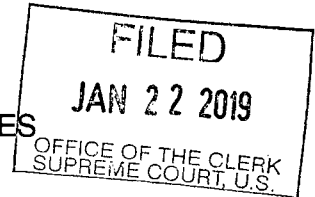


18-9818 ORIGINAL
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES



Bruce Echols — PETITIONER
(Your Name)

vs.

Wendy Kelley — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Ct. of Appeals, Eight Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Bruce Echols
(Your Name)

P.O. Box 500
(Address)

Grady Ar 71644
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

Legend = IAC = ineffective Assistance of counsel throughout

1. Was Lower Ct. out of jurisdiction, committing reversible err entertaining this appeal process of a IAC claim that had not been adjudicated by the required well established Strickland two prong test, leaving dist. Ct.'s order non final and the Ct. of appeals lacking jurisdiction to accept the appeal by R.Civ.P. Rule 54(b) and USC 28, § 1291.

2. Was Lower Ct.'s Circumvention's around applying this Ct.'s Strickland standard to the IAC claim "reconstruct circumstances and evaluate counsel's conduct from his ~~per~~ perspective at the time"
9/ 689 104 @ 2052, unconstitutional and reversible.

3. Did lower Ct. commit reversible err, by treating the rule 60(b)(4) as true but failing to address the IAC merits.

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

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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 not sure; 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☐ is unpublished.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 not sure; 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☐ is unpublished.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 July 24, 2018 Rule 60, July 6 2017, Fed habeas denial.

☐ 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: August 28, 2018, and a copy of the order denying rehearing appears at Appendix A.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including Jan 25, 2019 (date) on Nov. 7, 2018 (date) in Application No. 18 A 496.

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 & Statutory Provisions Involved

- 1 6th Amend, Right to effective Assistance of Counsel
- 2 5th & 14th Amend, No person shall be deprived of Life, liberty or property without due process of law.
- 3 4th Amend, Right to be secure in one's home & person.
- 4 28 U.S.C.A. § 1291, Ct of appeals shall have jurisdiction of appeals from all final decisions of U.S. district courts.
- 5 Fed. Rules Civil Procedure, Rule 54 (b), when an action presents more than one claim for relief, the Ct. may direct entry of final judgement to one or more, but fewer than all claims only if the Ct. expressly determines there is no just reason for delay. Otherwise any order however designated, that adjudicates fewer than all claims does not end the action as to any of the claims and may be revised at any time before the entry of a judgement adjudicating all claims, rights & liabilities.
6. Fed. Rules Civil Procedure, Rule 60 (b) (4), judgement void

Statement of The Case

Note of paramount import: Neither affiant or issuing judge have given any testimony, Doc-2 @ 10, Appx. B, to confirm states conclusory post search, success of the search allegations affiant may have known more than what was in affidavit, main concern, Doc-17 @ 16, 2. Search Warrant Affidavit, Citing Ark. S Ct., Echols, 2016 Ark. @ 12, Appx N, also see Doc 57 Appx J.

Preamble

Primary focus, Ct. of appeals lacked jurisdiction accepting to denying, Appx. A, petitioner's App. for L.O.A., Doc 50, Appx. I, due to the fact that petitioners primary central claim for relief, "Counsel was ineffective protecting his 4th amend right from Chief evd", illegal search & seizure, Doc #2 @ 9-12, 16-17, 41-42, Appx B, was never addressed and adjudicated on its merits, and the fact that the evidence seized from this S&S was the heart of the states case, including the confession which was also coerced with the warrant, is of substantial Constitutional concern.

Dist. Ct.'s Order to dismiss is not final and 8th Cir. Ct. appeals had no jurisdiction on the attempted appeal,

The claim remains unresolved

Fed Habeas Petition, Doc # 2, Appx. D

This claim of significant Constitutional concern is located, at Doc # 2, @ 9-12, 16-17, 41-42.

Magistrate's Recommendation, Doc # 17, Appx. C

Even though it noted the IAC claims were properly exhausted @ 13, report never touched on the Bare Bone I.A.C. claim merits or strickland in its Affidavit discussion @ 16-19.

Petitioner lacked skills to properly present this err

As the docket clearly indicates ^{my} first thought, maybe Ct's didn't understand the claim, by Doc # 34, Appx. H, it could not get any clearer, petitioner made note of his errors, Doc # 57, Appx. J

District Order to dismiss habeas, Doc # 39-40, Appx. B

Dist. Judge simply adopted disposition in its entirety.

Petitioner's Application For C.O.A., Doc # 50, Appx. I

Clearly points out the Bare Bone IAC claim had never been addressed on its merits.

District's Order denying C.O.A., Doc # 58, Appx. B

No mention to Bare Bone IAC claim.

Ct. Appeals Denied C.O.A. Appx A

Petitioner files Rule 60(b)(4), Doc # 86, Appx K

This was petitioner's first 60(b)(4), that was true and on point, petitioner believes he was unjustly denied leave to file the motion, See Doc # 88, Appx E

Dist. denies leave to file Doc. 86, Doc # 88, Appx E

Files Application for C.O.A., Appx L

Petitioner believes both Doc # 86 and the C.O.A. were unequivocal facts that the Bare Bone IAC claim had never been addressed under Strickland, is this the piecemeal litigation this Ct. has so disfavored for quite some-time now. See Clisby v. Jones 960 F.2d 925

Ct. Appeals Denies C.O.A. Appx D

Nothing more than a factless summary judgement.

Petition for Rehearing Denied, Appx F

Reasons For Granting the Petition

Jurisdiction is of Utmost Importance

8th Cir. Ct. appeals was in direct conflict with 11th Cir., Clisby v. Jones 960 F.2d 925 and its progeny, including this Ct.'s concerns pertaining to this type of piecemeal litigation, involving Fed. R. Civ. P. Rule 54(b), and U.S.C. 28, Statute 1291, intentions toward finality of Order's to dismiss actions, by entertaining an appeal from a Dist. Ct. Order to dismiss petitioner's Fed. habeas, Doc. , Appx A, B, that had not resolved all claims in petition on the merits, leaving Dist. Ct.'s order a non final order of improper piecemeal adjudication, leaving 8th Cir. Ct. appeals no jurisdiction to address the appeal.

Well Established Required Strickland Standard

Overlooking the jurisdiction issue for a second, the Ct.'s below were in direct conflict with this Ct.'s well established standard for resolving T.A.C. claims "Strickland two prong Standard" by never making any effort to address & analyze petitioner's T.A.C. claim with Strickland's ~~method~~ simple method of "reconstructing the circumstances of counsel's conduct and evaluate ~~element~~ the conduct from counsel's perspective at the time

104 at 2052, at 689

Reasons Amplified

Jurisdiction

Under U.S.C. 28, statute 1291, Ct. appeals has duty to satisfy itself of jurisdiction to consider an appeal even if neither party raised issue. Arthur v. Haley 248 F.3d 1302 11th

Strickland - Effective Asst. of Counsel - Investigation

Strickland - Set standard for evaluating E.A.C., establishing investigatory issues the Back Bone of the standard, 466 U.S. at 689-691, 2052

Martinez, 566 U.S. 2; Establishing right to E.A.C. at trial as a bedrock principle to our justice system.

Rompilla, 545 U.S. 374, when Counsel knows the evidence from a search & seizure is the heart of states case, the validity of the search has to be the center of his investigation.

Hinton, 571 U.S. 263, Counsel's ignorance of a point of law fundamental to case, with his failure to do basic research on that point is quintessential unreasonable performance under Strickland.

Padilla, 559 U.S. 356, It is this Ct.'s responsibility to ensure no criminal defendant, is left to the mercies of incompetent counsel.

Conclusion

The facts are unequivocally crystal clear that petitioner was unconstitutionally deprived of his 5th & 14th amend rights to due process of the law & equal opportunity/ protection of the laws of this Ct., by the lower Ct.^s unconstitutional circumventions around petitioner's claim that he was not afforded his 6th amend right to competent effective counsel to not only secure a just reliable outcome at trial, but to also secure his other Constitutional rights, with the 4th amend right to be secure in one's home being the grave concern here.

For reasons presented, Cartiorari should be granted

Respectfully Submitted

Bruce Eckel

Date 1-22-2019