

19-5686

ORIGINAL

Supreme Court, U.S.
FILED

JUL 15 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

RONNIE L. PAYNE — PETITIONER

(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

DISTRICT OF COLUMBIA COURT OF APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RONNIE PAYNE

(Your Name)

FEDERAL CORRECTIONAL COMPLEX (MEDIUM)

(Address)

PO. BOX 1000 PETERSBURG, VA 23804

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

WAS TRIAL COUNSEL'S PERFORMANCE OBJECTIVELY UNREASONABLE WHEN HE DID NOT OBJECT TO THE TRIAL JUDGE'S FAULTY REASONABLE DOUBT INSTRUCTION DIRECTING THE JURY TO FIND PETITIONER GUILTY EVEN IF THE GOVERNMENT DID NOT PROVE IT'S CASE BEYOND A REASONABLE DOUBT?

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:

TABLE OF AUTHORITIES CITED

CASES

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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 _____ 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☐ is unpublished.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 United States district 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☐ is unpublished.

☒ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix A 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☒ is unpublished.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 Superior Court of the District of Columbia court appears at Appendix B 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☐ is unpublished.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 _____.

☐ 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: _____, 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. § 1254(1).

☐ For cases from state courts:

The date on which the highest state court decided my case was April 17, 2019.
A copy of that decision appears at Appendix A.

☐ 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 AND STATUTORY PROVISIONS INVOLVED

U.S. Const. Sixth Amendment

D.C. Code § 23-110

STATEMENT OF THE CASE

During his criminal trial in the Superior Court of the District of Columbia, the trial judge incorrectly instructed the jury "to find petitioner guilty if the Government failed to prove any element of the offence beyond a reasonable doubt." Petitioner's trial counsel did not object to this instruction. Nor did trial counsel request for a curative instruction. Petitioner filed a post-conviction motion for relief in the Superior Court of the District of Columbia pursuant to D.C. Code § 23-110. He claimed that his trial counsel's failure to object to the faulty jury instruction equated to deficient performance. The Superior Court did not address the claim when it denied the § 23-110 motion.

Petitioner filed an appeal to the D.C. Court of Appeals. In a pro se supplemental brief, he presented the claim that his trial counsel's performance was deficient because he failed to object to the faulty jury instruction and the Superior Court committed error because it did not rule on the claim regarding ineffective assistance of counsel. The D.C. Court of Appeals affirmed without addressing Petitioner's claim. The only claims the D.C. Court of Appeals addressed related to the claims presented by Petitioner's counsel on appeal from the denial of the post-conviction motion.

REASONS FOR GRANTING THE PETITION

This writ should be granted because the Constitution guarantees criminal defendants the right to effective counsel at trial. U.S. Const. amend. VI; see also, e.g., Martinez v. Ryan, 566 U.S. 1, 12 (2012). This right unequivocally includes the more general right to legal representation sufficient to protect "the proper functioning of the adversarial process." Strickland v. Washington, 466 U.S. 668, 686 (1984). Where counsel's performance undermines "the fundamental fairness" of the defendant's trial, the Sixth Amendment requires that the defendant be granted relief from his conviction or sentence and given the opportunity to subject the prosecution's case to meaningful adversarial testing through constitutionally effective counsel. Id. at 697. Such relief is available through habeas corpus proceedings to defendants who have been imprisoned in violation of their constitutional rights. Strickland, 466 U.S. at 697-98.

The record in this case demonstrates that Petitioner Ronnie Payne has been denied his Sixth Amendment right to counsel during his trial when his trial attorney failed to object to the incorrect jury instruction. Counsel's performance is deficient, within the meaning of Strickland's first prong, if the representation "fell below an objective standard of reasonableness." Id. at 688. Professional norms are relevant to whether counsel's conduct was objectively reasonable within the meaning of Strickland.

See Wiggins v. Smith, 539 U.S. 510, 525 (2003). The second Strickland prong requires that there be "a reasonable probability" that the challenged outcome would have been different had counsel rendered effective assistance. Strickland, 466 U.S. at 694.

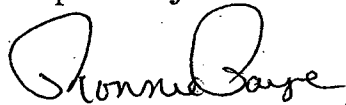
This "does not require defendants to show that the errors 'more likely than not altered the outcome in the case,' but only that they were 'sufficient to undermine confidence in the outcome.'" Payne v. Stansberry, 670 F.3d 10, 13 (D.C. Cir. 2014)(quoting United States v. Saro, 24 F.3d 283, 287 (D.C. Cir. 1994)).

With a simple objection, trial counsel could have altered the instruction the jury was to consider relating to the Government's burden of proof. Because trial counsel did not object to the incorrect instruction given by the trial judge, Petitioner was found guilty.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Ronnie L. Payne, Petitioner

Date: July 9th 2019