

18-9108  
NO. \*

ORIGINAL

Supreme Court, U.S.  
FILED

APR 16 2019

OFFICE OF THE CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES

MILTON MITCHELL - PETITIONER

VS.

GLEN JOHNSON - RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI

ELEVENTH CIRCUIT COURT OF APPEALS

THE OF COURT THAT LAST RULED ON MERITS OF CASE

PETITION FOR WRIT OF CERTIORARI

MILTON MITCHELL \* 41076

DOOLY STATE PRISON

POST OFFICE BOX 750

UNADILLA, GEORGIA 31091

N/A

(PHONE NUMBER)

# QUESTIONS PRESENTED

## GROUND \* ONE

WHEATHER THE LOWER COURTS ERRED IN FAILING to ORDER THE RESPONDENT to show cause and PROVIDE INDICTMENTS, TRIAL TRIAL TRANSCRIPTS, Habeas CORPUS, and all PROCEEDINGS with ORDER of the STATE COURT disussions ALL APPELLATE BRIEFS with the OPINION of the APPELLATE COURTS, as was ORDERED to do so, is the DENIAL of Petitioner's DUE PROCESS OF LAW ??

## GROUND \* TWO

WHEATHER the LOWER COURTS ERRED in failing address Petitioners CLAIM IN THAT HIS COUNSEL had RENDERED CONSTITUTIONALLY INEFFECTIVE ASSISTANCE, in Failing to FILE and Request a hearing on the Petitioners TIMELY FILED MOTION TO WITHDRAW HIS GUILTY PLEA also not to PURSUE Petitioner's APPEAL REQUEST DENIED Petitioner DUE PROCESS OF LAW EQUAL PROTECTION OF LAW and INEFFECTIVE ASSISTANCE ??

## GROUND \* THREE

WHEATHER THE LOWER COURTS ERRED in Failing to address Petitioners CLAIM in that the TRIAL JUDGE Failed to hear or RULE on Petitioner's TIMELY FILED MOTION to withdraw his GUILTY PLEA a DENIAL of DUE PROCESS and EQUAL PROTECTION OF LAW ??

## GROUND \* FOUR

WHEATHER THE LOWER COURTS ERRED in Failing to address Petitioners mistaken OR FRAUDULENT INDICTMENTS in the \*CR83-0742 where there was VALID SWORN Testimony [NOT] TRANSCRIPT OF GRAND JURY PROCEEDINGS OR MINUTES in SUPORT of same a DENIAL of Petitioner's DUE PROCESS, EQUAL PROTECTION of the LAW and Petitioners Fifth Amendment RIGHTS ??

## 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:

BRANNEN PERRY	TRIAL JUDGE
HULTON L. ELLI	STATE HABEAS JUDGE
HULL	11 <sup>TH</sup> CIRCUIT JUDGE
JOHNSON GLEN	WARDEN
KELCIOR MADDOX	ATTORNEY GENERAL
LAWTON SPENCER	DISTRICT ATTORNEY
MOORE T WILLIAM	DISTRICT COURT JUDGE
NEWSOM	11 CIRCUIT JUDGE
SEMMES DAVID	LAWYER
SMITH G.	MAGISTRATE JUDGE

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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 A to the petition and is

☒ reported at No. 18-12836-A; 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 17-13613-C; 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 \_\_\_\_\_ 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 01-24-2019 / 02-13-2018

[ ] 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: 01-24-2019, 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

### GROUND \* ONE

THE ELEVENTH CIRCUIT COURT OF APPEALS REMANDED THE PETITIONERS CASE NO. 17-13613-C TO THE LOWER COURT TO PROVIDE RECORDS AND TRANSCRIPTS OF THERE PROCEEDINGS AND TO CAUSE WHY PETITIONER SHOULD NOT BE GRANTED RELIEF. THE RESPONDENT NEVER SHOWED CAUSE NOR DID PROVIDE RECORDS AND TRANSCRIPTS OF ALL PROCEEDINGS. PASSIVELY CASE NO. \* CR 83-0742 CONSTITUTING A DISOBEDIENCE OF A WRIT, DUE PROCESS, AND EQUAL PROTECTION OF THE LAWS VIOLATIONS. AS THIS ELEVENTH CIRCUIT DENIED RECONSIDERATION [U.S.] DISTRICT COURT RULE (5) 28 U.S.C. § 2254

### GROUND \* TWO

PETITIONER FILED A TIMELY MOTION TO WITHDRAW GUILTY PLEA AND INFORMED COUNSEL THEREOF AND OF APPEAL. BUT COUNSEL ABBANDONED PETITIONER. DEPRIVING PETITIONER OF HIS RIGHT TO WITHDRAW HIS GUILTY PLEA, AND APPEAL RIGHTS, ALSO RIGHTS TO RIGHTS TO AN EFFECTIVE ASSISTANCE SEE HAMM V. STATE 123 GA. APPEAL 10 (1970). HILL V. LOCKHART 474 U.S. 52 (1985) AND TOLLETT V. HENDERSON 411 U.S. 258 (1973)

### GROUND \* THREE

TRIAL JUDGE FAILED AND REFUSED TO ADDRESS PETITIONER TIMELY MOTION TO WITHDRAW GUILTY PLEA. SEE O.C.G.A. § 15-6-21(a) HAMM V. STATE 123 GA. APP. 10-12-14 (1970) AND CONLEY VS. STATE 243 Ga. 141 (1979)

### GROUND \* FOUR

INDICTMENT \* CR 83-0742 NO VALID SWORN TESTIMONY, NO TRANSCRIPT, NO PLEA IN ABATMENT, NO GRAND JURORS NAME ECT, IS WITHOUT JURISDICTION OR RETURNED TO OPEN COURT. SEE SWITLER V. STATE 7 GA. APP 7 (1909) STATE V. WILLIAMS 181 Ga. APP. 204 (1986) O.C.G.A. § 15-12-67 AND 15-12-72.



## STATEMENT OF CASE

IN THE DECEMBER TERM AROSE FOR AGGRAVATED ASSAULT, with Intent to RAPE UNDER 083-0738 Robbery under 083-0739, Aggravated Assault with intent to RAPE under 083-0740, ARMED Robbery UNDER 083-0741 and Robbery by Force UNDER 083-0742 with a RAPE charge being added.

Petitioner was convicted by a JURY UNDER <sup>\*</sup>083-0738 and sentenced to FIFTEEN YEARS, And on <sup>\*</sup>083-0741 Petitioner received a (20) twenty year sentence. NO APPEALS were had as to these convictions.

ON FEBRUARY 27<sup>th</sup> 1984 Petitioner ENTERED a Plea of Guilty to 083-0739 and 083-0740 and 083-0742 for which he received LIFE plus two Ten YEARS CONCURRENT Sentences.

Thereafter in MARCH 6, 1984 Petitioner Filed a Motion to with-DRAW his Guilty PLEA NOTIFYING Counsel Petition was Abandon BY Counsel and the TRIAL JUDGE FAIL and REFUSE to this MATTER, OF DUE PROCESS.

Subsequently Petitioner FILED his STATE Habeas CORPUS in APRIL of 1997. Following a APRIL 13 1998 hearing same was denied February 8 1999. The GEORGIA SUPREME COURT denied Petitioners Petition for Certificate of Probable Cause and RECONSIDERATION THE DISTRICT COURT DENIED a Certificate of APPEALability.

THE ELEVENTH CIRCUIT COURT OF APPEALS ISSUED a February 13<sup>th</sup> 2018 ORDER REMANDING said case to the Lower Courts ORDERING the RESPONDENT to show CAUSE why RELIEF should not be GRANTED and to submit the RECORDS and TRANSCRIPTS of all PROCEEDINGS YOUR HONOR this has not been done, AS this Eleventh Circuit DISTRICT COURT still DENIES RELIEF as well as Certificate of Probable Cause to APPEAL.

## REASON FOR GRANTING THE PETITION

PETITIONER IS A CITIZEN OF THE UNITED STATES OF AMERICA and the for GRANTING his Certificate/APPLICATION is that his DUE PROCESS, EQUAL PROTECTION, and EFFECTIVE ASSISTANCE OF COUNSEL RIGHTS to the CONSTITUTION OF THE UNITED STATES OF AMERICA has been VIOLATED.

WHEREAS SUCH RIGHTS ARE AFFORDED THE PETITIONER THROUGH THE FIFTH, SIXTH, NINTH and FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

IN ADDITION CONTRARY TO THE LOWER COURT'S OPINION AND FRIVOLOUS DEFENSES, THE RECORD DO DEMONSTRATE THE TRIAL COURT HAD NO JURISDICTION TO ACT UPON SUCH FRAUDULENT INDICTMENTS.

AS WELL AS, ANY REASONABLE JURIST WOULD WOULD HAVE ALLOWED THE PETITIONER'S PETITION TO CONTINUE.

LIKewise the LOWER COURTS decision WAS CONTRARY TO OR INVOLVE AN UNREASONABLE APPLICATION OF CLEARLY ESTABLISH LAW, AS WELL SUCH decision WAS CONTRARY TO THE FACTS OF THE LIGHT IN THE EVIDENCE PRESENTED IN RECORDS AND THE STATE COURTS PROCEEDINGS.

IN ADDITION, EXCESSIVE SENTENCING...

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Milton Mitchell

Date: APRIL 1<sup>st</sup> 2019