

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

IN THE  
SUPREME COURT OF THE UNITED STATES

GREGORY HAYNES  
— PETITIONER  
(Your Name)

vs.

STATE OF ILLINOIS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Appellate Court of Illinois

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

PETITION FOR WRIT OF CERTIORARI

GREGORY HAYNES #RO4965

(Your Name)  
Menard Correctional Center  
Post Office Box 1000

(Address)

Menard, Illinois 62259

(City, State, Zip Code)

Not Applicable

(Phone Number)

**QUESTION(S) PRESENTED**

Whether the Petitioner was denied his constitutional rights to due process and a fair trial when the trial court made multiple comments that reflected that it conflated the standards for self-defense and second degree murder in Illinois, resulting in the court imposing a greater burden of proof on the Petitioner for second degree murder, by injecting the elements of self-defense into its verdict.

Whether the Illinois Appellate Court and Illinois Supreme Court have allowed a clear miscarriage of justice to persist by failing to correct the legal standards entangled between self-defense and second-degree murder with petitioners appeal.

## **LIST OF PARTIES**

[X] All parties appear in the caption of the case on the cover page.

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	3
STATEMENT OF THE CASE.....	4
REASONS FOR GRANTING THE WRIT.....	5-7
CONCLUSION .....	8

## INDEX TO APPENDICES

APPENDIX A -Order of the Illinois Appellate Court, People v. Haynes, 2017 IL APP. (1st) 150590-U

APPENDIX B - Order denying petition for Re-hearing

APPENDIX C -Order denying petitioner for leave to appeal to the Illinois Supreme Court.

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
People v. Castellano, 2015 IL. APP. (1st) 133874	5
People v. Haynes, 2017 IL. APP. (1st) 150590-U	5, 6
People v. Lee, 213 ILL. 2d 218 (2004)	5
People v. Jeffries, 164 IL. 2d 104 (1995)	6
Peterson v. New York, 432 U.S. 197 (1997)	7
People v. Fernandez, 2014 IL. App. (1st) 115527	7

## STATUTES AND RULES

28 U.S.C. Section 1257	2
720 ILCS. 5/9-2 (West 2008)	3, 5, 6
720 ILCS. 5/7-1 (West 2008)	3, 5

## OTHER

U.S. Const. amends V, XIV	3, 7
IL. Const. 1970 article I and 2	3, 7

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**

[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  
[X] reported at People v. Haynes, 2017 IL App (1st) 150590-u, or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

## JURISDICTION

[X] For cases from **state courts**:

The date on which the highest state court decided my case was May 30, 2018.  
A copy of that decision appears at Appendix C.

[X] A timely petition for rehearing was thereafter denied on the following date:  
February 22, 2018, and a copy of the order denying rehearing appears at Appendix B.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

(X) The Appellate court did not move to file an extension of time to file the petition for Writ of Certiorari.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The due process clauses of both the United States and Illinois Constitutions guarantee criminal defendants the right to a Fair Trial. U.S. Constitution, amendments V, XIV of the Illinois Constitution, 1970, Article I & 2

28 U.S.C. Section 1257

720 ILLCS 5/9 - 2 (West 2008)

720 ILLCS 5/7 - 1 (West 2008)

## STATEMENT OF THE CASE

The charges in this case arose after GREGORY HAYNES shot Terrell Thomas at a birthday party. Haynes defense

at the trial was self-defense, or alternatively, second-degree Murder Predicated on an unreasonable belief in the need to use self-defense.

On appeal, Haynes argued that the trial court conflated the standards for self-defense and second-degree murder, with the courts mistake of law resulting in Haynes being subjected to a higher burden of proof than required by law. In affirming Haynes conviction, the App. Court found that the trial court did not confuse self-defense with second-degree murder, but rather correctly required Haynes to objectively show the presence of the first five factors of self-defense.

Accordingly, it is not clear whether evidence in support of a reduction to second-degree murder must objectively show that the surrounding circumstances actually met the elements self defense, or whether the evidence must subjectively show that the defendant believed the surrounding circumstances met the elements. The due process clauses of both the U.S. and Illinois Constitutions guarantee criminal defendants the right to a Fair Trial. As a matter of due process, the State has the burden to prove every element of an offense beyond a reasonable doubt.

## REASONS FOR GRANTING THE PETITION

Petitioner cites compelling reasons for granting this petition, where Petitioner's right to a fair trial was denied. The chief error arising from this case involves the trial court's misstatements of the law in that these legal errors resulted in Appellate Courts confusing the requirements of self-defense with the second-degree murder statute's mitigating factor, which focuses only on a defendant's subjective belief. Instead of citing to an unsupported novel proposition of law set forth in Castellano, this court should have simply looked to the second-degree murder statute itself. See: People vs. Castellano, 2015 IL Appellate (1<sup>st</sup>) 133874; 720 ILCS 5/9 -2 (a) (2) (west 2008). Had the Appellate Court done so, it would have recognized that the numerous comments by the trial court highlighted in Petitioner's opening brief demonstrated that they conflated second degree murder with self-defense, and ended up applying a more onerous burden on Petitioner than the law requires.

The App. Court's Mistake of law that impacted its holding where it held that "the court found defendant guilty of First-degree murder because the defense had not shown two factors of self-defense; the court found defendant was the initial aggressor and was not facing an imminent danger of harm." See: People v. Haynes, 2017 Illinois App. (1<sup>st</sup>) 150590-U. As noted above, Petitioner was not required to prove the first five elements of self-defense by a preponderance of the evidence, so the Trial Court's consideration of these two factors was error. 720 ILCS 5/9 -2 (a) (2) (West 2008). Also see: 720 ILCS 5/7 – 1 (a) (West 2008).

Similarly, the App. Court's statements that "the court's reference to the preponderance of the evidence standard involved the proof required to shift the burden to the State on the issue of whether defendant was the initial aggressor", and that "the defendant must show by a preponderance of the evidence each of the first five factors of self-defense", were mistakes of the law. People vs. Haynes, 2017 Illinois Appellate (1<sup>st</sup>) 150590-U. like the trial court, the Appellate Court conflated Self-defense with second-degree murder. It is self-defense that involves shifting the burden back to the State to disprove Self-defense, and second-degree murder that involves the preponderance Standard. 720 ILCS 5/9 -2 (West 2008); People vs. Lee, 213 Illinois 2d 218, 225 (2004).

Language from this court's decision in People vs. Jeffries, 164 Illinois 2d 104, 129 (1995), has been interpreted by the Illinois Appellate Court to stand for the proposition that, for a first-degree murder conviction to be reduced to Second-degree Murder, The defendant must show by a preponderance of the evidence that the first five factors of self-defense were present: 1). Force was threatened against the defendant; 2). The defendant not the aggressor, 3). The danger of harm was imminent, 4). The threatened force was unlawful, and 5). The defendant actually and subjectively believed a danger existed that required the use of force be applied.

By interpreting Jeffries in a way that requires a defendant to objectively show that the first five elements of Self-defense were present by a preponderance of the evidence in order to warrant a reduction to Second-degree murder the App. Court confused Self-defense Second-degree murder. The result of this is that in the First district, "a defendant faces a higher burden in a Second-degree murder analysis" than in a self-defense analysis. People vs. Haynes, 2017 Illinois Appellate (1<sup>st</sup>) 150590-u. As Self-defense results in an out-right acquittal, it does not make sense that it would be harder for a defendant to show Second-degree's mitigating Factor than to show Self-defense.

Self-defense and Second-degree murder, mitigating factor set out in 720 ILCS 5/9 – 2 (a) (2) are similar. The confusion between the two shown by the Appellate Court and the Trial Court stems from Jeffries and from the similarity between the "Some" evidence Standard for raising Self-defense, and "Preponderance" burden of proof on the defendant to establish Second-degree Murder's Mitigating Factor. In addition, the Castellano Court's addition of a novel, but incorrect, Principle of land to the Second-degree Murder cannon increased the Potential for confusion in these areas of law, as the court in this case ended up switching back and forth between self-defense and second-degree murder interchangeably when discussing and applying the applicable law, Haynes, 2017 Illinois Appellate (1<sup>st</sup>) 150590 –u.

The record in this case shows 11 separate remarks by the Trial Court reflecting its confusion over the difference between Self-defense and Second-degree Murder. The Illinois Appellate Court's decision also reflects that it too confused Self-defense and Second-degree Murder. And the Illinois Supreme Court's refusal to review this clear confusion of law on the Merits and existing statutes- continues to deprive petitioner of the

due process clauses of both the United States and Illinois constitutions guarantee to criminal defendants the right to a fair trial. U.S. Constitution, Amendments V, XIV; Illinois Constitution 1970, Article 1 & 2. As a matter of due process, the State has the burden to prove every element of an offense beyond a reasonable doubt. Patterson vs. New York, 432 U.S. 197, 215 (1977).

The Multiple and extensive remarks by the Trial, and the Illinois Appellate Court's misinterpretation of law, and the

Illinois Supreme Court's refusal to grant leave to ignores People v. Fernandez 2014 Illinois Appellate (1<sup>st</sup>) 115527 - ~~U~~ and Patterson vs. New York, 432 U.S. 187??, 215 (1977).

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Drey Haynes

Date: August 23<sup>rd</sup>, 2018