

No. 18-8484

U.S. 4th Circuit of Appeals

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Maryland

Supreme Court, U.S. FILED SEP 08 2018 OFFICE OF THE CLERK

Gregory Donzell Bailey, Sr. — PETITIONER
(Your Name)

vs.

Ricky Foxwell, E.C.I. Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States 4th Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Gregory Donzell Bailey, Sr.
(Your Name)

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Westover, MD 21890
(City, State, Zip Code)

DOC# 370379-SID# 1714206
(Phone Number)

RECEIVED MAR 12 2019 OFFICE OF THE CLERK SUPREME COURT, U.S.

QUESTION(S) PRESENTED

In Maryland Courts for Indigent Inmates with Felony Cases, using the Office of the Public Defenders; Should the Defendant's representation and resources be limited because the Public Defenders in all Circuit Courts are overwhelmed with floods of cases they cannot handle properly? Should Constitutional requirements be thrown aside in order to juggle backlogged criminal Court cases? Whereas, Counsel Attorney Anderson never had time to adequately review my case or the resources to effectively dispute the State's Attorneys.

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:

- ① Worcester County Maryland Circuit Court Judge, Thomas C. Groton, III,
Case # 23-K-11-00107. Circuit Court Judge, Brian D. Shockley
- ② Worcester County Maryland State's Attorneys; Diane Karsnitz and
Beau Oglesby
- ③ Worcester County Maryland Public Defender, W. Burton Anderson, Esq.
- ④ Ricky Foxwell, E.C.I. Warden (Respondent)
- ⑤ Gregory Donzell Bailey, E.C.I. Inmate (Petitioner)

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- ① Strickland v. Washington, 466 U.S. 688, 691, 80 LEd. 2d 674 (1984)
- ② Bobby v. Van Hook, 588 U.S. —, 175 LEd. 2d 255, 259 (2009)
- ③ Nelson v. Hargett, 989 F. 2d 847, 850 (5th Cir. 1993)
- ④ Kimmel v. Morrison, 477 U.S. 365, 375, 91 LEd 2d 305 (1986)
- ⑤ Kohr v. State, 40 Md. App. 92, 388 A. 2d 1242, CERT. denied, 283 Md. 735 (1978)
- ⑥ Carbaugh v. State, 49 Md. App. 706, 435 A. 2d, 116 (1981) Aff'd 294 Md 323, 449 A. 2d 1153 (1982)
- ⑦ Williams v. State, 110 Md. App. 1, 675 A. 2d 1037 (1996)
- ⑧ Davis v. State, 100 Md. 369, 641 A 2d 941 (1994)
- ⑨ Miller v. State, 32 Md. App. 482, 361 R. 2d 152 Cert. denied, 278 Md. 728 (1976)
430 U.S. 966, 99 S. CT 1645, 52 LEd 2d 357 (1977)
- ⑩ Boykin v. Alabama, 395 U.S. 238, 89 S. CT 1709, 23 LEd 2d 274 (1969)
- ⑪ McCall v. State, 9 Md. App. 191, 263 A 2d 19, Cert denied 258 Md. 729 (1979)
- ⑫ Williams v. State, 10 Md. App. 570, 271 A 2d. 777 (1970)
- ⑬ Matthew v. State, 15 Md. 886, 292 A. 2d 131 (1972) CERT denied, 266 Md. 739 (1979)

STATUTES AND RULES

- I Federal Rules... 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
- II. Federal Rules... 22, 23, 41 and 60 - Appellate Procedures
- III.

<ol style="list-style-type: none"> ① 27.12(A) ② CR. 3:315 ③ 27.35(A) ④ 27.554 ⑤ 27.464(A) ⑥ 27.464(B) ⑦ 27.463 ⑧ 27.35(c)(b)(1) ⑨ 27.463 	<ol style="list-style-type: none"> ⑩ 27.463 ⑪ 27.463 ⑫ 27.463 ⑬ 27.463 ⑭ 27.335 ⑮ 27.335 ⑯ 27.335 ⑰ 27.335 ⑱ 27.335
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OTHER

State of Maryland Rules... 4-242, 4-243, 4-252 through 4-263

Continuation - CASES

- ⑭ Davis v. State, 278 Md. 103, 361 A.2d 113 (1979)
- ⑮ English v. State, 16 Md. App. 439, 238 A2d 494 (1973)
- ⑯ State v. Brazle, 297 Md. 375, 463 A.2d 798 (1983)
- ⑰ Perren v. State, 89 Md. App. 645, 599 A2d 828 (1991)
- ⑱ Brady v. Maryland, 373 U.S. 83, ~~82~~⁸⁷; 83 S.Ct 1194, 1196-97, 10 LEd 2d 215, 218 (1963).
- ⑲ Middleton v. State, 49 Md. App. 286, 431 A2d, CERT denied 291 Md. ~~776~~⁷⁷⁹ (1981)
- ⑳ Craig v. State, 76 Md. App. 250, 544 A.2d 784 (1988), Rev'd on other grounds, 316 Md. App.⁸³ 551, 560 A2d 1120 (1989), Modified, 322 Md. 418, 588 A.2d 328 (1991)

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 _____; 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 _____; 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 Mandate for Unreported opinion C.O.S.A. 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 Denied for Time Barred.

☐ 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: August 17, 2018, and a copy of the order denying rehearing appears at Appendix K. November 16, 2018

☐ 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).

(G.) The petitioner plead guilty to case No.: 22-K-11-000107, after Sentencing, filed with the C.O.S.A. Petitioner disputed the Plea because the Plea was not was agreed upon, a violation of MD Rules 4-242, 4-243. The Petitioner filed a Post Conviction to only have it denied. Afterwards, he filed a Habeas Corpus petition, 28 USC § 2254, U.S.D.C. Then filed Appeal, Writ of Certiorari, U.S.S.C.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

① Constitutions: IV, V, VI, VIII, XIV.

② Statutory Provisions: ~~Fed~~ Fed. R. 1-12, 22, 23, 41 and 60.

State R. 4-242, 4-243, 4-252 through 4-263

STATEMENT OF THE CASE

The petitioner was tried in Circuit Court for Worcester County, MD. and accepted a Plea on June 2, 2011. An Alford Plea by Judge Honorable Thomas C. Groton. As the records/transcripts will reflect the issues the petitioner raised in All his attempts to address the courts as to his understanding of the judicial process and as to his rights and tried to explain how the police and the State turned around everything against him. His lack of knowledge, the full understanding of the judicial system, his concerns are noted in the transcripts of the actual plea hearing and sentencing. More so the fact that all indigent inmates are being denied due process and it goes even further to say if the Honorable Court would just look at the issues of the entire process, it is clear. The fact that trial counsel states they are limited to the time they can spend with each case, because of the amount of cases assigned by the Public Defender's Office, as well as the fact when the State uses an expert, the defendants are denied the same rights. It is impossible for an indigent Defendant in the State of Maryland to have a fair trial.

The petitioner being a layman to the law, fails to file a Motion with the, Courts to Appeal the Plea agreement. Then afterwards advised his only course of action is to file a Post-Conviction, which he does only to be denied. Therefore, his next course of action was to seek an Application to file Leave to Appeal the denial of Post-Conviction that was denied. His only option then was to file a "Habeas Corpus" petition and it was "time-barred". He tried to clarify the late filings throughout the Appeal process on the first filing of the Habeas Corpus brief that resulted in having to start over because of the ambiguity and procedurally barred for the timeliness. Thus resubmitting a second successive application, which has made it all the way to where we are now with the Fourth Circuit Court of Appeals to the United States Supreme Court...

REASON FOR GRANTING THE PETITION

The reason is for granting the petition is so that no other indigent inmate would experience/endure the things I had to and my family. If an inmate and his/her family cannot afford to retain an private experienced Attorney to represent them, does not mean it is fair to be represented by overwhelmed, inexperienced and underpaid court appointed Attorney. I could have had a fair chance at the judicial process and my constitutional rights that are given to a person with the same conviction and able to afford Counsel.

All indigent defendants in the State of Maryland are given the appointment of Counsel. You are lucky if you get to meet the Attorney one time before you go to trial to discuss your case and if there is, Plea offered to you. More so now whereas a new law is in effect that all indigent inmates are entitled to Counsel to initial Bail hearings in Maryland, and because of that, it has placed an additional strain on Attorneys that are already juggling 10 times more cases. This has and is causing the overworked and underpaid attorneys to be more discouraged. This type of strain is minimizing Ethics and the indigent inmates are ignored for the lack of resources and means to have an attorney who has time to even prepare for a trial today, especially all cases that are handled by the Public Defender's Office.

For that reason, all indigent inmates in the State of Maryland should have the same Constitutional Rights as those who have the benefit of affording to pay an experienced Counsel. As well as, for those who laid their lives down so that all Americans could have Constitutional Rights...

CONCLUSION

The petition for a writ of certiorari should be granted. That all Defendants in Maryland Courts that are indigent should have the same Constitutional Rights as those who have paid Counsel. A new law in Maryland is that inmates are entitled to Counsel at their initial Bail Hearing, causing more caseload strain on the Public Defender's Staffing. There should be knowledgeable legal Counsel within the Public Defender's Office, so that an indigent person going to trial in Maryland, have equal representation as a person who pay for his legal Counsel...

Respectfully Submitted,

Idene Bailey on behalf of husband, 2/11/2019

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