

18-9108 ORIGINAL
NO.

Supreme Court, U.S.
FEB 10

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 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 DISCUSSIONS 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 [NOR] TRANSCRIPT OF GRAND JURY PROCEEDINGS OR MINUTES in SUPPORT 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. ELLIE	STATE HABEAS JUDGE
HULL	11 th CIRCUIT JUDGE
JOHNSON GLEN	WARDEN
KILGGOR MADDOX	ATTORNEY GENERAL
LAWTON SPENCER	DISTRICT ATTORNEY
MOORE T. WILLIAM	DISTRICT COURT JUDGE
NEWSUM	11 CIRCUIT JUDGE
SIMMS DAVID	LAWYER
SMITH G.	MAGISTRATE JUDGE

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	7
CONSTITUTIONAL and STATUTORY PROVISIONS INVOLVED	8
STATEMENT OF THE CASE	9
REASON FOR GRANTING THE WRIT	10
CONCLUSION	11

INDEX TO APPENDICES

APPENDIX A	ELEVENTH CIRCUIT COURT OF APPEALS	01-24-2019 OPINION
APPENDIX B	ELEVENTH CIRCUIT COURT OF APPEALS	02-13-2018 OPINION
APPENDIX C	DISTRICT COURT REPORT and RECOMMENDATION	06-30-2017
APPENDIX D	DISTRICT COURT ORDER	06-11-2018
APPENDIX E	MAGISTRATE JUDGE ORDER	02-14 - 2018
APPENDIX F		

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
BUTTERWORTH V. SMITH 494 U.S. 624 (1990)	8
HANNAH V. STATE 113 Ga. App. 10 (1970)	8
HILL V. LOUGHREY 474 U.S. 52 (1985)	8
STATE V. WILLIAMS 277 Ga. 778 (2004)	8
STATE V. WILLIAMS 181 Ga. App. 204 (1986)	8
STUCKLAND V. WASHINGTON 466 U.S. 668 (1984)	8
SWEITZER V. STACEY 7 Ga. App. 7 (1960)	8
HOLLER V. HENDERSON 411 U.S. 158 (1913)	8

STATUTES AND RULES

UNITED STATES DISTRICT COURT RULE (5) UNDER 18 U.S.C. § 2254

OFFICIAL CODE OF GEORGIA ANNEXED 15-12-67	8
OFFICIAL CODE OF GEORGIA ANNEXED 15-12-71	8
SPLENOR COURT RULE 33.12 (b)	8

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.

Passifcally CASE NO.* CR83-0742 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 * CR83-0742 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 *083-0738 and SENTENCED to FIFTEEN YEARS, And on *083-0741 Petitioner RECEIVED a (20) twenty year sentence. NO APPEALS were had as to these convictions.

ON FEBRUARY 27th 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 WITHDRAW 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 13th 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 reason 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 COURTS 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 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 1st, 2019