

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Charles Geeter — PETITIONER
(Your Name)

vs.

Daniel Lusatz — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Charles Geeter (#223130)
(Your Name)

Baraga Correctional Facility, 13924 Wadaga Rd.
(Address)

Baraga, Mich, 49908
(City, State, Zip Code)

(906) 353-7070
(Phone Number)

QUESTION(S) PRESENTED

- I. Whether the Jencks Act, 18 U.S.C. § 3500, applies to State proceedings as well as federal proceedings?
- II. Whether the Court Reporters Act, 28 U.S.C. § 753(b), applies to State proceedings as well as federal proceedings?
- III. Whether the Acts of Congress apply to State proceedings as well as federal proceedings?
- IV. Whether a State court's violation of State law is a valid basis for a State criminal defendant to pursue federal habeas relief?
- V. Whether State criminal defendants are protected by the principles and merits of the Jencks Act and the Court Reporters Act, even if the Jencks Act and the Court Reporters Act weren't specifically designed for State proceedings? and if not, what other safeguards are available to protect the integrity of the truth determining process at trial in a State proceeding for petitioner and others similarly situated?

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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EXHIBIT "A" LETTER FROM COURT REPORTER (informing petitioner of a previously held hearing that had never been transcribed nor ever had previously been disclosed until after trial and direct appeal)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Krilich</u> -v- <u>US</u> , 502 F.2d	680
<u>Britt</u> -v- <u>N.CAR.</u> , 404 U.S	226
<u>People</u> -v- <u>Parmelee</u> , 431 Mich.	899
<u>Ireland</u> -v- <u>Tunis</u> , 113 F.3d	1435, at 1439

STATUTES AND RULES

28 U.S.C. § 753(b)

28 U.S.C. § 2254

Fed. R. App. Proc. 10(c)

18 U.S.C. § 3500

Rule 29.4 (b) of the U.S. Supreme Court Rules

MCR 6.102(B)

28 U.S.C. § 2403(a)

OTHER Rule 29.4 (b) states: In any proceeding in this Court in which the constitutionality of an Act of Congress is drawn into question, and neither the U.S. nor the federal department is a party, the initial document filed in this Court shall recite that 28 U.S.C. § 2403 (a) may apply and shall be served on the Solicitor General of the U.S., Room 5614, Dept. of Justice, 950 Pennsylvania Ave., N.W., Washington DC 20530. Thus, Petitioner Greeter is reciting that he'll serve the Solicitor General because 28 U.S.C. § 2403 (a) may apply in this case.

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 A 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 U.S. Dist. 2018, LEXIS 74941; 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 _____ 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 _____ 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 4, 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 _____. A copy of that decision appears at Appendix _____.

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

All persons born in the U.S., and subject to the jurisdiction thereof, are citizens of the U.S., and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S.; nor shall any State deprive a person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protections of the laws. U.S. Const. Amend. 14 § 1.

In all criminal proceedings, the accused shall enjoy the right to be confronted with the witnesses against him. U.S. Const. Amend. 6.

Failure to provide material to which defense is entitled under Jencks Act, 18 U.S.C. § 3500, may adversely affect defendant's ability to effectively crossexamine government witnesses and thereby infringe upon constitutional right of confrontation. U.S. Const. Amend. 6. Krillich-v-US, 502 F.2d 680 (1974), 420 U.S. 992.

The Court Reporters Act, requires court reporters to record verbatim all proceedings in criminal cases held in open court. 28 U.S.C. § 753 (b).

STATEMENT OF THE CASE

On April 30, 2009, petitioner Charles Geeter was convicted of armed robbery by a jury trial in the Oakland County (Michigan) Circuit Court. However, after trial and direct appeal, petitioner newly discovered on August 11, 2011, that a probable cause hearing was held in his case, (outside of his presence), that contained Jencks Act material that had never been previously disclosed to him. Thus, petitioner sought the contents of this hearing to no avail, (see attached exhibit "A").

After exhausting his State remedies and having his State habeas corpus petition denied (see denial under appendix C), he then filed two writ of habeas corpus petitions pursuant to 28 U.S.C. § 2254 in the U.S. Dist. Court, E.D. Mich., requesting reconstruction of the record where the transcripts are missing pursuant to F.R.A.P. rule 10(c), his petition was denied on May 3, 2018, (see denial under appendix B).

Thus, petitioner filed a motion for certificate of appealability to the U.S. Court of Appeals, Sixth Circuit and he also filed a motion for production of transcript on appeal per F.R.A.P. rule 10. However, on September 4, 2018, his motions were denied by the Sixth Circuit Court of Appeals, claiming that neither the Jencks Act, nor the Court Reporters Act applied to State proceedings, and the Court of Appeals also concluded that a violation of State law by a state court was not a basis for federal habeas relief. See appendix A, Pg. 3.

REASONS FOR GRANTING THE PETITION

The reasons for granting this petition is compelling and important because this case is essential to all future state criminal defendants similarly situated as petitioner Geifer in future state proceedings. If the U.S. Supreme Court does not grant this petition, all state criminal defendant's constitutional rights and protections to due process and equal protection of the laws will be unconstitutionally stripped away from them in a way that is not stripped away from federal criminal defendants, because lower courts nationwide would be able to refer to this case to deny other similarly situated state criminal defendants from obtaining prior witness statements from the prosecution for use on cross-examination of those witnesses who previously testified at trial on direct-examination.

Besides, even according to the Michigan Supreme Court's own ruling, "A state criminal defendant is entitled to a full transcript of preliminary proceedings for use at trial and on appeal." Quoting People v. Parmelee, 431 Mich. 899 (1988).

Furthermore, MCR 6.102(B), requires that any orally sworn testimony relied upon in making the probable cause determination be adequately preserved to permit review (a record made).

Moreover, in the current case the U.S. Court of Appeals for the Sixth Circuit did not even follow their own previous ruling on this similar issue, where their court previously found that if oral

REASONS FOR GRANTING THE PETITION (CONT'D)

testimony was relied upon in making the probable cause determination it would have had to be adequately preserved to permit review. See Ireland-v-Tunis, 113 F.3d 1435, 1439 (6th Cir. 1997).

Additionally, in regards to State criminal defendants being entitled to the Jencks Act and Court Reporters Act, this U.S. Supreme Court has previously decided that the State was required to provide an indigent defendant with a transcript of prior proceedings when that transcript was needed for an effective defense or appeal. Britt-v-N.C., 404 U.S 226 (1971). So, even if neither the Jencks Act, nor the Court Reporters Act apply to State proceedings specifically, their essential principles and protections still should apply nevertheless to state proceedings in assisting with determining of the truth seeking process.

Consequently, where the U.S. Court of Appeals has decided in this case against petitioner Geeter, its ultimately ruling that State defendants are not entitled to Acts of Congress, and thus ultimately deciding an important issue of federal law, and if this issue has not been previously settled by the U.S. Supreme Court, it should be, because the U.S. Court of Appeals has decided an important federal question in a way that conflicts with relevant decisions of this U.S. Supreme Court, and it not only affects petitioner Geeter, but it also affects all future State proceedings.

In sum, petitioner Geeter and all other similarly situated state criminal defendants should enjoy their constitutional right to effectively cross-examine all witnesses who testify at their trials, and to be effective, they must be supplied with all of the trial witnesses' pretrial statements after testifying on direct-examination, U.S. Const. Amendments 6, 14. Jencks Act, 18 U.S.C. § 3500.

For all of the above reasons, petitioner Geeter asks that this Honorable U.S. Supreme Court exercise its supervisory power and settle this issue and case in favor of State criminal defendants' 6th and 14th Const. amendment rights.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Charles Geeter

Date: September 24, 2018