

19-5072

No. _____

ORIGINAL

In The
Supreme Court of The United States

Troy Lee Bridges, Petitioner

-vs-

Lorie Davis, Director

On Petition For A Writ of Certiorari To
Fifth Circuit Court of Appeals

Petition For Writ of Certiorari

Troy Lee Bridges

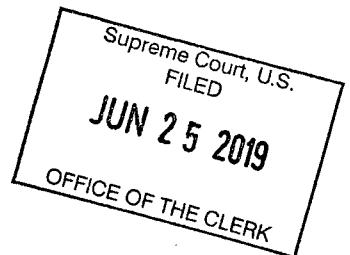
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John M. Wynne Unit

810 F.M. 2821

Huntsville, Texas

77349



No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Troy Lee Bridges — PETITIONER
(Your Name)

vs.

Lorie Davis/ Director — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

To The Fifth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Troy Lee Bridges
(Your Name)

John M. Wynne Unit, 810 F.M. 2821
(Address)

Huntsville, Texas, 77349
(City, State, Zip Code)

-UNKNOWN-
(Phone Number)

Questions Presented

Mr. Bridges contends that his trial counsel was ineffective for failing to assert a Batson challenge due to the prosecutors preemptory strikes during the voir dire phase of trial. These prospective venire persons could have changed the outcome of Mr. Bridges Trial/Sentence/Conviction. In finding no prejudice, the Fifth Circuit relied upon the States courts facts, but the court significantly misstated even that slanted version of the facts. The case thus presents the following question.

Did the Fifth Circuit err in deferring to the Federal court finding that Mr. Bridges was not prejudiced by his Trial counsel,,,findings and the prosecutors conduct during the voir dire ?; and the Fifth Circuits dismissal for want of jurisdiction of Mr. Bridges Certificate of Appealability, in which Mr. Bridges never was allowed the full, fair, impartial, and a review of to include a ruling on his merits. By dismissing such meritorious claims within his Certificate of Appealability.

List of Parties

Listed below are all interested persons:

Scott S. Harris/ Clerk

Supreme Court of the United States

Washington, DC 20543

Attorney General office

State of Texas

Jon R. Meador

300 West 15th Street

Austin, Texas 78701

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Petition For Writ of Certiorari to
the Fifth Circuit Court of Appeals

The Petitioner, Troy Lee Bridges, Respectfully prays
that a writ of certiorari issues to review the judgment
and opinion of the Fifth Circuit court of appeals rendered
in these proceedings on June 3, 2019.

Opinion Below

The Fifth Circuit Court of Appeals dismissed Petitioners
Certificate of Appealability (C.O.A.) In its cause No. 19 40450.
THE JUDGMENT ISSUED AS THE MANDATE IS IN THE APPENDIX.

The Fourteenth Court of appeals (Texas) affirmed petitioners
conviction cause no. 14- 14- 00682-CR on October 16, 2015.
Opinion not appended due to unavailability of the document.

Jurisdiction

Jurisdiction is invoked under 28 U.S.C. Section 2101 (e).

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

The following statutory and constitutional provisions are involved in this case.

U.S. Const., Amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state of Texas and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the Assistance of Counsel for his defense.

U.S. Const., Amend. XIV.

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

28 U.S.C. § 2254

(a) The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.

(b) (1) an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that-

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B)(i) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

(3) A State shall not be deemed to have exhausted the remedies nor waived the requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.

(c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the State court shall not hold an evidentiary hearing on the claim unless the applicant shows that -

(A) the claim relies on -

(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(ii) a new rule and factual predicate that could not have been

previously discovered through the exercise of due diligence; and

(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have been able to find the applicant guilty of the underlying offense.

(f) If the applicant challenges the sufficiency of the evidence adduced in such State court proceeding to support the State courts determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination of the evidence. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the State to do so by order directed to an appropriate State official. If the State cannot determine nor provide such under the existing facts the pertinent parts and circumstances what weight shall be giving to the States courts factual determination, then the court shall determine such.

(g) A copy of the official records of the State court, duly certified by the clerk of such court to be true and correct copy of a finding judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be governed by section 3006A of title 18.

(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.

Statement of the Case

The Petitioner has been denied the right to file his appeal due to jurisdictional procedures by the Fifth Circuit court of appeals.

Petitioner timely filed his Writ of Habeas Corpus in State and Federal courts all before his statute of limitations expired under the A.E.D.P.A. Mr. Bridges was convicted of AGG/ASS/W/DEADLY WEAPON (ENHANCED), in the State court of Chambers County, Texas. Sentenced to Thirty-Two Years (32) of imprisonment on August 13, 2014, convicted in the 344th District court cause No. 17438. Bridges appealed and on October 16, 2015, the Fourteenth Court of Appeals for Texas affirmed the conviction, Bridges-v-State 14-14-00682. His P.D.R. was refused (Re) P.D.R. 1476-15 on February 3, 2016 by (T.C.C.A) Bridges filed his State W.H.C. which was denied on March 29, 2017, cause No. WR-85,945-01. His Federal W.H.C. was filed on April 13, 2017. Civil No. 3:17-cv-136. Respondent filed a Summary Judgment on January 26, 2018. Petitioner contends he received Ineffective Assistance of Counsel during trial due to Counsel's failure to raise a Batson challenge to the Prosecutors preemptory strikes and failed to preserve the issue for appeal. On September 25, 2018, Respondents Summary Judgment was granted. Petitioner's § 2254 W.H.C. was dismissed and his Certificate of Appealability was denied See: DKT-22 U.S. District Court/Southern District of Texas-Galveston Division. Petitioner filed Notice of Appeal to the United States Court of Appeals (Fifth Circuit) from the final judgment, also a request for a (C.O.A.) on April 30, 2019

which was subsequently dismissed on June 3, 2019, See: Appendix.

Although Petitioner asserts other claims/grounds raised during his Appellate proceedings are meritorious, which include claims of Ineffective Assistance of Counsel of both trial and appellate counsel

1. Failure to file Motion for New Trial (Trial)
2. Failure to raise claims of I.A.C (Appellate)
3. Failure to investigate (Trial) witnesses and to supeona said witnesses
4. Trial Court erred by failing to conduct inquiry into conflict of interest claim between Bridges/counsel.
5. Enhancement were cruel/unusual
6. I.A.C. due to Trial Counsels failure to object to the Trial Court not allowing the jury to review victims/witnesses statements.

Petitioner seeks this Hon: court to review the Batson claim independtly and allow this issue to be ruled on upon the merits of said claim, and not allow a MIS-Carriage of justice by the decision of the Fifth Circuits ruling of dismissed jurisdictionally.. Also Petitioner is praying this Hon: court will review his request for the C.O.A. To the Fifth Circuit and rule upon it accordingly.

See: In Appendix.

Petitioner contends his Trial Counsel was Ineffective and failed to raise the Batson challenge to the Prosecutors preemptory strikes and to include the failure to preserve this issue for appeal. Which vioiated his 6th & 14th Constitutional Rights. Petitioner avers he was denied such rights under Strickland-v-Washington, 466 U.S.668. He also states he aws denied the right to a full hearing in Federal court under Cullen-v-Pinholster, under 2254 (d) (6). Both cases are clearly established Federal Law...

Trial counsel did err by failing to raise the Batson challenge

during trial he also failed to utilize his challenges for cause (preemptory strikes) and preserve any of the mentioned issues for appeal proceedings.

Its shown in the record that discrimination intent was visable and indeed erroneous the judge as the (gatekeeper) should have evaluated the demeanor of the prosecutor for intent and whether the jurors demeanor exhibited basis for strikes.

Petitioner has shown a denial of his Constitutional rights in the aforementioned Batson claim. See: Miller-El-v-Cockrell 537 U.S. 322. also Batson-v-Kentucky 476 U.S. 79. Reasons for striking prospective jurors. In Parks-v-Klee 555 Fed App 573 the case was remanded due to trial counsels failure to raise a Batson challenge. For more than a century the Supreme Court consistently, repeatedly has reaffirmed that racial discrimination by the State in jury selection offends the equal protection clause. Georgia-v-McCollum 505 U.S.42.

Its also clear and Petitioner has made a prima facie showing that the prosecutor exercised peremptory challenges in a racially discriminatory manner, and engaged in a pattern of strikes against jurors of a particular race. In Bridges case he has established purposeful discrimination... The Sixth Amendment guarantees criminal defendants a verdict by an impartial jury. Dyer-v-Calderon 151 F3d 970 (9th cir). State prisoner sought Federal habeas relief alleging that his constitutional rights were violated when the prosecutor used peremptory challenges to strike two African-American prospective jurors. Felkner-v-Jackson 131Sct 1305 (Rev./Remand. In Duarte-v-U.S. 81 F3d 75 the case was remanded to the district court due to Counsels failure to request a hearing under Batson-v-Kentucky.

Reasons For Granting The Writ

Petitioner Bridges chooses to be concise in his Reasons For Granting The Writ, as he has been throughout the filing for his Writ of Certiorari. Foremost, he concedes with U.S.C. 2107 (a) and agrees with (acquiesces) with this Hon. court and realizes through due diligence there are no court rulings in conflict and no findings of cases which can dispute nor derail the A.E.D.P.A tolling and the claim of the Fifth Circuits judgment of jurisdictional effect. Once again not to be redundant Petitioner Bridges is only seeking a full and fair review by this Hon. court on his rights he is entitled to by the United States Constitution on his Batson claim.

By allowing the Petitioner the right to be heard at the Supreme Court level in his Writ of Certiorari you have given him the justice he deserves; to be heard and present all legal arguments in his defense, as no other court has.

Only then can it be determined justice has been served and the opportunity to do so has also been awarded to Petitioner through this Hon. court.

Although Petitioners Batson claim does not by itself provide a basis for relief instead his claim for relief depends critically on the validity of his Strickland claim. Bridges as claimed in Schulp v- Delo 513U.S.299 is a (Gateway) through which a Habeas Petitioner must pass to have his otherwise barred constitutional claim considered on the merits. See: Herrera 506 U.S.404.

CONCLUSION

CONCLUSION

For all the above reasons and request, a Writ of Certiorari should issue and Petitioner Bridges Prays this Honorable court reviews the judgment and opinions of the lower courts

Troy Lee Bridges --- Pro-Se