

No. _____

19-6139

IN THE
SUPREME COURT OF THE UNITED STATES

JERMAINE STEVENSON

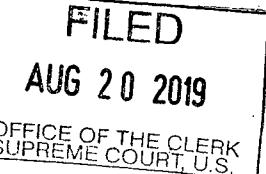
(Your Name)

PETITIONER

vs.

Chippewa Corr. Fac., Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO



MICHIGAN COURT OF APPEALS

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

PETITION FOR WRIT OF CERTIORARI

JERMAINE STEVENSON

(Your Name)

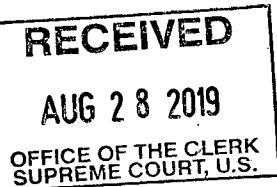
4269 West M-80

(Address)

Kincheloe, Michigan 49784

(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

I. Has Due Process of law been violated, where a child within the permanent custody and jurisdiction of the state Juvenile court is charged as an adult in circuit court without a jurisdiction waiver hearing, nor a transfer from the Juvenile court?

II. Has Due Process of law been violated, where a child under the still continuing jurisdiction of the state Juvenile court is charged as an adult in a circuit court which lacks personal jurisdiction?

III. Is the state trial court's proceedings void ab initio where the court fails to acquire personal jurisdiction?

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:

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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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 is unpublished.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 Michigan Appeals court appears at Appendix G 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 2, 2019. A copy of that decision appears at Appendix B _____.

[] A timely petition for rehearing was thereafter denied on the following date: July 29, 2019 ___, and a copy of the order denying rehearing appears at Appendix C _____.

[] 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, AMEND. 14 § 1

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Michigan Compiled Laws § 712A.2a (1991 version)

Attached herein as Appendix E.

Michigan Compiled Laws § 712A.4 (1991 version)

Attached herein as Appendix F.

STATEMENT OF THE CASE

On May 6, 1991, petitioner Stevenson was committed to the permanent custody of the Wayne County Probate Court-Juvenile Division, as a neglected child. On November 18, 1991, while still in the continuing custody and jurisdiction of the Juvenile Division, petitioner Stevenson was arrested for the offense in the instant case.

The prosecuting attorney failed to file a motion pursuant to Michigan Compiled Laws § 712A.4 (as the statute provided in 1991) to seek the waiver of the juvenile court's jurisdiction over petitioner Stevenson so that he may be tried as an adult. As a result, petitioner Stevenson was tried and convicted as an adult in the trial court while still within the permanent custody and continuing jurisdiction of the juvenile court.

On January 26, 1993, petitioner Stevenson was sentenced by the trial court to mandatory life without parole; 10-20 yrs; and 2 yrs, while he was still under the continuing jurisdiction of the juvenile court. Finally on May 14, 1993, the juvenile court terminated its jurisdiction over Stevenson.

Petitioner Stevenson filed an original state habeas corpus petition in the Chippewa County 50th Circuit court claiming a radical jurisdictional defect, that the trial court lacked personal jurisdiction over petitioner and the court proceedings were void. The petition was denied on June 7, 2017. Petitioner filed an original habeas petition in the Michigan Court of Appeals, this Petition was denied with no opinion on November 5, 2018.

Petitioner Stevenson filed an application for leave to appeal in the Michigan Supreme Court which was denied on April 2, 2019. A timely motion for reconsideration was also filed and denied on July 29, 2019. Petitioner now brings his timely matter before this Honorable Court for a writ of certiorari.

REASONS FOR GRANTING THE PETITION

A. THE STATE COURT HAS DECIDED A FEDERAL QUESTION IN DIRECT CONFLICT WITH THE APPLICABLE DECISIONS OF THIS COURT.

1. The state court erred denying Petitioner's state habeas corpus petition because its decision is in direct conflict with this Court's decision in Kent, infra. The record reveals that Petitioner was persecuted as an adult in the trial court while still within the permanent custody and continuing jurisdiction of the state juvenile court. The state violated Petitioner's due process and equal protection of the U.S. Const. Amendment 14, where the juvenile court did not hold a waiver hearing, nor issue a transfer order to the circuit court.

2. The state court erred denying Petitioner's state habeas corpus petition because its decision is in direct conflict with this Court's decisions in Frank, and Harris, infra. The state court failed to hold an evidentiary hearing or consider Petitioner's ex parte motion for an order to show cause of illegal detention, where Petitioner submitted newly discovered, extrinsic evidence as proof that the trial court lacked personal jurisdiction over Petitioner.

3. The state trial court's proceedings are void ab initio where the court failed to acquire personal jurisdiction over Petitioner. The failure of the state court to grant habeas corpus is in direct conflict of a decision of this Court in Blackledge, and Kaizo, infra.

Petitioner respectfully urges that all aspects of the state court decision are erroneous and at a variance with this Court's decisions as explained below.

ARGUMENTS AMPLIFYING REASONS FOR WRIT

I. PETITIONER'S DUE PROCESS AND EQUAL PROTECTION UNDER U.S. CONST. AMENDMENT

14, WAS VIOLATED WHERE THE STATE TRIAL COURT CHARGED AND CONVICTED HIM AS AN ADULT WITHOUT A JUVENILE TRANSFER ORDER OR A WAIVER HEARING.

This Court has stated that the decision of whether to punish a juvenile as an adult requires full investigation. Kent v United States, 383 U.S. 541, 553, 86 S Ct 1045, 16 L Ed 2d 84(1966). Within its opinion, this Court also stated that there was no place in our system of law for reaching a result of such "tremendous consequences without ceremony -- without hearing, without effective assistance of counsel, without a statement of reasons. Td at 554.

Statutory law in Michigan, being MCL 712A.4(eff. in 1991), provided the protocol for the prosecutor and the juvenile court to follow for the waiver of jurisdiction. The prosecutor failed to file the required motion for a hearing and the juvenile court did not hold a hearing. As a result the juvenile court did not enter a waiver/transfer order for the Petitioner to be tried as an adult. Petitioner has submitted extrinsic evidence as prima facie proof that no waiver hearing or order took place (attached herein as Appendix D), a court order terminating the jurisdiction over Petitioner on May 14, 1993. Petitioner was convicted by a jury and sentenced to prison on January 26, 1993, four months before the termination hearing.

II. THE STATE COURT FAILED TO GRANT HABEAS CORPUS, EVIDENTIARY HEARING, AND CONSIDER PETITIONER'S EX PARTE MOTION FOR ORDER TO SHOW CAUSE.

As stated above, Petitioner provided the court with extrinsic evidence supporting his habeas petition that the trial court was without jurisdiction. Petitioner filed an ex parte motion for order to show cause along with his habeas petition which the circuit court failed to consider on review. This court has ruled that "a prisoner in custody pursuant to the final judgment of a state court of criminal jurisdiction may have a judicial inquiry in a court of the United States into the very truth and substance of the causes of his detention, although it may

become necessary to look behind and beyond the record of his conviction to a sufficient extent to test the jurisdiction of the state court to proceed to judgment against him." Frank v Mangum, 237 U.S. 309, 331, 35 S Ct 582, 59 L Ed 969(1915).

The want of jurisdiction of a person rendering a judgment "utterly void and unavailable for any purpose." Harris v Hardemann, 55 U.S. ___, 339, 14 L Ed 444(1853). Habeas corpus ought not to be entertained unless the court is satisfied that the plaintiff can make out at least a prima facie case. U.S. v Singtuck, 194 U.S. 161, 170, 24 S Ct 621, 48 L Ed 917(1904). Where Petitioner has presented such a case supported with newly discovered evidence, the state court abused its discretion by failing to consider the evidence, hold an evidentiary hearing, and consider petitioner's motion for an order to show cause. In fact the court merely denied Petitioner's habeas petition with a vague explanation and no supporting authority. Presumed jurisdiction over a person can be disproved by extrinsic evidence. Cook v Cook, 342 U.S. 126, 128, 72 S Ct 157, 96 L Ed 146(1951).

III. THE STATE TRIAL COURT PROCEEDINGS ARE VOID AB INITIO WHERE THE COURT FAILED TO ACQUIRE PERSONAL JURISDICTION OVER PETITIONER.

The very initiation of the proceedings against an individual in a state trial court that lacks personal jurisdiction operates only to deny his due process of law. Blackledge v Perry, 417 U.S. 21, 30-31, 94 S Ct 2098, 40 L Ed 2d 628(1974). No court may properly release a prisoner under a conviction and sentence of another court "unless for a want of jurisdiction of the cause or person", or some other reason rendering its proceedings "void". Kaizo v Henry, 211 U.S. 146, 29 S Ct 41, 53 L Ed 125(1908). The judgment in such a case is "utterly void, and unavailable for any purpose." Harris, *supra*.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 8-20-2019