

18-8616

No. _____

Supreme Court, U.S.

FILED

SEP 07 2018

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Parley Drew Hardman

vs.

United States of America

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

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ORIGINAL

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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 Submitted with Petition; or,
[X] 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[] is unpublished.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 submitted with this Petition.

the petition and is Submitted with this Petition; or,
[] reported at _____; or,
[X] 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[] is unpublished.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[] is unpublished.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 _____ 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the petition and is [] reported at _____; or, [] has been designated for publication but is not yet reported; or, [] is unpublished.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 Order was filed on September 5 2017 July 31, 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).

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

CASES	PAGE NUMBER
United States Vs, Gordon 196 F.Supp 3d.301,303-04(D.Mass 2016)	8
United States Vs, Wynn 987 F.2d 354,359 (6th Cir. 1993)	8
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United States Vs, Pires 642 F.3d 1, 15 (1st Cir. 2011)	8
Illinois Vs, Vitale 477, U.S. 410,415, 100 S.Ct. 2260,65 L.Ed. 2d 228 (1980)	8
Rock Vs, Arkansas 483 U.S. 44,55, 107 S.Ct. 2704 L.Ed. 2d 37(1987)	10
Waller Vs, Georgia 467 U.S. 104 S.Ct. 2210, L.Ed. 2d31 (1984)	10
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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- # 1 The United States District Court for the Middle District of Tennessee, Significantly violated the Petitioner's Constitutional Sixth and Fourteenth Amendments grounded in significant part of the elementary principles for a fair opportunity to present a defense at the trial phase. Denied the defendant to participate meaningful in a judicial proceeding in which the Petitioner's Liberty's is at stake. Accordingly the District Court directly suggested that Case No.3:02-00179 was inextricably intertwined with Case No. 3:03-cr-00229 Primarily a Showing this incompetent representation. Case No. 3:03-cr-00229 Vol. I pages 1- 35, Vol.II pages 77-81 (1) that the rule dose apply to the Sixth Amendment claims primarily on incompetent representation. (2) that Counsel's conduct in regard to this claim had "did" did deprive the accused, which he was entitled under the Constitutional Laws.
- # 2 The District Court improperly denied the Petitioner's right for Brady meterial that was a fundamental choice that fell under the discovery that rendered a deficient performance that the District Court adoped,showing that counsel abandoned the duty and loyalty to his client, simply poor choice with reckless disregard for his clients interest.
- # 3 District Court's erroneous decisiond to use Federal Rule of civil procedure 60(b)(1) to completely misconsture Petitioners "MOTION to Clarify" The oral pronouncement of the Judgment, violated the Fourteenth Amendment Constitution, Futhermore, because to hold otherwise would violate the Petitioners right to be present, set

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

fourth in the Federal Rules of Criminal Procedure 43 to his detriment. Therefore conflicting with a warranted Constitution entitlement.

4 The District Courts delegation of his statutory authority constitutes conditions for an abuse of discretion when impositioning of a sentence that induce a deprivation under the Eight Amendment that has manifested the concerns of the Constitutional Laws. The power of a sentencing Court, to correct, change or modify even a statutory invalid sentence must be subject to professional norms and limit to the Law, If it envoles a long prison term as the court has set here, thus, violative of the Due Process for a court to alter even an illegal sentenc in a way that frustrates the Petitioners expectations, Clarify the District Courts intent and dimly perceived.

5 The District Court intentionally denied the Petitioners rights that is guarateed for the rudimentary demands for a fair trial, possession and control to the basic tools for anadequate defence durning the trial phase that was a structural error to the Sixth Amendment--secured Autonomy, from the Federal Constitution Laws. The District Court allowing counsel to Usurpation and admission over the Petitioners fundamental choice about his own defence notably raised this objective durning the pre-trial argument, despite legal counsels own inexperience and lack of professional qualifications, These are not strategic choices about how best to achive the petitioners [a]utonomy objective's of the defence. The District Court commence with the trial proceeding the following day as a fraudulent scheme for the courts purpose justified for the

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Supreme Courts proper conclusion that now have a jurisdiction to review of Constitutional question of Law, The intergrity outweighs the defendants interest that is asserted.

6 The District Court used multiplicitous of the statutes that derives found in the Double Jeopardy Clause. Charged statutory interpretation on the basis with violations of the same statute resulting in a serious deprivation set forth in the United States Constitution, Therefore, Petitioner challenges clear fact for error conclusions from the Law, However, the District Court did not give credence to the defendant when this issue was raised.

Constitutional Provision

The United States District Court for the Middle District of Tennessee significantly violated the petitioners Sixth and Fourteenth Constitution rights grounded in part of the Elementary Principles for a fair opportunity to present a defence at the trial phase.

STATEMENT OF THE CASE

On October 10, 2002 defendant Parley Drew Hardman was charged with multiplicitous charges in a indictment, In 2003 a federal jury found Hardman guilty of solicitation to commit interstate stalking in violation of 18 U.S.C. 373, solicitation to commit murder for hire, in violation of 18 U.S.C. 18 373, and conspiracy to commit interstate stalking, in violation of 18 U.S.C. 371, The court sentence Hardman to a term of 180 months of imprisonment, Adirect showing that this court used the stacking affect of Statutes(multiplicitous resulting in a serious deprivation resulting from the Doublr Jeopardy Clause set forth in the United states Constitution. (CASE NO. 3:02-00179)

The sentencing courts statements durning the initial sentence:
You will also as part of your sentence be require to pay a fine in the amount of \$17,500 The fine will be paid in monthly installments in an amount recommended by the probation office to the court as being a appropriate based on your ability to pay when you are released from prison but that payment shall not be less than ten percent of your gross amount. solong as installments payments are made in a timely basis, interest will not accrue on the balance owed.

In a separate case, a jury found Hardman guilty of a nine count indictment again the court using multiplicitous statutes, (Stacking of the statute,s) The district court in that case imposed a term of imprisonment of 242 months to run consecutively to his term of imprisonment of his first case, totally, for a term of 422 months of imprisonment, inessence a term Life of imprisonment. Here the Petitioner asseverates that theindictment used the wrong unit of prosecution that the District court distinctive violated of the statute, Indictment was multiplicitous,SEE: United States Vs, Gordon 169 F.Supp 3d 301,303-04 (D.Mass 2016)

The Supreme Court Decided on November 07, 2017 Case No. 07-2017 in ~~REAGHLD~~ reaching the conclusion that the correct unit of prosecution is centric, showing the sixth circuit decision was squarely on point, The Sixth Circuit held in United States Vs, Wynn 987 F.2d 354,359 (6th Cir. 1993) Since the issue turns on a question of statutory interpretation, the view is plenary, SEE: United States Vs, Marquez, 280 F.3d 19,22 (1st Cir. 2002) The prohibition against multiplicitous prosecution derives from the Double Jeopardy clause SEE: United States Vs, Pires 642 F.3d 1,15 (1st Cir. 2011)(quoting Illinois Vs,Vitale 477, U.S. 410,415. 100 S.Ct. 2260,65 L.Ed. 2d 228 (1980) see also, U.S. Const. amend. V. as revant toward Multiplicity

STATEMENT OF THE CASE

The determinative question, Then, was whether Hardman's alleged facts sufficient for Federal relief under Federal rule of civil Procedure 12(b)(6) "a claim to relief that is plausible on its face. "In making that determination, facts must be concluded in light most favorable to the petitioner that was withheld and suppressed by the prosecution that contradicted Key aspects of the case at hand, Showing(1) exculpatory evidence (2) suppressed by the government, And, (3) Material-reasonable probability that the result of the trial would have been differnt had the evidence been properly disclosed. SEE: Appendix C

The evidence at issue was undoubtely exculpatory because it completely contradicted Key aspects of the prosecutions case at hand, a showing that the District Court proceeded with the trial of (knowingly) of withheld evidence to undermine the " Constitution rights to a fair trial act." Ample evidence lays in the record that the prosecution deliberty suppressed this exculpatory that is the issue. This court will obsereve the fact that the lead prosecutor "Fundamentally violated his obligation under the Brady Rule". Further, evidence that exculpatory and impeaching evidence were improperly withheld.

The United States Supreme Court should methodically examine the lower court's flawed analysis indetailed, construde the record facts that the petitioner alleged that the lower court had failed to properly account for the impeachment of the withheld evidence. Based upon this meticulous analysis of the governing Law and application to the facts in this case, hold that the District Court abused its discretion in dismissing the Constitution rights for the petitioner.

While the petitioner's claim is refreshing and warranted in this case it is not enough, that prosecutors who violate their ethical and Legal obligations in ensuring a fair trial must be held for this action, but

STATEMENT OF THE CASE

to resolve doubts against the imposition of the sentencing, a claim allaged in violation of a right secured by the Federal Costitution, reasonable that there is a reasonable probability that not only counsels unprofessional errors along with the courts violation to the Sixth Amendment that denied the defendant to present evidence at the trial phase. SEE: Rock Vs, Arkansas, 483 U.S. 44,55,107 S.Ct. 2704, L.Ed. 2d 37 (1987)(a criminal defendants right to present evidence) ALSO: Waller Vs Georgia, 467 U.S. 104 S.Ct. 2210, L.Ed.2d 31 (1984)(right to a public trial)

This issue is not being raised for the first time, But , this court accordingly will affirm the claim that is being presented for the record that trial counsel's conduct was tainted by an "error of Constitutional magnitude" that Hardman is entitled to relief, Weinberger Vs, United States 268 F.3d 346,351 (6th Cir. 2001) Furthermore, the courts imposition to violate the petitioner right to present a Forensic expert for his trial simply violated the [a]utonomy that the defendant had explicitly instructed his attorney to file a motion with the court and be provided funding to hire a special Fornesic Expert for trial witness to challenge the governments CW witness, and, durning the pretrial arguments the District court denied this entitlement for the petioner, futher, counsel's failure to make a reasonable investigation to the expert fundamentally constitutes errors founded in Strickland. Futhermore, the prosecution along with the Federal District court continued to oppose the Petitioners request- Claim under the Brady Clause, Hardman had sought extensively for the discovery meterial, This court will begin its thorough analysis that the petitioner who had diligently pursued this with the District Court that the facts would alleged the governments direct involvement constituted the defendants claims "repeatedly underlying his Brady claim

STATEMENT OF THE CASE

in furtherance to be held accountable for their consequences "troubling behavior" from the District Court can literally be a matter that relief should be understood for the Petitioner from the construde facts from the record.

Assuming that consideration of the merits is appropriate, AND, for the same reasons that trial counsels failure to engage any sort of expert testimony in support for the petitioners case using this mitigation, there is "one" most important issue that the petitioner did sufficiently raise that trial counsel, and further in detailed that his Appellant counsel, along with the District Court had violated the petitioners SIX Amendment protected autonomy right that was a structural error from the District, This probability is sufficient to undermine the confindence in the outcome of the Petitioners trial, found in Strickland Vs Washington 466 U.S. 668,695 !04 S.Ct. 2052 80 L.Ed. 2d 674 (1984) The ineffectiveness did prejudice the Petitioner from obtaining the assistance from using a forensic science expert durning the trial phase, whether neutral or independent, that the balance was titled from the District Courts prejudice did vary in a substantial way in strenght and subject of matter from the evidence presented durning the proceeding.

McCoy Vs, Louisiana, 584 U.S. (2018) The United States Supreme Court noted that [b]ecause a clients autonomy, not counsel's incompetence, is the issue, the court did not apply the ineffective-assistance-of-counsel jurisprudence, Strickland Vs, Washington or United States Vs, Cronic, Rather the found that the violation of McCoy's Sixth Amendment secured autonomy was a structural error, reversal and remanded. The Sixth Amendment guarantees to each criminal defendant "the right of counsel for his defence". The defendant dose not surrender control entirely to his counsel, for the Sixth Amendment, in "grant[ing] to the accused personally the right to make his defence,Counsel, is the assistant, "However expert, still, is the assistant, SEE: Farette Vs, California, 422 U.S. 806, 819-820 A criminal trial is fundamentally unfair if the state proceeds against an indigent defendant without making certian that he has access to the raw materials integral to the building of an effective defense.

Hinton Vs, 134 S.Ct. 1081,L.Ed.2d 2014 (Febuary 24,2014)

QUESTION(S) PRESENTED

- # 1----Did the District Court notably make an erroneously decision to cite Federal Rule of Civil Procedure 60(b)(1) as time-barred and using the written judgment over the Oral pronouncement of the judgment that shows the statement from the District court clearly.
- # 2----The District Court violated the Legality of its own Oral Pronouncement without Due Process of the Law, and, a direct violation of Article III.
- # 3----Did the District have the authority to facilitate the Unit of prosecution in the indictment that was multiplicitous that the Petitioner asseverates in a violattion found in: United States Vs, Gordon Case NO: 16-1896 First Circuit Decided on November 7 2017 (quoting) Illinois Vs, Vitale 477 U.S. 410,415 100 S.Ct. 2260,65 L.Ed.2d 228 (1980) SEE ALSO: U.S. Constitution Fifth Amendment.
- # 4----Did the District Court make an erroneous decision to delegate His statutory authority for the Federal Bureau of Prisons to set the payment plan, Furthermore directing the probation Office to set a payment plans after the petitioner is released from Prison.

QUESTION(S) PRESENTED

5----Did the District Court significantly violate the Petitioners Sixth and Fourteenth Amendments during the trial phase when the court improperly denied the Petitioners Constitutional right that are grounded and elementary principles found in the United States Constitution, Primary showing in Case NO: 3:03-cr-00229 Vol.I pages 1-35 Vol. II pages 75-81 A direct Claim of a violation toward the Sixth Amendment to deny the defendant Brady Meterial or fundamentally abondoned the Loyalty and the intergrity of the U.S. Constitution, Then, allowing the Usurption and admission over the defendants strategic choice's.

Before striking hard blows at the petitioner for making such a harsh statement that the Federal District Court for the Middle District of Tennessee conducted an OLD FASHION HANGING TRIAL, Petitioner will ask now as the Highest Court and the highest Justices from the court of last resort , to forward themselves to resolve this issue, Directing you to review the Transcripts that the Petitioner has included, AND, THEN, put yourself into the position as the defendant in this case.

QUESTION(S) PRESENTED

CASE NO: 3:03-cr-00229

At the begining of the Trial phase, Hardman's court appointed counsel effectly conceded his commision of deficient presentation to pursue the concessions set forth for the trial procedure, concluding that counsel lack the material to form the basis to proceed with the action and the objective of the defence for the trial, counsel asserted his lack of information pertaining to the case at hand failing to admission of specific evidence, However, counsels confessions that he had ignored the explicity instructions from his client for this proceeding trial. Trial managment is the Lawyers province, but the admission of deficient performance to conclude regarding this admission provides a constitution violation set forth in the Sixth Amendment that guaratees a defendant the right to choose the Objective of his defense, QUOTING

McCoy Vs, Louisiana 584 U.S.____,138 S.Ct.150,200 L.Ed. 2d 821(2018)

**Hinton Vs, Alabama 134 S.Ct.1081:188 L.Ed.2d,U.S. Lexis 1012;2 U.S. 4091 February 24
(2014)**

State Vs, Wang S.C. 19178 (CONN.2014)

Ross Vs, Moffitt 147 U.S. 600 612, 94 S.Ct. 2437 41 L.ED.2d

AKE Vs, Oklahoma, 470 U.S.68 105 S.Ct.1087 84 L.Ed. 2d 53 (1985)

Statement of the issues

In the current action that recently had been filed from a Pro se petitioner with the Sixth circuit court of appeals in Case No.17-6114 showing Legal claims significantly erroneous decisions from the District Courts ambiguous decisions run a definitive course that the Petitioner seeks the authority from the United States Supreme for a proper conclusion, Petitioner soughts relief based on the failure to meet a valid Legal standard rather than a application of an incorrect legal principle.

The direct prejudice based on the trial court and the conduct that extended the Legal statute of the law that denied the petitioners Constitutional rights for a fair trial proceeding, However, the appropriate remedy would need to be demonstrated where the District court sought to modifie a shown procedural default on issues that were presented to deserve this courts to correct this injustices.

In this action the United States Supreme Court will conclude its primary question toward the amount of deficient action in providing erroneous legal precluded from the lower court that the petitioner has suffered showing petitioners Constitution rights had been eroded and toward the amount of erosion when the District court refused the necessary means for the defendant to obtain discovery meterial and futher funding for a Forensic Expert Witness adequate for the strategic choice relevant to the proper reasonables at the trial phase. It was the District Courts decision that Case No: 3:03-00229 was inextricable intertwined with the prior Case No:3:02-00179 That brings the question toward the amount of injustice durning and after the sentencing phase and this reviewing court will question whether the Petitioner received a equitable trial inherently with the rudimentary demands of the fair trial procedure

REASONS FOR GRANTING THE PETITION

With a simple review of the Transcripts CASE NO: 3:03-cr-00229 that have been properly submitted as APPENDIX C this court will consume the conduct from the District Court that has eroded the integrity and abandoned the duty, Simply a poor choice to disregard of the Constitution and the statutory provisions that [a] accused defendant which is entitled to a fair trial that is grounded significantly with the Elementary principles to present a defense and participate in a meaningful judicial proceeding when a defendants Liberty is at stake.

Accordingly the United States Federal District Court for the Middle District of Tennessee DID conduct an old Fashion Hanging Trail on September 13, 2005 Crude and a Harsh statement, But, with a review of the transcripts will render the performance from this District court that adopted thes erroneous decisions with complete disregard to the defendants Constitutional rights, Futhermore, to ignor the courts own Oral pronouncement of the sentence that was imposed.

For this reason the Petitioner should be granted relief in this case, Therefore, Petitioners Constitution rights were ignored.

CONCLUSION

In this current filing with the United States Supreme Court the petitioner has put forth erroneous decisions not only from the District Court but a direct showing that the Sixth Circuit Court of Appeals had followed the same path as that of the Lower Court into the same mud hole, after conderdicting the District Court for using the wrong federal Rule to deny the petitioners motion, not only another deficient performance from the Court of Appeals, But,correctly showing of there hyprocritical application when concerned with the Legal standard and proper priniciples toward the United States Constitution analysis to abuse there discretion and decining to award the reasonable relief that is justified, However, the Petitioner may be overarching in his petion, But significantly engaging in a expedient way to achieving his objective that the United States Supreme Court not only consider, BUT, to resolve the uncertainties that have violated the structrial elementof Loyalty ant the intergrity set forth in our United States Constitution. Therefore Parley Drew Hardman ask this Court on consideration for a writ of Certiorari.

Submitted on this 21 day of March 2019 under the declaration in compliance with 28 U.S.C. 1746



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