

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

Ricky White — PETITIONER  
(Your Name)

vs.

State of Arkansas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of Arkansas  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ricky White #77503  
(Your Name)

P.O. Box 240  
(Address)

Tucker, AR 72168  
(City, State, Zip Code)

(501) 842-2519  
(Phone Number)

## **QUESTION(S) PRESENTED**

### **Question One:**

Is an error of a lower State Court in exceeding the maximum sentence legally allowed, cognizable for relief at any time?

### **Question Two:**

Is a sentence illegal when the State Court mistakenly uses an out of State misdemeanor conviction to enhance the sentence exceeding the maximum sentence legally allowed?

## 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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APPENDIX “B” – Decision of State Trial Court

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Rehearing

## TABLE OF AUTHORITIES CITED

### Federal Constitution

U.S.C.A.. Const. Amends. 6<sup>th</sup>

U.S.C.A.. Const. Amends. 14<sup>th</sup>

### Federal Case Law

Reeves v. Mabry, 1980, 615 F.2d 489

Dent v. West Virginia, 129 U.S. 114, 32 L.Ed. 623 (1899)

Haines v. Kerner, 404 U.S. 519, 30 L.Ed.2d 652 (1972)

Price v. Johnson, 334 U.S. 266, 92 L.Ed. 1356 (1948)

Younger v. Gilmore, 404 U.S. 15, 30 L.Ed.2d. 142 (1971)

### State of Arkansas Case Law

Byrum v. State, 318 Ark. 87, 884 S.W.2d 248 (1994)

Nichols v. State, 306 Ark. 417, 815 S.W.2d. 382 (1991)

Renfro v. Smith, 2013 Ark. 40, 2013 WL 485667 (2013)

Renshaw v. Norris, 337 Ark. 494, 989 S.W.2d 515 (1999)

State v. Webb, 373 Ark. 65, 281 S.W.3d. 273 (2008)

### State of Arkansas Statutes

A.C.A. §5-4-501

A.C.A. §16-91-113

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☐ is unpublished.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**: *Arkansas*

The opinion of the highest state court to review the merits appears at Appendix B to the petition and is

☒ reported at White v. State 2018 Ark. 81, 540 S.W.3d 291; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the Circuit Court of Miller County <sup>Arkansas</sup> 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 \_\_\_\_\_.

☐ 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**: Arkansas

The date on which the highest state court decided my case was 03-08-18  
A copy of that decision appears at Appendix B.

☒ A timely petition for rehearing was thereafter denied on the following date: 04-26-18, 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).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.C.A.. Const. Amends. 6<sup>th</sup>

U.S.C.A.. Const. Amends. 14<sup>th</sup>

### STATE STATUTES

A.C.A. §5-4-501

A.C.A. §16-91-113



## STATEMENT OF THE CASE

White was sentenced to a term of seventy-five (75) years imprisonment, under habitual offender statute A.C.A. §5-4-501(b) of 1990 by a jury, for aggravated robbery.

White filed a petition to correct an illegal sentence in the circuit court of Miller County in Arkansas, raising the due process violation in using two of the four prior conviction against White and exceeding the maximum sentence legally allowed.

After the denial of White's petition to correct an illegal sentence he lodged an appeal within the Arkansas Supreme Court.

The ruling was affirmed with a dissenting opinion by Honorable Josephine Linker Hart, J. Then White filed for a rehearing from the same court.

## REASONS FOR GRANTING THE PETITION

State jury assessing punishment under a state habitual criminal statute may not constitutionally enhance punishment by reference to a previous conviction that had been obtained in violation of a constitutional right of White such as the right to counsel or a non-cognizable prior offence [out of state misdemeanor]. U.S.C.A.. Const. Amends. 6<sup>th</sup> and 14<sup>th</sup>; Reeves v. Mabry, 1980, 615 F.2d 489

The Arkansas State courts prejudicially turned a blind eye to the facts regarding the violations sufficient to create a liberty interest protected by the Due Process Clause. Renfro v. Smith, 2013 Ark. 40, 2013 WL 485667 (2013)

The judgment in denying White relief was contrary to factual state statutes and real evidence that calls for an invoked relief at any time.

White a prisoner may claim the protections of the Due Process Clause and may not be deprived of his life, liberty or property without due process of law. Haines v. Kerner, 404 U.S. 519, 30 L.Ed.2d 652 (1972)

Any illegal sentence is viewed as a violation of basic constitutional rights; the Arkansas Supreme Court has viewed the issue as being an issue of subject-matter jurisdiction, which cannot be waived by the parties. State v. Webb, 373 Ark. 65, 281 S.W.3d. 273 (2008)

The judgment in denying White relief in using court rules contrary to the state laws, to reject the accountability