorari should be granted and this court vacate, review and reverse the denial of these constitutional motions with consideration for the lower courts.

Respectfully submitted,

Henry Kofkie

Date: September 24, 2026