

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

William A. Parrish, Jr. — PETITIONER
(Your Name)

vs.

Lyneal Wainwright, Warden,
MARION CORRECTIONAL INST. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT, MONTGOMERY COUNTY
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

William A. Parrish, Jr. #Add-261
(Your Name)

MARION CORRECTIONAL INSTITUTION
P.O. Box 57, _____
(Address)

Marion, Ohio 43302-0057
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Did the State Court of Appeals have the authority to deny a pro se indigent litigant a copy of his trial transcript because he choose to represent himself on direct appeal of his conviction after the court failed to appoint effective assistance of counsel?
- 2.) Did the State Court of Appeals deny Appellant effective assistance of appellate counsel by letting five (5) court appointed attorney's to withdraw from Appellant's case?
- 3.) For nearly three (3) years the State Court of Appeals finally remanded Appellant's case back to the trial court for the limited purpose of considering the omissions in the trial transcript and correction of a erroneous certification page that contain another persons name and case number attached to Appellant's trial transcript, did the trial court have the authority to exclude Appellant from the proceedings of correcting the recprd?
- 4.) Did the State trial court have the authority to try the Defendant on an indictment that was a product of perjured testimony?
- 5.) Defendant is African American and the victim is a white male, did the trial court have the authority to exclude African American's from the Grand Jury and as potential jurors and try Defendant in front of a all white jury?
- 6.) Did the prosecutor have a duty to correct the victim's perjured testimony when the victim testified at trial admitting that he lied under oath at the preliminary hearing..
- 7.) Did the State trial court have the authority to deliberately alter Defendant's trial transcript?
- 8.) Did the State trial court violate Defendant's Fast & Speedy trial right's after holding him in the County Jail for a total of 287 days without the

Defendant signing a waiver of time?

- 9.) Did the trial court lose jurisdiction of the Defendant after sending him to prison without a judgment entry of sentence?
- 10.) Did the Assistant Attorney General Jerri L. Fosnaught have the authority to falsify a official court document in a federal habeas corpus proceedings and then file that document in a federal court?
- 11.) Did the trial court judge (STEVEN K. DANKOF) have the authority to enter false statements upon the record?
- 12.) Did the State Court of Appeals have the authority to deny Appellant the right to appeal his conviction because he could not afford to purchase a copy of his trial transcript then dismiss his direct appeal for failure to prosecute?
- 13.) Did the State Court of Appeals have the authority to deny Appellant his right to a Fast & Speedy appeal?

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:

- I. THE COURT OF COMMON PLEAS; MONTGOMERY COUNTY, OHIO
- II. THE COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT, MONTGOMERY COUNTY
- III. DISTRICT COURT OF THE UNITED STATES, SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION
- V. UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Ross v. Moffit, 417 U.S. 600	4
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Ralston v. Hill, 65 Ohio St.2d 58	4
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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 Parrish, Jr. v. Wainwright, Case No. 17-4051; 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 2017 U.S. Dist. LEXIS 143247 (S.D. Ohio, Sept 5); 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 N/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 OF APPEALS OF SECOND APPELLATE DIST. court appears at Appendix C 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 March 08, 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: June 4, 2018, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (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 N/A.
A copy of that decision appears at Appendix _____.

☐ 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 _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (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

Fourteenth Amendment of the United State Constitution

STATEMENT OF THE CASE

1.) The court of appeals final (Exhibit 1) judgment clearly set forth the reason why appellant was denied access to the trial transcript, is because Appellant had choose to represent himself on direct appeal, which prevented Appellant from filing a merit brief. Denying an indigent pro se litigant a copy of his trial transcript is a clear violation of the Appellant's Fourteenth Amendment Rights, which Appellant turn directly to a federal habeas corpus. In Ross v. Moffitt, 417 U.S. 600, 94 S.Ct. 2437, 41 L.Ed.2d 341 (1974), federal habeas releif is an appropriate vehicle for reviewing fourteenth amendment challenges to state appellate procedures.

In Greene v. Brigano, 123 F.3d 917, the Sixth Circuit Court of Appeals has ruled in this case which is identical to the Appellant's case, that the transcript was necessary to file an appeal and that free counsel was not equivalent to providing the transcript because it would require relinquishing defendant's Sixth Amendment right to proceed pro se for his right to adequate appellate review.

Ohio law is in contrary to federal law. Ohio law requires the preparation of only one transcript, which is to be filed with the court of appeals. See State ex rel. Ralston v. Hill, 65 Ohio St. 2d 58 417 N.E.2d 1380 (Ohio 1981).

Precedent case in this matter is Griffin v. Illinois, 351 U.S. 12, the United States Supreme Court held that to satisfy the dictates of the Equal Protection and Due Process Clause of the Fourteenth Amendment, a state may not condiction a defendant's exercise of a right to appellate review upon his ability to pay for that right. I.d. at 18-20. Accordingly, "Griffin and its progeny command that a State mus provide indigent prisoners with the basic tools of an adequate defense or appeal, when those tools are available for a price to other prisoners." Riggins v. Rees, 74 F.3d 732,735 (6th Cir. 1996) (quoting Britt v. North Carolina, 404 U.S 226.

In the district court ruling (Appendix B/PageID#2232-33) ruling it agreed that the Supreme Court of Ohio has held that an indigent pro se litigant has no right to a personal copy of his trial transcript.

Also, in the district court (Appendix B/PageID#2237) ruling it stated that I couldn't file a brief because the trial transcript were incomplete is totally wrong. Appellant could not file an opening brief because the appellate court refuse to provide Appellant with a copy of the trial transcript after the trial court claimed it corrected all the errors in the trial transcript. The judgment by the court of appeals (Exhibit 1) clearly states that there not going to supply Appellant with the trial transcript.

In Turner v. Bagley, 2005 FED App. 0139P (6th Cir.), once the State court of appeals dismissed Turner's appeal for failure to prosecute the exhaustion clock stop ticking because such failure could only be attributed to the appointed attorneys and the State. The State let five (5) attorneys to withdraw, and refuse to supply Appellant with a copy of the trial transcript.

2.) The State court of appeals let five (5) attorneys withdraw from the Appellant's case which denied him effective appellant review. In Turner v. Bagley, the court allowed four different attorneys to withdraw from the case without filing briefs. "Failures of court-appointed counsel and delays by the court are attributable to the state." Coe v. Thurman, 922 F.2d 528, 531-32.

Fact finding made by the district court on how many attorneys that were appointed are wrong. The court said it was four attorneys, when it was five, and one attorney was appointed twice (Chris Wesner). The first attorney that was appointed was Chris Wesner on July 16, 2012, (Exhibit 2), the second attorney that was appointed on July 23, 2012, (Exhibit 2) J. David Turner. On September 9, 2012, Mr. Turner nearly had (Exhibit 2) Appellant's appeal dismissed for failure to file record, and Mr. Turner refused to answer any of the Appellant's letters, so he was

asked to withdraw if he didn't respond to my last letter.

On December 4, 2012, attorney Chris Wesner was appointed (Exhibit 2) again, but decline to take the case.

Third attorney that was appointed, Melissa M. Prendergrast was appointed from the Ohio Public Offender's Office. She came to the prison and visited the Appellant, and told him that she did not see any errors in the case and that she is going to file a Ander's brief, knowing that the transcript were incomplete. Ms. Prendergast was asked not to file the Ander's brief, and to immediately remove herself off Appellant's case.

On December 6, 2013, the court of appeals (Exhibit 4/Pg.3 of 5) ordered the trial court to prepare a CD-ROM with PDF versions of the trial transcript, to be mailed to the Appellant, which the trial court refuse to do.

Fourth attorney appointed was Elizabeth C. Scott on April 9, 2014. She came and visit the Appellant in prison, and stated she sees were the record is incomplete, and stated she will try and have it fix. On June 6, 2014, (Exhibit 4/Pg. 3 of 5) the State court of appeals tried to force Ms. Scott to file a brief with an incomplete record. Then Ms. Scott made false allegation against me just to withdraw of Appellant's case, which in turn, Appellant filed a grievance against her for making false allegations against me for the purpose to withdraw off my case to the Disciplinary Counsel of the Supreme Court of Ohio.

Appellant would like for the Court to take notice that each time the court would appoint new counsel it would alter the docket (Exhibit 3) and switch names at the first entry of appointing counsel.

Fifth attorney appointed was Anthony R. Cicero, who tried to have the record corrected, but the trial court gave Mr. Cicero a blank CD, as he stated in his motion (Exhibit 5) for extension of time filed on November 12, 2014. On February 25, 2015, the court of appeals allowed Mr. Cicero to withdraw.

3. During the proceedings of the Petitioner's direct appeal, court appointed attorney Melissa M. Prendergast sent Petitioner a copy of his trial transcript. Petitioner noticed that very important parts of the victims testimony was missing, where he admitted, at trial, under oath, that he had lied at the preliminary hearing. Whole testimony of Laddie Mae Jackson was omitted from the trial transcript. Missing objections, prejudicial statements made by the trial judge are missing from the trial transcript. Petitioner filed two motion under Ohio Rules Of Appellate Procedure Rule 9(E) Correction or Modification of the Record. The court denied both motions.

After attorney Anthony R. Cicero filed a motion for extension of time (Exhibit 5), informing the court that the record is incomplete, with a erroneous certification page attached to the trial trial transcript, which prevented him from filing a merit brief. If a trial transcript have a incorrect certification page attached to them, appellate court will presume regularity of the proceedings and affirm the judgment of the trial court. In re Guardianship of Fraser, 2003-Ohio-6808.

The State court of appeals remanded Petitioner's case back to the trial court for limited purpose to correct the omissions in the trial transcript, and correct the erroneous certification page attached to the trial transcript. The trial court excluded Petitioner from the proceedings of correcting the record. This Court has rule in Chessman v. Teets, 354 U.S. 156, that the ex parte settlement of the State court record violated petitioner's constitutional right to procedural due process.

4. Prosecutor knew that the victim lied under oath a the preliminary hearing, and he used that same testimony at the Grand Jury to obtain an indictment.

5. The trial judge allow the only black jury to be excused because he stated he could not miss work, which left the jury pool all white. The Petitioner asked the judge could he have at least one black jury. The judge stated, "there isn't any black jurors available." Trial judge deliberately excluded the only African American

from the jury. It has long been held that a defendant is denied the equal protection of the law guaranteed to him or her by the Fourteenth Amendment to the Constitution of the United States as well as Section I Article 10 of the Ohio Constitution, when the state places the defendant on trial before a jury from which members of the defendant's race have been purposely excluded. Strauder v. West Virginia, [***8] (1880), 100 U.S. 303.

6. Prosecutor (John C. Amos) was told by Petitioner stand by counsel, Lucas Wilder, that the victim had lied under oath at the preliminary right before trial started. The victim testified at trial and admitted that he lied under oath at the preliminary hearing, and the prosecutor let that false testimony go uncorrected. Pursuant to Napue v. Illinois, 360 U.S. 264, (syllabus) this Court has held that the failure of the prosecutor to correct the testimony of the witness which he knew to be false denied petitioner due process of the law in violation of the Fourteenth Amendment to the Constitution of the United States.

If the Court would please review Exhibit 6/Tr.pg.675 L 14-16, attorney Lucas Wilder, Petitioner's stand by counsel, he witness the perjury committed by the victim, and stated to the court during sentencing that, "the sole piece of evidence was from a victim who had lied under oath in previous testimony." In re Napue, this Court has established that a conviction obtain through use of false evidence, known to be such by representatives of the state, must fall under the Fourteenth Amendment, Mooney v. Holohan, 294 U.S. 103; Pyle v. Kansas, 317 U.S. 213. The same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears. Alcorta v. Texas, 355 U.S. 28.

7. The trial court deliberately altered Petitioner's trial transcript and attached a erroneous certification page to the trial transcript (Exhibit 7) in another persons name and case number for the sole purpose to prevent the Petitioner from appealing his conviction.

From the day the trial transcript were filed (December 10, 2012), they have contained a erroneous certification page attached to them that was deliberately done by the trial judge, Steven K. Dankof. Petitioner knows that three of the five court appointed attorneys trial to have the record corrected, but the trial court refuse them access to the record.

When the appeals court remanded Petitioner's case back to the trial court to fix the trial transcript, the trial court knowingly made false entries upon the record stating that it corrected the record when it did not do. If the Court would please see Exhibit 4/doc.pg 2 of 5, entry made April 20, 2015, is false because the district court determined in its ruling (Appendix B/PAGEID#2241), that the original trial transcript still have a incorrect certification page attached to them.

By the trial court judge making false statements upon the record is in violation of title 18 USCS § 1519, which states in part: Whoever knowingly alters, destroys, mutilates, cover up, falsifies, **or makes a false entry in any record**, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

Being that the trial transcript have a erroneous certification page attached to them in somebody else name and case number for nearly six (6) years, the district court should had a evidentiary hearing when the Petitioner filed a motion asking the court to correct the record. According to United States of America v. Dennis L. Wilson, 16 F.3d 1027 at ¶11, where the trial court has certified the accuracy of the record, however, specific prejudice will not be found absent a showing that the certification is clearly erroneous. Petitioner's trial transcript

certification is in another person name and case number, which is clearly erroneous.

Mr. Wilson was granted a new trial, and Petitioner should have been given the same relief as Mr. Wilson.

8. Petitioner was arrested on September 16, 2011. On June 13, 2012, Petitioner was brought to trial. Two-hundred and sixty-seven days had went by and the Petitioner did not sign any waiver of time. Being that the Petitioner was being held solely on the convicting charges, one day counted as three pursuant to Ohio Revised Code § 2945.71(E). The trial court violated Petitioner fast & speedy trial rights.

9. Before the trial court entered its judgment of conviction, Petitioner was transferred from the county jail to the States Correctional Reception Center without a judgment of conviction. On June 29, 2012, Petitioner was sentenced. On July 2, 2012, (Exhibit 8/Warrant to convey) Petitioner was illegally processed into the reception center because a judgment entry of conviction had not been entered yet. Exhibit 9, Reception Admission Procedures; 52-RCP-01 VI. Procedure, B. Arrival of Inmates 1. States in part; the transporting officer must have a Judgment Entry legally committing the inmate to the department. Petitioner's judgment entry was not file (Exhibit 10) until July 18, 2012. Sixteen days had went by, and the State illegally detained Petitioner.

10. Assistant Attorney General knowingly falsified a official court document to deceived the district court, and committed fraud upon the court.

If the Court would please review Exhibits 11-13, it clearly shows that Assistant Attorney General forged Exhibit 12, when she took Mr Pugh's name off the certification page and placed the Petitioner's name on it. When the Petitioner notified the district court (Exhibit 14) about the fraud, Ms. Fosnaught filed the original document back to the court.

11. All ready argued in number 7.
12. All ready argued in number 1.
13. Because the trial judge deliberately altered Petitioner's trial transcript, and denied appointed counsel access to the record, this cause a severe delay in processing Petitioner's direct appeal.

For more then three (3) years Petitioner's appeal was severely delayed by the State's failure to appoint effective assistance of counsel, and by the trial judge refusing to supple the Petitioner with a correct copy of his trial transcript, violated Pettitioner right to a meaningful, speedy appeal in violation of the Due Process Clause of the State and Federal Constitution, U.S. Const. amend. VI, XIV; 'Section 10, 16, Art I, Ohio Const.

The intentional actions of misfiling of the record by the trial court cause Petitioner's appeal to be extremely delayed. In Coe v. Thurman, 922 F.2d 528,531 (9th Cir. 1990), delay in adjudicating a direct appeal gives rise to a presumption that the state appellate is also ineffective. Also see Shelton v. Heard, 696 F.2d 1127 (5th Cir. 1983).

REASONS FOR GRANTING THE PETITION

The failure of the State to provide Petitioner with a direct appeal.
The crimes that has been committed by public officials to prevent Petitioner from receiving due process.

The fraud committed by Assistant Attorney General Jerri Fosnaught.
The fact that Petitioner's trial transcript is still incomplete.

This petition should be granted and the Petitioner should be immediately released from custody, because of the criminal acts that has been committed against the Petitioner.

Petitioner prays that this Honorable Court grant him the relief that needs to be issued, because the Petitioner did commit the crimes he has been convicted for.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

William A. Panch, Jr.

Date: September 4, 2018