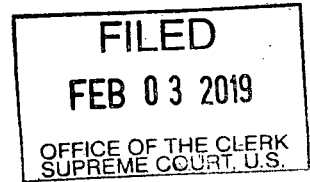


No. 18-8018 ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL ANTHONY KENDRICK — PETITIONER
(Your Name)

vs.

JULIE L JONES,
ATTORNEY GENERAL, STATE OF — RESPONDENT(S)
FLORIDA

ON PETITION FOR A WRIT OF CERTIORARI TO

SECOND DISTRICT COURT OF APPEAL STATE OF FLORIDA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MICHAEL ANTHONY KENDRICK T59555
(Your Name)

SANTA ROSA CORRECTIONAL INSTITUTION
5850 E MILTON ROAD
(Address)

MILTON FLORIDA 32583
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. CAN A FEDERAL HABEAS COURT DISREGARD MY "PRESUME TO BE CORRECT" 28 USCS 2254 (e) CLAIM AND DENY TO EXPLAIN WHY?
2. CAN A FEDERAL COURT DENY A PETITIONER A CERTIFICATE OF APPEALABILITY (COA), WITH ATTACHED FACTS, IN 28 USCS 2254 (e) (1) CLAIM?

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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28 USCS 2254

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OTHER

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 _____ to the petition and is

- ☒ reported at 11th Cir Court 18-10984-6; 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☐ is unpublished.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 _____ to the petition and is

- ☒ reported at FLA MIDDLE DISTRICT, No: 3:17-LV-Middle-TJL; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished. NOTE: 2D17-1342 WAS STILL PENDING
DEFENDANT HAD TO WAIT UNTIL EXHAUSTED
TO PROCEED.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at (CONFILATED) Appendix _____ to the petition and is

- ☒ reported at FLA SUPREME COURT SL17-679; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the SECOND DISTRICT COURT (PEAPPEL), FLA court (CONFILATED) appears at Appendix _____ to the petition and is

- ☒ reported at FLA 2D17-1342 (RENDER APPX 7-8-18?); 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 8, 2018.

☒ No petition for rehearing was timely filed in my case. DUE TO LEGAL EVIDENTIARY EVIDENCE DOCUMENTS CONFISCATED AUG 9, 2018

☐ 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**: THESE LEGAL DOCUMENTS CONFISCATED AUG 9, 2018 AND HAS NOT BEEN RETURNED, SEE EXH D

IN FULL
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

- 1 6th AMENDMENT OF UNITED STATES CONSTITUTION RIGHT TO CONFLICT FREE COUNSEL; RIGHT TO COUNSEL; RIGHT TO SELF REPRESENTATION
- 2 28 USC 2254 (e) SHALL BE PRESUMED CORRECT;
(9) A COPY OF THE OFFICIAL RECORDS OF THE STATE COURT DULY CERTIFIED BY THE CLERK OF SUCH COURT TO BE A TRUE AND CORRECT COPY OF A FINDING JUDICIAL OPINION OR OTHER RELIABLE WRITTEN FINDING SHOWING SUCH A FACTUAL DETERMINATION BY THE STATE COURT SHALL BE ADMISSIBLE IN THE FEDERAL COURT PROCEEDING.

STATEMENT OF THE CASE

- 1 ON JULY 11, 2005 I WAS BEING CHASED BY UNKNOWN NAMED PERSONS TO ME AT THAT TIME, LATONY BOYD WITH A BUSTED QUART BEER BOTTLE IN HER HAND ALONG WITH HER TWO ACCOMPLICES SHERECA BARNES AND ERIC WATSON. I WAS ARRESTED
- 2 JULY 12, 2005 BEFORE FIRST APPEARANCE A P.D ATTORNEY, WHO REFUSED HIS NAME, STATED HE WANTED TO REPRESENT ME THRU THE P.D OFFICE AND HE WANTED ME TO PLEAD GUILTY AND ASK FOR LENIENCY FROM THE COURT.
- 3 I DECLINED STATING I AND MY FAMILY WAS HIRING A PRIVATE LAWYER WITH MY PENDING VA BENEFITS AND FAMILY LOANS AND I WANTED TO REPRESENT MYSELF AT FIRST APPEARANCE HEARING JULY 12, 2005. (APPX C) HE LEFT WITH MY TIMELY SIGNED SWORD CRIMINAL APPLICATION FOR INDIGENT STATUS FOR APPOINTMENT OF PUBLIC DEFENDER (PD) STATING "I DO NOT WANT P.D SERVICES" AND LEFT EVERY THING ELSE BLANK FOR THE JUDGE TO REVIEW. (CONFISCATED APPX D)
- 4 HE LATER RETURNED STATING THE JUDGE WAS NOT GOING TO ALLOW ME TO REPRESENT MYSELF AND HAD FORBIDENLY APPOINTED HIM AS MY ATTORNEY. (APPX C) I REQUESTED TO CALL MY FAMILY AND A PRIVATE ATTORNEY. HE REFUSED RECOMMENDING I PLEAD GUILTY. I REFUSED
- 5 I REQUESTED TIMELY HE GATHER BUSTED QUART BEER BOTTLE EVIDENCE WITH LATONYA BOYD FINGER PRINTS ON IT FOR ME. HE REFUSED
- 6 I REQUESTED HE GATHER FAVORED WITNESS NAMES, ADDRESSES AND STATEMENTS HE REFUSED.
- 7 ON OCTOBER 27, 2005 CLERK'S OFFICE FILES 9-21-05 TRANSCRIPTS IN DEFENDANT'S CASE LISTING PD REPRESENTS STATE WITNESSES. TIMELY COPY REQUESTED BY DEFENDANT BUT NOW MISSING. (APPX D) CONFISCATED
- 8 MARCH 13, 2018 DEFENDANT KENDRICK TIMELY FILES TO 11th CIRCUIT COURT OF APPEALS CASE No. 18-10984 REQUESTING A HEARING TO TRY AND PUT TO GATHER MISSING FAVORED EVIDENCE FOR APPELLATE COURT REVIEW AND PURSUANT 28 USC 2254 (c), (3) AND ITS 1996 AMENDMENTS (c) PRESUME CORRECTNESS, I ALREADY HAD SOME OF. BUT NOW CONFISCATED. (APPX D) CIP FILED APRIL 30, 2018 LISTED ON GENERAL DOCKET.
- 9 ON AUGUST 9, 2018 FLORIDA STATE PRISON OFFICIALS CONFISCATED MY ENTIRE PROPERTY INCLUDING PENS PAPER ENVELOPES AND LEGAL MATERIALS. REFUSING ME CONTACT WITH THE 11th CIRCUIT COURT OF APPEALS WITH THIS IMPEDIMENT. 28 USC 2244 (d) (APPX D)
- 10 ON OCTOBER 2, 2018 THE 11th CIRCUIT COURT OF APPEALS DENIED ME INFORMA

STATEMENT OF THE CASE
"CONTINUED"

- PAUPER'S STATUS (WHILE MY ENTIRE PROPERTY BEING WITHHELD)
AND EVEN THOUGH I WAS TOLD THIS APPEAL WAS BEING TREATED
AS UNDER 28 U.S.C. 2254 STATUTE. (APPX B,D) ORDER CONFISCATED
- 11 ON NOVEMBER 8, 2018 THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF FLORIDA; DAVID J SMITH, CLERK DISMISSED
MY APPEAL CASE NO. 18-10984-G. (APPX A)
- 12 A TIMELY APPEAL WAS FILED FEB 3, 2019 PURSUANT SUPREME
COURT RULE 12.2

REASONS FOR GRANTING THE PETITION

THE COURT OF APPEALS (11th CIR) DID NOT MENTION THE TRIAL COURT'S FINDING OF CONFLICT WITH PD OFFICE ON JANUARY 17, 2006 HEARING TRANSCRIPT TRANSCRIBED AND FILED JANUARY 6, 2015 PAGE 20 LINES 18-25

JIMMIE BURDEN JR VS WALTER ZANT

498 US 433 AT 437

PERTINENT PART: -

"PRESUMED TO BE CORRECT" FOR PURPOSES OF A FEDERAL HABEAS CORPUS PROCEEDING, SEE 28 USC 2254(d) [28 USC 2254(d)]. 3

A HABEAS COURT MAY NOT DISREGARD THIS PRESUMPTION UNLESS IT EXPRESSLY FINDS THAT ONE OF THE ENUMERATED EXCEPTIONS TO 2254(d) IS MET AND IT EXPLAINS THE REASONING IN SUPPORT OF THAT CONCLUSION.

AT A HEARING:

WHEREAS DEFENDANT TRIED BUT WAS UNSUCCESSFUL BEFORE TRIAL, COULD KNOW THE NAME OF THE PD ATTORNEY APPOINTED BY TRIAL COURT ON JULY 12, 2005 TO REPRESENT DEFENDANT. DEFENDANT COULD HAVE HIM CROSS-EXAMINED AS TO WHAT HAPPEN TO BUSTED BEER BOTTLE WITH LATONYA BOYD FINGER PRINTS ON IT? DEFENDANT COULD HAVE HAD HIM CROSS EXAMINED AS TO WHO THE STATE WITNESSES NAMES HE/PD OFFICE WAS REPRESENTING IN DEFENDANT'S CASE ON JULY 12, 2005 AND REAPPOINTMENT ON SEPTEMBER 21, 2005 AS STATE (9-2)-05) ATTORNEY SAID IN OCTOBER 27, 2005 FILED TRANSCRIPTS. (APPX. D MISSING) TRIAL COURT COPY MISSING ALSO

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael A Kendrick T59555

Date: FEBRUARY 3, 2019