

No. _____

18-7936

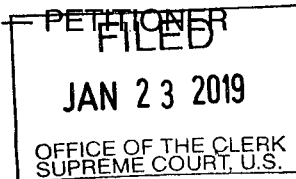
IN THE
SUPREME COURT OF THE UNITED STATES

JAQUAN HENDERSON

(Your Name)

VS.

GREG SKIPPER



— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS SIXTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

JAQUAN HENDERSON

(Your Name)

MICHIGAN REFORMATORY
1342 W. MAIN STREET

(Address)

IONIA, MICHIGAN 48846

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

WHETHER DURESS IS AN AFFIRMATIVE DEFENSE PRIOR
TO AN OCCURRENCE OF MURDER?

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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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☒ is unpublished.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 2018 U.S. District Lexis 90609; 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☐ is unpublished.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 C to the petition and is

☒ reported at 308 Mich App 1; 854 NW2d 234 (2014); 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☐ is unpublished.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☐ is unpublished.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 NOVEMBER 6, 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

ANACHAMY v HOLDER, 733 F. 3d 254, 260 (CA 9, 2012) Appx. "C" pg. 3

BRADSHAW v RICHEY, 546 US 74, 76 (2006) Appx. "B" pg. 4

PEOPLE v GIMOTTY, 216 Mich App 254, 257 (1996) Appx. "B" pg. 3

PEOPLE v LUTHER, 394 Mich 619, 622 (1975) Appx. "B" pg. 3

PEOPLE v VIEIRA, 35 Cal 4th 264, 290; 106 P. 3rd 900 (Cal 2005)
Appx. "C" pg. 3

STUMPF v ROBINSON, 722 F. 3d 739, 746 n.6 (6th Cir 2013)
Appx. "B" pg. 4

28 USC 2254(d) Appx. "A" pg. 4

STATEMENT OF THE CASE

The offense arose from Robert Wright asking Petitioner to prepare for a fight. Petitioner went with Wright with intentions of having a fist fight. Steven Anderson drove to where Petitioner and Wright were. Petitioner did not know Anderson, but Wright explained Petitioner was an experienced fighter. Anderson said "I did not come to see a fight, I came to murder." When Anderson said that, Petitioner said "I am out of here." Petitioner did not want no part in a murder, had no intentions to murder anyone. Anderson said "You're not going anywhere." This was said while Anderson aimed a loaded shotgun at Petitioner and forced Petitioner to accompany him.

When Wright, Anderson and Petitioner approached the victim, Anderson told Petitioner to hide by trees that was near. Petitioner witnessed Anderson shoot at someone. Anderson then screamed at Petitioner to shoot the .380 Anderson previously gave to Petitioner. Petitioner fired the weapon into the air, and ran from the scene.

Trial court refused to give duress instructions stating duress is not an affirmative defense to murder. Michigan Court of Appeals ruled the same as did the Federal Western District Court, and the United States Court Of Appeals Sixth Circuit.

Petitioner's initial intent was not to be involved in a murder. Each Court failed to recognize that fact. Petitioner asserts to this Honorable Court as he has in all previous Courts, that the duress claim did not stem from the murder. Duress ensued when Anderson threatened to shoot Petitioner if Petitioner walked away when Anderson stated he did not come to see a fight.

REASONS FOR GRANTING THE PETITION

Petition should be granted on grounds Michigan Court of Appeals erroneously determined Petitioner's duress defense stemmed from the time of the murder, making reference to citations in relation to their determination. To wit: PEOPLE v VIEIRA, 35 Cal 4th 264, 290; 160 P. 3rd 990 (Cal 2005); ANNACHAMY v HOLDER, 733 F. 3d 254, 260 (CA 9, 2012) See Appendix "C", pg. 3.

The Federal District Court agreed with the Michigan Court of Appeals stating "Duress is not a defense to homicide." citing PEOPLE v GIMOTTY, 216 Mich App 254, 257 (1996); PEOPLE v LUTHER, 394 Mich 619, 622 (1975); STUMPF v ROBINSON, 722 F. 3d 739, 746 n. 6 (6th Cir 2013) and BRADSHAW v RICHEY, 546 US 74, 76 (2006). See Appendix "B," pp. 3-4.

The United States Court Of Appeals Sixth Circuit determined since duress is not an affirmative defense to murder, Petitioner's claim was not recognized. See Appendix "A," pp. 3-4.

Petitioner's issue is not disputing the defense of duress as it pertains to murder, the issue here involves Petitioner's intent, which must be stressed, was to engage in a fist fight. Prior to meeting up with the victim, Petitioner realized Anderson's intent was to murder the victim, and Petitioner wanted no involvement in killing. It was then, that Petitioner told Anderson he was leaving. At that time, Anderson aimed a loaded shotgun at Petitioner and told Petitioner he was not going anywhere, and forced Petitioner to go with him to meet the victim. When Anderson aimed the shotgun at Petitioner and forced Petitioner to go with him, was when the duress ensued. The victim was not present at that time.

The previous Courts are in error for failure to recognize the fact Petitioner's claim of duress commenced when threatened by Anderson while a shotgun was aimed at Petitioner.

Therefore, Petitioner requests this Honorable Court grant writ of certiorari for the fact it was never Petitioner's intent to be involved in a murder. Petitioner was forced to accompany Steven Anderson against his will. Had it not been for Anderson's threat of shooting Petitioner, Petitioner would have walked away.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Regina Henderson

Date: 1-22-19