

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
WASHINGTON D.C.

PRO SE Lester Barnett — PETITIONER
(Your Name)

vs.

City of Gastonia — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lester Barnett
(Your Name)

P.O. Box 1109
(Address)

Clinton, N.C. 28329
(City, State, Zip Code)

NONE
(Phone Number)

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QUESTION(S) PRESENTED

- (i) WAS it UNCONSTITUTIONAL NOT to preserve the record of the Judicial proceeding in violation of Due Process of LAW of the 5TH, 6TH, AND 14TH Amendment of the United States Constitution.
- (ii) Was it UNCONSTITUTIONAL NOT to have A record where Petitioner could preserve his right to Appeal in violation OF UNITED STATES CONSTITUTIONAL Amendment 5, 6, 14; N.C. CONSTITUTION Article I, Section 18, 19, 21, 23.
- (iii) WAS it UNCONSTITUTIONAL for them to impose A Life Sentence for Attempt robbery, AND Safecracking on A youthful offender who WAS eighteen years old.
- (iv) WAS it UNCONSTITUTIONAL for them to convict petitioner for A safecracking that happen while petitioner WAS confine to Mecklenburg county JAIL on the day the offense occurred November 17, 1980. IN VIOLATION of Due Process of LAW of the 5, 6, 14. Amendment of the United States Constitution.
- (v) WAS it UNCONSTITUTIONAL for th City of Gastonia NOT to disclose evidence favorable to him in VIOLATION United States CONSTITUTIONAL Amendment 5, 6, 14, Also N.C. CONSTITUTION Art I, Section 18, 19, 23,

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:

Lester BARNETT

✓

City of GASTONIA

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TABLE OF AUTHORITIES CITED

CASES

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| Bett V. Brady | 316 U.S. 455, 62 S.Ct 1252 86 L.Ed 1595 (1942) |
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STATUTES AND RULES

11(g) Federal Rule should produce complete record.

U.S. CONSTITUTION Amendment 5, 6, 14 N.C. CONSTITUTION Art I sec. 18, 19, 21, 23
right to Appeal.

U.S. CONSTITUTION Eighth Amendment cruel and unusual punishment

U.S. CONSTITUTION 6th Amendment right to Appeal illegal Sentence

N.C. GS Statute 15A-1026 preserve verbatim record.

U.S. CONSTITUTION Amendment 5, 6, 14 Due process

N.C.G.S 15A-1415(b)(3) illegal conviction

N.C. GS. CONSTITUTION Art I. Section 18, 19, 23. Due process

OTHER

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 C 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 A to the petition and is

reported at Gaston County Superior Court; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the Gaston Co. Superior court 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was July 31, 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: _____, 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 15, 2009. 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

United States Constitutional Amendment 5, 6, 14, and North Carolina Constitution Art 1 Section 18, 19, 23, require due process of law.

Rule 11(g) hearing should produce complete record of factors relevant to determining "consequences of plea". And to eliminate any need to resort to later fact finding proceeding.

N.C.G.S. 15A-1026 require that a verbatim record of such proceeding be maintained and preserved. These statutes plainly establish a legislative policy in favor of allowing review of the record to ensure compliance with the various statutory and constitutional mandates. The legislative could not have intended that a verbatim record be preserved only for it to remain unavailable for inspection.

STATEMENT OF THE CASE

IN the present case the verbatim transcript was not preserved see: Judge order of Jesse B. CALDWELL Page 3 paragraph 2, line 6, 7, 8, 9, Federal rule 11(g) state that you should produce the complete record, Also N.C.G.S. 15A-1026 states that you should preserve the verbatim record in plea agreements in clear violation U.S. Constitutional Amendment 5, 6, 14, Under due process.

Petitioner raise the issue of the illegally excessive sentence where the counts imposed A life Sentence for Attempt robbery And safecracking, Menger 4. Criminal law A defendant cannot be convicted of both Attempt And the complete crime. A U.S. constitution Eighth Amendment violation Against cruel and unusual punishment, Also without A verbatim record it violates petitioner right to Any Appeal process. U.S. constitutional Amendment 5, 6, 14, N.C. Constitution Art 1, section 18, 19, 21, 23, The petitioner was eighteen years old at the time and considered a youthful offender. Petitioner raise the issue on the day that the November 17, 1980 Safecracking occurred he the petitioner was in Mecklenburg county Jail, Mecklenburg Co. Jail record confirm this. See Order: Jesse B. CALDWELL PAGE #2.

The petitioner was sentence to life imprisonment for Attempt robbery and safecracking, the petitioner contend that the sentence is grossly disproportionate to the offense and constitute cruel and unusual punishment in violation of the eighth and fourteenth Amendment of the United States Constitution.

See Order: Jesse B. CALDWELL page #2 where it is clearly stated that the crime was Attempt robbery and Safecracking.

REASONS FOR GRANTING THE PETITION

A state court or United States court of Appeals has decided an important Federal question in a way that conflict with relevant decisions of this court.

This court decided in *Brady v. Maryland* 373 U.S. 8 (1963)
"The verbatim record is appropriate and necessary?"

The verbatim record is needed to access the content of a plea, Federal Rule 11(g) should produce the complete record of factor relevant to determining consequences of plea.

The petitioner present issue general legal significance involved are questions of law or legal reference the petitioner respectfully petition this court to exercise this court discretion and bring the entire record here to this court by certiorari, on the sound discretion of the Supreme court as authorized by 28 U.S.C. § 1651(A).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lester Barnett

Date: September, 5, 2018