

No. 19-5276

ORIGINAL

Supreme Court, U.S.  
FILED

MAR 13 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Marvin Taylor — PETITIONER  
(Your Name)

vs.

Ron Neal — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States 7th Circuit Court of Appeals S.D.  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Marvin Taylor  
(Your Name)

P.O. Box A  
(Address)

New Castle IN 47362  
(City, State, Zip Code)

N/A  
(Phone Number)

RECEIVED

JUN 14 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

### QUESTION(S) PRESENTED

- 1) Under my current claim of vindictiveness against myself, the Defendant, by judicial and prosecutorial figures, I am questioning the actions they invoked which violated my Indiana Constitutional Rights under Article 1, Sections 11 and 12, Indiana Code 35-34-1-8 as well as U.S. Constitution Amendment 14. (as mentioned in Appendix)
- 2) The imposition of my sentence that was handed down to me was done erroneously and with gross negligence on both the prosecutor and judicial parties involved. The fact that crucial evidence was withheld, forged cause numbers, misstated involvement in a Post Conviction Motion, and that records were sealed show these errors were made blatantly and intentionally against me, why is there not a direct reversal applied to my case when this is so evident that these Due Process Violations were made against me.

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] 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:

Amy Barbar - Marston Co. Superior Court 2

Clarke Campbell - Marston Co. Prosecutor

Elizabeth Boehm - Marston Co. Prosecutor

Nancy Vaddik - Chief Appellate Judge

Ellen Metlaender - Deputy Attorney General

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	
STATEMENT OF THE CASE .....	
REASONS FOR GRANTING THE WRIT .....	
CONCLUSION.....	

## INDEX TO APPENDICES

APPENDIX A	Indiana Supreme Court Order 4-4-17 Exhibit D
APPENDIX B	Petition for rehearing 8-10-17 under cause # 49602-9807-PC-107714 Exhibit B
APPENDIX C	State Court under cause # 49A04-1705-SP-1049
APPENDIX D	United States District Court under cause # 1:17-CV-02757-TWP
APPENDIX E	United States Court of Appeals under cause # 18-1833
APPENDIX F	

Note: Appendices not on exhibit can be found under E-file on current cause #.

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Dorsey v State	ps 1-3 6476.1
Schmerber v California	ps 1-7 2892.1
Simmons v US	ps 1-6 6475.1
Crosby v State	ps 1-2 6473.1
State v Selva	ps 1-10 6444.1
Campbell v State	ps 1-3 2332.1

## STATUTES AND RULES

I.C. 33-9-1-4
I.C. 33-39-1-4 (A)
Ind. Constitution 1-12 1-2 and 12 (A)
U.S. Constitution 14 Amm
I.C. 10-13-06-18
Trial Rule 37 (A)
Ind. Rules of Prof. Conduct 3.4 (A)
I.C. 35-34-1-8
I.C. 35-38-7
I.C. 10-13-6-15 (A) (C)

## OTHER

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) Indiana Constitution Articles 1-12 Sections 1, 2, §12(A)
- 2) United States Constitution Amendment 14
- 3) Trial Rules 37 (A) (B) (C)
- 4) Indiana Rules of Professional Conduct 3.4(A)
- 5) I.C. 33-9-1-4
- 6) I.C. 33-39-1-4 (A)
- 7) I.C. 10-13-6-18
- 8) I.C. 35-34-1-8
- 9) I.C. 35-38-7
- 10) I.C. 10-13-6-15 (A) (C)

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 E to the petition and is

☒ reported at Case Number: 18-1833; 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 D to the petition and is

☒ reported at Cause Number: 1:17-cv-02757-TWP; 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 49A04-1705-SP-1049; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the Marion County Superior Court 2 court appears at Appendix B to the petition and is

☒ reported at 49602-9807-PC-107714; 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 10-05-2018.

☐ 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: 12-14-2018, and a copy of the order denying rehearing appears at Appendix E.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including 5-3-2019 (date) on 7-1-2019 (date) in Application No. 18 A 1833.

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 4-4-2017.  
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 8-10-2017, and a copy of the order denying rehearing appears at Appendix B.

☐ 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).



STATEMENT OF THE CASE

Mr Taylor was found guilty in Marton County Superior Court 2 under cause # 49602-9807-05-107714 and was sentenced to 8 1/2 years incarceration.

On March 14, 2016 Mr Taylor filed a Motion for DNA Testing, pursuant to I.C. 35-38-7, to prove his innocence under the above cause number. The Magistrate Judge, Amy Barber,

Marton Co Superior Court 2 ordered the State of Indiana to respond within 60 days of March 17th 2016 which was her order date.

The State responded May 2nd 2016, stating this was an un-authorized post-conviction relief filing and the court successfully denied

Mr Taylors Motion. On May 24, 2016 Mr Taylor filed his Notice of Appeal with Chief Judge

Nancy Vasek under assigned cause #

49A05-1605-CR-1212. On September 7, 2016 Chief

Judge Vasek ordered Mr Taylor to file his brief and append by the same date. Mr Taylor filed

for and was granted an extension for filing on

September 16, 2016. On November 29, 2016 the

Attorney General filed a Verified Motion to Dismiss

appeal on grounds it was a "successive post

conviction petition" that had not been authorized by the Court of Appeals.

## REASONS FOR GRANTING THE PETITION

Under Due Process Rules of the United States and Indiana, I was to be granted DNA hearings and time extensions as well as a "special" defense Counsel during my filings in Marion County Superior Court 2 in March of 2016. At that time, Amy Barbar, Magistrate Judge of that court issued a 60 day response order to the State of Indiana. The State returned a dental response and on May 2nd 2016, the same Judge issued a dental order using the "excuse" of an unsuccessful collateral attack using a post-conviction motion. At this time I was not under a post-conviction motion and was moving under my original cause #. (See Exhibit A) This clearly shows that Judge Amy Barbar was ruling and hearing my petition under my CF cause #, not a PC cause number. This thereby defines different rules and procedures to be utilized under the State of Indiana and the United States Due Process Laws and Procedures. The State of Indiana failed to adhere to these rules when they portrayed erroneously my filing under a post-conviction clause. This error and blatant

Disregard for my Constitutional and Due Process rights calls for an immediate Dismissal under the Rules and Regulations of Indiana and the United States Due Process Laws and Regulations. Therefore under these statutes and the proof provided, I ask this writ to be granted.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Marvin Taylor

Date: June 4, 2019