

No. \_\_\_\_\_

19-6099

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

SEP 12 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Khalil Stafford — PETITIONER

(Your Name)

vs.

State of New Jersey — RESPONDENT(S)

ORIGINAL

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of New Jersey

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

PETITION FOR WRIT OF CERTIORARI

Khalil Stafford

(Your Name)

E.C.C.F 354 Doremus Ave (Federal)

(Address)

Newark, NJ 07105

(City, State, Zip Code)

\_\_\_\_\_

(Phone Number)

# Question(s)

1. If the evidentiary hearing was based upon the challenges' being time barred, yet the Appellate Court concurred that the fourth and fifth convictions were not time barred, is that not a failure of the courts to grant the defendant a partial evidentiary hearing for challenges to the fourth and fifth convictions and more particularly, on the claim of ineffective assistance of counsel being in plain error? (Appendix A )
  - A. If Counsel's function is to assist the defendant and hence counsel owes the client a duty of loyalty to assist the defendant, whom deserves the overarching duty to advocate the defendant's cause and more particularly has a duty to consult with the defendant on important decisions as well as keep the defendant informed of important developments in the course of the prosecution, how does Counsel's failure to file proper motions on behalf of the defendant not violate the defendant's Sixth Amendment? (Appendix F) {Ind. # 04-04-1503-I}
  - B. If counsel's duty is to bring and bear such skills and knowledge as will render the trial a fair and impartial and reliable adversarial testing process, does not the failure to object to the improper testimony of a drug expert violate the due process of law found in both the Sixth and Fourteenth amendments of the Constitution? (Appendix F) {Ind. #04-04-1503}
  - C. If it is a constitutional violation when counsel fails to advise his client of the possible consequences of immigration prior to entering a guilty plea, is it not also a constitutional violation if counsel fails to advise a defendant of the greater consequences of entering a guilty plea beyond this case, especially when counsel was aware, as evidence was presented, of an on-going Federal investigation? (Appendix- D) {Dec 5<sup>th</sup> 2015 plea hearing}
  - D. If counsel's error in advising the defendant to plead guilty to a crime was so serious that it cost the defendant his life, {see Appendix B-1} where the court granted a motion to receive the surveillance location, counsel wholly failed to investigate this location or any additional information stemming from the alleged location prior to advising the defendant to take the plea, is this not a clear deficiency in counsel's performance which is binding on the constitutional guarantees to be afforded to a defendant? Additionally, is this error not so serious, having caused the defendant a sentence of life, that this ineffective assistance of counsel warrants a full reversal and or if necessary, an evidentiary hearing? (Appendix-D) {Dec. 5<sup>th</sup> 2015}

## LIST OF PARTIES

All parties 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:

1. **Hon. Robert Gardner, J.S.C.**
2. **Hon. John I. Gizzo J.S.C (State PCR Judge)**
3. **Daniel Ian Bornstein. Esq. (Attorney general) Trenton NJ**
4. **Hon. Carmen Messano, P.J.A.D (appellant court judge)**
5. **Hon. Stuart Rabner, chief justice at Trenton**

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## 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 state Courts:**

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is unpublished.

The opinion of the appellant Court to review the merits appears at Appendix B to the petition and is unpublished.

## **JURISDICTION**

**[ ✓ ] for cases from the states courts:**

The date on which the highest state court decided my case was June 18<sup>th</sup> 2019 a copy of that decision appears at **Appendix C**

The date on which the Court of appeal decided my case was December 11<sup>th</sup> 2018 copy of that decision appears at **Appendix A**

The date on which the PCR court decided my case was on August 30<sup>th</sup> 2017 copy of that decision appears at **Appendix B**

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

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The opinion of the highest state court the New Jersey Supreme Court Dkt. 082366 to review the merits appears at Appendix C to the petition and is unpublished.

The opinion of the Appellant Court Dkt. A-1710-17 to review the merits appears at Appendix A to the petition and is unpublished.

The opinion of the PCR court Dkt. A-1710-17-T2 to review the merits appears at appendix B to the petition and is unpublished

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## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Petitioner will refer to all the table of authority in all **Appendix-A through- G** for constitutional and statutory provisions set forth within to present the merits of his claim.

## **STATEMENT OF THE CASE**

Petitioner will rely upon the statements of fact presented in the **Appendix A-through- G.**

## REASON FOR GRANTING THE PETITION

The New Jersey Supreme Court erred in denying the petition for a evidentiary hearing as to the ineffective assistance of counsel where petitioner has shown cause, on the factual matters presented by the allegations of the petition. (1) the denial of the evidentiary hearing was based upon the challenges' being time barred, yet the Appellate Court concurred that the fourth and fifth convictions were not time barred, where the court failed to grant the defendant a partial evidentiary hearing to at least challenge the fourth and fifth convictions which was not filed out of time. (2.) Counsel's failure to file proper motions on behalf of the defendant violate the defendant's Sixth Amendment. When his function pertaining to the right to effective representation of counsel, is the right to employ and consult with counsel and the right to prepare his defense and the right to defend himself at every stage of the proceedings which includes the appeal itself and matters thereto appertaining, *Powell v Alabama*, 287 US 45, 77 L ed 158, 53 S Ct 55, 84 ALR 527; (3) failure to object to the improper testimony of a drug expert violate the due process of law found in both the Sixth and Fourteenth amendments of the Constitution.

Furthermore, if it is a constitutional violation when counsel fails to advise his client of the possible consequences of immigration prior to entering a guilty plea, is it also a constructional violation if counsel fails to advise a defendant of the greater consequences of entering a guilty plea beyond this case, especially when counsel was aware, as evidence was presented, of an on-going Federal investigation. When the state negotiated a plausible deal to take with counsel after the court granted a motion to receive the surveillance location, counsel wholly failed to investigate this location or any additional information stemming from the alleged location prior to advising the defendant to take the plea. Therefore in the outcome of this conviction, a redacted transcript of this fifth conviction state plea allocution was used to convict petitioner to a life sentence in federal Court. this is clearly a deficiency in counsel's performance which is binding on the constitutional guarantees to be afforded to a defendant. Additionally, this error was so serious, having caused the defendant a sentence of life, that this ineffective assistance of counsel warrants a full reversal and if necessary, an evidentiary hearing to question the function and duty of the professional attorney at law. Representing an American who guiding hands depend on

the service render to him by the Courts. The petition presents issues of grave importance in that constitutional rights to due process and the equal protection of the laws affecting this petitioner The New Jersey Constitution and statutes make it mandatory that the New Jersey Supreme Court review the entire record in every case to render a decision based upon such a record. To just deny the challenges to the fourth and fifth convictions was just to rid the case load and move forward with other cases without properly investigation the merits of constitutional concern. To determine whether the record in the instant proceeding is genuine and accurate depends upon facts within the petition of the fourth and fifth conviction those of which was just disregarded based upon the timing of the filing of the first (three) attached convictions which the issues petitioner still believe has merit to be challenged. Records of facts, in which the truth or falsity may only be determined as the result of a full and fair adversary hearing.

## CONCLUSION

An appeal in a criminal case under New Jersey law is a matter of right and due process must be accorded in the course of appellate procedure. Therefore Petition for a writ of *CERTIORARI* should be granted.

Respectfully submitted: \_\_\_\_\_

Date: \_\_\_\_\_