

NO. _____

IN THE

____ SUPREME COURT OF THE UNITED STATES

In re William M. Bailey - Petitioner

vs.

Casey Campbell, Warden, Respondent

State Of Maryland, Respondent.

ON PETITION FOR ORIGINAL HABEAS CORPUS
PURSUANT TO TITLE 28 U.S.C. Section 2241.

ON PETITION FOR WRIT OF HABEAS CORPUS TO:
FOURTH CIRCUIT COURT OF APPEALS

PETITION FOR ORIGINAL HABEAS CORPUS

FR: William M. Bailey, #197976

Jessup Correctional Institution

P.O. Box 534

Jessup, Maryland, 20794.

QUESTION PRESENTED

1. WAS THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY DEPRIVED OF JURISDICTION OVER THE SUBJECT MATTER, THEREBY RENDERING THE JUDGEMENT VOIDED, BY FAILING TO FORMALLY CHARGE PETITIONER WITH THE ACCUSATIONS AGAINST HIM SO THAT HE COULD PREPARE FOR HIS DEFENSE?

LIST OF PARTIES

All Parties Appear In The Caption Of The Case On The Cover Page.

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

— OPINIONS BELOW.

Federal Opinions:

1. The Opinion Of The United States Court Of Appeals For The Fourth Circuit Appears At Appendix (A) To The Petition And Is Unpublished.
2. The Opinion Of The Federal District Court Appears At Appendix (B) To The Petition And Is Unpublished.

State Opinion:

1. The Opinion Of The Maryland Court Of Appeals On Direct Appeal Appears At Appendix (C) To The Petition And Is Unpublished.

Petitioner prays that a Writ of Habeas Corpus issue to review the judgement at issue.

JURISDICTION

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C. SECTION
1651(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

1..The Sixth Amendment to the United States Constitution states in part that;

" And to be informed of the nature and cause of the accusations."

2. The Fourteenth Amendment to the United States Constitution states in part that:

" No State shall deprive any person within it's jurisdiction of life,liberty or property without due process of law;" Nor deny any person within it's jurisdiction of the equal protections of the laws."

3. Article 21 of the Maryland Declaration of Rights states in part that:

" In all criminal prosecutions, every man has a right to be informed of the accusations against him, to have a copy of the indictment or charge, in due time, to prepare for his defense."

STATEMENT OF THE CASE

On February 14, 1989, a Prince George's county jury acquitted this Petitioner of the first counts of first degree rape, anal, cunnilingus and fellatio sex offense, which were counts 1, 5, 8 and 10. These counts alleged that Petitioner displayed a handgun in these acts. Petitioner was also acquitted of the kidnap, count 15, as well as being acquitted of the Use of A Handgun in the commission of a crime of violence, count 17.

In alternative first degree counts, Petitioner was charged with a second count of first degree rape, anal, cunnilingus and fellatio sex offense. These counts alleged that Petitioner placed Ms. Marshall in fear of serious physical injury; Counts 2, 6, 9, and 11. These were the four first degree counts that Petitioner was convicted for after the acquittals. On April 5, 1989, the Circuit Court sentenced Petitioner as follows: Count 2, first degree rape, life. Count 6, first degree anal sex offense, life. Count 9, first degree fellatio sex offense, life. Count 11, first degree cunnilingus sex offense, life. For a total of three consecutive life sentences.

The criminal process legally begins in Maryland Circuit Court when a Summons has been prepared, along with the charging document, and it is either mailed to the accused or hand served by the Sheriff. Maryland Rule 4-212(c).

Petitioner directs this Courts attention to Appendix (D), 1-4, which is a copy of the original Court docket entries. The Court will see that the dockets state that on August 18, 1988, that a Summons was

issued with a copy of the indictment and mailed to the Petitioner. Then the dockets state that on August 23, 1988, that the Summons and indictment were returned. This establishes that there was never a service process upon the Petitioner of the Summons or the indictment. The Court can also see that the Court dockets are also silent on an arraignment or plea taking place of the Petitioner, because there never was; This being in strict violation of Md. Rule 4-215(a)(1)(3) and Md. Rule 4-242(b)(3) respectfully. In fact, the dockets are silent on anyone entering a plea to case number #CT881651X.

Article 21 of the Maryland Declaration of Rights states in part that:

" In all criminal prosecutions, every man has a right to be informed of the accusations against him, to have a copy of the indictment or charge, in due time, to prepare for his defense."

The Sixth Amendment to the United States Constitution, which is enforceable upon the states via the due Process clause of the Fourteenth Amendment, states in part:

" And to be informed of the nature and cause of the accusations."

The Supreme Court made this above right personal to the accused when it held in Faretta v. California, 422 U.S. 806 (1975) that:

" The Sixth Amendment does not provide merely that a defense shall be made for the accused, it grants to the accused personally the right to make his defense;" It is the accused, not defense counsel, who must be informed of the nature and cause of the accusations."

Faretta, 422 U.S. 806, at 819.

In addition, the Fourteenth Amendment to the United States Constitution states in part that:

" No state shall deprive any person within it's jurisdiction of life, liberty or property without due process of law;" nor deny any person within it's jurisdiction of the equal protections of the laws." Subject Matter Jurisdiction is acquired in a criminal proceeding when the accused is formally charged with the accusations against him and called upon to enter a plea to those accusations.

Thus, Petitioner holds that because the State and Circuit Court for Prince George's county failed to formally charge this Petitioner with this 19 count indictment against him, prior to trial so that he could prepare for his defense, then the Circuit Court for Prince George's county never procedurally acquired jurisdictional venue over Petitioner from the lower District Court, nor did the trial Court ever acquire jurisdiction over the Subject Matter in the Circuit Court, thereby making Petitioner's trial, convictions and sentences in the Circuit Court for Prince George's county a complete nullity.

Over the years, the Circuit Courts clerks office has been submitting doctored docket entries to the Md. Court of Appeals to apparently cover-up the fact of Petitioner never being formally charged with this 19 count indictment against him. Petitioner submits Appendix E, F , which are docket entry extracts that

were sent to the Md.Court of Appeals by the P.G.county clerks office in appeals that Petitioner filed in 2011,2013. In each of these docket entries the Court can see that the August 23,1988 entry showing where the Summons and indictment being returned, has been removed. And then an entry has been added to these three doctored docket entries on August 26,1988, to an arraignment being moot. This was apparently an attempt by the Circuit Court to try and show a service process of the Summons and indictment upon the Petitioner, thereby negating the necessity of an arraignment. But the Original docket entries at App.(D) clearly expose this deceitful act by the Circuit Court.

One final footnote to this miscarriage of justice, on July 21,1988, Petitioner was arrested and taken before a District Court Commissioner and served notice of a charging document alleging that he committed an act of vaginal,anal,cunnilingus and fellatio sex with Ms.Marshall by displaying a handgun. These were the five counts that Petitioner was served notice of and went to trial believing that he was facing. And as Petitioner showed at the start of his Statement of the Case, he was acquitted of all four of these first counts of first degree's by displaying a handgun. However, Petitioner was not taken to trial in the Circuit Court upon this five count District Court charging document. Petitioner was taken to trial in the Circuit Court under a 19 count indictment handed down by the Grand Jury on the Circuit Court level that included the five count District court charges.And it was this 19 count

indictment that Petitioner was never served notice of, never arraigned upon, and never called upon to enter a plea too.

EXCEPTIONAL CIRCUMSTANCES

1. This Court has defined in prior decisions what constitutes exceptional circumstances to invoke this Courts discretionary review under Original habeas corpuses. This Court held that those circumstances are reserved for case's in which the trial Court was deprived of jurisdiction over the person or the cause, or some other matter that rendered the proceedings voided. (see) Ex parte Lange, 18 Wall, 163, 21 L.ed 872. Ex parte Albert Siebold, 100 U.S. 371 (1879). And Ex parte Yarbrough, 110 U.S. 651, 653. (1884)

Petitioner established within his Statement of the Case this exceptional circumstance by showing that the trial Court never acquired jurisdiction over the Subject Matter, or cause, when the State and Circuit Court failed to formally charge this Petitioner of the accusations against him on the Circuit Court level, in which he was never served notice of this 19 count indictment, never arraigned upon this 19 count indictment, nor called upon to enter a plea to this 19 count indictment. In fact, no one entered a plea to this 19 count indictment under case number #CT881651X.

This Court held many years ago in Cole v. Arkansas, 333 U.S. 196, 201-202 that:

" No principle of procedural due process is more clearly established than that of the notice of the specific charge, and a chance to be heard in a trial of the issues raised by that charge,

are among the Constitutional rights of every accused in a criminal proceeding in all Courts, State or Federal." "It is as much a violation of due process to send an accused to prison following conviction of a charge on which he was never tried, as it would be to convict him upon a charge that was never made." Cole, 333 U.S. 196, at 201-202.

This Court went on to hold in Ex parte Varbrough, 110 U.S. 651, 653, (1884) that:

"It is well settled that when a prisoner is held under a sentence of any Court of the United States in regard to a matter wholly beyond or without the jurisdiction of that Court, it is the Supreme Courts duty, when the matter is properly brought to it's attention by an Original petition, to discharge the prisoner from confinement."

Petitioner prays that these exceptional circumstances will invoke this Courts discretionary powers to address the merits of this illegal, unlawful detention of the past 30 years.

Why Adequate Relief Cannot Be Obtained By Any Other Form Or From Any Other Court .

1. Petitioner has presented this jurisdictional claim to Marylands highest Court, the Federal District Court and the Fourth Circuit Court of appeals, and each Court declined to address the merits of this jurisdictional violation. In 2016, Petitioner was on direct appeal from a denial of his Dna Motion for a new trial. All of these Dna appeals go directly to the Md. Court of Appeals pursuant

to State law. Within this appeal, Petitioner also included his jurisdictional argument of the trial court never acquiring jurisdiction over the subject matter, thereby rendering there judgement voided. Now State Statute under Md.Rule 8-131(a) allows for jurisdictional violations to be sent directly to the Md.Court of appeals as a first right.also, Maryland case law in Lane v.State, 348 md.272,278,(1997), states that jurisdictional violations are always before the Court of Appeals and are the exception to the general rule of having to be raised and decided in the trial court first. But as this Court can see from App.(c), not only did the Court of Appeals decline to address the merits of his jurisdictional claim,but it dismissed his entire appeal just so they would not have to address whether or not the judgement was voided. But federal law only requires that the State be given an opportunity to address the merits as a first right.

The federal District Court stated that Petitioner's jurisdiction claim was not cognizable under section 2241, without showing in his Opinion why this was the case. The District Court then treated Petitioner's claim as if was filed under Section 2254 by stating that Petitioner had to seek the Fourth Circuits permission to file his Writ seeing that he filed a Writ in 1996 and the Antiterrorism And Effective Death Penalty Act of 1996 barred a second Writ without going through the gate keeping process. First, Petitioner's 1996 Writ was filed under 2254 and challenged the constitutionality of his conviction. This present Writ, filed under 2241 challenge's

the trial courts jurisdiction over the subject matter. By virtue of this, this present Writ does not constitute a successive application within the meaning of Section 2244. Secondly, the (AEDPA) Act of 1996 does not apply to Original habeas corpuses.(see) Felker v.Turpin, 518 U.S.651,(1996). And a Certificate of Appealability that the District Court declined to issue also does not apply to Section 2241 Petitions, because the Fourth Circuit cannot entertain Original habeas corpuses as a panel. Thereby the District Court not only made an erroneous finding of fact,or lack thereof, with respect to Petitioner's jurisdictional claim not being cognizable under Section 2241, but he also treated Petitioner's Writ as if it was filed under 2254 which it was not.(see) App.(b).

And then Petitioner sent an Original 2241 Petition to the chief Judge of the Fourth Circuit Court of appeals, and apparently he forwarded the Writ to a Three Judge panel for adjudication, even though they do not as a panel have the authority to entertain 2241 petitions. And as the Court can see, they too decline to address the merits of the jurisdictional claim or remand it back to the District Court for further proceedings.(see) App.(a).

So the reason why Petitioner cannot obtain relief from any other Court is because these above three Courts decline to address the merits of this jurisdictional violation. And the reason why Petitioner cannot obtain adequate relief by any other form is because there is only one remedy at law for this jurisdictional

violation, and that's Petitioner's immediate release from State custody, and only the Original habeas corpus under Section 2241 is designed to carry out this function. And because jurisdictional violations can never be waived, and because each one of these above Courts decline to address the merits of this gross miscarriage of justice, then this claim is not finally litigated and the doctrine of Res judicata does not apply and this matter is properly before this Court.

RELIEF SOUGHT

1. Petitioner is seeking his immediate release from State custody from this void judgement of the past 30 years.

Respectfully Submitted,

x. *William M. Bailey*

**Additional material
from this filing is
available in the
Clerk's Office.**