

No. 1000000

COMMONWEALTH OF VA.

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN K. D. WATSON — PETITIONER
(Your Name)

vs.

COMMONWEALTH OF Va. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURTS OF APPEALS 1100 E. MAIN ST. SUITE 501 (4TH CIR.) RICHMOND, Va.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) 23219

PETITION FOR WRIT OF CERTIORARI

JOHN K. D. WATSON #1105195
(Your Name)

P.O. Box 1900
(Address)

POUND, Va. 24279
(City, State, Zip Code)

276-796-7510
(Phone Number)

QUESTION(S) PRESENTED

- 1) IN THIS CASE, THE GUILTY PLEA WAS NOT ONLY INCOMPREHENSIVE, BUT COERCE AND MADE THROUGH DURESS BY RELYING ON ~~gross~~ GROSSLY MISINFORMATION BY COUNSEL. I WOULD LIKE THE COURTS TO REVIEW THE CIRCUMSTANCES BEFORE THE GUILTY PLEA WAS IMPOSED.
- 2) HOW COULD A DEFENDANT WITH A RECORDED CASE OF LEARNING DISABILITY (L.D.) FULLY COMPREHEND THE TOTALITY OF THE CONSEQUENCES OF A GUILTY PLEA WITHOUT ALLOCATION, ~~the~~ ASSISTANCE OF COUNSEL OR A PROPER COLLOQUY FROM A TRIAL JUDGE?
- 3) I WOULD LIKE THE COURTS TO REVIEW ANY KNOWN POSSIBILITIES OF A "UNKNOWN INDIVIDUAL" THAT WOULD HAVE SUPPORTED THE EVIDENCE AND SUGGESTION OF THE COMMONWEALTH'S FINDINGS.
- 4) FINALLY, IF THE COURTS COULD BE SO KIND TO REVIEW THE FACTUAL EVIDENCE (D.N.A, FINGER PRINTS, FOOTPRINTS ECT.) IN THIS CASE THAT IS ABSOLUTELY NOT A MATCH TO THE APPLICANT.

*APPEALS COURT DID NOT CONSIDER HOW ABUNDANTLY COUNSEL MISINFORMATION EFFECTED APPELLANTS ACTIONS BEFORE AND AFTER SENTENCING. THE HEAVY DISREGARD OF FACTUAL EVIDENCE THAT COULD HAVE PROVIDED AN ALTERNATIVE OUTCOME. DUE PROCESS REQUIRES THAT THE DEFENDANT FULLY UNDERSTAND THE FULL CONSEQUENCES OF A PLEA OF GUILTY BEFORE IT CAN BE ACCEPTED. I EMPLOY THE REVIEW OF THIS CASE ~~TO~~ RECONSIDER THE RECORDED RECORDS OF A LEARNING DISABILITY BY THE DEFENDANT. THAT A FORMALITY RITUAL COLLOQUY COULD NOT BE SUCCESSFUL WHEN PRESENTED TO A DEFENDANT WHO IS FACTUALLY SLOW IN COMPREHENSION.

LIST OF PARTIES

- ☒ 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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TABLE OF AUTHORITIES CITED

CASES

CASES	PAGE NUMBER
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2) FOWLER-CORNWELL V. UNITED STATES, 159 F. Supp. 2d (N.D.W.Va. 2001)	ATT. 1(A) Pg. 3
3) LAFLER V. COOPER, 132 S.Ct. 1376 (U.S. 2012)	ATT. 1(A) Pg. 3
4) MCCARTHY V. U.S., 89 S.Ct. 1166, 394 U.S. 459 (U.S. Ill. 1969)	ATT. 1(B) Pg. 4
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STATUTES AND RULES

28 U.S.C. § 2254
 STATUTE OF LIMITATIONS (EXCEEDED (1) YR.) W/ NO EQUITABLE TOLLING (TONE BARRED).

28 U.S.C. § 2244(d)(1)(A)-(D) Va. CODE § 77.
 Va. CODE § 76. (DELIBERATE BYPASS RULE) (PROCEDURAL DEFAULT AFTER JUDGMENT) CHAP. 6
 Va. CODE § 102 (GUILTY PLEA CASES) (COLLATERAL PROCEEDINGS ~~CHAP. 7~~)

* Rule 32(d)
 (of the Federal Rules of Criminal Procedure) - SEE § 107 infra.
 Rule 11, 18 U.S.C.A.; 26 U.S.C.A. (I.R.C. 1954) § 7201.

OTHER

Va. CODE § 9.01-428 (B)(D)
 Va. CODE §
 Rule 1:1

JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was April 3, 2018.

☐ 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: 12-4-17, and a copy of the order denying rehearing appears at Appendix A.

☐ 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 8-9-17. A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 8-9-17, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

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 _____ to the petition and is

- ☐ reported at _____; 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 A 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 COURT OF APPEALS 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.

STATEMENT OF THE CASE

Appellant JOHN K. WATSON respectfully moves that the court set aside the judgment in his favor and offer the opportunity to plead a new for the grounds stated as followed:

1) THE ACCEPTANCE OF THE GUILTY PLEA BY THE TRIAL JUDGE IS CONTRARY TO THE LAW IN RESPECT OF THE PROPER COLLOQUY WITHOUT A DISCUSSION/DETAILS OF APPELLANTS UNDERSTANDING OF HIS RIGHTS, COURT PROCEEDINGS, AND CONSEQUENCE. 2) THAT COUNSEL DID NOT ATTEMPT TO PREPARE A CREDITABLE DEFENSE BASE ON THE LACK OF PHYSICAL EVIDENCE AND SUPPORTING WITNESSES. INSTEAD PROVIDED MISINFORMATION AND COERCE APPELLANT NUMEROUS TIMES TO ABANDON HIS ~~OR~~ NOT GUILTY PLEA AND PLEAD GUILTY FOR A LESSER CONVICTION. WHEN APPELLANT INQUIRED TO COUNSEL IF HE COULD WITHDRAW HIS PLEA OF GUILTY BEFORE SENTENCING BASE ON LACK OF (NO) PHYSICAL EVIDENCE AND CONTROVERSY WITNESS STATEMENT AND A TAINTED PHOTO LINE UP, COUNSEL INFORMED APPELLANT THAT IT WAS TOO LATE AND NOT NECESSARY TO FILE A MOTION TO WITHDRAW, WHICH IS CONTRARY TO VA. CODE § 19.2-296. SEE. JONES V. COMM. 29.Va. App. 503, 513 S.E.2d 431 (1999) THE APPELLANT WAS DENIED THAT OPPORTUNITY BY ~~THE~~ COUNSEL TO WITHDRAW HIS GUILTY PLEA, IT IS THE DISCRETION OF THE TRIAL JUDGE TO DETERMINE THE FACTS AND CIRCUMSTANCES OF EACH WITHDRAWAL.

GENERALLY A WITHDRAWAL OF GUILTY SHOULD NOT BE DENIED IN ANY CASE WHERE IT IS ANY EVIDENCE THAT MAY END A ACQUITTAL. 3) THE DEMANDS OF THE CONSTITUTION, AS ENVISAGED BY LAW HAVE MOVED FEDERAL AND STATE COURTS TO ACKNOWLEDGE THAT DUE PROCESS REQUIRES CORRECTIVE JUDICIAL PROCESS IN THE NATURE OF A CERTIORARI BE AVAILABLE TO REVIEW A PARTICULAR CASE FROM AN INFERIOR JUDICIAL BODY. WHEN THERE ARE NO AVAILABLE RELIEFS AND ALL OTHER AVENUES ARE NON-EXISTANT A REVIEW OF THE IMPORTANCE OF THE DETAILS, NOT WITHSTANDING THE STATUTE OF LIMITATIONS. SEE, DICKET V. LEGERWOOD U.S. 7 PET 144, 147 & LEO 638, 639, APPELLANT STATUTES IS IN SIMPLE ~~OR~~ AMBIGUOUS LANGUAGE AND SHOULD BE READ TO BE WHAT IT STATES. IT DOES NOT PROVIDE THAT IT MAY BE USED TO OBTAIN ANYTHING LESS THAN A NEW TRIAL AND IF IT'S PROVISIONS SHOULD BE OPEN FOR INTERPRETATION THE COURTS WOULD ALLOW A NEW PLEA BY THE APPELLANT.

4) APPELLANT HAS A PRE HISTORY OF A LEARNING DISABILITY (REPORTED BY DR. MARTHA V. MULLEN, A SCHOOL COUNSELING SPECIALIST) THAT REPORTED THE APPELLANT HAS A PROBLEM WITH COMPREHENDING COMPLEXTION CONCEPTS. ALSO, THIS WAS KNOWN BY BOTH APPOINTED COUNSELS BEFORE TRIAL WHEN THE APPELLANT WAS INTERVIEWED BY COURT ASIGNED MITIGATION EXPERT, DR. DELORES DUNN-ANDERSON. SO THE APPELLANT COULD NOT

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

19.2-296, WITHDRAWAL OF PLEA OF GUILTY - A MOTION TO WITHDRAW A PLEA OF GUILTY OR NOLU CONTENDERE MAY BE MADE ONLY BEFORE SENTENCE IS IMPOSED OR IMPOSITION OF A SENTENCE IS SUSPENDED; BUT TO CORRECT MANIFEST INJUSTICE, THE COURT WITHIN 21 DAYS AFTER ENTRY OF A FINAL ORDER MAY SET ASIDE THE JUDGMENT OF CONVICTION AND PERMIT THE DEFENDANT TO WITHDRAW HIS PLEA. (1975, C. 495.) ALSO: SEE, VA. CODE § 19.2-254, VA. RULES OF COURT 3A: 8(b) AND VA. CODE § 19.1-229, PROVIDES THAT A COURTROOM DETERMINATION IS OPTIONAL, STATE PROCEDURES MUST BE ADEQUATE TO PROTECT THIS RIGHT NOT TO BE TRIED WHILE INCOMPETENT. WHEN A ADEQUATE SHOWING HAS BEEN MADE TO RAISE THE ISSUE, THE TRIAL COURT SHOULD ORDER A HEARING *SUA SPONTE*, AND THE ISSUE CANNOT BE DECIDED SOLELY ON THE BASIS OF REPORTS OF MEDICAL CONCLUSIONS.

• § 2244(d)(2) pg. 24

• VA. CODE § 8.01-428 SUBD. (D) pg. 31

STATEMENT OF THE CASE

- INTELLIGENTLY CHANGE HIS PLEA FROM NOT GUILTY INTO GUILTY WITHOUT BEING PROPERLY QUESTIONED EXTENSIVELY TO ~~AND~~ SATISFY THE COURT'S PROCEDURE ON COLLOQUY. THROUGH DURESS, PERSUASION, MISINFORMATION OR MANIPULATION BY LEADING COUNSEL THE APPELLANT RELIED UPON FALSE FACTS AND ABANDON HIS NOT GUILTY PLEA ORIGINALLY MADE. IN *McMANN V. RICHARDSON*, THE SUPREME COURT HELD THAT A DEFENDANT WHO ALLEGES THAT HE PLEADED GUILTY BECAUSE OF A PRIOR ~~COERCED~~ COERCED CONFESSION IS ENTITLED TO A HEARING ON HIS PETITION (397 U.S. @ 771.) THE EXTENSION REQUIRED BY LAW IS THE FOREGOING LANGUAGE IS AN ALLEGATION THAT THE PRISONER WAS SO INCOMPETENTLY ADVISED BY HIS COUNSEL THAT HE DESERVES AT THE LOWEST A REHEARING CONCERNING HIS GUILTY PLEA. THAT THE PLEA IS RENDERED AN UNINTELLIGENT ACT. THE COURTS REQUIRES THAT THE DEFENDANT ENTERS HIS PLEA "KNOWINGLY (HAVING KNOWLEDGE OF HIS CRIME)²⁾ VOLUNTARY (PROCEEDING FROM ONE'S OWN FREE CHOICE OR CONSENT RATHER THAN AS THE RESULT OF DURESS, COERCION, OR DECEPTION) AND³⁾ INTELLIGENTLY (HAVING A HIGH SATISFACTORY DEGREE OF INTELLIGENCE AND MENTAL CAPACITY) ALL THREE ELEMENTS MUST EXIST BY LAW WITHOUT EXCEPTIONS. IT IS NOT POSSIBLE FOR THE APPELLANT THAT SUFFERS FROM A LEARNING DISABILITY TO REMOTELY FULLY UNDERSTAND, ~~AND~~ VOLUNTEER GUILT, AND INTELLIGENTLY COMPREHEND HIS ACTIONS WITHOUT COUNSEL'S ADVISORY OR THE TRIAL JUDGES BEING ASCERTAINABLE COLLOQUY. SEE, *MASON V. COMM.* 14 Va. App. 409 (1992) - THE COURTS SHOULD NOT ACCEPT A

PLEA OF GUILTY WITHOUT THE DEFENDANT'S VOLUNTARY CONSENT AND FULL UNDERSTANDING OF THE RAMIFICATIONS OF HIS PLEA. SEE, SUREBAS V. LA'VALLEE (1978) CA2NY 570 F2d 1092, 1118-1119 CERT DEN 439 U.S. 915, 58 L.Ed 2d 266, 99, S.Ct. 290, MAKING IT PLAIN THAT A PLEA ENTERED UPON ~~BY~~ A FLAWLESS RECORD MAY BE INVALID IF THE DEFENDANT IS LATER SHOWN TO HAVE BEEN INCOMPETENT AT THE TIME.

WHEREFORE APPELLANT, MOVES THIS COURT TO REVIEW THE RECORDS AND MENTAL HISTORY TO SET ASIDE THIS CONVICTION AND ALLOW THE PETITIONER TO PLEAD A NEW.

John F. Watson?

REASONS FOR GRANTING THE PETITION

THE APPELLANT COULD NOT IN GOOD FAITH RAISE THESE ISSUES @ THE TIME OF TRIAL OR OTHERWISE AFTER JUDGMENT BECAUSE THE APPELLANT WAS GROSSLY MISLEAD AND COERCED BY HIS ATTORNEYS AND ALSO APPELLANT SUFFERED FROM A LEARNING DISABILITY OF SLOW IN COMPREHENDING COMPLICATED CONCEPTS.

ANY PLEA OF GUILTY WHICH IS THE TAINTED PRODUCT OF IGNORANCE, INCOMPREHENSION COERCION, INDUCEMENTS, THREATS, OR PROMISES ARE VOID. THE APPELLANT IS ~~BE~~ SUBJECTED TO COLLATERAL PROCEEDINGS OF (3) THREE VOIDABLE ACTIONS, (INCOMPREHENSION, COERCION, AND INDUCEMENT). HOW COULD THE APPELLANT RAISE THESE ISSUES BEFORE HE WAS AWARE OF THE VOIDABLE ACTION IF

COUNSEL COMMITTED EXTRINSIC FRAUD BY PROVIDING MISINFORMATION ON, WITHDRAWAL OF GUILTY PLEA AND ANY POST-CONVICTION RELIEF OPPORTUNITIES? IT WOULD BE UNCONSTITUTIONAL TO SUBJECT THE APPELLANT TO PUNISHMENT FOR HIS LACK OF INTELLIGENT, 2-3) APPELLANT SUFFERED FROM A LEARNING DISABILITY, NOTED (KNOWN) ~~BY BOTH COUNSELS~~ BY BOTH COUNSELS AND LACKED SUFFICIENT ABILITY TO EASILY COMPREHEND IN A REASONABLE DEGREE OF RATIONAL UNDERSTANDING. BOTH COUNSELS TOOK FULL ADVANTAGE OF THAT FACT AND SUPPLIED APPELLANT WITH ~~MISINFORMATION~~ MISINFORMATION ABOUT ~~EXISTING EVIDENCE~~ EXISTING EVIDENCE, A GUARANTEED DEATH SENTENCE IF FOUND GUILTY AND ~~IMPLIED~~ IMPLIED THAT ABANDONMENT OF THE ORIGINAL NOT GUILTY PLEA AND ENTERING A GUILTY PLEA HASTILY WOULD RESULT IN A SENTENCE OF NO MORE THAN 30-40 YEARS IMPRISONMENT. A MISTAKE OF FACT IN THE ACTUAL RESULTS, COUNSELS COMMITTED EXTRINSIC FRAUD EITHER BY MISTAKE OR BLATANTLY. THIS COURT SHOULD RESPECTFULLY

GRANT THIS PETITION TO MANIFEST ANY POSSIBLE INJUSTICE, TO SAFEGUARD THE FUNDAMENTAL FAIRNESS OF THIS CASE, ~~BECAUSE~~ A GUILTY PLEA CANNOT BE TRULY VOLUNTARY UNLESS DEFENDANT POSSESSES AN UNDERSTANDING OF LAW IN RELATION TO THE FACTS, AND ALSO; DUE PROCESS REQUIRES THAT DEFENDANT FULLY UNDERSTAND THE FULL CONSEQUENCES OF A PLEA OF GUILTY BEFORE IT CAN BE ACCEPTED. UNDER THE CIRCUMSTANCES OF LEARNING DISABILITY ~~(SLOW INCOMPREHENSION)~~ MISINFORMATION BY COUNSEL (EXTRINSIC FRAUD) AND A ~~POORLY CONSTRUCTED~~ POORLY CONSTRUCTED COLLOQUY (ERROR) THE ACCEPTANCE OF THIS PLEA OF GUILTY SHOULD BE SET ASIDE AND ALLOWED TO PLEAD A NEW.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

John K. Watson

Date: JUNE 27, 18