

IN THE SUPREME COURT OF THE UNITED STATES

EDWARD LEE CARTER
PETITIONER #01872967

§

V.
LORIE DAVIS
RESPONDENT (TDCJ
DIR)

§

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NO 19-5459



PETITIONER'S MOTION FOR REHEARING ON THE DENIAL OF WRIT OF CERTIORARI

In the interest of Justice Petitioner EDWARD LEE CARTER^{TDCJ#} 01872967 is being held illegal in Custody by The Texas department of Criminal Justice, respondent LORIE DAVIS in violation of the United States Constitution and its laws, against his will. Petitioner respectfully requests a rehearing of the denial of his writ of Certiorari, which was filed with the court ON July 18, 2019. Petitioner was granted an extension to file by Justice SAMUEL A. ALITO on May 9, 2019.

Petitioner CARTER'S claims and questions to the court not only apply to his case, but to any indigent litigant person in the criminal justice system through out the United States of America. Petitioner CARTER has been in Pursuit of Justice and his federal constitutional rights diligently from the moment he "PLED NOT GUILTY" in a Texas state district court that was CORRUPT and DISHONEST.

[Angus McGinty Bexar County Texas courtroom 144th
district court, [July 10, 2013] was found to be a CORRUPT
JUDGE, [Petitioner went
to trial.]]

① A CORRUPT TRIAL COURT JUDGE Angus McGinty 144th district court Bexar County, Texas Presided over Petitioners trial in July of 2013. Angus McGinty admitted to taking bribes from lawyers, manipulating and rigging criminal cases on the bench as a state district judge in San Antonio, Tx. His abuse of discretion of the law and the legal issues in Petitioners case warrants justification of review. A CORRUPT TRIAL JUDGE who makes flawed legal rulings in a defendants trial is NOT DE MINIMIS, they are Constitutional violations that should be review. Petitioner has brought these Constitutional violations to light in his writ of certiorari and through-out the state and federal litigation process, "WHICH HAVE NEVER BEEN ADJUDICATE"

Petitioner CARTER believes that there has been a fundamental miscarriage of justice in this case. The procedural ruling barring federal habeas corpus review in the lower federal courts is CONTRARY to SUPREME COURT rulings that was established over 30 years ago ^{see} Harris v. Reed 109 S Ct 1038 (1989) [THE PLAIN STATEMENT RULE] In CARTER'S state habeas proceedings the state did not rely on an adequate and independent state law waived ground that would bar federal habeas corpus review. The state said the "exact" something that was said in Harris v Reed 109 S Ct 1038 "THAT THE GROUNDS SHOULD HAVS BEEN RAISED ON DIRECT APPEAL". The SUPREME COURT HELD: IN Harris v. Reed 109 S Ct 1038 (1989) That this statement falls short of an explicit reliance on any state law waiver as a ground for rejecting any aspect of Petitioner's claims. "Accordingly the statement did not and does not preclude federal habeas corpus review by a district federal court," but for some reason it did in Petitioner's case.

These extraordinary circumstances in which Petitioner Properly presents are about a CORRUPT TRIAL JUDGES discretion during the trial that renders the Proceedings completely bias and unfair. The federal constitutional claims have "never" been addressed or adjudicate by any court in America. CARTER'S writ of Certiorari is not frivolous or Malicious. CERTIORARI should be granted in the expectation of being able to decide the questions presented to the honorable SUPREME COURT.

② THE SUPREME COURT HELD: IN Martinez v. Ryan 132 S Ct 1309
An attorney's errors during an appeal on direct review may provide cause to excuse a procedural default, for if the attorney appointed by the court to pursue the direct appeal is ineffective, the prisoner has been denied fair process and the opportunity to comply with the states procedures and obtain an adjudication on the merit of his claims. Petitioner CARTER requested a direct appeal after beeing convicted in the CORRUPT COURT. Petitioner is indigent the court is required to appoint counsel and counsel is suppose to inform the defendant of the representation on direct appeal. CARTER was "never" told he had counsel on direct appeal. CARTER was "never" told that a brief to an appellate court was being filed in his interest. CARTER was "never" shown a brief that was filed to an appellate court on his behalf untill the memorandum opinion had already been issued. CARTER was "never" told by any-one that [Raymond E. Fuchs^{SRM#} 07498400] appointed appellate counsel was representing his interest on direct appeal and that he had filed unpreserved claims to an appellate court on behalf of CARTER untill after the appellate courts judgement was made. Raymond E. Fuchs, appointed appellate counsel admits in his affidavit to the State habeas court [THAT CARTER'S ALLEGATIONS ARE IF FACT TRUE] ^{see} Exhibit "H" Writ of Certiorari. Texas deemed appellate counsel Raymond E. Fuchs ineffective during CARTER'S direct appeal.

This question to the court alone is an intervening circumstance of a substantial or controlling effect when it comes to Petitioner's case and any indigent defendant who request a direct appeal in the state of Texas. Does an indigent defendant have a due process right to know, who and if he is being represented by counsel on direct appeal? Does an indigent defendant in the State of Texas have a due process right to know what is being filed on his behalf to an appellate court concerning his direct appeal before judgement is made? Especially, for an example like Petitioner's case when the appellate court affirms and its opinion says that the issues presented do not comport and are therefore waived.

It is a fact and plain to see that Petitioner CARTER was denied his sixth Amend Constitutional right to an effective attorney during his direct appeal process and the State of Texas has admitted Petitioner in fact was denied this constitutional right "Exhibit G" Writ of Certiorari.

In this case the lower federal courts has said that CARTER'S Claims about a CORRUPT trial judges discretion, fourteenth Amend violations that happen during his trial, which CARTER raised the first chance he got were procedurally barred on state habeas review. Petitioner CARTER has demonstrated that the SUPREME COURT LAW is contrary to the lower federal courts opinions and judgements in his case.

A State or Federal courts determination is CONTRARY to "CLEARLY ESTABLISHED FEDERAL LAW" when it arrives at a conclusion opposite to that reached by the SUPREME COURT, which is "exactly" what has occurred in Petitioner EDWARD LEE CARTER'S CASE.

ON April 17, 2018 THE SUPREME COURT HELD:

IN Wilson v. Sellers 138 S Ct 1188 (2018) A Federal habeas court reviewing an UNEXPLAINED state court decision on the merits 'SHOULD LOOK THROUGH' that decision to the LAST RELATED state courts decision that PROVIDES A RELEVANT RATIONAL and Presume that the UNEXPLAINED decision adopted the same reasoning "THE LOOK THROUGH METHODOLOGY".

The court also said "it a straight forward inquiry when the last state court to decide a Prisoners claims explains it's decision ON the MERITS in a reasoned opinion. In that case a federal habeas court simply reviews the SPECIFIC reasons given by the state court and defers to those reasons if they are reasonable." The court also said "It may prove particularly difficult where the issue involves state law, such as state Procedural rules that may constrain the scope of a reviewing court's summary decision a matter in which a federal judge often lacks comparative expertise." THE LOOK THROUGH LAW falls up under the fundamental fairness exception a Watershead rule, a bedrock Procedural element that is essential to the fairness of a Proceeding.

When this "now" required rule of Constitutional Law, which deals with Procedural barred issues is applied to CARTER'S Claims / Case it will not only show that his Claims were "Never" Procedurally barred which are about a CORRUPT TRIALS COURT JUDGES discretion and abuse of the law during CARTER trial. The watershead bedrock Procedural rule will also show the ineffectiveness of appellate counsel on CARTER'S direct appeal, which is cause to excuse a Procedural default that the State of Texas "Never" relied on in the first place.

CONCLUSION

Petitioner CARTER went to trial and PLED NOT GUILTY to two counts of aggravated sexual assault of a child and three counts of indecency with a child in a Texas state district court that was FOUND TO BE CORRUPT.

Petitioner was convicted, therefore he requested a direct appeal. Petitioner was indigent, so by law the court appoints counsel for the direct appeal. CARTER was "never" informed by anyone of this process, which is required by law even if it actually took place.

On November 12, 2014 The fourth court of appeals [San Antonio, Tx] affirmed CARTER's conviction. The court's memorandum opinion stated: "Because CARTER's objection to the expert's testimony at trial does not comport with the issues raised on direct appeal, the issues were not preserved and are therefore waived." Petitioner CARTER "never" knew these unpreserved claims were being raised and filed in his behalf. CARTER "never" saw a brief that was being filed in his behalf and CARTER "never" knew Raymond E. Fuchs ^{BN#} 87498400 was appellate counsel for his direct appeal. Petitioner CARTER'S

"TRIAL AND DIRECT APPEAL WERE BOTH FLAWED AND UN-CONSTITUTIONAL". It's a fact Angus McGinty was corrupt as a district judge in San Antonio, Tx at and around the same time as CARTER's trial and direct appeal. He was sentenced to two years in Federal prison because of his corrupt conduct. His discretion of the legal issues in CARTER's trial have "never" been reviewed. It's a fact that Raymond E. Fuch was deemed ineffective by the State of Texas for CARTER's direct appeal, "see exhibits 'C7' and 'H'"
Petitioner's Writ of Certiorari

Petitioner CARTER has diligently and repeatedly brought up the federal constitutional violations from the first chance he was given [11.07 state habeas corpus] and as a result of sheer inadvertence the claims have "never" been evaluated base on the intrinsic right and wrong of the matter.

The federal rules of 28 U.S.C § 2254 ^(d) entitles a Prisoner to an unencumbered opportunity to make his case before a federal judge. when the evidence leads very clearly to the conclusion that a federal claim was inadvertently overlooked in State Court.

AEDPA

Permits de novo review in those rare cases when a state court decide a federal claim in a way that is contrary to "clearly established Supreme court Precedent." In Petitioner CARTER'S case the western district of Texas [Federal court] The same district that sentence Angus McGinty decided Petitioner's claims on his Federal habeas corpus 2254 in a way that is contrary to "clearly established Supreme court Precedent." The claims about [Angus McGinty's] abuse of discretion / fourteenth Amend violations that happen during CARTER'S trial should have "never" been deem procedurally barred by a district federal court. The state of Texas "never" said the claims were procedurally barred on state habeas review. They did not address or adjudicate the claims on the merits. The statement that they made was "The grounds should have been raised on direct appeal and that the great writ should not be used to litigate matters which should have been raised on direct appeal." The state having knowledge at the same time that they, [the state] had already deemed appointed appellate counsel Raymond E. Fuchs ineffective during CARTER'S direct appeal and that Angus McGinty had pled guilty to Corruption Charges as a state district judge in San Antonio, Texas. They chose not to address and therefore waived the properly presented federal constitutional violations that CARTER presented to the Federal district court.

CARTER has demonstrated the necessary continuance and due diligence in exercising his birth given rights as a Citizen of the United States of America, therefore CARTER respectfully request a rehearing on the denial of his Writ of Certiorari and prays that the HONORABLE SUPREME COURT JUSTICES decide CARTER'S questions that were timely presented to the court.

CERTIFICATION OF COUNSEL

I EDWARD LEE CARTER, Pro se and unrepresented by counsel in this matter, Present this certification along with motion for rehearing on the denial of writ of certiorari to the Supreme Court of the United States in good faith and not for delay.

Respectfully Signed by Edward Lee Carter

TOLJ # 01872967
William R. Boyd unit
200 Spur 113 Teague, Texas
75860

Today's date is November 3, 2019
The time is 19:35 Hours

CERTIFICATE OF SERVICE

I EDWARD LEE CARTER, Pro se indigent litigant hereby certify that a true and correct copy of Petitioners motion for rehearing on the denial of writ of certiorari along with certification of counsel was placed in the William R. Boyd unit Prison mailbox on November 4, 2019 at 0:325 Hours and should be sent by first class mail to the Clerk of the United States Supreme Court at the following address: 1 1st St NE Washington, DC 20543-0001

Respectfully signed by Edward Lee Carter

TOLJ # 01872967
William R. Boyd unit
200 Spur 113 Teague, Texas
75860

Today's date is November 3, 2019
The time is 19:40 Hours