

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Rodney Williams — PETITIONER
(Your Name)

vs.

People of State of Michigan — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Rodney Williams #327234
(Your Name)

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(Address)

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(City, State, Zip Code)

(231) 773-9200
(Phone Number)

QUESTIONS PRESENTED

ARGUMENT I.

WAS DEFENDANT DENIED HIS CONSTITUTIONAL RIGHT TO COUNSEL AT HIS SENTENCING AND RESTITUTION HEARING; CONSTITUTING A VOID SENTENCE AND RESTITUTION ORDER?

ARGUMENT II.

WAS DEFENDANT DENIED HIS SIXTH AMENDMENT RIGHT TO SELF-REPRESENTATION, MAINLY TO CONTROL HIS OWN CASE AT TRIAL?

ARGUMENT III.

DID DEFENDANT SUFFER A VIOLATION OF HIS FOURTH AMENDMENT RIGHT TO A PROMPT ARRAIGNMENT WHERE THE STATE COURT RENDERED A VOID JUDGEMENT AND SENTENCE DUE TO A RADICAL JURISDICTIONAL DEFECT?

ARGUMENT IV.

IS DEFENDANT ENTITLED TO A / FRANK'S HEARING WHERE THE STATE TRIAL COURT LACKED JURISDICTION; THEREBY RENDERING THE JUDGMENT AND SENTENCE VOID DUE TO THE AFFIANT'S FALSE STATEMENTS AND OMISSIONS IN HIS AFFIDAVIT?

ARGUMENT V.

WAS DEFENDANT'S CONSTITUTIONAL RIGHTS TO (1) TRIAL BY JURY, (2) TO A JURY VERDICT OF GUILT BEYOND A REASONABLE DOUBT, AND (3) TO AN IMPARTIAL JUDGE, VIOLATED DUE TO THE TRIAL JUDGE'S IMPROPER JURY INSTRUCTIONS AND DEFECTIVE JURY VERDICT FORM; RESULTING IN A DUE PROCESS OF LAW VIOLATION AND A VERDICT REACHED WITHOUT JURISDICTION RESULTING IN A VOID JUDGMENT AND SENTENCE?

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Appendix J: Exhibits I, J: Dr. McKay Report, Medical examiner's report, Defective Jury verdict form and jury instruction.

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[] is unpublished.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[] is unpublished.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 May 29, 2010. 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

U.S. CONSTITUTIONAL AMENDMENTS 4,5,6,14

ARTICLE 1.13(C)

Federal Rule 60(b)(4)

46 Am.Jur.2d; Judgments §25, p.388-89.

Title 28, U.S.C., Sec 1655

STATEMENT OF THE CASE

issue 1: Petitioner Williams fired his Counsel at trial for not effectively cross and impeach victim Mager also I never asked to represent myself, the record is incorrect. At Sentencing the Record clearly shows that the Court never appointed the Counsel and no waiver appears on the Record. And Restitution order was order.

issue 2: The defendant was not present in the court-room during the state's offering up the gun shot residue results. Nor for the reduction of the Jurors from 14 to 12.

issue 3: On 3-14-2000 Jerry Jones was shot at night time? before 11:00pm because it takes at least 30 minutes for the Detroit Police to respond to calls in our neighborhood. I was arrested at 1:30 AM on 3-15-2000 without a warrant beat the scene because I said I'll go down for question 9AM.

issue 4: Affiant's Affidavit contains false statements and known omitted exculpatory facts about the shooting.

issue 5: The Trial Judge displayed bias and partiality against the defendant through his trial by denying him his Constitutional Rights to be present during critical stages of his trial and issuing a defective and improper Jury verdict form and allowing officers of the Court to of lost marked and Received evidence for defense to come up missing during closing arguments.

Reasons for Granting the Petition

ARGUMENT I

DEFENDANT WAS DENIED HIS CONSTITUTIONAL RIGHT TO COUNSEL AT HIS SENTENCING AND RESTITUTION HEARING CONSTITUTING A VOID SENTENCE AND RESTITUTION ORDER

Standard of Review:

People V Arnold, 477 Mich 852 (2006)
Scott V Illinios, 440.U.S. at 373-74 (US 1979)

Discussion:

At sentencing, the Court asked me if I wanted to speak, and I was not made aware that I was entitled to Counsel at my Sentencing hearing, US CONST. Amend. 6; I let the court know that I didn't want Mr. Cook to represent me. The court had ruled I waived him at trial voluntarily, but it didn't constitute a waiver of counsel at my sentencing because it's no waiver affirmatively at sentence found on the record. See People V Wakeford, 418 Mich 95 (1985). See (exhibit A, ST). Defendant's right to appointed counsel was violated at his sentencing. And restitution hearing are apart of the sentencing process and the Due process clause applies also to it, see U.S. V Richard. 738 F.2d 1120-1122 (10th cir. 1984), Houghland v. BOSS, 1949 US Lexis 1928; 172 F.2d 205 (1949)

Defendant's 6th Amendment violation, "A per se" warranting reversal of a conviction, sentence or both!

ARGUMENT II

DEFENDANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO SELF-REPRESENTATION, MAINLY TO CONTROL HIS OWN CASE AT TRIAL

Standard of Review:

McKaskle V Wiggins, 465 U.S. 168, 104 S. Ct 944 (U.S., 1984)
People V Willing 267 Mich.App. 208 (2005)

Discussion:

Defendant submits that his 6th Amend. right to conduct his own defense and control his own case was violated on Day 3 of Trial when he was not allowed to confront the offering for admission of the gunshot residue report. The record clearly affirms that I'm not present in the courtroom upon the Judge's opening greetings to all parties, see (exhibit B). On Day 5, I am not present when the Judge reduced the number of Jurors from 14 to 12 before deliberations, see (exhibit C). Their's no participation on my part because I'm not talking nor am I present which violates my 6th Amend. rights to control my case, also while I was not present I was denied my right to discuss and choose and object to certain jury instructions offered up by the court including the eye witness identification instructions in accordance to U.S V Wade, 388 US 218 (US, 1967). Defendants conviction and sentence should be reversed and case remanded for a new trial.

ARGUMENT III

THE STATE TRIAL COURT RENDERED A VOID JUDGMENT AND SENTENCE DUE TO THE RADICAL JURISDICTIONAL DEFECT DEFENDANT SUFFERED IN VIOLATION OF HIS FOURTH AMENDMENT RIGHT TO A PROMPT ARRAIGNMENT

Standard of Review:

Gerstein V Pugh, 420 U.S.103(US,1975);McLaughlin,Supra, 500 U.S.44,52-57(U.S.1991);OLD WAYNE MUT.L.ASSOC. V McDonough, 204 U.S.8, 27CT,236(U.S.1907);Hougland V Bass,1949 U.S. Lexis 1928 and 172F.2D 205(1949). New York V Dunaway,442 U.S.200(U.S.)

Discussion:

On 3-15-2000 defendant Williams was arrested without a warrant about 1:35 AM and on 3-17-2000 he was arraigned, exactly at 5:25 PM clock on wall, see (exhibit D for Miranda & Register of action forms.) The U.S. Supreme Court has conclude that "Although the 4th Amend. permits warrantless arrest, persons arrested without a warrant must be promptly brought in front of a Magistrate for a probable cause determination, see Gerstein above. This court also ruled that a jurisdiction that has provided judicial determinations of probable cause within 48 hours of arrest has ~~to~~ comply withthe promptness requirement of Gerstein. Defendant Williams was illegally arrested without probable cause due to the police officer, SGT. Adams on scene told officers to take me down for questioning only, see New York V Dunaway,442 U.S.200(). Also I was illegally detained for about 64 hours without a probable cause determination hearing from 3-15-2000 1:30AM to 3-17-2000 5:25PM: The state can not demonstrate an extraordinary circumstance to justify the delay due to officer Shaw's affiant statements within his Affidavit for Arrest and Search Warrant dated 3-15-2000, see (Exhibit E) Mr.Williams has suffered unjustly a federal and state statutorial defects, A Due Process of law an a Fourth Amend. violations for 18 years and the means of justice required a adjudication. Because a judgment reached without Due Process of law is without jurisdiction and void, see Hougland V Bass, 1949 U.S. Lexis 1928, but see Bass V Hougland, 172 F.2D 205(1949)

A void judgment can be challenged in any court and a court can not confer jurisdiction where none existed and can not make a void proceedings valid. OLD WAYNE MUT. L.Assoc. V McDonough, 204 U.S.8,27 S.CT.236 (U.S.1907). Defendant's conviction and sentence must be void, vacated and all charges dismissed or alternatively, remand for probable cause hearing or new trial.

Please take judicial notice of McLaughlin, Supra, 500 U.S 44 52-57 (U.S.1991) Promptness requirement of Gerstein

ARGUMENT IV

DEFENDANT SUBMIT'S THAT THE STATE TRIAL COURT LACK JURISDICTION AND RENDERED A VOID JUDGMENT AND SENTENCE DUE TO AFFIANT'S FALSE STATEMENTS AND OMISSIONS IN HIS AFFIDAVIT AND A FRANK'S HEARING IS REQUESTED

Standard of Review:

Franks V Delaware, 438 U.S. 154-156, 1.71, 98 S.Ct. 2674, 57 L.ed.2d 667 (U.S., 1978); People V Franklin, 2017 Mich.Lexis 904

Discussion:

Mr. Williams request's that he be granted a Frank's hearing due to the false statements and material omission made by the affiant officer Terrill Shaw made in his affidavit necessary to determine probable cause to issue the arrest warrant.

" Under Frank's for a evidentiary hearing to be granted", a defendant must make a "substantial preliminary showing that a false statement or material omission was knowingly, intentionally or without disregard for the truth was included in the affidavit made by the affiant", Id., 155-156, 98.S.ct2674. And that the allegedly omission or false statement was necessary to the finding of probable cause, Id., at155-156, 98 S.ct.2674. Such allegations must be supported by an "offer of proof", Id., at171, 98 sct 2674. False statement(s) by affiant, Inv. Shaw 1) "that upon arrival of scout car 8-9, officers Kilber and Abair was met by Florine Mager he told the police that he was robbed and that the person who lived there may have been shot." 2) "upon entering the dwelling they found Mr. Jones bleeding from the chest and made a statement that Rodney Williams shot him."

Affidavit of Officer Shaw

Affiant Shaw stated that on 3-14-2000, scout 8-9 had a police run to 18401 Harlow on a shooting. Shaw's false statement.

" Upon entering the dwelling, they found Mr. Jerry Jones bleeding from the chest. Mr. Jones mad a statement that the shooter was Rodney Williams." See (exhibit E, Affidavit)

" Offers of Proof for substantial preliminary showing"

- 1) Please see (exhibit F) for police report showing time unit 8-9 was dispatch to scene and names of officers, E. Abair & R. Kilber.
- 2) At trial Officer Kilber testified that they got the run(call) from the dispatcher at 11:30pm on 3-14-2000. see exhibit G.
- 3) Dr. McKay's report to the Wayne County Medical Examiner's Office states that he started treating Mr. Jones in the emergency room on 3-14-2000 at 11:30pm at Sinai-Grace Hospital with single gun shot wound to the Anterior Subxiphoid Region his (ventral or abdomen), and was pronounced dead at 12:34am by Dr. McKay on 3-15-2000.

Mr. Williams calls into question the affiant's statements to prove probable cause and their untruthfulness is very obvious, because their's no way that Kilber and Abair upon their arrival to the crime scene found Jerry Jones bleeding from his chest, nor did they or Florian Mager see Jerry Jones at the crime scene because Mr. Jones is already at the hospital at 11:30pm and both officer Kilber and eyewitness, both testified that they arrived after 11:30pm see (exhibit G) for officer Kilber's testimony and exhibit H for Mr. Mager's and see exhibit I for Dr. McKay report of 11:30pm when Mr. Jones arrived.

Finally Defendant William's offers up exhibit (J) which clearly shows a document from the Wayne County Medical examiner's office which shows that the bullet was taken out of Mr. Jones back-rightside:

Therefore Mr. Williams respectfully asks this honorable court to vacate his conviction and sentence and remand for a Frank's Hearing or dismiss All charges filed against him.

Argument V

DEFENDANT'S CONSTITUTIONAL RIGHTS TO A TRAIL BY JURY, TO A JURY VERDICT OF GUILT BEYOND A REASONABLE DOUBT AND TO AN IMPARTIAL JUDGE WAS VIOLATED DUE TO THE TRIAL JUDGE'S IMPROPER JURY INSTRUCTIONS AND DEFECTIVE JURY VERDICT FORM RESULTING IN A DUE PROCESS OF LAW VIOLATION AND A VERDICT REACHED WITHOUT JURISDICTION AND A VOID CONVICTION AND SENTENCE

Standard of Review: U.S.CONST.AMEND.6,14:

Sullivan V Louisiana,508 U.S.275 (US,1999) People V Clark 295 Mich.704 (1940) Tumey V Ohio, 273 U.S. 510 (US,1927)
Houglan V Bass, 1949 U.S. Lexis 1928

Discussion:

On Dec 14. 2000, during trial, the court instructed the jury on the verdict form, "for this charge of: Count one, possible verdicts, you may return only one verdict on this charge: Mark one box on this sheet. Not guilty, guilty of first degree murder, or guilty of the lesser offense of 2nd degree murder."

See (exhibit J for verdict form & TT,Vol.5,P.108)

Defendant submit's that his constitutional rights to a jury trial and to jury verdict of guilt beyond a reasonable doubt, was violated when his jury was not given the opportunity to return a general verdict of not guilty, or not guilty of the Lesser-include offenses in violation of his constitutional right to trial by jury, see People V Clark,295 Mich 704,707(1940) Also the Trial Judges verbal jury instructions informing the jury that they had to find the defendant "only guilty of the lesser included offense of 2nd degree murder", couple with the Trial Judges constitutional error in presenting the jury with an defective Jury verdict form denying defendant his constitutional rights to a jury verdict of guilt beyond a reasonable doubt, see Sullivan V Louisiana 508 U.S.275 (U.S.1999). See (exhibit J), People V Wade, 283 Mich Qpp.462 (2009).

Also defendant suffered unconstitutionally from the lack of a "impartial judge", displayed throughout Mr. Williams jury trial these actions are listed on the record inside issues 2 and 5 including the trial judge's words to the jurors when reading the jury instructions about guilty or not guilty. This trial judge displayed bias upon not verbally telling the jurors that they could find the defendant "not guilty" of the lesser-include offense of second degree murder. See (exhibit J). Also that the trial judge's actions of not giving the jury an opportunity to return a general verdict of not guilty with the use of the trial judge's defective and improper jury verdict form. The bias actions of this trial judge continued throughout the trial when the trial judge allowed defendant's murder trial to continue while he was being held in the judge's holding cell during Day 3 and Day 5 of trial violating his sixth amendment rights to be present during critical stages of his trial. See arguments 2 and 5 and all of its exhibits for proof.

Turney V Ohio, 273 U.S. 510(U.S,1927).

"Automatic reversal is required only if the trial errors was a structural error that permeated the entire conduct of trial from beginning to end of affects the framework within which the trial proceeds." Fulminante, Id., at 309-310,111 S.Ct.1246. Defendant's Due Process of law was violated under the 5th Amendment. This court held that "A judgment whether civil or criminal case reached without Due Process of law is without jurisdiction and void." Because the U.S. is forbidden by fundamental law to take life, liberty, or property without Due Process and it's courts are included in the prohibition. see Hougland V Bass, 1949 U.S. Lexis 1928 and 172 F. 2d 205 (1949). Defendant respectfully asks that this court reverse his convictions and sentences and remand for a new trial. This judge also displayed partiality and bias during closing arguments. Defendant's theory of his case was mistaken identity because he had a beard and the victim said his assailant was clean shaven, see exhibit H.

During defendant's closing argument statements to the jury was that "the victim testified that his assailant was clean shaven and that his mugshot taken just hours after the murder he had a beard." But the court had marked and accepted his mugshot photo as exhibit B for defense prior to closing arguments but claim it did not have exhibit B when defendant asked for it to present it to the jury during his closing arguments. The Judge stated on the record "I hope one of the officers did not mistakenly take it". Denying Mr. Williams his due process rights to a fair trial and impartial Judge, see exhibit K. Also at beginning of trial Day 5 upon the Judge Conduct Court jury business without the knowledge and presence of defendant in the courtroom, in violation of his 6th Amendment right to control his own case, see (exhibits C,B, pages 4&5) defendant was denied an impartial Judge, see Turney V Ohio, 273 U.S 510 (US,1927).

Argument IV Continue

Officer's Shaw's omission of a known material fact that the perpetrator was "clean shaven" was known or should have been known to affiant Shaw. Due to the victim's police witness statement made earlier that morning hours prior to Shaw's sworn affidavit before the Magistrate on 3-15-2000 Due to fact that Mr. Williams had been in custody 7 to 9 hours prior to Affiant Shaw's filing his affidavit on 3-15-2000, and his mugshot was taken around 6am-7am on 3-15-2000 upon Mr. Williams is shown wearing a beard, see exhibit H. Mr. Williams should be granted a Franks hearing in accordance to clearly establish federal law mandated by this honorable Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Rodney Williams

Date: August 23, 2018

October 22, 2018

RW