

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

Eddie Williams, Jr - PETITIONER
(Your Name)

VS.

Tennessee Supreme Court - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO:

TENNESSEE SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

Eddie Williams, Jr., TDOC# 121015
(Your Name)

7475 Cockrill Bend Blvd
(Address)

Nashville, Tennessee 37209.
(City, State, Zip Code)

()
(Phone Number)

QUESTION(S) PRESENTED

Whether the Tennessee Supreme Court summary dismissal of the

Rule-11 Application is unconstitutional and/or denies Petitioner

Due Process under State and Federal Constitutions.

Whether Petitioner is illegally and unconstitutionally detained

without a final judgment in Sentence. In violation of the Fifth,

Sixth, and Fourteenth Amendments of the United States Constitution

and Article One, § Nine of the Tennessee Constitution.

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:

*Herbert H. Slatery, Attorney General
Office of the Attorney General
425 Fifth Avenue, North
Post Office Box 20207
Nashville, Tennessee 37202-0207.*

TABLE OF CONTENTS

<i>Opinion Below.....</i>	<i>7 and 8</i>
<i>Jurisdiction.....</i>	<i>9 and 10</i>
<i>Constitutional and Statutory Provisions Involved.....</i>	<i>11 and 12</i>
<i>Statement of the Case.....</i>	<i>13 and 14 *</i>
<i>Reasons for Granting the Writ.....</i>	<i>15 thru 21</i>
<i>Conclusion.....</i>	<i>23</i>

INDEX TO APPENDICES

<i>Appendix-A...Opinion of the Criminal Court for Shelby County Tennessee</i>
<i>Appendix-B.. Opinion of the Criminal Court of Appeals for Tennessee.</i>
<i>Appendix-C.. Opinion of the Criminal Court of Appeal For Tennessee.</i>
<i>Appendix-D.. Opinion of the Criminal Court of Appeal as to Reheating.</i>
<i>Appendix-E...Order of the Tennessee Supreme Court.</i>

TABLE OF AUTHORITIES

Constitutional Provisions

<i>U.S. Const. Amendments 5, 8 and '14</i>	11
--	----

United States Supreme Court Cases

<i>Berman-v-U.S.</i> , 58 S.Ct. 164 (1937).....	18
<i>Flynt-v-Ohio</i> , 101 S.Ct. 1958 (1981).....	19
<i>Maleng-v-Cook</i> , 109 S.Ct. 1923 (1989).....	10
<i>Parr-v-U.S.</i> , 76 S.Ct. 912 (1956).....	19 and 20
<i>Preiser-v-Rodriguez</i> , 93 S.Ct. 1827 (1973).....	10
<i>Miller-v-Adenhold</i> , 53 S.Ct. 325 (1933).....	9 and 18

Federal Statutes

28 U.S.C. 1257 (a).....	10
28 U.S.C. 1651.....	10
28 U.S.C. 2241 (c)(3).....	10
28 U.S.C. 2242.....	10

Federal Cases

<i>Gaddis-v-U.S.</i> 280 F.2d. 334 at 763 (CCA Ohio) 1960).....	21
<i>Massengale-v- U.S.</i> 278 F.2d. 344 (C.A.6 (ohio) 1960).....	20
<i>U.S. -v- Banks</i> , 959 F.2d. 236 (C.C.A. 6 (tenn) 1992).....	19
<i>United States-v-Bratcher</i> , 833 F.2d. 69 (6th Cir. 1987)....	19
<i>Wilson-v- Bell</i> , 137 F.2d. 716 (C.C.A. 6 (Tenn) 1943).....	9, 20 and 21

Tennessee Cases

<i>Burford-v-State</i> , 845 S.W.2d. 204 (Tenn. 1992).....	16
<i>Canupp-v-State</i> , 460 S.W.2d. 382 (Tenn. Crim.App. 1970)....	18
<i>Jones-v-State</i> , [2Tenn. Crim. App. 284[453 S.W. 2d. 433 (1970). 20	
<i>Crain-v-State</i> [2 Tenn. Crim. App.67] 451 S.W.2d. 695 (1969)..	20
<i>Laney-v-State</i> , 826 S.W.2d. 117, 118 (Tenn. 1992).....	20
<i>McCall-v-State</i> , 69 S.W.2d. 892 (tenn. 1984).....	20
<i>McConnell-v-State</i> , 12 S.W.3d. 795 (Tenn. 2000).....	20
<i>Meade-v-State</i> , 484 S.W.2d. 366m (Tenn. Crim App. 1972).....	18
<i>State-v-Mixon</i> , 93 S.W.2d. 661 (Tenn. 1999).....	16
<i>Stinson-v-State</i> , 344 S.W.2d. 369 (Tenn. 1961).....	19

<i>Williams-v-State</i> , 44 S.W.3d. 464 (Tenn. 2001).....	16
<i>Workman-v-State</i> , 41 S.W.3d. 100 (2012).....	17

Tennessee Statutes

T.C.A. § 16-5-108.....	11 and 12
T.C.A. § 27-7-103.....	16
T.C.A. § 39-2-501..(1982).....	13
T.C.A. § 40-23-102.....	11
T.C.A. § 40-26-105.....	13
T.C.A. § 40-35-106 (a) (1982).....	15 and 16

Tennessee Rules of Court

Rule 10.....	9
Rule 11.....	14
Rule 39.....	1

Other Authorities

Tennessee Criminal Sentencing Reform Act 1982.....	15
Tennessee Criminal Practice and Procedure, Volume 11 Chapter 32 Section 32.65.....	16
<i>Bonds-v-State</i> , 2003 WL 22718186 (Tenn. crim. App.....	10
<i>Burford-v-State</i> , 845 S.W. 2d. 204 (Tenn. 1992).....	16

**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 D to the petition and is:

- ☒ reported at Westlaw Westlaw; 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: April 23, 2018

☐ 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).

JURISDICTION

Basis for Federal Jurisdiction

(a). The basis for federal jurisdiction is invoked pursuant to Supreme Court Rule 10 (b) and (c) which states as follows"

(b). A state court of last resort has failed to decide an important Federal question in a way that conflicts with the decision of another state court of the last resort or of United States Court of Appeal
See: Wilson-v- Bell, 137 F.2d. 716 (C.C.A.6 (Tenn. 1943)

(c). A state court of appeal has failed an important questions of Federal Law that has not been, but should be settled by this court or has decided an important Federal Question in a way that conflict with relevant decision of the court.

See: Miller-v-Adenhold, 53 S.Ct. 325, 288 U.S. 206, 77 L.Ed. 702 (1933).

This is a Writ of Certiorari challenging the Criminal Sentence and/or denial by Tennessee Supreme Court. In 1988 Petitioner was never actually sentenced for the conviction themselves (Robbery with a deadly weapon) but instead sentenced solely for the State of being a Range II, Persistent Offender, pursuant to T.C.A §. 40-35-106 (a)(1) (1982).

In the Writ of Error Coram Nobis proceeding, Petitioner argued that respondent violated the Tennessee Criminal Sentencing Reform Act of 1982.

The judgment or decree to be reviewed herein is the ruling of

the Tennessee Supreme Court denying Petitioner Rule-11 Application regarding Writ on Error Coram Nobis petition, that ruling was issued on April 23, 2018 per appendix B and no petition for rehearing was filed. Moreover, under Tennessee Law, T.R.B.R. Does not recognize a motion for rehearing from the Tennessee Supreme Court. See:

Bonds-v-State, 2003 WL 227181869 Tenn. Calm. App.)

Jurisdiction of this appeal is conferred upon this court by the constitution of the United States Amendments, Five., Sixth., and Fourteenth and Title 28 of the United States Code Section 28 U.S.C. 1257 (a) 28 U.S.C. 1651; 28 U.S.C. 2241 (c) (3) and 28 U.S.C. 2242.

Case sustaining the jurisdiction of this court are:

Maleng-v-Cook, 109 S.Ct. 1923, 490 U.S. 488, 104 L.Ed. 2d. 540 (1989).

Paez-v-Rodriguez, 93 S.Ct. 1827, 411 U.S. 475, 36 L.Ed. 2d. 437 (1973).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the specific provisions of the United States Constitution and Tennessee Code Annotate § 16-5-108 and 40-23-102, which state as follows:

United States Constitution: U.S.C.A. § 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 subjected for the same offense to be twice put in jeopardy of life or limb: Nor shall he compelled in any criminal case to be a witness against himself nor be deprived of life, or property, without due process of law, nor shall private property be taken for public use, without just compensation.]

United States Constitution § 8.

[Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.]

United States Constitution: U.S.C.A § 14.1

[All persons born or naturalized in the United States, and Subject to the Jurisdiction thereof, are citizens of the United States and of the State wherein they reside, no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any state deprive any

11
10

person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.]

Tennessee Statutes, T.C.A. § 16-5-108 Jurisdiction:

(A). The jurisdiction of the Court of Criminal Appeals shall be appellate only, and shall extend to review of the final judgment of trial courts in:

(1). Criminal Cases, both felony and misdemeanor

(2). Habeas Corpus and Post Conviction Act Proceeding Attacking the validity of a final judgment of conviction and/or Sentence in a criminal case, and on other cases or proceeding instituted with reference to or arising out of a criminal case.

(3). Civil or Criminal contempt arising out of a criminal matter and

(4). Extradition cases.

(b). The Court or any judge of the Court shall also have jurisdiction to grant petitions for Certiorari and superadeas in proper cases within its jurisdiction as provided by law.

Where the judgment of the Court is that the Petitioner be imprisoned, the time for confinement if the Petitioner is in prison, shall begin to run from the day of final judgment.

STATEMENT OF THE CASE

The appeal present an Appeal by Petitioner, Eddie Williams, Jr. pro-se, from the final judgment entered on April 23, 2018 by the

Tennessee Supreme Court.

On March 11, 1988, in a bifurcated trial, Petitioner, Eddie

Williams, Jr. received two-concurrent life sentence. However, as

the State Court Records shows, Petitioner, Eddie Williams, Jr. was

sentenced solely for the status of being a Range-II, Persistent

Offender, stemming from enhancement factor of (Petit Larceny) prior

conviction.

In Petitioner appeal, Petitioner, Eddie Williams, Jr. submit that

Petitioner sentence for the offense of Robbery with a Deadly Weapon

T.C.A. § 39-2-501 (1982) (Indictment No. 87-05185 and 87-05186)

sentence are illegal and unconstitutional and stand in direct

violation of both Tennessee and Federal Constitutions as well as

the Tennessee Legislative Intention.

After the Petitioner Direct Appeals Post Conviction, and

Habeas Corpus proceedings were concluded. Petitioner sought writ

Canon Nobis on February 18, 2017, pursuant to T.C.A § 40-26-705

within the Criminal Court for Shelby County, Tennessee at Memphis

On June 6, 2017, Criminal Court for Shelby County denied the

Petition an after months without obtaining the Order of dismissal

the Petitioner file Motion for Delayed Appeal proceeding with the

Criminal Court of Appeals for Western Section of Tennessee.

On December 21, 2017, the intermediate Appeal Courts enter an Order allege lack of explanation for the late filing, render the Court unable to find that the interest of justice would require the granting of a late file notice of Appeal.

Motion for rehearing was denied on January 24, 2018, and On February 8, 2018, Petitioner sought Rule-11 Application with the Tennessee Supreme Court and on April 24, 2018 the Tennessee Supreme Court denied Rule-11 Application. No motion for rehearing was filed.

14
14

REASONS FOR GRANTING THE PETITION

Whether the Tennessee Supreme Court summary dismissal of Rule-
11 Application is unconstitutional, because it denies Petitioner
Due Process under the State and Federal Constitutions.

In Asking the Honorable Court to grant Certiorari, Petitioner
submits that a thorough review of his 1988 conviction and sentence
will show that while Petitioner was convicted of the intriguing
Offense of Robbery with a deadly weapon (Indictment No 87-05185 and
87-05186).

Petitioner was never sentenced for those offenses, but was
instead sentenced to life solely for the status of being a Range
II, Persistent Offender. Court Records is clear on this matter.

At the time of Petitioner conviction and sentence it was well
established under Tennessee law that after the conviction of any
criminal offense, the Petitioner was then sentence up under the
Tennessee Criminal Sentencing Reform Act of 1982, each defendant
is then classified in accordance to prior conviction in accordance
to Tenn. Code Ann. § 40-35-106 (a)(1) and (2), in which is a statute
of the law and not an offense.

Petitioner sought Writ of Error Coram Nobis, seeking connection
of Illegal Sentence based upon New Discover Evidence. Petitioner
alleges the court records will show that during sentencing,

Petitioner was arranged as Range-II, Persistent Offender, stem from the prosecutor relying upon "Petit Larceny" as an enhancement factor.

The Criminal Courts for Shelby County denied the Writ of Error Coram Nobis, by stating the Statute of Limitation, and citing Tenn. Code Ann. § 27-7-103; State-v-Mixon, 983 S.W.2d. 661 (Tenn. 19990. See: Appendix- A.

The Criminal Court for Shelby County relied upon the statute of inwhich is unconstitutional and it denies Petitioner Due Process under the State and Federal Constitutions. See: Burford-v-State, 845 S.W.2d. 204 (Tenn. 1992); Williams-v-State, 44 S.W.3d. 464 (Tenn. 2001). The Tennessee Criminal Practice and Procedure (Raybin) at volume-11, chapter 32, section §2.65 at page 203. It is _____ disputed that Petit Larceny can not be used as enhancement factor.

The Tennessee Legislative has repeatley expressive excluded Petit Larceny from being used as enhancement factor and/or classify what range of punishment that d defendant can be sentenced.

Petitioner contend the Criminal Sentencing Reform Act of 1982, T.C.A. § 40-35-106 (a) describe the criteria for persistent offender as a defendant, that has been convicted of Two-Prior felony conviction in five years and Four in Ten Years. The Criminal Statute is undisputed. Petitioner did not meet the criteria of persistent offender because the requirement for felony was not present during the sentncing.

Petitioner contend that the state of Tennessee Criminal Court record for Shelby County will show the state relied upon Two-Conviction as enhancement factors.

Case# 86-01091, Petit Larceny, May 12, 1986

11/16
16

Case# 84-05545, Attempt Felony, November 14, 1986

The March 11, 1988 Sentencing Hearing Transcript is undisputed, the above conviction was illegal and alleged as felony convictions.

The Tennessee Supreme Court summary dismissal of Rule-11 Application denied the Petitioner due process to present newly discover evidence that could established actual New Sentence for the Petitioner. The Due Process far outweigh the statute of limitation herein.

The Petitioner has put before the court creditable evidence that Petitioner sentence is unconstitutional. See: Workman-v-State, 41 S.W.3d. 100 (2012), In Workman, writ of error corams nobis was filed nine months outside the statute of limitation, but the Tennessee Supreme Court remand to the trial court, . Allege that Workman due process outweigh the government interest. Likewise, Petitioner has put before the court new discovered evidence that prove the sentence is unconstitutional base upon the manipulation by the state during sentence, by alleging Petitioner meet the criteria of Range II, Persistent Offender.

The Tennessee Supreme Court has failed to recognize the Petitioner Due Process as to being sentence to an illegal sentence for the past 30 years, by the Tennessee Supreme Court failure to grant the Petitioner Rule-11 Application, it then violated. Workman-v-State 41 S.W.3d. 100 (2012).

WHETHER PETITIONER HAS BEEN ILLEGALLY AND UNCONSTITUTIONAL DETAINED WITHOUT A FINAL JUDGMENT IN SENTENCE. IN VIOLATION OF THE FIFTH, SIXTH AND FOURTEENTH AMENDMENT OF UNITED STATES CONSTITUTION AND ARTICLE ONE SECTION NINE OF THE TENNESSEE CONSTITUTION.

For example, In Canupp-v-State, 460 S.W.2d. 382 (Tenn. Crim. App 1970). The jury found the defendant guilty of the triggering offense of grand jury and sentence him to term of three (3) years. He was then enhanced to life for the status of being a habitual criminal likewise, in Mead-v-State, 484 S.W.2d. 366 (Tenn. Crim. App. 1972) the defendant was convicted of burglary and sentenced to a term of three (3) years. He to was then enhanced for the status of being habitual offender. Thus, as the opinion show, both defendants were actually sentenced for their triggering offenses prior to being enhanced.

In Petitioner cause, Petitioner sentence was enhanced prior to sentence.[†] The sentencing transcript of evidence will clearly show that enhancement factor of Petit Larceny was considered prior to sentence.

Secondly, to Petitioner credit, there are a litany of united states supreme court and sixth circuit court case opinions that have consistently held that the sentence in a criminal case is the final judgment. See: Miller-v-Aderhold, 53 S.Ct. 325, 288 U.S. 206, 77 L.Ed. 702 (1933). "In criminal case", Final judgment means sentence; and void order permanently suspending sentence is neither final nor valid judgment. See: Berman-v- U.S., 53 S.Ct. 164, 302 U.S. 211, 82 L.Ed. 204 (1937).

In legal sense, a prosecution terminates only when sentence is imposed. See: Flynt-v-Ohio, 101 S.Ct. 1958, 451 U.S. 619, 68 L.Ed. 2d. 489 (1981). "In context of criminal prosecution, finality of state court judgment, for purposes of review by United States Supreme Court, is normally defined by imposition of sentence. See: U.S.-v-Banks, 959 F.2d. 286 (C.A. 6 (Tenn) 1992) citing Parr-v-United States, 351 U.S. 513 (1956); Berman-v-United States 302 U.S. 211, 212 (1937) and United States-v-Batchen, 833 F.2d. 69 71-72 (6th Cir. 1987). Hence, if no sentence were imposed on the triggering offense themselves, then the judgment of the said indictment could not have been final for enhancement purposes. The Petitioner citing the identical issue as of Stinson-v-State 344 S.W.2d. 369 (Tenn 1961). In Stinson, the defendant had been indicted for the crime of Robbery and the status of being habitual offender, although the jury found him guilty of Robbery and being an habitual offender. He was never actually sentenced for the Robbery In Stinson, Habeas petition alleged that his sentence was solely for the status of being habitual criminal offender, which is not an offense, although nevered on other grounds, the fundamental question that prompted Stinson petition was never fully addressed by the court and, other than Stinson, the petitioner has been unable to locate any authority where such an unusual conundrum of the law exists.

Assuming that Petitioner convictions were never disposed of by the imposition of a lawful sentence, engage a fundamental question of finality. If for example, the failure of the trial court to issue a sentence means that Petitioner was never final. It then follows that based on the lack of finality, the Appellate Courts

Never had jurisdiction to hear the appeal. See: Laney-v-State, 826 S.W.2d. 117, 118 (Tenn. 1992).]No Principle of law in this Country permits the maintaining of multiple suits at the same time when each is seeking the same relief. This is elementary, and the state correctly cites specific authority[See: Crain-v-State]2Tenn. Crim. App. 67[451 S.W.2d. 695 (1969). Jones-v- State, [2 Tenn. Crim App. 284] 453 S.W.2d. 433 (1970). See: also, Parr-v- U.S., 76 S.Ct. 912 (1956). (for purposes of appeal, final judgment in a criminal case means sentences) Massengale-v-U.S. 278 F 2d. 344 (C.A.6 (ohio) 1960) See: Also McCall-v- Sate, 69 S.W.2d. 892 (Tenn.1984) as the court stated in Wilson-v-Bell, 137 F.2d. 716 (C.A.6 (Tenn.) 1943). "The effect of entry of a viod order in a criminal case is the same as if no order had been made, so that the case necessarily remains pending until lawfully disposed of by the sentence."

Pursuant to T.C.A. § 16-5-108 an issue is not appealable under Tennessee Law until the judgment of the trial court is final. (a) The jurisdiction of the court of criminal appeals shall be appealable only, and shall extend to review of the final judgment of court in..etc. Under Tennessee. Sentencing is jurisdiction and must be executed in complaine with the applicable legislative mandates. See: McConnell-v-State, 12 S.W.3d.795 (2000).

Furthermore, Pursuant to T.C.A. § 40-23-102]commencement of sentences; Petitioner in custody; final judgment] The commencement of life sentence would not begin to run until the day of final judgment since by law, Petitioner sentence is not final, it follow

that Petitioner is been illegally restrained for over thirty-three years in violation of the Fifth, Sixth and Fourteen Amendments of the United States Constitution.

Finally, The Sixth Circuit has held that any ambiguity in the language of the Statutes is to be construed in favor of the Petitioner. See: Gaddis-v-U.S. 780 F.2d. 334 at 763 (C.A.6 (Ohio) 1960) and that once the defendant has begun serving his time, the court lacks the power to increase the sentence. See: Wilson-v-Bell 137 F2d. 716 at 720 (C.C.A. 6 (Tenn) 1943).

CONCLUSION

Petitioner, respectfully moves the Honorable Court in the
interest of justice, to grant Petitioner writ for Certiorari and
to remand this matter to the state court for resentence inlight
of Petitioner claims.

For the reasons stated within this petition, this Writ of Certiorari should be granted.

Respectfully submitted,

Eddie Williams #121015
Eddie Williams, Jr DOC#121015
RMSI Unit-4 Cell 101 A-Pod
7475 Cockrill Bend Blvd
Nashville, Tennessee 37209.

Date: May 22 2018

Sept 3, 2018

22