No. 18-9282 ORIGINAL

FILED
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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM KIMBLE, JR. — PETITIONER
(Your Name)

vs.

ERIK A. HOOKS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

WILLIAM KIMBLE, JR. #0225605
(Your Name)

P.O. Box 129
(Address)

WINDSOR, 27983-0129
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Question(1): Would my case had turned out alot different if my counsel would had presented to the court records of my "Address History" and Address Verification History?

Question(2): Due to my Discovery, the prosecutor's investiaation on my case shows that he used my pass criminal history to determine my then conviction which does not have anything to do with the principle crime, so would that be in a violation of Rule 404(b)?

Question(3): According to investigation by Det. Karen Brindle of the Rowan County Sheriff's Office and Deputy Jason Thomas of Cabarrus County Sheriff's Office, along with probation officer Jaquetta Ingram of Rowan Co. Sheriff's Office and they also got a statement from my then (Wife) Faye Abraham-Kimble. How can I be in violation when Deputy Thomas witness me at my registered residence on 06/12/2015?

Question(4): How can I have been in violation when the probation that I was placed on in Rowan Co. was transferred to my registered residence in Cabarrus Co. from Rowan Co.?

Question(5): According to G.S. § 14-208.11A- would it be a violation by the Det. Karen Brindle having my then wife write an incriminating statement on me for her in order to help her investigation on my case when my then wife knew that by her and I moving at that residence in Rowan Co. 620 Institute St were in violation of my registration but did not say anything about it until her and I ran into an Domestic situation?

Question(6): By the indictment not naming me or the date of the offense's and also charging me of an offense of G.S. § 14-208.11 when Deputy Jason Thomas came to my registered residence and seen me, then I was arrested at that same residence a week after his visit so would the indictment an defect?

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:

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 C 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 C to the petition and is

[ ] reported at N.C. Court of Appeals; 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 ~~April 05, 2019~~ March 20, 19.

[ ] 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: April 05, 2019, and a copy of the order denying rehearing appears at Appendix C.

[ ] 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 June 20, 2019. A copy of that decision appears at Appendix F.

[ ] A timely petition for rehearing was thereafter denied on the following date: April 05, 2019, and a copy of the order denying rehearing appears at Appendix C.

[ ] 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

5th Amendment; 6th Amendment; 8th Amendment; 14th Amendment of the united States Constitution and the Federal law. Also within violation of N.C. Registration G.S. §14-208.11A; Rule 404(b) for using unrelated criminal offenses to determine motive, intent, actions of crime.

TABLE OF AUTHORITIES CITED

CASES PAGE NUMBER

State v. Coffey, 326 N.C. 268, 278-79, 389 S.E. 2d 48, 54 (1990)

State v. Deleonardo, 315 N.C. 762, 770, 340 S.E. 2d 350, 356 (1986)

State v. Mckoy, 317 N.C. 519, 525, 347 S.E. 2d 374, 378 (1986)

State v. McClain, 240 N.C. 171, 173, 81 S.E. 2d 364, 365 (1954)

State v. Artis, 325 N.C. 278, 299, 384 S.E. 2d 470, 481 (1989) (quoting State v. Young, 317 N.C. 396, 412, 346 S.E. 2d 626, 635 (1986), judgment vacated on other grounds, 494 U.S. 1023, 110 S.Ct. 1466, 108 L.Ed 2d 604 (1990)

State v. Jones, 322 N.C. 588, 589, 369 S.E. 2d 822, 824 (1988) (new trial required where "other crimes" evidence prejudice Petitioners fundamental right to a fair trial). State v. McDonald, 130 N.C. App. 263, 502 S.E. 2d 409 (1988) (citation omitted) see e.g., Stager, 329 N.C. at 202, 406 S.E. 2d at 890 (evidence must relate to "disputed fact"); State v. McKoy, 317 N.C. at 527, 347 S.E. 2d at 379 (purpose for which evidence was admitted was not "material fact in issue"); State v. Morgan, 315 N.C. 626, 340 S.E. 2d 84 (1986) (evidence lacked relevance to any contested issue).

STATUTES AND RULES

G.S. §14-208.11A (a)(1): When Det. Karen Brindle coerced my then wife into writing a incriminating statement on me for the investigation of the alleged offenses which my then wife and I both signed the lease to rent the residence at 420 Institute st. 02/19/2015 so therefore she were aware of the violation. So the Det. Karen Brindle approached her about writing a statement while she was at a vulnerable state in regards to being in court for an "Domestic Violence" case on me that she had served.

Also, by the prosecutor using my pass criminal history to determine my guilt or innocence which does not have anything to do with the principle crime is a violation: N.C. G.S. §8C-1, Rule 404(b) pursuant to rule governing admissibility of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistakes, entrapment or accident. There are fundamental due process rights are at stake when the effect of such evidence is to "predispose the mind of the juror to believe that the Petitioner is guilty, and thus effectually to strip him of the presumption of innocence".

OTHER

Also see U.S. v. Tucker, 404 U.S. 443, 447 (1972) (due process prohibits a court from imposing a sentence based on prior convictions where those were unconstitutional). See U.S. v. Jones, 27 F.3d 50, 52 (2d cir. 1994) (per curiam) (prior felony convictions allegedly invaild because of due process violation was nevertheless properly used to classify defendant as career offender; defendant represented by counsel on first conviction). N.C. G.S. §15-144.2, titled "Essentials" and thus mandate inherent requirement under Law, Thus the omission of the Petitioner name from the body of the indictment, is a fatal and incurable! See U.S. v. Reese, et al., 92 U.S. 214, 23 L.2d 563 (1875) See State v. Davis, 225 N.C. 117, 33 S.E. 2d 623; State v. Simpson (1984)

TABLE OF CONTENTS

INDEX TO APPENDICES

STATEMENT OF THE CASE

On the date of Feburary 19, 2015 the Petitioner and then (wife) and step-son had rented a little house on 420 Institute St. in Salisbury N.C. However, on the date of Feburary 27th, 2015 is the day the Petitioner had went into Cabarrus Co. Sheriff's office and do a change of address form from 173 Chestnut Dr. in Concord N.C. to the residence 420 Institute Dr. in Salisbury N.C. On the date of March 06, 2015 were the day that the Petitioner took the change of address form that were signed by Deputy Jason Thomas of the Cabarrus Co. Sheriff's Office and the Petitioner, then Rowan Co. Sheriff's office signed their change of address form to allow me to move on in at the residence at 420 Institute St. in Salisbury N.C. from 173 Chestnut Dr. in Concord N.C. On the date of March 10th, 2015 the Petitioner had received a phone call from an via cell phone from Det. Karen Brindle of Salisbury, N.C. Detective telling the Petitioner that he have to move out of the residence, so the Petitioner asked her (WHY) do he have to move because he just paid $1,500 she then told him to get his money back but he can not stay there because of "Livingston "Headstart" Child care center" were only 400 ~~ft~~ feet from the residence according to N.C.G.S. §14-208.16 the Petitioner has to be within 1,000 feet from (school); (Child care centers). (See App. D) Any person who has reason to believe an offender is in violation of Article 27A, and who has intent to assist the offender in eluding arrest §14-208.11A-(a)(1) however, the Det. Karen Brindle allowed the Petitioners then (Wife) write a statement in regards his registration when knowingly that it's a violation N.C.G.S. §14-208.11A(a)(1) which perhaps is an Class (H) felony. Also (see App. D) the Deputy Jason Thomas of the Cabarrus Co. Sheriff's office had witness the Petitioner at his new registered residence in the very same month that he were arrested and allegedly charged of given (forges or submits under false pretenses the information or verification notices required under Article 27A) however, the Deputy seen the Petitioner at the very same address that he allegedly charged the Petitioner for submitting information under false pretense by saying that he live at that residence 173 Chestnut Dr. Concord, NC. but lives at the residence in Rowan Co. 420 Institute St. Salisbury, N.C. The facts is; also he were arrested at his legal residence for fail to register at that same residence which oppose to living at the residence in Rowan Co. 420 Institute St. and (see App. A-paragraph-5) where it states that the Domestic Violence Order had been taken out on the Petitioner by his then (Wife) which the address for him to be served were his legal residence 173 Chestnut Dr. Concord, N.C. which is where he was at when he were arrested. See (App. A-paragraph-17-18) the Petitioners Probation was transferred from Rowan Co. to Cabarrus Co. at residence 173 Chestnut Dr. Concord, N.C. which should had gave some concern of the alleged charge of "Fail to register" and "Residence Violation". This shows that the prosecutor relied upon the Petitioners pass conviction than the proof of the history of compliance of his requirements under Article 27A chapter 14. (See App. B) (see App. F Criminal history of unrelated crimes of principle offenses).

REASONS FOR GRANTING THE PETITION

Under the North Carolina for Evidence; Rules 404(b) the investigation by the prosecutor of principle charges the determination of the alleged violations, he used pass crimes as to indicate a character motive, intent, action, wrongs of the alleged offenses. However, that is unfair to the Petitioner for him to be prepared to create an defense without being placed as guilty before proven innocent. Although, by the petitioner not having a fair trial has violated his ~~fun~~ fundamental due process and prejudice him with ineffective assistance of counsel because neither one of his counsel's thoroughly investigated his case and if so then his case's would have turned out alot different. Also other reasons for granting this Petition is, Because the State of North Carolina violated their own constitution section 14-208.11A by providing a statement from Petitioners then (Wife) in order to have enough probable cause to arrest him which they did not have so that's why they violated their own law by obtaining a statement from his then (Wife) which she was with him through the whole change of address and if by chance that there were any violation of his registration, than she knew about the violations but never said anything to the law enforcements at all until an situation came up with her son and the Petitioner then the DPS came into the picture and searched the petitioners history and seen that he has been in prison before and started telling his then (Wife) that thats how "Domestic Violence" starts by assaulting the child then the spouse. So then she went and filed ~~and~~ a 50B out on the Petitioner. ~~The~~ thats when Det. Karen Brindle took advantage of a situation by attacking the (weak) obtaining a statement from his then (wife) that would incriminate him. Also in addition, the indictments of Rowan Co., Cabarrus. Co. both are an defect "subject matter jurisdiction" by fail to charge offense by not naming the offender, date of offense, county where the offense occur is a fatally defect indictment under subject matter Jurisdiction (see indictments) Also see section 15-144.2.. Petitioner pray that this petition will be granted and reviewed under scrutiny.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Willie Rubley Jr.

Date: 05/08/19