

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

In The  
Supreme Court of the United States

Christopher Scott

- Petitioner -

VS.

State of Illinois Supreme Court

- Respondents -

On Petition for a Writ of Certiorari  
To the Illinois Supreme Court

[Petition for Writ of Certiorari]

Christopher Scott

R-31806

P.O. Box-1000

Menard, IL-62259

## Questions Presented For Review

- ① Whether Petitioner 1<sup>st</sup> degree murder charges Count 2 & 3 720 ILCS 5/9-1(A.2) OF Strong Probability of death in Bold Print, while Also "Killed in the Course of Another Felony" 5/18-2 & 5/19-3. Violated the Joinder of Offenses statute "725 ILCS 5/111-4.A," that states 2 separate offenses cannot be charged in the same count that does not allow, makes Count 2 & 3 void before & after trial. see Appendix (C) Before being altered & amended to Felony murder after trial.
- ② Whether the Amendment made to ct 2 & 3 during Petitioner motion for New trial & sentencing July 12, 2004 was untimely & Illegally made violating his Substantial Rights to the United States Const 14<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and State of Illinois Constitution 1970 Article 1 Section 2, 7, 8 denying him due Notice, Separate Verdict Forms, Equal Protection & due Process a Fair trial & Sentencing and to not be Prosecuted for charges the grand Jury never made & free from double Jeopardy that Denied the Circuit Court its Authority to enter Judgments.

## List of Parties

1. Petitioner Christopher Scott # R-31806 R-31806  
P.O Box-1000  
Menard, IL-62259

2. People of the state of Illinois  
Supreme Court.  
200 East

# Table of Contents

|                                              | Pages               |
|----------------------------------------------|---------------------|
| OPINIONS BELOW                               | .... 1              |
| Jurisdiction                                 | .... 2              |
| Constitutional & Statutory Provisions        | .... 3              |
| Statement of the Case                        | .... 5              |
| Reasons for Granting The WRIT                | .... 8              |
| CONCLUSION                                   | .... 14             |
| APPENDIX (A) State Court decision            | .... 15, 16, 17, 18 |
|                                              | .. 1                |
| APPENDIX (B) Illinois Supreme Court decision | .... 19             |
| APPENDIX (C) Indictments                     | .... 20, 21, 22, 23 |
| APPENDIX (D) July 12-2004 Proceedings        | .... 24, 25, 26, 27 |
| APPENDIX (E) July 16-2004 Proceedings        | .... 28, 29         |
| <del>APP</del>                               | 30, 31, 32, 33      |
|                                              | 34, 35, 36          |

## Table of Authorities Cited

| Cases:                                                                | Pages ↓                    |
|-----------------------------------------------------------------------|----------------------------|
| STIRONE v. US 361 U.S. 212 (1960)                                     | ..... 8                    |
| Cole v. State of Arkansas 333 U.S. 196,<br>68 S.Ct. 514, 92 L.Ed. 614 | ..... 8                    |
| Ex Parte BAIN 121 U.S. 1, 7 S.Ct. 781,<br>30 L.Ed. 849                | ..... 8                    |
| DeJonge v. State of Oregon 299 U.S. 353<br>57 S.Ct. 255, 81 L.Ed. 278 | ... 8                      |
| People v. Kincaid 87 Ill.2d 107, 429 N.E.2d 508<br>(1981)             | ... 9                      |
| People v. Johnson 22 Ill. 314                                         | ... 9                      |
| Belleville Toyota at 334 (264 Ill. dec. 283)                          | ... 9                      |
| People v. Bailey 2013 IL 113690, 369 Ill. dec. 1                      | ... 11, 14                 |
| U.S. WOZNIAK 126 F.3d 305, 109 (2d Cir. 1999)                         | ... 11                     |
| People v. Smith 233 Ill.2d 1 (2009)                                   | ... 12 <sup>(A)</sup> , 14 |

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 -

State Cases / State Court

The opinion of the Appellate Court to Review the  
merits appear at Appendix (A) to the Petition and is  
Filed under Supreme Ct Rule 23, June 27, 2018

The OPINION of the Illinois Supreme Ct to Review the  
merits appear at Appendix (B) to the Petition and is  
Just Simply denied NO Explanation Why. Sept 26, 2018

## - JURISDICTION -

State case Courts:

ON June 27, 2018, Appendix (A) The Appella Court of Illinois Third District Denied Petitioner Case on Issues some he was not litigating nor the state put up to litigate. Case # 3-16-0545

On September 26, 2018, the Illinois Supreme Court at Appendix (B) Denied Petitioner Case without stating its Cause of Denial.

This Cause is Properly Before this Court For Review.

## Constitutional & Statutory Provision involved

U.S Constitution Amendment 14<sup>th</sup> Equal Protection  
And due process of the Laws. Section 1

U.S Constitution Amendment 6<sup>th</sup> to Be informed of the Nature  
and Cause of Accusation; Assistance of Counsel

U.S Constitution Amendment 5<sup>th</sup> No Person shall be held  
to Answer For a Capital Crime, unless on presentment or  
Indictment of a Grand Jury

→ State of Illinois Constitution 1970 Article 1 section  
2, 7, 8

of Due Process, Equal Protection of the Laws,  
Also no Person shall Be Held to answer for a Criminal  
offense unless on indictment of a Grand Jury, & given a  
Prompt preliminary hearing to establish Probable Cause, and  
have the Right to appear & defend & demand the Nature & Cause  
of Accusation.

The Amendments made to Count 2-3 during Petitioner July 12, 2004 B. 738-740 Appendix (D) Motion for New Trial NEVER gave Petitioner - Due Notice, Legal option to plea against Preliminary hearing OR Arraignment, the Legal option to Request Separate Verdict forms & denied Petitioner a Fair Trial, Sentencing & Equal protection of the Laws and Due Process of Law.

Petitioner went to trial on 2-Void indictments that never gave him due notice of felony murder, nor charged him for felony murder. Petitioner Substantial Rights was deprived on July 12, 2004 and July 16, 2004 from the unfairly & Illegal Amendments made to Cts 2 & 3. Petitioner went to Trial on May 10<sup>th</sup> 2004 & found guilty on May 12<sup>th</sup> 2004 on offenses of 720 ILCS 5/9-1 (A.2) Strong Probability of death Not felony murder. Petitioner states the Amendment to Counts 2-3 made after his Trial has tainted his Trial & Sentencing & Substantial Rights. Petitioner have been prosecuted & convicted for felony murder without a fair & proper procedures.

The Prosecutor stated there was a "ERROR" Found in Cts 2 & 3 not a incorrect citation to a statutory statute. A ERROR is a Mistaken Judgment or Incorrect Belief as to Existence or Effect of matters of fact, OR a False Conception OR Application of the Law, Such a mistake OR False Conception OR Application of the Law to facts of a Cause as will furnish grounds FOR Review of the Proceeding upon a writ of ERROR. A mistake of the Law, OR False IRregular application of it, such as Vitiates the Proceedings and Warrants the Reversal of Judgment.

## Statement of Case

ON May 2nd 2001, Petitioner was charged with 3-Counts of 1<sup>st</sup> degree murder strong Probability of death (A.2) Appendix(C)

Count-1 720 ILCS 5/9-1(A.2) Strong Probability of death.

Count-2 720 ILCS 5/9-1(A.2) Strong Probability of death, Also quotes Killed in the Course of Another felony 5/18-2 Armed robbery. Which violates the "Joinder of offenses statute 725 ILCS 5/111-4. A

Count-2 Charges 2 Separate offenses in the same count that does not allow, Rendering Ct 2 void Before & After trial.

Count-3 720 ILCS 5/9-1(A.2) Strong Probability of death, Also quotes Killed in the Course of Another Felony 5/18-3,

This violates the Joinder of offenses statute 725 ILCS 5/111-4. A Count-3 Charges 2-Separate offenses in the same count that does not allow Rendering Ct-3 void Before & After trial.

Before the illegal & untimely Amendment made to these Ct-2 & 3 the language written in Bold charged (A.2) strong Probability of death & quotes Felony murder language Killed in The Course of a Felony. These are what Petitioner went to trial for & found guilty of A Error found Violated 725 ILCS 5/111-4. A Petitioner & the record shows He was not given charges of Felony murder.

ON MAY 10<sup>th</sup> 2004 Petitioner went to trial Believing He Was Being charged with 3 counts of murder (A.2) Strong Probability of death & the underlying Felonies will Be RAN Concurrent According to Counsel. Petitioner was not given due Notice or Awareness of Felony murder nor a consecutive Sentence if Found guilty.

ON May 12, 2004 Petitioner was Found guilty on all 3 counts of Strong Probability of death (A.2).

ON July 12, 2004 R. 738-740 Petitioner Motion For <sup>Appendix (D)</sup> New trial & Sentencing. The Prosecutor stated there was A ERROR Found in counts 2 & 3 and she wanted to Amend By Interlineation to Cross out (A.2) & Put (A.3) Felony murder. she did not state there was a incorrect Statutory Citation for Felony murder As the Court in Appendix (A) took it upon itself to make.

The Prosecutor meant to charged Petitioner with Felony-murder (A.3) Before trial & its underlying Felony & made a Error. Counts 2 & 3 quoted the Language of Strong Probability of death in Bold Print & Language of Felony murder stating while "Killed in the course of a Felony" offenses of Armed Robbery & Residential Burglary. This Error was not a incorrect Statutory

Citation, it violated the Joinder of offenses statute 720 ILCS 5/111-4. A that Pethona Court 2 1/3 was void and could only be cured through Amending to (A.3) Felony murder.

ON July 16, 2004 R. 812-813 The trial Court Judge merged Cts 2 1/3 of New felony murder charges into Ct-1 for 48-years 1/2 the underlying Felonies consecutive. Appendix E

This Amendment that was made on 7-12-2004 that Trial Counsel failed to object denied Pethona the legal substantial right of due notice before trial, Preliminary Arraignment 1/2 the legal option to plea against. It also Denied Pethona the legal option to request separate verdict forms like the consequence of a severe sentencing is at stake 1/2 to know to what the Court found him guilty of and to what the Evidence was applied to be challenged, ultimately denying Pethona a fair trial 1/2 sentence and equal protection due process of law 1/2 1970 Article 1 Section 2, 7.8

It is undetermined what Effect the Amendment had on Pethona's sentencing where Pethona's crime was not found to be Heinous 1/2 Brutal 1/2 he received a excessive term of 48-years for murder. It can be said the trial Court may have given him 24 years for felony murder 1/2 24-years for Ct-1 equating to 48-years total due to R. 812-813 she did not vacate 1 of the murder counts she merged them.

⑦

## Reasons FOR Granting The Petition

" STIRONE V. U.S 361" U.S 212 (1960)  
COLE V. State of Arkansas 333 U.S 196, 68 S.Ct 514,  
92 L.Ed 614 States: ↓

A PERSON Cannot Be Convicted OF Charges the grand Jury  
Never made Against them.

ON 5-2-01 The Grand Jury did not Return the charges  
OF Felony murder, thus Any Error Found in a Indictment must  
Be Returned Back to the grand Jury.

Ex Parte BAIN 121 U.S 1, 7 S.Ct 781, 30 L.ed 849 states  
it has Been a Rule that after an indictment has Been returned  
its charges may not Be Broadened through Amendment except  
By the grand Jury itself. The Right to have the grand Jury  
make the charge on its own Judgment is a Substantial Right  
which cannot Be taken away With OR Without Court amendment  
This is a Fatal Error DeJonge V. State of OREGON 299 U.S 353  
57 S.Ct 255, 81 L.ed 278

The Amended Charges of Felony murder made to Cts 2 & 3 during  
Petitioner's motion for New trial & Sentencing was not made By the  
Grand Jury nor Returned to the grand Jury for Correction

"People v. Kincaid" 87 Ill.2d 107, 429 N.E.2d 508 (1981)  
States AN Amendment to indictment to include a  
Essential Element "Must originate with the Grand Jury" The  
State can on information to include Essential elements of  
The Crime when the Amendment is made before trial, a  
Prompt Preliminary Hearing is held to determine Probable  
Cause & the Right to Plead.

"Johnson v. People" 22 Ill.314 states a statute Requires  
a Plea and it is imperative that the Record shows a plea  
and the Absence of such Plea, The Court is without  
Jurisdiction to Enter a Judgment of Conviction.

### - Subject Matter Jurisdiction -

The Trial Court Subject-matter-Jurisdiction is  
Conferred Entirely By the State of "Illinois Constitution"  
Belleville Toyota at 334 (264 Ill. dec 283) 770 N.E.2d 177  
The Circuit Court must abide By the state of Illinois  
Constitution Entirely 1970 Article 1 Section 2, 7, 8.

The Lower Courts must Obide By the State of Illinois Const,  
That states if a Person must do time in Prison He must Be  
indicted First By the Grand Jury & Appear to defend, Due Notice  
and have the option to plea E.T.C

ON 7-12-04, R. 738-740 when the Trial Court Allowed The Prosecutor to Change Cts 2 & 3 From Strong Probability of Death to (A.3) Felony murder it denied petitioner a Fair trial & Sentence & deprivations of his Substantial Rights stated within due to He was Not aware Before trial that He was Charged with Felony murder, IF so He would have Requested Separate verdict forms for the charges of Felony murder.

The Appellate Court on pg-<sup>4</sup> of Appendix (A) states it is NO Judgment entered on Cts 2 & 3 - is false. The Court stated ON 7-16-04 [8/12-8/13] that whatever sentence she would impose on Ct 2 & 3 is merged with Ct-1 48-years. It is (undetermined) what Effect the Amendment to Ct 2 & 3 of Now Felony-murder had on his Excessive sentence of Ct-1 48-years and its underlying Felonies. The Amendment denied Petitioner lots of legal options for to Proceed to a Jury trial, Separate verdict forms for the different theories of murder to know what theories He was Acquitted on & can appeal for Reasonable doubt, due notice and to Plea against. Petitioner does not know what theories of murder He was Found guilty on now & what effect the Amendment had on his Sentencing.

Charges of 2 separate murder theories allows for a severe sentencing consequence where no verdict forms are requested *People v. Bailey*, ~~985~~ 985 N.E.2d 987, 369 Ill. dec. 1

Even though the prosecutor misstated the law on 5-10-04 stating she was applying the Felony murder Rule to Cts 2 & 3 Petitioner was not charged with Felony murder. This is also a Constructive Amendment as seen in "*U.S. Wozniak*" 126 F.3d 305, 109 (2d Cir. 1999).

The evidence presented at trial proves a crime different from that charged in the indictment. Also where the charging terms of an indictment returned by the grand jury is altered & there is a substantial likelihood a defendant was convicted of an offense other than that charged & found guilty.

The evidence presented at trial which was Petitioner's coerced confession that was used as sole evidence against him proves the element of Felony murder, here Petitioner was not prosecuted / charged for Felony murder.

If the lower courts want to say upon agreeing with Appellate Counsel that filed a motion to withdraw stating Petitioner was given due notice through the language of the indictment Cts 2 & 3, that the language was sufficient to charge an offense, it must consider the error that

Count-2 & 3 OF Appendix C Contains the Language OF (A.2) STRong Probability of death; in Bold Print & quoting Killed in the Course of Another Felony-which is the Felony murder language (A.3). With or without the untimely Amendment Cts 2 & 3 are void due to it still charges 2 separate offenses & more in the same count in-violation OF Joines of offenses 725 ILCS 5/111-4@ IF the Language is Sufficient Enough to charge A offense See Appendix C

Due to Petitioner was NEVER given due notice OF the Amended charges of Felony murder (A.3) made during his motion for New trial after he was found guilty of (A.2), His Conviction & Sentences OF Count-1, 2, 3, 4, 5 must Be Reversed due to [Ct 2 & 3] was not the charges the grand Jury made Before his Trial & it is undetermined what Effect The Amendment of Strong Probability of death (A.2) to now (A.3) Felony murder Held on his Excessive Sentencing of Ct-1 48 years, 21-Armed Robbery 10-Residential Burglary.

This Amendment Denied Petitioner to a Fair trial & defend Against charges of Felony murder By Requesting a Separate Verdict Forms when dealing with different theories of Murder & to know what he was Properly Found guilty for or Acquitted And or Receive a Fair Sentencing Scheme that was at stake and to take a Jury trial.

Petitioner Requests that this Honorable Court grant them A New trial OR a New Sentencing Hearing with the vacate of Ct-2 & 3 to allow for Petitioner to have a fair Sentencing Proceeding and/or a New trial.

Petitioner Counsel Failure to object shows she was a Advocate for the Prosecution team, she allowed the amendment to denied Petitioner A Fair trial, due Process & Equal Protection of the laws as well due to Prior to trial He was not indicted for Felony murder nor Found guilty of Felony-murder on May 12, 2004, And this Amendment to Felonymurder was Constructive & Prejudice it denied Petitioner the legal option to plea & take a Jury trial & Request separate Verdict Forms to have a Jury decide the 2 theories of murder.

Since Petitioner notices that the Prosecutor wants him to Be Prosecutor for Felony murder, A Jury may have made that decision and petitioner would have Receive a Concurrent Sentencing, Instead of a Consecutive Penalty. As Seen in Bailey & the Smith Case stated within Bailey The Absent of Verdict Forms dealing with 2 theories of Murder Allows for a Consecutive and harsher Sentencing for Consecutive term  
People v. Smith 233 Ill. 2d 1 (2009)

ON July 16, 2004 R. 812-814 Appendix E the trial court Judge did not dismiss 1 of the murder charges she instead merged ct-2 & 3 into ct-1 which means the conviction for both strong probability of death still exists with Felony murder, there was no charge dismissed

Petitioner cannot challenge whether or not he was found guilty beyond a reasonable doubt of felony murder due to he was not charged prior to & during trial for felony murder. In the state of Illinois 1st degree murder is a single offense with many ways to commit, Petitioner states 1 of his murder convictions must be vacated, to give him the option to appeal or give him a new trial and/or a new sentencing hearing to dismiss 1 of the murder convictions to allow him to receive a fair chance at a minimum sentence of murder & its underlying felonies.

It is also undetermined what effect the new charges of felony murder had on his underlying felonies ct-4 & 5 of Armed Robbery of 21-years & Residential Burglary 10 years due to all his sentences for each offenses is on the very high end & cannot be considered fair or restoring him back to useful citizenship. Petitioner charges have him 12 years off the maximum of 60 for murder ct-1, Count 4-9 years from the max of ~~21~~ Armed Robbery 21, and 10 years for Residential Burglary 5 years from the max of 15.

The Appellate Court in appendix (A) stated in Pg-4, Petitioner personally appeared before the court, as to say he was given due notice of charges of Felony murder is false. Petitioner appeared assuming the charges was 720 ILCS 5/9-1(A.2) 3 counts of murder under "Strong Probability of Death" in Bold Print & Statute, thus (A.2) was violation of 720 ILCS 5/11-4 (A) Jance of offenses before & after trial charging 2 separate offenses in the same count.

Count 2 & 3 of New Felony murder made on July 12, 2004 due to Felony murder was Not the charges the Grand Jury made/returned and the Record does not show due notice violation of 1970 Article Section 2, 7, 8 of the ~~State~~ State of Illinois Const that no person shall be held to answer for a criminal offense unless on a indictment of a Grand Jury and have the right to appear & defend.

This Amendment Robbed Petitioner out of Equal Protection of the laws & due notice of law & to have a fair trial and sentencing. Petitioner Requests to be given a New trial & or sentencing with the vacate of Ct 2 & 3 or whatever remedy the Court feels is correct. Petitioner Also Requests Resentencing on Ct 4 & 5 as well.

The Prosecutor took Petitioner to trial on 3 counts of 720 ILCS 5/9-1(A.2) Strong Probability of death & waited after his trial to try & illegally correct this error through a untimely Amendment.

OR maybe she felt the court would ~~not~~ find Petitioner guilty of felony murder & ct 4 & 5 underlying felonies would run concurrently. The prosecutor purposely committed this error & cured it during Petitioner's motion for new trial. So Petitioner can receive a consecutive sentence, in order to be able to not challenge it, Petitioner was not aware he would receive consecutive sentencing.

This untimely amendment, & failed objection by trial counsel denied Petitioner due notice, the legal option to plea against felony murder & to have the option to request separate verdict forms for 2 theories of murder to have the benefit that the lesser-included offenses does not support a separate conviction & sentence & to have a favorable sentencing scheme & to have a fair trial, preliminary & arraignment and the option to take a jury trial with 2 theories of murder is involved. Petitioner was not aware he would receive a consecutive sentencing when "strong probability of death & felony-murder is involved & no verdict forms is requested. As seen in People v. Bailey 985 N.E.2d 987, 369 Ill. dec. 1 (2013) People v. Smith 233 Ill.2d 1 (2009)

- CONCLUSION -

This Petitioner writ of Certiorari should be granted

Respectfully submitted;