

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

IN THE

SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
Clark Derrick Frazier — PETITIONER  
(Your Name)

vs.

State of Tennessee — RESPONDENT(S)

*"State statute and  
ruling is repugnant  
to the laws and  
Treaties of the  
United States Constitution  
and the process of  
law!"*

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Criminal Appeals of Tennessee at Knoxville.  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Clark Derrick Frazier  
(Your Name)

Northeast Correctional Complex  
(Address)

5249 Highway 67 West 37683  
(City, State, Zip Code)

423-727-7387  
(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

(A) Whether the lower courts deprived this Appellant of Fundamental Fairness in a judicial proceeding?

(B) Whether Clark Frazier is entitled to Relief in seeking A writ of Habeas corpus?

(C) Did the Criminal Court of Appeals Error in their Rulings when a clear "Void" sentence and conviction is on record as required by Habeas Corpus Rules and procedure. (See Recs 14)

(D) Did the trial court Abuse its discretion in not appointing counsel and having a hearing to determine that its case is "void"?

(E) Why is the Tennessee Court system acting in this case in a manner "inconsistent with" due process of law?

## 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

PAGE NUMBER

CASES. Alford, 400 U.S. at 31

Boykin v. Alabama, 395 U.S. 242

Brady v. United States, 397 U.S. 742 (1970)

Class v. U.S. Supreme Court unpublished 2018 WL 987347

Acheson v. State 861 S.W.2d 157 (Tenn 1993)

Church v. State 967 S.W.2d 855 (Tenn Crim App 1993)

Demonbrun v. Bell, 224 S.W.3d 321

Design v. Gottlieb, 104 S.W.3d 612 (Tenn Ct App 2002)

Faulkner v. State 1224 S.W.3d 358

Hobbs v. State 1215 S.W.3d 774 (Tenn 2007)

Mackay v. State 553 S.W.2d 340

Mortgage Electronic Registration Systems, Inc v. Datto 48 S.W.3d 24 (Tenn 2015)

## STATUTES AND RULES

Tennessee Rules of Criminal Procedure 11(b)(3)

Federal Rules governing guilty pleas. Rule 11

U.S.C.A. Amendment 5

U.S.C.A. Amendment 14

Tenn. Code Ann. 29-21-101 thru 29-21-130

## OTHER

State v. Galloway, 95 Tenn 324 (Tenn 1863)

Stephenson v. Carleton, 28 S.W.3d 910 (Tenn 2007)

Swannell v. State, 212 S.W.3d 251 (Tenn 2007)

Tucker v. Morrow, 336 S.W.3d 114 (Tenn Crim App 2009)

Turner v. Turner, 473 S.W.3d 257 (Tenn 2015)

Ward v. State, 315 S.W.3d 461 (Tenn 2010)

any other case that should be cited.

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 N-A to the petition and is

☐ reported at N-A; 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 N-A to the petition and is

☐ reported at N-A; 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 A to the petition and is

☐ reported at Frazier v. LEE - No E 2018-00323-CL-23-HL; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the Johnson County Tennessee Criminal court appears at Appendix B to the petition and is

☐ reported at Frazier v. LEE case no CL-18-R-3; 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 N-A.

☐ 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: N-A, and a copy of the order denying rehearing appears at Appendix N-A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N-A (date) on N-A (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 Sept 13<sup>th</sup> 2018.  
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: No rehearing filed, 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 N-A (date) on N-A (date) in Application No. N-A A N-A.

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

Constitutional And Statutory Provisions Involved.

A sentence imposed in direct contravention to a statute is illegal and thus "void." Sentence in this case is in clear contravention of Tennessee Rule of Criminal Procedure 11(b)(3) and the due process clause of the United States Constitution. U.S.C.A. 14. See (Tenn Recs 14)

Tennessee Rule of Criminal Procedure is substantively the same as the Federal Rule 11 governing guilty pleas. In determining whether a guilty plea is voluntary and intelligent for purposes of Federal Constitution governing standards is a question of Federal law. U.S.C.A. Annud 5

Pursuant to the United States Constitution and The United States Constitution being that it clearly shows on the face of the record the convicting court did not have the statutory authority to sentence petitioner to a clearly "illegal" sentence.

Pursuant to the Habeas Corpus Rules of Procedure T.C.A. 24-2-1-101-24-2-1-130 "any" person imprisoned or restrained of his liberty under "any" process whatsoever "may" procure a writ of habeas corpus. Why is petitioner not allowed relief and being denied due process of law?



[illegible]

## STATEMENT OF THE CASE

A clear "void" illegal sentence is on record (see *TeKamp*, H) Petitioner has been held by the state of Tennessee on a clear illegal void sentence and conviction (see *TeKamp*, H) The sentence and conviction in this case at bar is in direct contravention of Tennessee Rule of Criminal Procedure Rule 11(b)(3).

Petitioner filed the instant Petition For Habeas Corpus Relief in the Criminal Court of Johnson County Tennessee on Jan 11<sup>th</sup> 2018, see *Clark Derrick Frazier vs. Randy LEE, warden case no. CC-18-CR3*. Case was dismissed without the appointment of counsel on Feb 7<sup>th</sup> 2018 by Judge Lisa Rice no reasons of law were cited. *TeKamp*, H Petitioner then appealed to the court of Criminal Appeals for the Eastern District of Tennessee at Knoxville the Appeal was filed on April 23<sup>rd</sup> 2018.

The court of Criminal Appeals for the Eastern District of Tennessee issued its opinion in this case denying relief on July 3<sup>rd</sup> 2018. see *Clark Derrick Frazier vs. State of Tennessee No. E2018-00323-CCA-R3-HC* No motion to rehear was filed.

Appellant, Clark P. Frazier Pursuant to Rule 11 of the Tennessee Rules of Criminal / Appellate Procedure made application for permission to appeal to the Tennessee Supreme Court on July 19<sup>th</sup> 2018, see *Clark Derrick Frazier v. State of Tennessee No. E2018-00323-SC-R11-HC* application was denied on Sept 13<sup>th</sup> 2018. No motion to rehear was filed. Now Petitioner is asking this Honorable Court to Review this case. (H)

[illegible]

## Reasons For Granting THE Petition.

Appellant's case is 'VOID' clear on the record as required by Tenn. Code Ann. § 29-21-101 thru 130. The record speaks for itself (TR page 14). Appellant cited in page 2 of his brief over 25 cases Tn. Rules of Crim. Proc. And 2 constitutional amendments. U.S.C.A. and U.S.C.A. 14.

Appellant cited Summers vs. State which is Tennessee Supreme Court precedent. Appellant further cited Frazier vs. State (2016) where this honorable court set out the guide lines for guilty pleas here in Tennessee. Appellant's case is not like Cooley vs State, as the Criminal court of Appeals avers.

The record in this case (T.R. page 14) clearly demonstrates that Appellant is restrained of his liberty by a clear "VOID" judgment and conviction.

~~A "VOID" judgment as this case clearly shows is illegal and invalid because the trial~~  
court did not have the statutory authority to render the judgment in this case.

Petitioner has established that his guilty plea and sentence imposed on him is in clear contravention of Tennessee Rules of Criminal Procedure Rule-11(b)(3), which makes this conviction "VOID" and illegal, further renders the complained conviction invalid under the Fourteenth Amendment, U.S.C.A. 14.

No record from outside sources are needed the criminal court of Appeals stated in its opinion in 2009 and 2018, there is no factual basis to this conviction; What else is needed?

Appellant, has pointed to pertinent documents from the record that prove his factual innocence assertions.

Tennessee case law and precedent cases are clear in their holding that an illegal sentence in a plea agreement renders that judgment including the conviction "VOID" and entitles this Appellant to Habeas Corpus relief.

A Habeas Corpus petition is the proper procedure for challenging an illegal sentence.

I am not a lawyer so why do the courts hold me responsible for not saying or citing the correct legal principles?

It was affirmatively stated in the original trial courts record by the Criminal Court of Appeals. In the opinion attached it states on page 3: I "quote" However, this court stated in its

affirming the post-conviction court's determination that the transcript of the guilty plea hearing did not contain a recitation of the factual basis supporting the appellant's guilty plea and conviction for second degree murder; as mandated by Tennessee Rules of Criminal Procedure 11(b)(3).

A guilty plea does not bar a claim where on the face of the record the court had no power to enter the conviction or impose the sentence. Just as in appellant's case. (T.R. page 14).

The trial court in this case did not have the lawful statutory authority to prosecute or sentence appellant to a clear illegal "VOID" plea.

The plea in this case at bar is one which has no legal force or effect, invalidity of which may be asserted by any petitioner whose rights are affected.

The conviction and plea in appellants' case is forever continues to be absolutely null, without legal efficacy, ineffectual to bind parties or support a right of no legal force and effect whatever. The trial court Habeas Corpus trial court and the Court of Criminal Appeals all have acted in a manner inconsistent with due process of law.

A "VOID" judgment may be assailed at anytime. A "VOID" judgment is one so affected by a fundamental infirmity which may be raised at anytime. Every door is closed to appellant having no remedy to address an illegal sentence. (T.R. page 14).

### CONCLUSION

**WHEREFORE, PREMISES,** considered the law and Rules of procedure herein and being that there is clearly no factual basis to appellant's plea contrary to the requirements of Tennessee Rules of Criminal Procedure 11(b)(3), which makes the plea and sentence in this case null and "VOID" illegal. Your Appellant has made a prima facie showing on the record by a preponderance of the evidence on the record. That he is being restrained of his liberty and is due Habeas Corpus relief.

**THEREFORE,** Appellant, Clark Frazier prays for this honorable court to clarify the mandates of Habeas Corpus and Tennessee Rules of Criminal Procedure with conflicting case on this subject in the 6<sup>th</sup> Circuit. This writ and application may be granted by any judge of the circuit or criminal courts to release a person who is under such judgment that is "VOID" the

same as in this case. this Honorable Court ~~is~~  
in the interest of justice the petitioner asks this  
Honorable court to in the interest of justice please review  
and resolve disagreements among the lower courts on  
this issue through ~~out~~ the 6th circuit.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Clark Derrick Fajen

Date: September 17<sup>th</sup> 2018

and again on Oct 3<sup>rd</sup> 2018

Clark Fajen #21  
Signature