

19-5900

NO.: _____

Supreme Court, U.S.
FILED

AUG 12 2019

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

David Ison - Petitioner;

v.

Richard Brown - Respondent;

PETITION FOR WRIT OF CERTIORARI

ORIGINAL

RECEIVED

AUG 15 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Attorney for Petitioner:

David Ison

DOC# 905813

Pendleton Correctional Facility

4490 West Reformatory Road

Pendleton, IN 46064-9001

Petitioner / pro se

David Ison

QUESTIONS PRESENTED

1. Wasn't it a threat or promise by the State: Prosecutor Wilhelm when he drafted up a document, gave the document to my Attorney him giving it to me to sign promising to not give me the death penalty; if I plead guilty to count VI life with-out parole request; with-out filing the death penalty?
Prosecutor Wilhelm admitted he did this; solicited the threat and promise at my Evidentiary hearing (See Evid. H. Transcript P. 99-101). And wasn't the introduction of this in open Court a violation of my privilege against self-incrimination guaranteed by the Fifth Amendment to the United States Constitution; and a violation of Boykin v. Alabama, Shotwell Supra, Bram v. U.S. 1897, an involuntary plea?
2. And when I only got the Boykin's in the context of Count VI life with-out parole request sentencing and not Counts I II III IV V the murder charge's for guilt or innocence; and I never waived any of my Boykins; isn't this going against Boykin v. Alabama? I never knew I was waiving them by pleading guilty. And the way they conducted the guilty plea and sentencing hearing; wouldn't it be mis-leading for a reasonable person to think they did not have the Boykin rights for counts I II III IV V the murder charges themselves?

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:

Attorney General of Indiana
Carl's Hill
302 West Washington Street
Indiana Government Center South
FIFTH Floor
Indianapolis, Indiana 46204

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Appendix G - <i>Evidentiary Transcripts</i>

TABLE OF AUTHORITIES CITEDCASES:PAGE NUMBER:

Shotwell v. U.S. 1967

Smith v. U.S. 8th Cir. 1906

Bram v. U.S. 1897

Shotwell Supra

Boykin v. Alabama

(see Constitutional Provisions and Statutes)

(Also see Questions presented)

(Also see Argument)

STATUTES & RULES:PAGE NUMBER:

2244 (d) (2)

(see constitutional Provisions and statutes)

(Also see Questions Argument)

OTHER:PAGE NUMBER:

Fifth Amendment Claim

Self-incrimination Clause

(see constitutional Provisions and statutes)

(Also see Argument)

**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

The Petitioner respectfully prays that this Honorable Court issue a writ of certiorari 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 They did not do a fact-finding and conclusion of Law; or,
- ☐ has been designated for publication but is not yet reporter; or,
- ☒ is unpublished.

The opinion of the United States district court appears at Appendix D to the petition and is-

- ☐ reported at _____; or,
- ☐ has been designated for publication but is not yet reporter; 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 Indiana Supreme Court would not grant Transfer.; or,
- ☐ has been designated for publication but is not yet reporter; or,
- ☒ is unpublished.

The opinion of the Indiana Court of Appeals court appears at Appendix D to the petition and is-

- ☐ reported at The first time it was remanded Second time did not do a fact-finding and conclusion of Law.; or,
- ☐ has been designated for publication but is not yet reporter; or,
- ☒ is unpublished.

JURISDICTION☒ For cases from **federal courts**:

The date on which the United States court of appeals decided my case was _____.
A copy of that decision appears at Appendix E.

☒ 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: _____, 20__, 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 _____, 20__, on _____, 20__, in Application No. __, and a copy of the order granting said extension appears at Appendix ____.

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 February 21st, 2018.
A copy of that decision appears at Appendix C.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied on the following date: _____, 20__, 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 _____, 20__, on _____, 20__, in Application No. __, and a copy of the order granting said extension appears at Appendix ____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

"Constitutional Provisions and Statutes"

Shotwell v. U.S. 1963

Smith v. U.S. 8th Cir. 1986.

Fifth Amendment Claim

Self-incrimination Clause

Bram v. U.S. 1897

Shotwell Supra

Boykin v. Alabama

2244 (d) (2)

"Summary"
'Statement of the Case'

I have went to every court and they refuse to acknowledge that my Rights were violated; they will not do a fact-finding and conclusion of law or opinion on my constitutional violations. My petitions have all been timely; but even if they weren't this Honorable Court should for the interest of justice rule on the Merits because they are serious constitutional violations on the face of the records.

"Argument"

'Reasons For Granting the Writ'

The State used the death penalty as a threat or and a promise with-out filing it: without filing the death penalty against me. (See Evidentiary Hearing transcripts P. 99-101) where prosecutor Wilhelm admits he did this, he solicited a threat and a promise with a document he formatted and gave it to my Attorney to threaten me and or promise me he wouldn't give me the death penalty if I plead guilty to count 01 life with-out parole request. Such inducement was ^{also} improper because the State lacked the authority to fulfill its commitment, such being the exclusive province of the trial judge. A promise which the State could not perform; as such, it was a false representation. It is clear constitutional principle that a confession or admission of the accused is inadmissible if it was obtained by a promise of immunity or mitigation of punishment. *Shotwell v. U.S.* 1963, *Smith v. U.S.* 8th Cir. 1906. The Test in resolving a Fifth Amendment claim resting upon the self-incrimination clause was set forth from several cases in the opinion by Justice Harlan in *Shotwell supra*. There quoting from *Bram v. U.S.* 1897. The controlling test is *Bram*: A confession in order to be admissible must be free and voluntary; that is not obtained by any direct or implied promises however slight. (Also see Guilty plea T.P. 3 Lines 16-22 shows again based on threat.)

I also never got my Boykin Rights for the murder charges, they gave them in the context of the life without parole request; mis-leading me into thinking I did.

not have them for the murder counts guilt or innocence;
only Count 11 without parole request sentencing.
(See guilty plea and sentencing transcripts) And I
never waived my Boykins either and never knew I was
by pleading guilty; this goes against Boykin v. Alabama.

Note: I never admitted I was threatened or promised to the
Judge at the guilty plea hearing; because of the document,
I thought it was legal and thought he knew of it, my
attorney told me to answer the way I did at my guilty
plea and sentencing hearing; I did not want to make
anybody mad because of the death penalty afraid of
getting it; and I thought since the Judge knew of
the document he wouldn't be asking about threats or
promises in reference to it.

Note: In reference to when the District court denied
my Habeas Corpus because of a time-bar: they errored
because I never got a direct appeal I was denied
one so I filed a P.C.R. and 2244 (d) (2)

says I was timely in my filing. Also it was timely
because 2244 (d) (1) says final judgment of the last State Court
1 year after that ~~Conclusion~~ "Indiana S.C. denied me 2-21-18 I
Filed my Habras 2-26-18"

Conclusion
I request this Honorable Court to review my case and do
a fact-finding and Conclusion of Law. To vacate my
convictions and sentences under U.S. Constitution;
and for all other just and proper relief it finds proper.

Executed on August 6th 2019 Respectfully submitted,

David Earlson