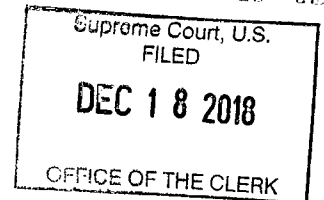


No. 18-8503

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

In re LEROY LAMONT WELLS – PETITIONER



vs.

SUE WASHBURN - RESPONDENT

PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

LEROY LAMONT WELLS

2500 WESTGATE

PENDLETON, OREGON 97801

Phone number n/a

QUESTIONS PRESENTED

- 1) Does Petitioner have three convictions in Lane County Circuit Court Case No.201404943, State of Oregon v. Leroy Lamont Wells, as of 12/12/2018, as purported by Ron Miles for Sue Washburn, Superintendent at Eastern Oregon Correctional Institution? (See Appendix J)
- 2) Following Ron Miles for Sue Washburn, Superintendent at Eastern Oregon Correctional Institution 12/12/2018 Response/Action Taken, See Appendix J, Page 1 of 2, Lines 1 through 8, What is the remedy for Petitioner's unconstitutional confinement?
- 3) Based upon the Response/Action Taken in Appendix H, I, J, what must the Petitioner do to secure his release from prison?
- 4) Will the United States Supreme Court grant Petitioner a safe and timely release from custody at Oregon Department of Corrections?

LIST OF PARTIES

[X] All parties **do** appear in the caption on cover page

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Sarah M. Sabri.

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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 _____ to the petition and is

- ☐ reported at MR; 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☐ is unpublished.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 MR; 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☐ is unpublished.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 OREGON COURT OF APPEALS #157450
~~LAKE COUNTY CIRCUIT COURT~~; or,
☐ has been designated for publication but is not yet reported; or,
☒ ~~is unpublished.~~

The opinion of the LAKE COUNTY CIRCUIT court appears at Appendix B to the petition and is

- ☒ reported at LAKE COUNTY CIRCUIT COURT No. 201404943; 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 MP.

☐ 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: MP, 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 MP (date) on MP (date) in Application No. MP A MP.

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 October 29, 2014.
A copy of that decision appears at Appendix A.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 14 "...No state shall...deprive any person of...liberty...without due process of law; nor deny any person within it's jurisdiction the equal protection of laws" guaranteed by UNITED STATES CONSTITUTION.

Article III of the Constitution of the United States.

28 U.S.C. § 1251

U. S. Const., Amdt. 11

STATEMENT OF THE CASE

The Petitioner Leroy Lamont Wells is a former detainee in Lane County Circuit Court Case No.201404943, State of Oregon v. Leroy Lamont Wells, who is entitled to relief in this case and who's rights, immunities, privileges and guarantees secured him by the United States Constitution are not encumbered by a criminal conviction. The Petitioner hereby declares under penalty of perjury the following is true to the best of my knowledge and belief. /s/ Leroy Lamont Wells 03/06/19. On 11/27/2018, Oregon Department of Correction's Ron Miles for Sue Washburn, Superintendent at Eastern Oregon Correctional Institution issued the following Response/Action Taken, "As I have explained many times to you. Institutions do not have any release authority. You can contact Offender Offender Information and Sentence Computation – OISC – if you think you are being held improperly." See Appendix H. On 11/28/2018 Ron Miles for Sue Washburn, Superintendent at Eastern Oregon Correctional Institution issued the following Response/Action Taken, "1) At this time you still do not have a release date.

The release counselor only works with inmates that are 4-6 months from release. 2) You do not currently have a release date and per OISC you do have a current conviction and sentence. 3) See 1.” Finally on 12/12/18, Ron Miles for Superintendent Sue Washburn Response/Action Taken,”...As of 12/12/18 you have 3 convictions in Lane County.” Further, Ron Miles goes on to state “This question has been asked and answered before.” In relevant part. See Appendix J. The fact is that Ron Miles is acting as the release Authority and decrees that Petitioner is validly imprisoned. The facts are In Lane County Circuit Court Case No. 201404943/A157450, the Oregon Court Of Appeals, on it's own motion, on October 29, 2014, “...determines that the trial court lacked jurisdiction to enter the judgment from which these appeals are taken, vacates that judgment.” See APPELLATE JUDGMENT EFFECTIVE DATE OCTOBER 29, 2014, Page 1, Lines 3 through 5. See Appendix A. The Petitioner hereby gives historical context of basis for that determination, See Appendix E Transcript of Proceedings of April 29, 2014 MOTION FOR MISTRIAL (Tr. 561, Lines 2-7) See id (Tr. 562, Lines 11-12), id (Tr. 562, Lines 19-20), id (Tr.563, Lines 8-13). The criminal proceeding was terminated, and the 04/25/2014 previously empaneled and sworn in jury was discharged from service. Notwithstanding the trial court's 04/29/2014 Order Mistrial, and no subsequent Order for new trial, the trial court rendered a purported judgment of sentence on July 18, 2014, in Lane County Circuit Court Case No.201404943, Oregon Court of Appeals, Appeal No.A157450, See Appendix B, Judgment of Sentence in Lane

County Court Case No.201404943, which Judgment of Sentence remains subject to APPELLATE JUDGMENT (in Appeal No.A157450) EFFECTIVE DATE OCTOBER 29, 2014, Page 1, Lines 3-5 “ vacates that judgment” in relevant part. Citing Appendix A. On November 07, 2014 the Petitioner was released from Snake River Correctional Institution and transported to Vale County Jail located in Vale, Oregon. On November 14, 2014, the Petitioner appeared in Lane County Circuit Court in Lane County Circuit Court Case No.201404943, Oregon Court of Appeals, Appeal No.A158412. Scheduling Proceeding held. See Appendix D, Page 1 of 7. Volume 1 – Proceeding of November 14, 2014 Scheduling, (Tr.2, Lines 12-14), The Court: “Yes. And I'm advised that this to go before Judge Khasubhai and - - for sentencing on Tuesday, the 18th of November at 8:30.” In relevant part. At which point the Petitioner is not under (PERSONAL) jurisdiction of the court as to his person based upon Oregon Court of Appeals determination, “The court determines that the trial court lacked jurisdiction to enter the judgment.” On November 18, 2014, Petitioner appeared in court for sentencing. See Appendix D Volume 2 – Proceeding of November 18, 2014 Sentencing. At this stage of the Proceeding of November 18, 2014 Sentencing the trial court enters a “judgment of sentence”, in want of Personal Jurisdiction and in want of a conviction. The Petitioner objected to the sentencing, See id, (Tr.23, Lines 18-19), The Defendant: “Excuse me. We'd like to object to the sentence, You Honor...” In relevant part. The Proceeding of November 18, 2014 Sentencing began on November 18, 2014 at 9:23AM (Judge

Khasubhai), See (Tr.4, Line 2). The Transcript reveals the Petitioner is not imprisoned by virtue of criminal convictions. The Petitioner is entitled to a safe release from prison, and he is entitled to equitable relief in this case. Respectfully.

Statement of how the writ will be in aid of the

Court's Appellate Jurisdiction; Issuance of writ in this case will be aid of the Court's Appellate jurisdiction by increasing the power of this Court's power to review and revise the lower court's decisions in Oregon. Due to the policy and practices of the Oregon Court of Appeals rendering judgments pursuant to Oregon Revised Statute 153.090 Provisions of judgment and allowing appeals from these judgments pursuant to Oregon Revised Statute 163.121 Appeal in felony cases following trail pursuant to ORS 136.001 through 136.792 and terminating in adverse verdicts of criminal defendants. The Policy of Oregon Court of Appeals allowing appeals to be taken out in criminal felony cases absent Judgment rendered pursuant to ORS 137.010 (7)(A), A term of imprisonment; Notice of Appeals from incarcerated Appellants. A popular practice of Oregon Court of Appeals is rendering Appellate Judgments that incorporate Orders of the Court, (e.g. Remand Orders, Consolidation Orders). The Oregon Court of Appeals uses overly broad remand language which results in the lower court and court officers interpreting Appellate Judgments, usually in error that is not harmless. The writ's issuance in this case brings Oregon Court of Appeals No.A157450 into scope. The genuine controversy of the remand order caused the State to focus on the Appellate

Order Remand language while ignoring completely the Appellate Judgment. The Attorney's argued they were ethically unable to put forth contrary arguments in favor the Appellant's Jurisdiction issue. The Oregon Court of Appeal vacated the judgment from Oregon Court of Appeals, Appeal No.A157450 was taken based on the lower trial court's lack of jurisdiction to enter the judgment. The Appellate Court failed to inform the Court of what type of jurisdiction it lacked, and failed to identify the steps necessary to cure the jurisdictional defect that caused the judgment to be vacated. When a court of appeals renders an Appellate Judgment that no Court Officer or Judicial Officer can agree on due to the lack of accuracy, clarity and clear language, the problem reaches critical and emergency level. The genuine controversy over personal jurisdiction and satisfaction of personal jurisdiction requirements cause the courts to erroneously act outside of jurisdiction in any further proceeding. The Oregon Court of Appeals is not aligned with her sister circuits and is jarringly out of sync with the Court of Appeals in the D.C. Circuit. The United States Supreme Court is aided by issuance of the writ in that she brings Oregon Appellate Court's up to today's standard. National Security is at stake in that regard. Respectfully.

Circumstances Warranting The Excercise Of

The Court's Discretionary Powers; Petitioner hereby declares under penalty of perjury the following is true to the best of my knowledge and belief. /s/ Leroy Lamont Wells 02/04/2019. On 11/27/2018, Oregon Department of Correction's Ron Miles for

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Sue Washburn, Superintendent at Eastern Oregon Correctional Institution issued the following Response/Action Taken, "As I have explained many times to you. Institutions do not have any release authority. You can contact Offender Offender Information and Sentence Computation – OISC – if you think you are being held improperly." See Appendix H. On 11/28/2018 Ron Miles for Sue Washburn, Superintendent at Eastern Oregon Correctional Institution issued the following Response/Action Taken, "1) At this time you still do not have a release date. The release counselor only works with inmates that are 4-6 months from release. 2) You do not currently have a release date and per OISC you do have a current conviction and sentence. 3) See 1." Finally on 12/12/18, Ron Miles for Superintendent Sue Washburn Response/Action Taken,"...As of 12/12/18 you have 3 convictions in Lane County." Further, Ron Miles goes on to state "This question has been asked and answered before." In relevant part. See Appendix J. The fact is that Ron Miles is acting as the release Authority and decrees that Petitioner is validly imprisoned. The Oregon Department of Corrections will not release the Petitioner based on the Appellant's Appellate Judgment DATED October 29, 2014, Page 1, Line 3-5, "...Vacates that judgment" in relevant part. Respectfully.

Adequate Relief Cannot Be Obtained By Any

Other Court Or In Any Other Form; USDC CASE No.2:16-cv-01606-MA (D.Ore) (Pendleton Division (2)); USCA9 No.16-35790, Wells v. Nooth Cause:28:2254 Petition for Writ of Habeas Corpus. (Dismissed with Prejudice); Order dismissing State Habeas

Corpus DATED 01/29/2019 by Judicial Officer Clara Rigmaiden in Lane County Circuit Court Case No.19CV02785, Leroy Lamont Wells v. Sue Washburn.; Petition for Writ of Certiorari in U.S. Supreme Court No18-5049, Leroy Lamont Wells v. Collette Peters, et al. (Originating case is Section 1983, and is not the correct manner to attack unconstitutional confinement.) The Petitioner does not wish to be deemed a vexatious litigant and so brings his case before this Court. Respectfully.

Petitioner States Reason For Not Making An

Application To The District Of The District In Which He Is Held; The Petitioner did make an Application for Writ of Habeas Corpus in the District of Oregon at least twice, and both were dismissed. USDC CASE No.2:16-cv-01606-MA (D.Ore) was dismissed with prejudice and no Oregon Court will allow a District Court Habeas to be filed by this Petitioner. Respectfully.

REASONS FOR GRANTING THE WRIT

The Petitioner is entitled to Equitable relief in this case. Justice will be served by granting the Writ. The Court's Appellate Jurisdiction will be greatly increased based on the fact the Petitioner's case is not a one off. Oregon Court of Appeals and Oregon Appellants need this Court's Appellate Jurisdiction. In the humble opinion of the Petitioner. In submission.///

CONCLUSION

Hester Gaps
The petition for a writ of certiorari should be granted.

Respectfully submitted,

15/
15/ Leroy G. Gwalt, Jr.

Date: ~~02/07/19~~ *March 6, 2019*

**Additional material
from this filing is
available in the
Clerk's Office.**