

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Octavious L. Rhymes — PETITIONER
(Your Name)

vs.

The State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Texas Court of Criminal Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Octavious L. Rhymes #2105185
(Your Name)

Telford Unit, 3899 State Hwy 98
(Address)

New Boston, TX 75570
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

Where Rhymes' due process rights violated by prosecutorial and judicial vindictiveness. When after being prosecuted in one county, and receiving a shorter term than the DA wanted, Rhymes was then prosecuted in another county, by the same DA and the same Judge as the first trial, for an offense that stemmed from the same criminal episode as the first charge?

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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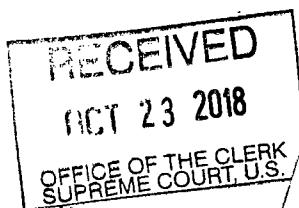


TABLE OF AUTHORITIES CITED

CASES

CASES	PAGE NUMBER
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STATUTES AND RULES

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 _____ 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[] is unpublished.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[] is unpublished.

[X] 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,
[X] is unpublished.

The opinion of the Court of Criminal Appeals court appears at Appendix B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

18. 10. 1908. - *On the 18th October 1908, I*

met Mr. G. H. Parker, M.A., F.R.S.,

of the Royal Society, and the Royal Society's
adviser on the use of the microscope, at the Royal
Society's meeting on the 18th October 1908.

He has given me the following advice on the
use of the microscope, which I will repeat
here, as it is of great interest to all who
use the microscope.

1. The best way to use the microscope is to

use a low power objective and a high power

eyepiece, and to use a low power eyepiece

and a high power objective, and to use a

medium power eyepiece and a medium power

objective, and to use a high power eyepiece

and a low power objective, and to use a

medium power eyepiece and a medium power

objective, and to use a low power eyepiece

and a high power objective, and to use a

medium power eyepiece and a medium power

objective, and to use a high power eyepiece

and a low power objective, and to use a

medium power eyepiece and a medium power

objective, and to use a low power eyepiece

and a high power objective, and to use a

medium power eyepiece and a medium power

objective, and to use a high power eyepiece

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 5-16-18 . A copy of that decision appears at Appendix B .

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

The Fourteenth Amendment to the US Constitution, Due Process

STATEMENT OF THE CASE

This case arises out of the prosecutor and judge intentionaly seeking a way to thort Rhyems' rights, and to maximize his sentence, after they were disappo-
ointed in the length of sentence in his first trial.

The facts of the case clearly show that both actions were part of the same criminal episode. Ordinarily, in crimes arising out of the same criminal episode, the defendant has the statutory right of joinder of the charges and which affords the right to have them presented in one proceeding. One of the primary considerations in doing this is the possible consequence of facing a stacking of the sentences if tried and convicted in seperate trials.

A matter of fact, Texas Penal Code 3.03, would not have allowed the court even the option to stack the sentences in this case, if they were tried together.

The prosecutor and judge used their power to bring the charges under two different counties, counties that both sit in the same judicial district, under the same DA and judge.

They presented the same witnesses and testimony in both trials, and then stacked his sentences.

This action caused Rhyems to get a longer sentence than two of his three co-defendants, co-defendants that admitted at trial they were the primary actors, and even planned to kill Rhyems in the end.

Rhyems was the only black man. The only co-defendant to get a longer time in prison was the victims wife, who initiated the criminal episode.

REASONS FOR GRANTING THE PETITION

The issues in this case can have broad effects on the criminal justice system in America, especially rural communities. As it addresses the vast power a DA and judge can wield, powers not available to their counterparts in large metropolitan locations. Topics this great Court has not addressed in recent times.

Often, like the case at hand, in small rural communities, they are so small that the communities themselves cannot support a separate judicial district on their own. Thus, many communities make up just one judicial district, that can span over many counties. For budget reasons this makes perfect sense.

The questions and concerns we pose today to the Court deal with this increased influence and power this setup gives to these DA's and judges, and most importantly, how to protect defendants against vindictive actions brought by the DA's and judges.

The original charges and trial were brought in Titus county, for agg. Kidnapping, then the same DA and judge brought charges of murder in Camp county. This was possible because both counties sit in the same judicial district. This allowed the prosecutor to try Rhymes on the least serious crime first, and then use the conviction when prosecuting the more serious crime later. It also allowed the court to stack the sentences, something a defendant normally has protection against when crimes like this stem from the same criminal episode.

Although, this Court has not addressed prosecutorial vindictiveness claims often, in *Blackledge*, the Court did address a prosecutor bringing a greater charge after trying a defendant on a lower charge were the same criminal episode covered both. Because the prosecutor could have brought the more serious charge at the outset. See, *Blackledge v. Perry*, 417 U.S. 21 (1974).

Rhymes fought this injustice by filing a motion to quash the Camp county indictment, on grounds of prosecutorial and judicial vindictiveness, of course the trial judge denied the motion.

Although Texas law does allow prosecution in the county where the criminal episode started, or, like in this case where it ended, there is no real support for the DA's or judges actions besides vindictiveness, for the way they handled

this case in totality.

The criminal episode started in Titus county, at the victim's home. Thus, it would only make sense that the community of Titus would have been the more proper location to try both cases, as it would be where more of the victim's family, friends, and co-workers would live.

Nor is there a valid reason to bring Rhymes up against the lesser crime first.

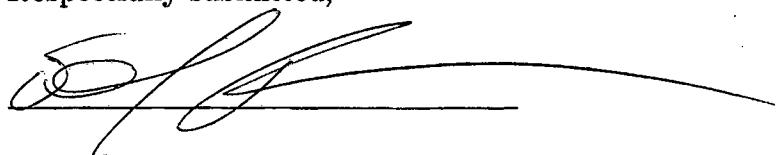
The most damning fact against the DA and judge though, is that the two co-defendants that were the main actors (admittedly) were only tried in Titus county, not both Titus and Camp, like what happened to Rhymes.

These issues will be best served by this Court's review and direction in how issues like this should be addressed by the lower courts in this case and the future.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. J. F.", is written over a horizontal line.

Date: 8-12-18

