

No. _____

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IN THE

SUPREME COURT OF THE UNITED STATES

Robert Loughner — PETITIONER

(Your Name)

VS.

Harold W. Clarke — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of Virginia

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

PETITION FOR WRIT OF CERTIORARI

Robert Loughner

(Your Name)

P.O Box 129

(Address)

Haynesville VA 22472

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Did the Virginia Supreme Court error when it denied petitioners writ of Habeas Corpus alliging ineffective assistance of counsel where petitioner's attorney was wholly negligent to such an extent.

That had it not been for such negligence the outcome of petitioner's trial would have been different.

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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CASES

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STATUTES AND RULES

OTHER

U.S Constitution - 6th Amendment

Right to effective Counsel

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 is unpublished.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 is unpublished.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 is unpublished.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 _____ 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 is unpublished.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 _____.

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: _____, 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. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was 11-17-17. A copy of that decision appears at Appendix A.

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

4th and 14th amendment to the U.S Constitution
Petitioner's due process rights have been violated
by the Virginia Supreme Court and by the ineffective
assistance of counsel at Petitioner's Criminal
trial.

6th Amendment to the U.S Constitutional
on that petitioners was denied effective
assistance of counsel.

STATEMENT OF THE CASE

Petitioner filed with the VA Supreme Court
a petition for Writ of Habeas Corpus which
was denied on 6-14-18.

REASONS FOR GRANTING THE PETITION

See attached

Reasons for Granting the Petition

①

I was sentenced on June 17, 2016, by Stafford County Circuit Court on my second probation violation. I was ordered to serve the rest of my suspended sentence, which was six years.

After the Judge sentenced me, I asked my court appointed attorney, Marcel Jones if I could appeal the Judge's sentence. Mr. Jones told me no, I could not. The inmate who went in after me for his second probation violation told me at the end of his hearing they asked him if he wanted to appeal the Judge's decision on his sentence and to sign a paper saying that he did or didn't want to appeal.

So then I called the public Defenders office and Mrs. Brenda Malinack had me call her back. She then tells me that I can appeal and she didn't know why Mr. Jones would tell me that I couldn't. She also told me that I had to file a notice of appeal with the Courts. I did that and also asked the court to appoint me counsel. The court appointed Mr. Jones to represent me on my appeal. Which I didn't want. Mr. Jones back,

Mr. Jones put my appeal together and sent it to Mrs. McCoy at the Court of Appeals of Virginia on October 18, 2016.

Mr. Jones was still appointed to me during the appeal process. He filed a motion to withdraw from my appeal. He did not have contact with me from the middle of December 2016 up until the day after my appeal was denied on May 4th 2017. That is also the day I finally heard back from him and that was after I sent a complaint to the Virginia State Bar.

I had sent him letter after letter because I had two more issues I wanted to add to the appeal. He ignored me for five and a half months, during that time he did not respond to anything. I tried to contact him

(2)

another attorney tried to contact him, my Dad left many messages and I tried to call but his office didn't have money on their phone line and did not accept my calls.

So, I called the Public Defender's office again and the head of there office, Mr. Baraford wrote me and told me he left a message for Mr. Jones to call me that was on February 2nd, 2017, still no response from Mr. Jones I called Mr. Baraford again and he wrote me back and told me that he was not my attorney and that I should speak with Mr. Jones. I tried to get in contact with him for months.

After

After not hearing from Mr. Jones, I sent a letter to the V.A state Bar to file a complaint against Mr. Jones. The state bar wrote me back in March and told me that they were trying to get in contact with Mr. Jones also and he did not contact them and they had to send another letter to him. Mr. Jones did get in contact with them soon after they sent the second letter. The Bar told him that they would not close the file and they were going to turn it over to Prescott Prince for further investigation.

Than Mr. Jones finally sent me a letter lying to me. He told me that he went to the local jail to see me and found out I had been transferred to Haynesville i.D.O.C. The reason I said he lied is because I sent him a letter the day after I got to Haynesville. His assistant sent me a copy of my case file that I received on April 10th 2016. So why would he not know where I was. I sent him a letter in March and I know he received it or his assistant would tell him

(3)

Mr. Jones sent me a letter and informed that he would be coming to see me and that was only because I filed a complaint against him with The V.A State Bar. Mr. Jones only did that to get the State Bar to stop there investigation and get them to leave him alone about my complaint. And of course they did. I still have not heard from him since he got them to leave him alone and that was June 2nd 2017.

4

Exhibit 1 I then took it upon myself and sent my appeal to the Virginia Supreme Court. In Mr. Jones's letter to me and the VA State Bar, It said that Mrs. Herrington of the V.A Supreme Court called him and asked him if he wanted to accept appointment to represent me in their Court. Mr. Jones told them that there was an inquiry with the V.A Bar, therefore he was not sure if he could accept. He then tells me that the Court had not made a final decision of whether to appoint him on my appeal. He Said he would keep me posted on their decision. I have not heard back from Mr. Jones at this present time.

5

2³ I then wrote the Supreme Court and Mr. Jones and I never heard from Mr. Jones but I heard from Mr. Robelon and I then asked him why the Court did not contact me about appointment of Counsel. He told me that I did not ask to be appointed Counsel. I then ask for appointment of Counsel and was denied. Then my appeal was dismissed because I did not know I had to file another notice to appeal.

6

Since Mr. Jones did not keep me posted like he said he would, my appeal got denied because my appeal was not perfected because I failed to file a notice of appeal. If Mr. Jones and Mrs. Herrington were in contact with each other, she would Mrs. Herrington contact him

(9)

and not tell him that my appeal was going to be denied anyway because I didn't file a notice. Thanks to the both of them my appeal was dismissed and because of the deadline I can not refile. Why would the court inquire and speak to Mr. Jones when the court seen that I did not file the notice and the court was going to deny it anyway.

Code 19.2-157, when considered with Code 19.2-326, provides an indigent with a statutory right to court appointed counsel at both appellate levels. The failure to appoint counsel to assist an indigent defendant in making an appeal from a conviction is a denial of equal protection and due process guaranteed to him under the Federal Constitution and in both states. I was denied the right to counsel for my appeal when it was sent to the Supreme Court.

4 A letter I received not long after I sent a complaint to the VA State Bar. The letter is from Mr. Jones's legal assistant Robin Justice sent to me at the end of March. Why would Mrs. Justice know about my address change as of March 31st 2017 and Mr. Jones not find out until a week before May 3rd 2017. The change of address letter I sent to Marcel Jones not Mrs. Justice. So he should of read the letter before her. Therefore I find it very hard to believe that Mr. Jones's letter dated May 3rd 2017 that he didn't know where I was.

I even warned him in one of the letters that I sent him. I told him that I had been advised to file a complaint with the State Bar, but I didn't want to. He still hadn't contacted me, so I sent a complaint.

5 Also on the day of my sentencing the Commonwealth made it look like I had committed 25 felonies. I had 9 duplicate violation charges and the Commonwealth attorney told the Judge I had 26 felony convictions and he was thinking 28 if you add the 9 duplicate charges in King George. King George said that I had 9 probation

(5)

violations. When it really was only my second violations, I told Mr. Jones about this mistake and he did not address the duplicate violation's or correct them.

Count 1: Ineffective assistance

Negligence: Mr. Jones misinformed me from the begining of my appeal, by telling me I could not appeal.

Prejudice: If he wanted to do my appeal instead of lie to me and tell me I could not file one then the outcome of my appeal may have been different.

Count 2: Ineffective assistance.

Negligence: Mr. Jones was still appointed to me during my appeal process but he would not answer letters, phone calls or any other way I tried to contact him. Didn't hear from him until after appeal was denied.

Prejudice: If he would of stayed in contact with me and added the other two issues to my appeal that I wanted to add my appeal may of had a different result.

Count 3: Ineffective assistance.

Negligence: Mr. Jones lied to me a lot and misled me to take plea deals by lying and not inform me of certain things about my case's. My case had merit and would have been better served by going to trial.

Prejudice: Should of took my cases to trial if I could of trusted my attorney and case may have had different outcome. With out it my case should have been tried except my attorney forced a plea agreement.

Count 4: Ineffective assistance

Negligence: Mr. Jones was asked by Mrs. Herrington of the

Virginia Supreme Court called him and asked him if he wanted to represent me on my appeal that I sent to her. Mr. Jones told her that I had made an inquiry with the state bar therefore he was not sure he could accept.

Prejudice: He told me that he would keep me informed of what their decision would be. I did not hear back from him. I then get a letter telling me my appeal had been dismissed because I failed to file notice of appeal with the Supreme Court. If Mr. Jones would of kept me informed like he said my appeal may have not been dismissed and ended up with a different outcome.

Count 5: Ineffective assistance

Negligence: Since Mr. Jones did not stay in contact with me I was denied Counsel.

Prejudice: If I would of been appointed Counsel outcome may have been different. Since my attorney failed to communicate with me, I was unable to aid in my defense.

Count 6: Ineffective assistance.

Negligence: Because I did not have Counsel my appeal got denied because my appeal was not perfected.

Prejudice: Once again Mr. Jones negligence led to my appeal being denied. Since my attorney missed a deadline I was denied an appeal.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert Loughner

Date: 7-20-18