

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

RANDALL B. CAUSEY — PETITIONER
(Your Name)

vs.

THE UNITED STATES — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Seventh Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RANDALL B. CAUSEY
(Your Name)

United States Penitentiary, P.O. Box 1000
(Address)

Marion, Illinois 62959
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Whether Equitable Tolling applies to Federal Rules Of Appellate Procedure 4(a)(5) when the Petitioner was incapacitated due to a medical condition?

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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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 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☒ is unpublished.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 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,
☒ is unpublished.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☐ is unpublished.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☐ is unpublished.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 October 2, 2017.

☐ 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: February 1, 2018, 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 _____.
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 5

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT 6

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 defence.

Federal Rules of Appellate Procedure 4(a)(5)(A)

5(A) The District court may extend the time to file a notice of appeal if:

(i) A party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and

(ii) regardless of whether its motion is filed before or during the 30 days after the time prescribed by this Rule 4(a) expires, that party shows excusable neglect or good cause.

STATEMENT OF THE CASE

On June 10, 2016 Causey filed a timely Motion pursuant to 28 U.S.C. §2255. Causey alleged that his Counsel was ineffective for failing to present a witness as an "expert" that was promised to the jury. Causey also stated that the unfulfilled promise of expert testimony was the sole reason he forewent trial. On May 3, 2016 Causey was diagnosed with a severe brain tumor that was against his optic nerve. The brain tumor caused severe headaches, the inability to see and process information, and difficulty articulating the petitioner's words. Causey notified the Court on August 22, 2016.

Due to Causey's severe medical condition, he was unable to file a Notice of Appeal of the District Court's June 13, 2016 Order denying his §2255 until January 13, 2017. Causey was also housed in the Special Housing Unit during this time with limited access to inmates to help him understand and comprehend the appeal process.

On December 31, 2016 Causey had brain surgery to remove the brain tumor. He was in the Intensive Care Unit until January 8, 2017. Immediately after becoming cognizant and coherent, Causey filed a Notice of Appeal, which was received by the District Court on January 13, 2017.

On June 1, 2017 the Seventh Circuit Court of Appeals issued an order limiting Causey's review to the District Court's December 1, 2016 order denying reconsideration, noting that the Notice of Appeal was late. In January of 2018 Causey filed a Petition for rehearing en banc. The Petition was denied on February 1, 2018. Causey now applies for Certiorari on whether his illness constitutes Good Cause for Equitable Tolling.

REASONS FOR GRANTING THE PETITION

The question of whether equitable tolling applies to Federal Rules of Appellate Procedure 4(a)(5) has recently come into question and has not been adequately explained by this Court. (See Hamer v. Neighborhood Housing Services of Chicago, et. al., 138 S. Ct. 1319, 139 L. Ed. 2d 249 (2017)) This is a pertinent question that applies to all appellate cases where justice requires that a time extension to file a Notice of Appeal be required. In this case Causey was incapacitated mentally and lacked the ability to file his own Notice of Appeal. This is a question of fundamental Due Process rights.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Randall B. Causey

Date: 5/16/18