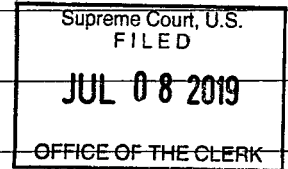


NO. 19-5225

ORIGINAL
FILED

IN THE
SUPREME COURT OF THE UNITED STATES



IN RE: JONATHAN E. BRUNSON — PETITIONER

VS.

ERIK A. HOOKS — RESPONDENT

PETITION FOR WRIT OF HABEAS CORPUS

JONATHAN E. BRUNSON
4600 SWAMP FOX HWY WEST
TABOR CITY, NORTH CAROLINA

QUESTIONS PRESENTED

1. WHETHER PETITIONER, WHO WAS CHARGED WITH SEXUAL ABUSE OF A MINOR, HAS A CONSTITUTIONAL RIGHT TO IN CAMERA JUDICIAL REVIEW OF CONFIDENTIAL SOCIAL SERVICES RECORDS PURSUANT TO PENNSYLVANIA V. RITCHIE, 480 U.S. 39, 58 (1987)?
2. IF NO, THEN THE QUESTION BECOMES WHETHER OR NOT RITCHIE IS BOTH UNENFORCEABLE AND UNCONSTITUTIONAL?

LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION OF THE CASE ON THE COVER PAGE.

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DENYING MOTION FOR APPROPRIATE RELIEF FOR RITCHIE RELIEF

NOTE: PETITIONER DOES NOT HAVE A COPY OF THE DECISION OF THE N.C. COURT
OF APPEALS NO. P16-349 P18-881 DENYING CERTIORARI FOR RITCHIE RELIEF

APPENDIX C DECLARATION BY PETITIONER

TABLE OF AUTHORITIES CITED

CASES

PENNSYLVANIA V. RITCHIE, 480 U.S. 39, 58 (1987) - - - - - PASSIM

STATUTE AND RULES

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF HABEAS CORPUS

PETITIONER RESPECTFULLY PRAYS THAT A WRIT OF HABEAS CORPUS ISSUE TO
REVIEW THE JUDGMENT BELOW.

OPINIONS BELOW

FOR CASES FROM STATE COURT:

THE OPINION OF THE HIGHEST STATE COURT TO REVIEW THE MERITS APPEARS AT
APPENDIX A TO THE PETITION AND IS REPORTED AT WEST PUBLISHING AND LEXIS-
NEXIS (BY EMAIL).

THE OPINION OF THE NORTH CAROLINA SUPERIOR COURT APPEARS AT APPENDIX B
TO THE PETITION AND IS NOT REPORTED.

JURISDICTION

ISSUANCE BY THE COURT OF AN EXTRAORDINARY WRIT IS AUTHORIZED BY 28 U.S.C. § 1651 (a) AND 2254,

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION

AMENDMENT XIV STATES "... 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 LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF LAWS."

STATEMENT OF THE CASE

IN 2008, MR BRUNSON WAS CHARGED WITH SEXUAL ABUSE OF A MINOR WITH NO SUPPORTING PHYSICAL EVIDENCE. IN 2009, MR. BRUNSON FILED A PRE-TRIAL MOTION FOR DISCOVERY THAT INCLUDED A RITCHIE REQUEST. MR. BRUNSON FILED NUMEROUS PRETRIAL MOTIONS TO COMPEL RITCHIE EVIDENCE. IN RESPONSE, PRETRIAL JUDGE LUCY INMAN RULED ON JUNE 9, 2011 THAT MR. BRUNSON HAD BEEN PROVIDED "ALL OF THE MATERIAL THAT I EXPECT EXIST IN THE DSS RECORD REGARDING THE MATTER. (JUNE 9, TPI. 26). JUDGE INMAN DID NOT CONDUCT AN IN CAMERA JUDICIAL INSPECTION OF SOCIAL SERVICES RECORDS AS REQUIRED BY RITCHIE. DURING TRIAL, THE PROSECUTING WITNESS MISSTATED ON CROSS THAT SHE REPORTED SEXUAL ABUSE BY MR BRUNSON TO PSYCHOLOGIST DR. ELLIS FOR TWO (2) YEARS FROM 2006 TO 2008 AND MISSTATED NUMEROUS REASONS WHY DR ELLIS DID NOT REPORT THE ABUSE TO CPS FOR TWO(2) YEARS FROM 2006- 2008. IN RESPONSE, JUDGE MARY A. TALLY STATED SHE BELIEVED THE PROSECUTING WITNESS' "TESTIMONY IS NOT TRUE" AND WISHED TO REVIEW IN CAMERA THE DSS RECORD AND DR. ELLIS' PSYCHOLOGY REPORT, BUT WHEN THE STATE INDICATED IT DID NOT HAVE THE REPORTS JUDGE TALLY DROPPED THE ISSUE. (JUNE 16, Tpp. 4-10). JUDGE TALLY DID NOT CONDUCT AN IN CAMERA REVIEW OF THE SOCIAL SERVICES RECORDS AS REQUIRED BY RITCHIE. CONSEQUENTLY, MR. BRUNSON WAS CONVICTED BASED SOLELY ON THE TESTIMONY OF THE PROSECUTING WITNESS THAT JUDGE TALLY BELIEVED THE "TESTIMONY IS NOT TRUE", AND WITHOUT STATE EXPERTS, WITHOUT PHYSICAL EVIDENCE, AND WITHOUT IN CAMERA JUDICIAL REVIEW OF SOCIAL SERVICES RECORDS AS REQUIRED BY RITCHIE. ON DIRECT APPEAL, MR. BRUNSON FILED A MOTION FOR APPROPRIATE RELIEF (MAR) IN THE N.C. COURT OF APPEALS SEEKING

RITCHIE RELIEF THAT WAS DENIED. POST-CONVICTION, MR. BRUNSON WAS TIME-BARRED FROM FILING A PETITION FOR A WRIT OF HABEAS CORPUS IN THE U.S. DISTRICT COURT. POST-CONVICTION, MR. BRUNSON FILED HABEAS CORPUS IN THE TRIAL COURT SEEKING RITCHIE RELIEF AND MULTIPLE MARS IN CASE NO 08CR563535-46 SEEKING RITCHIE RELIEF FILED ON JULY 12, 2018 AND DENIED ON AUGUST 14, 2018; FILED ON OCTOBER 8, 2018 AND DENIED ON JANUARY 17, 2019; FILED ON APRIL 5, 2019 AND DENIED ON JUNE 14, 2019. MR. BRUNSON ALSO FILED CERTIORARI NO. P16-399 P18-881 IN THE N.C. COURT OF APPEALS SEEKING RITCHIE RELIEF THAT WAS DENIED. MR. BRUNSON ALSO FILED A PETITION FOR DISCRETIONARY REVIEW NO. 247 P16-6 IN THE N.C. SUPREME COURT SEEKING RITCHIE RELIEF THAT WAS DENIED ON MAY 9, 2019. MR. BRUNSON HAS EXHAUSTED ALL AVAILABLE STATE REMEDIES FOR RITCHIE RELIEF. THE STATE COURT HAS REFUSED TO RECOGNIZE THE AUTHORITY OF RITCHIE AND HAS BEEN IN CONTEMPT OF THE RITCHIE SUPREME COURT FOR TEN (10) YEARS AND COUNTING IN MR. BRUNSON'S CASE WITH NO END IN SIGHT. THEREFORE, ADEQUATE RITCHIE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT, CONSIDERING TOO THAT MR. BRUNSON IS TIME-BARRED FROM FILING A HABEAS PETITION IN U.S. DISTRICT COURT.

REASONS FOR GRANTING THE PETITION

I. THE STATE COURT'S DECISION TO DENY MR. BRUNSON IN CAMERA JUDICIAL ACCESS TO CONFIDENTIAL SOCIAL SERVICES RECORDS CONFLICTS WITH THE DUE PROCESS CLAUSE IN THE U.S. CONSTITUTION AND WITH THE RELEVANT DECISION

OF THIS COURT IN PENNSYLVANIA V. RITCHIE, 480 U.S. 39, 58 (1987)

POST-TRIAL, SOCIAL WORKERS L. GOODE-SATMON AND W. NUNNERY BOTH ADMITTED, IN 1983 CASE NO. 5:09-CT-3063-FL, TO THE EXISTENCE OF (1) A 1999 CPS/DSS REPORT; (2) A PSYCHOLOGY REPORT; (3) A PSYCHIATRY REPORT; (4) TWO GYNECOLOGY REPORTS, AND, AMONG OTHER THINGS, (5) A LYME DISEASE REPORT OF THE PROSECUTING WITNESS THAT WERE ALL PART OF THE DSS INVESTIGATIVE CASE FILE. THEREFORE, IT IS MANIFEST THAT THE STATE INTENTIONALLY WITHHELD EXCULPATORY EVIDENCE, GIVEN THE OPPORTUNITY TO ACCESS THIS EVIDENCE MR. BRUNSON COULD HAVE SHOWN THE JURY THAT THE PROSECUTING WAS UNTRUTHFUL IN HER PRETRIAL STATEMENTS AND TRIAL TESTIMONY ABOUT SEXUAL ABUSE BY MR. BRUNSON. THIS EVIDENCE WOULD HAVE PROVEN CONCLUSIVELY THAT MR. BRUNSON WAS INNOCENT OF THE CHARGES. THEREFORE, THE STATE'S PREJUDICIAL FAILURE TO TURN OVER EXCULPATORY RITCHIE EVIDENCE, ESPECIALLY IN A CASE THAT RELIED SOLELY ON THE TESTIMONY OF THE PROSECUTING WITNESS WITHOUT PHYSICAL EVIDENCE, LEFT MR. BRUNSON DEFENSELESS AT TRIAL RESULTING IN A FUNDAMENTAL MISCARRIAGE OF JUSTICE.

THIS HONORABLE COURT DECLARED THAT "A DEFENDANT WHO IS CHARGED WITH SEXUAL ABUSE OF A MINOR HAS A CONSTITUTIONAL RIGHT TO HAVE THE RECORDS OF THE CHILD ABUSE AGENCY THAT IS CHARGED WITH INVESTIGATING CASES OF SUSPECTED CHILD ABUSE, AS THEY PERTAIN TO THE PROSECUTING WITNESS, TURNED OVER TO THE TRIAL COURT FOR AN IN CAMERA REVIEW TO DETERMINE WHETHER THE RECORD CONTAINS INFORMATION FAVORABLE TO THE ACCUSED AND MATERIAL TO GUILT OR PUNISHMENT." PENNSYLVANIA V. RITCHIE, 480 (5)

U.S. 39, 58, 94 L. Ed. 2d 40, 58, 107 S. Ct. 989 (1987), "RITCHIE'S RIGHT TO DISCOVER EXCULPATORY EVIDENCE AND THE STATE'S INTEREST IN ENSURING A FAIR TRIAL CAN BE PROTECTED FULLY BY THE TRIAL COURT CONDUCTING IN CAMERA REVIEW OF CONFIDENTIAL FILES." Id. AT 41. THIS COURT EXPLAINED IT IS "WELL SETTLED THAT THE GOVERNMENT HAS THE OBLIGATION TO TURN OVER EVIDENCE IN ITS POSSESSION THAT IS BOTH FAVORABLE TO THE ACCUSED AND MATERIAL TO GUILT OR PUNISHMENT." Id. AT 57. THIS COURT REMANDED THE CASE TO ALLOW THE TRIAL COURT TO PROCURE AND REVIEW THE SOCIAL SERVICES RECORDS: "RITCHIE IS ENTITLED TO HAVE THE CPS FILES REVIEWED BY THE TRIAL COURT TO DETERMINE WHETHER IT CONTAINS INFORMATION THAT PROBABLY WOULD HAVE CHANGED THE OUTCOME OF HIS TRIAL. IF IT DOES, HE MUST BE GIVEN A NEW TRIAL." Id. AT 58.

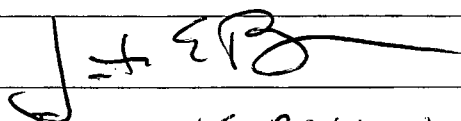
MR. BRUNSON WAS TRIED AND CONVICTED BASED SOLELY ON THE TESTIMONY OF THE PROSECUTING WITNESS THAT THE TRIAL JUDGE BELIEVED "TESTIMONY IS NOT TRUE," WITHOUT PHYSICAL EVIDENCE, AND WITHOUT ACCESS TO CONFIDENTIAL SOCIAL SERVICES RECORDS OR RITCHIE EVIDENCE THAT PREJUDICED THE PREPARATION OF HIS DEFENSE AND RIGHT TO A FAIR TRIAL, RESULTING IN A FUNDAMENTAL MISCARriage OF JUSTICE. THUS, MR. BRUNSON'S CONVICTION WAS OBTAINED IN VIOLATION OF THE 14TH AMENDMENTS DUE PROCESS CLAUSE UNDERLYING RITCHIE.

CONCLUSION

WHEREFORE, MR. BRUNSON RESPECTFULLY PRAYS THAT THIS HONORABLE COURT ENTER JUDGMENT :

1. GRANTING HABEAS CORPUS;
2. REMANDING WITH INSTRUCTIONS PURSUANT TO RITCHIE;
3. ALTERNATIVELY, VACATING MR. BRUNSON'S CONVICTIONS AND RELEASING HIM FROM CUSTODY BASED UPON TEN (10) YEAR OLD RITCHIE VIOLATION;
AND
4. ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER, AND
EQUITABLE.

RESPECTFULLY SUBMITTED THIS THE 8th DAY OF JULY 2019.


JONATHAN E. BRUNSON

4600 SWAMP FOX HWY WEST

TABOR CITY, NORTH CAROLINA 28463

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE : JONATHAN E. BRUNSON — PETITIONER

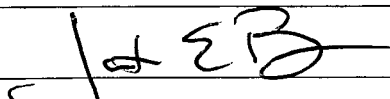
VS.

ERIK A. HOOKS — RESPONDENT

DECLARATION

I, JONATHAN E. BRUNSON, HAVE READ THE FOREGOING PETITION FOR A WRIT OF HABEAS CORPUS AND HEREBY DECLARE THAT THE MATTERS ALLEGED THEREIN ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED AT TABOR CITY, NORTH CAROLINA ON JULY 8, 2019,


JONATHAN E. BRUNSON

4600 SWAMP FOX HWY WEST

TABOR CITY, NORTH CAROLINA 28463

APPENDIX C