No. ______________

19-5821

IN THE

SUPREME COURT OF THE UNITED STATES

Robert Earl Robinson — PETITIONER
(Your Name)

ORIGINAL

vs.

The State of Arizona ET.AL., — RESPONDENT(S)

FILED
JUN 25 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

Maricopa County Superior Courts
was never heard on the merits of my claim,
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Robert Earl Robinson #317425
(Your Name)

1752 E Arica Rd.
(Address)

Eloy AZ, 85131
(City, State, Zip Code)

N/A
(Phone Number)

6-12-19

RECEIVED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The Supreme Court
of
The United States

Robert Earl Robinson, plaintiff/Appellant	Supreme Court Case # ______ (To be marked by Clerk of Courts.)
vs.	
The State of Arizona; William Montgomery, Maricopa County Prosecutor; Diana M. Meloche, Deputy Maricopa County Attorney; Hon. Danielle J. Viola, Judge of The Superior Court For The State of Arizona, in and for the County of Maricopa. Respondent/Appellee	Arizona Supreme Court # M-19-0013 Maricopa County Superior Court No.: CR2014-116824-001 "On Petition For" Writ of Error Coram Nobis

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SUPREME COURT, U.S.

Comes Now, the petitioner, Robert Earl Robinson, Who petitions The Court under it's appellate authority on petition for writ of error to issue to the state courts pursuant to The Judicial Act of 1789, c 20. s. 25 from final judgment or decree of the highest Court of Law or equity of Arizona, having jurisdiction of the subject matter of the suit.

The following points of authority and memorandum stand in support of the fore said action:

Venue

The Supreme Court of the United States has, constitutionally, appellate jurisdiction under the judiciary act of 1789, c. 20 s. 25. from the final judgment or decree of the highest Court of law or equity of a State, having jurisdiction of the subject matter of the suit, where is drawn in question the validity of a treaty, or statute of, or an authority exercised under, the United States, and the decision is against thier validity; or where is drawn in question the validity of a statute of, or an authority exercised under any state, on ground of thier being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favour of such, thier validity; or of the constitution, or of a treaty, or statute of, or commision held under the United States, and the decision is against the title, right, privilege, or exemption, specially set up or claimed, by either party, under such clause of the constitution, treaty, statute, or commision.

The Jurisdiction of The Supreme Court of the United States in all cases arising under the constitution, laws, and treaties of the Union, where a State is a party, may be exercised in an appellate form. The jurisdiction of this Court in all cases arising under constitution, laws, and treaties of the Union, where the suit is originally brought in a State Court, may be exercised by a writ of error from this Court, to such State Court. Cohens v State of Virginia, 19 U.S. 264 (1821)

(7) Should the verdict be reversed because the plea was not entered into knowingly, intellegently and voluntarily?

(8) Did the prosecution violate Brady requirements for not interviewing the eye witness to the incident? Does that failure require a reversal?

(9) Was counsel's performance ineffective and deficient of The Sixth Amendment guarantee? Does counsel performance require a reversal?

Parties To The Proceedings

The State of Arizona; William Montgomery, Maricopa County Prosecutor; Diana M. Meloche, Deputy Maricopa County Attorney; The Honorable Judge Dannicl J. Viola, Judge for the Superior Court of Maricopa are all the responding parties set forth by the petitioner. Because each party has had some interest or dealing in one of the orders filings or decrees, that stand to be repugnant to a treaty, statute, or authority exercised under The United States Constitution or The Supreme Court's decisions as handed down under The Supremacy Clause.

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Jurisdiction

The Supreme Court of The United States has, constitutionally, appellate jurisdiction under the judiciary act of 1789, c. 20 s. 25. from final judgment or decree of the highest Court of law or equity of a State, having jurisdiction of the subject matter of the suit, where is drawn into question the validity of a treaty, or statute of, or an authority exercised under, the United States, and the decision is against thier validity; or where is drawn in question the validity of a statute of, or an authority exercised under any state, on ground of thier being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of such, thier validity; or of the constitution, or of a treaty, or statute of, or commission held under the United States, and the decision is against the title, right, priviledge, or exemption, specially set up or claimed, by either party, under such clause of the constitution, treaty, statute or commission.

The jurisdiction of The Supreme Court of The United States in all cases arising under the constitution, laws, and treaties of the Union, where a State is a party, may be exercised in an appeallate form. The jurisdiction of this Court in all cases arising under ~~[illegible]~~ ion constitution, laws, and treaties of the Union, where the suit is originally brought in a State Court, may be exercised by a writ of error from The Supreme Court of The United States, to such State Court. See Cohen v. State of Virginia, 19 U.S. 264 (1821).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(1) The Fundamental Fairness Clause of The Fourteenth Amendment

(2) The Due Process Clause of The Fourteenth Amendment.

(3) The 13th Amendment of The Constitution.

(4) Arizona Rule of Crim. Proc., 32.2 (b)

(5) Arizona Rule of Crim. Proc., 32.1

(6) Arizona Rule of Crim. Proc., 32.4(a)(1)

(7) Notice of Rights of Review After Conviction and Procedure, Form # XXIVb

Statement of The Case

The petitioner, Robert Earl Robinson, sought relief from the conviction of 2nd degree murder. The conviction came as a result of a coersed plea agreement. That the petitioner entered into, with the State, without full disclosure of evidence of exculpatory value. The plea was entered into under duress and at the advice of an ineffective counsel. Which should render the plea agreement as void.

However, The courts sentenced the petitioner on March 17, 2017. And there at sentencing, the petitioner was provided, by the courts, a "Notice of Rights of Review After Conviction and Procedure," form.

The petitioner was represented by counsel at the time of sentencing. And made the attorney of record aware that he wished to file a motion for Post-Conviction Relief. However the Attorney for the petitioner failed to file the petition for post conviction relief. And the court failed to make available the required form XXIVb for the petitioner, as mandated by 16A A.R.S. Rules of Crim. Proc., 32.4(a)(1).

Upon the petitioner's first filing of a "Notice of Post-Conviction Relief," The Superior court's Judge Danielle Viola sua sponte, dismissed the notice of post conviction relief. Thereby Dismissing any chance at launching a brief on the merits of the claim's notice. This was a sua sponte, dismisal because of the petitioner's filing being untimely. Even though the prosecutor never objected to the timeliness of the filing. By doing so, the Honorable Judge Danielle J. Viola, has made herself apart of the litigation, and not the non-biased arbiter of rights. Which judges are supposed to be.

This act was fundamentally unfair. And the practice is an act made acceptable by the 16A A.R.S. Rule of Crim. Proc., 32.2(b). This also is violation of the Seperations of Powers doctrine. And denies the petitioner the Due Process of law to have the timelyness objected to by the state. The rule itself offsets the playing field in the gamesmanship of the court. Because it relieves the prosecution of any ~~duty~~ duties after conviction of any alleged crime.

Even with 32.2(c), the courts adopted a rule to release the state of having to object to preclusions of a claim. 32.2(c) clearly states: "The State must ~~prove~~ plead and prove any ground of preclusion by a perponderance of the evidence. A court may determine that an issue is precluded even if the State does not raise preclusion.

Our Supreme Court has Ruled on these actions in previous cases, addressing the courts acting in behalf of the government. May be not as direct and to the point as in this case. But the Court addressed claim processing notices timelyness, such as the 90 days placed on Post-Conviction Reliefs or Rule 33 and Rule of The Federal Rules of Criminal Procedures.

Alot of Courts have placed "jurisdictional" descriptions of the rule, on the rule. A close look at the wording given in the "Right to post conviction relief," notice, given to the petitioner at court. Rule 1 states as follows: (1) You must file a Notice of Post Conviction Relief, (form XXIV(b)) within 90 days of the entry of judgment and sentence. If you do not file or have the right to file a notice of appeal. If you do appeal, the time you have to file a Notice of Post Conviction Relief is extended to within 30 days of the order and mandate affirming the judgment and sentence on direct appeal. If you do not timely file a notice of Post Conviction Relief, you may never have another opportunity to have any error made in your case corrected by another court,

Because the rule does not say "you will never have another opportunity to have any error made in your case corrected by another court," It's clear that the time rule is not mandatory. Plus it never gives the term mandatory to describe the rule in express wording.

Also rule (2) gives a clear and unambiguous wording on the process to file or applying for post conviction relief. Rule (2) states as follows: To file a notice of post conviction relief, you should contact a lawyer by letter, telephone or in person, telling him or her that you want to seek post conviction relief.

The petitioner stated that he had informed his attorney of his desire to file a petition for post conviction relief. And the courts knew of this, through his first notice of post conviction relief. The Court acknowledged this in it's ruling. Yet required for the petitioner to provide proof of this conversation. Some thing that's totally impossible and fundamentally unfair.

Looking at things from a realistic, real life perspective. A defendant, who has been just committed by the courts, to serve time in jail or prison, is immediately handcuffed. In most cases, such as this one, the defendant is wisked away. Taken, without free will to ask any questions, directions or information in reference to how to file the petition for post conviction relief, or appeal. So he has to rely on appointed counsel to address such issues. And that communication to counsel is by express word. That can't be prooven, just as in this case.

With "express word". There is no proof that it ever existed beyond that of affirmation or oath of the one attesting to have spoke the words. And the court's requirement of of the petitioner to prove such a thing is unreasonable. And is obsurd to the Constitution and the truth seeking process of our judiciary.

It is well understood that States are given widest of latitude in the creating of laws and enforcement of those laws. Since the begining of this country's history, Congress has, subject to few exceptions, manifested a desire to permit state courts to try state cases free from interference from federal courts. In 1793, an Act unconditionally provided: Nor shall a writ of injunction be granted to stay a proceeding in any court of the state, ... However 28 U.S.C.§ 2283, it's present day successor has had 3 provisions enacted by Congress that authorizes such. (1) "Except as expressly authorized by Act of Congress; (2) where ~~[illegible]~~ necessary in aid of its

jurisdiction; and (3) To protect or effectuate it's judgment.
Yet, there is also another judicial rule set by the Court in Ex parte Young, 209 U.S 123 (1908).

Here the exceptions is not afforded by an act of Congress. But it is a long standing rule of the court that cannot be effected by a congressional act. The rule permits the federal courts to intervene in a state proceeding, where a person being prosecuted by and in a state court can show he will suffer irreparable damages, should the state court proceeding be no enjoined.

Should the Court not enjoin these proceedings. The merits of the petitioner's claims of ineffective assistance of counsel will go uncheck; The validity of the plea agreement being entered into coerced, involuntarily and under duress would be swept under the rug; The petitioner would stay committed to a 15+ year sentence of involuntary servitude. Thus creating an act violative of the 13th Amendment. There for making the petitioner a slave.

Because by the 13th Amendment, only those convicted of a crime, may be punished for a crime where they have been duly convicted. And as it sits right now, this conviction is not duly. And there for repugnant of the 13th Amendment. And Constitutionaly infirm.

There for the petitioner seeks the Court to issue the writ of Error. And that the court issue an injunction of the States use of 32.2 (B) to sua sponte dismiss anyones petition, Without the objection from The State. The petitioner also request that the court issues in its order, a mandate that the courts will hear the petitioner's petition on the merits of the brief. And that the state be barred from asserting timelines as adefense. Because to do so would be counter productive to issuing the writ. Because the time requirements were created for the administration of justice w/o untimely delay. Not to assist in the aiding of the state, to substain a conviction.

The petitioner attempted to request that the writ be issued be the Arizona Supreme Court. Because under Ariz. Const. Art. VI § 5 The Supreme Court shall have original jurisdiction of habeas corpus, and quo waranto, mandamus, injuctions and extraordinary writs to state officers.

However, when the writ was requested to be issue. The Supreme Court of Arizona denied jurisdiction, say that the supreme Court doesn't handle writs. And the petitioner was required to appeal the courts decision by means of the appeal court. This is an absurd ruling. Because an appeal is used when one's defense is narrowed. And that is not the case here. The case here is that the petitioner was denied an opportunity to be heard all together. Which normally are grounds for Habeas Corpus.

The issue was then, as it is now. And that is that the decree for dismisal of the defendant's notice of post conviction relief, was repugnant to the Court's ruling in Eberhart v. U.S., 546 U.S. 12 (2005), And the only two ways to challenge the constitutionality of a law or statue are

by Writ of Error or a S.1 challange (Fed. Rules of Civ. Proc.)
The petitioner chose this venue because it's time efficent. And it places the Supreme Court on Notice of the judiciary practices in a state that has abused its legislative authority.

Y Balderrama
Notary Public - Arizona
Pima County
Commission Number 559305
My Comm. Exp. 2/28/2023

Aug 12-2019
Robert Robinson
Robert Robinson

Notary: Y. Balderrama
08/12/2019

I would like to be unambiguously clear about this Course of Action. And to be percise about why this petitioner seeks to have the writ issue upon the lower Courts involved. A writ of error is sued out by the defendant (Robert Earl Robinson) to review a judgment in an action brought against him by the state. The writ is incidental to the suit only, and is not a suit in of itself against the State. It serves as a more proper venue than that of an appeal, because it is a more usual mode of removing suits at common law. And also, it is more technically proper for The Court to view a single point of law, and not have to re-examine the whole case. Unless the Court see's that a collateral review is needed.

Synopsis

The petitioner, Robert Earl Robinson, sought relief from the conviction of 2nd degree murder. The conviction came as a result from coercion, and the ineffective assistance of an incompetent attorney. The courts sentenced the petitioner on March 17, 2017. And the petitioner was provided, by the Courts, a "Notice of Rights of Review After Conviction and Procedure," form.

The petitioner was represented by counsel at the time of sentencing. And made the attorney of record aware that he wished to file a motion for Post-Conviction Relief. However, the attorney failed to file the petition for post conviction Relief. And the court failed to make available the required form XXIVb for the petitioner. As mandated by 16A A.R.S. Rules of Crim. Proc., 32.4(a)(2).

Upon filing the first "Notice of Post-Conviction Relief," the Superior Court Judge Danielle J. Viola Summarily dismissed the "Notice of Petition." There by dismissing the petitioner's right to file "The Petition For Post Conviction Relief." By the Honorable Judge dismissing the petitioners notice, without objection of the timelyness of the filing by the prosecution. The Judge's sua sponte action has made her apart of the litigation. There for being in violation of "The Seperation of Powers Doctrine." And violative of The Fundamental Fairness Clause of the Due Process Clause of The Fourteenth Amendment.

This action was commenced by the Rule of Criminal Procedure 32.2 (c) which holds: The State must plead and prove any ground of preclusion by a perponderance of the evidence. A court may determine that an issue is precluded even if the State does not raise preclusion.

The Court has ruled on these actions in previouse cases, addressing the court's acting on behalf of the government. Maybe not as direct and to the point as in this case.

With claims processing time lines, such as the 90 day claim processing deadline placed on Rule 32 Petitions for Post Conviction Relief. Alot of courts have placed "jurisdictional" description of the rule on the Rule. A close look at the wording given in the "Right to post conviction relief"

notice, given to the petitioner at court. Rule 1 states as follows:
(1) You must file a Notice of Post Conviction Relief, (form XXIV(b)) within 90 days of the entry of judgment and sentence. If you do not file or have the right to file a Notice of Appeal. If you do ~~not~~ appeal, the time you have to file a Notice of Post Conviction Relief is extended to within 30 days of the order and mandate affirming the judgment and sentence on direct appeal. If you do not timely file a Notice of Post-Conviction Relief you may never have another opportunity to have any error made in your case corrected by another court.

Because the rule does not say that "you will never have another opportunity to have any error made in your case corrected by another court." It is clear that the time rule is not mandatory. Plus it never gives the ~~term~~ mandatory in the wording.

Also rule (2) gives a clear and unambiguous wording to the process of applying ~~for~~ for post conviction relief. Rule (2) states as follows: (2) To file a notice of post conviction relief, you should contact a lawyer by letter, telephone or in person, telling him or her that you want to seek post conviction relief.

The petitioner stated that he had informed his attorney of his desire to file a petition for post conviction relief. And the courts knew of this, through his first notice of post conviction relief. The court acknowledged this in it's ruling. Yet required for the petitioner to provide proof of this conversation. Some thing that's totally impossible and fundamentally Unfair.

Looking at things from a realistic real life perspective. A defendant, who has been committed by the courts, to jail is immediately handcuffed. In most cases such as this one, the defendant is without free will to ask of any questions, directions or information in reference to how to file the petition for Post Conviction Relief, or appeal. So he has to rely on the appointed counsel to address such issues. And this will be done by express word. Just as the petitioner done in this case.

And with the "express word." There is no proof that it ever existed beyond that of affirmation or oath of the one attesting to have spoke the words. And the petitioner being required to produce a proof that doesn't exist, is absurd to the constitution and the truth seeking process of our judiciary.

It is well understood that States are given widest of latitude in creating of laws and enforcement of those laws. Since the begining of this country's history, Congress has, subject to few exceptions, manifested a desire to permit State courts to try State cases free from interference by federal Courts. In 1793, an Act unconditionally provided: Nor shall a writ of injunction be granted to stay proceedings in any Court of the State... However 28 U.S.C. §2283, it's present day successor has had 3 provisions enacted by Congress that authorizes such. (1) "Except as expressly authorized by Act of Congress; (2) where necessary to aid of its jurisdiction; (3) to protect or effectuate it's judgment.

Yet the Court ruled in Ex parte Younge, 209 U.S. 123 (1908) That there is an exception not afforded by a Congressional act, to permit the federal Courts to intervene in a state procedure. And that is where a person about to be prosecuted in a state Court can show he will, if the proceeding in the state court is not enjoined, suffered irreparable damages.

By the courts rejecting the petitioners Notice of Post Conviction relief. The merits of the petitioner's claims of ineffective assistance of councel; The validity of the plea agreement being entered in to coerced and involuntarily; and newly discovered evidence that could exonerate the petitioner of the allegations would be forever lost. And the petitioner would then be committed to serve 15 years as a slave in violation of the 13th Amendment.

Because by law, the only way a person shall be subjected to involuntary servatude, is as a punishment for a crime whereof the party shall have been duly convicted. And as it sits now. The conviction is not a dully conviction. It's a constitutionally infirm conviction.

Therefor the petitioner seeks the Court to issue the writ of error. And that the Courts issue an injunction on the courts use of 32.2(C) to summarily dismiss the petitions and notice of petition. Because that would be a violation of the Fourteenth Amendment's Due Process Clause.

The petitioner also request that the Court issues in it's order, a mandate that the courts will hear the petitioner's petition on the merits of his claims. And that the State be bared from asserting timeliness as a defense. Because to do so would be counter productive to issuing the writ. And the time requirements were not created to assist in the aiding of substaining a conviction, or assisting the state. The timelyness requirements were created for the administration of justice to be without unnecessary delays.

The petitioner attempted to file the extraordinary writ befor the Arizona Supreme Court. Because under Arizona's Constitution Art VI §5 The Supreme Court shall have original jurisdiction of habeas corpus, and quo warranto, mandamus, injunctions and extraordinary writs to state officers.

However, when the writ was requested to be issued. The Supreme Court of Arizona denied jurisdiction, saying that the Supreme Court didn't hear writs. And the petitioner was required to appeal the court's decision by means of the appeal court. This is an obsurd ruling. Because an appeal is used to contest the narrowing of one's defense or an improper proceeding. And that was not the case in neither context. The petitioner was denied an opportunity to be heard all together. And normally, that is grounds for habeas relief. See

The issue was then, as it is now. And that is that the decree of summarily dismissing the petitioner's notice of Post Conviction Relief, was ~~[illegible]~~

repugnant to the Courts Ruling in Eberhart v. U.S., 546 U.S. 12 (2005). And the two ways to challenge the constitutionality of a law or statute are by Writ of Error or a 5.1 challenge (Fed. Rules of Civil Proc.). The petitioner chose this venue because of it's time efficiencies, And it places the Supreme Court on notice of the judiciary practices in a STATE that has abused it legislative authority.

Respectfully Submitted

Robert Robinson

Robert Robinson

Signature ~~of witness~~

State of ARIZONA

County of PINAL

SubscRiBed, SwoRn to and ACKnowLedged before me by ROBERT ROBINSON the principal, and subscribed and sworn to before me by N/A NONE, the witness, this 12th day of June 2019, my Commission Expires: 2/21/2023

Notary Public

A Miller
Notary Public - Arizona
Pinal County
Commission Number 558912
My Comm. Exp. 2/21/2023