

19-6273 ORIGINAL
No.

FILED
OCT 03 2019
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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

October: Term 2019

Henry Cyrus Lucas PETITIONER
(Your Name)

vs.

The State of Florida RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

District Court of Appeal of Fla. Third Dist.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Henry Cyrus Lucas
(Your Name)

Dade Correctional Institution
(Address)

1900 SW 37th Street Florida City, Fla. 33034
(City, State, Zip Code)

1414
(Phone Number)

RECEIVED
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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Why was the Petitioner denied his Constitutional Rights of appellate review when this case involves Amendment XIV to the United States Constitution which provides section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside.

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?

2. Whether the appellate court's response to motion for rehearing respectfully submitted explaining that the Petitioner is not entitled to a belated appeal and did not make an argument regarding the manslaughter instructions with claims that the record reflects the claims and that the trial court read the faulty manslaughter by act instruction are a constitutional violation, Article III section 1, section 2?

3. Whether the Due Process Clause of the Fourteenth Amendment to the United States Constitution, The Third District Court of Appeals State of Florida had jurisdiction under general Federal question conferred by Chapter 81 Supreme Court Sec. 1254. by the following methods petition for writ of certiorari?

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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 D 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 C 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 43 Or. 3d 159; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the 4/A court appears at Appendix B to the petition and is

☒ reported at 121 Or. 3d 559; 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 July 30, 2019.

☐ 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: July 30, 2019, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (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 N/A.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. A.

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

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

PAGE NUMBER

<i>Lucas v. State</i> , 43 So. 3d 157 (Fla. 3d DCA 2010).	Appendix D
<i>Maye v. Lakeland Highlands Community Co.</i> , 304 US 370, 317, 60 B.Ct. 517, 84 L.Ed 794 (1990).	1
<i>Pace v. State</i> , 826 So. 2d 996, 999 (Fla 3d DCA 2001) C	
<i>Marshall v. State</i> , 240 So. 3d 111 (Fla. 3d DCA 2018)	Appendix D
<i>State v. Montgomery</i> , 39 So. 3d 252 (Fla 2010).	
<i>Haywood v. State</i> , 109 So. 3d. 735, 743 (Fla. 2013).	
	Appendix D

STATUTES AND RULES

§. 782.03
 § 90.202 (b), Fla. Stat. 2019

Appendix D

OTHER

Article 111 sec. 1. sec. 2.	
Supreme Court Rule 10	7
28 U.S.C. § 1251	7
Federal R. Civ. P. 52(a)	7
Federal R. Civ. P. 58.	1
Federal R. Civ. P. 81(a)(2)	7
28 U.S.C. § 2254 (d)	1
Fla. Stat., § 782.03 (1982)	1

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Constitutional Law of the United States see. eg. R.I. Gen. L
§ 9-5 3.5 Cal civ pro code § 410.10

Constitution of the United States: Amendment XIV section
1-6.

Article III Section. 1. Section. 2 : Article IV Section 1.
Section 4.

Fourth Amendment

Criminal Justice Act:

Federal Habeas Act

28 USC § 1291. Proceedings in Forma Pauperis

28 USC § 1331. Federal questions

28 USC § 1391. Pleadings

28 USC § 1291. Final Decisions of District Court

28 USC § 636 (b)(1) Federal Habeas Act

28 USC § 1291. Final Decisions of District Court

28 USC § 2072. Supreme Court

28 USC § 1652. Rules of Decisions Act

28 USC § 2513. Unjust Conviction and Imprisonment

Manifest Injustice § 636 (b)(1) Fed. Habeas Act

28 USC § 1254 (1)

STATEMENT OF THE CASE

The gravity and general importance of facts taken and exposed generally to secure the integrity of this case that Henry Lucas returned home on the around 1:45 pm, his live-in girlfriend, W. Johnson, started arguing with him about his drinking alcohol. At that point, he went into his bedroom, took his gun out of his pouch, which was locked, and tried to leave through the front door. Before he could exit, W. Johnson hit him and pushed him and he pushed her. W. Johnson got angry, started swinging at him, and tore his shirt. The gun was knocked out of the appellant, petitioner went down and the two of them reached for it on the floor. The petitioner did not have his hands on the trigger, but the gun fired. The petitioner did not see W. Johnson's hand pull the trigger. Petitioner and W. Johnson were in one room when the gun discharged. As W. Johnson's body lay on the floor, the petitioner called his aunt and said that he had shot her. Petitioner then called 9-1-1 operator and (wounded W. Johnson's body away from the door. Although the 9-1-1 operator asked the petitioner could he perform CPR, he replied "no because I already checked. The petitioner told the 9-1-1 operator that he tried to hit W. Johnson, but did not say that she touched the gun or tried to reach for it. Finally, the petitioner told the jury that he was aware that the victim was what during the altercation.

REASONS FOR GRANTING THE PETITION

Direct and concise argument with supporting reasons relied on for the allowance of the writ are the inviolable character of the United States Constitution, Henry C. Lewis, argues compelling reasons with characters of reason this court should consider governing review the granting this writ of Certiorari.

The United States Court of Appeals entered a decision in conformity with the decision of another United States Court of Appeal on the same important matter and has so departed from the accepted and usual course of judicial proceedings or sanctioned such a departure by a lower court as to call for an exercise of this court's supervisory power to reverse and Remand Cause as 28 USC § 2106, Title.

Pursuant to Chapter 133-Review: Miscellaneous provisions section 82101(c), Civil or Criminal, any other appeal or any writ of certiorari intended to bring any judgment or decree of the United States Court of Appeals for a writ of certiorari may extend the time for applying for a writ of certiorari for a period not exceeding 60 days.

82072 USC § 28 Title Rules of Procedures and evidence, power to prescribe, the Supreme Court shall have power to prescribe general rules of practice and procedures and rules of evidence for cases in the United States District Court including proceedings before a Magistrate Judge thereof and courts of appeals.

Such rules shall not abridge, enlarge, or modify any substantive right.

All law inconsistent with such rules shall be of no further force or effect after such rule has taken effect.

Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291, 28 Title USC.

Article III section 1, 2, Article IV, Sec. 3, U.S. Const.; Article XIV, 1-5 28 USC § 1651 Title 28 USC.

The Supreme Court and all courts established by Acts of Congress, may issue all writs necessary or appropriate in aid of their respective jurisdiction and agreeable to the usages and practices of law.

28 USC § 636: Alternative Courts or Rule 113: may be issued by a justice or judge of a court which has jurisdiction.

REASONS FOR GRANTING THE PETITION

Why the petitioner was denied his constitutional rights of a de facto meaningful appellate review when the state failed to articulate its findings of fact and conclusions of law supporting its decision to deny the defense motions with constitutional violations of Amendment XIV which provides section 1-5.

As an initial matter, specifications by the trial court of its findings of fact and conclusion of law informs the losing litigant of the reasons for that court's ruling and of principal rulings and question that cannot be addressed.

see, *Mayo v. Leland and Highlands Canning Co.*, 309 U.S. 370, 317, 60 S.Ct. 517, 84 L. Ed. 774 (1940).
"If appellant conceived themselves aggrieved by the action of the court upon motion for preliminary injunction they were entitled to have explicit findings of fact upon which the conclusion of the court was based. When federal review courts decisions of the state courts, different standards of review are to be applied depending on whether the petitioner challenge focuses primarily on issues of fact or issues of law. 9. 782.03

A district court's findings of fact are evaluated under the differential "clearly erroneous" standards of review. see Fed. R. Civ. P. 52(a); Fed. R. Civ. P. 81(a)(2). Federal Magistrate Act 28 USC § 636(c)(2). Criminal Justice Act: Federal questions 28 USC 1331; Final Decision 28 USC 1291.

Supreme Court 28 USC § 2072. Rules of Decision Act 28 USC 1352. Manifest injustice 3438 (b)(1); 28 USC § 1354 (1) Fourteenth Amendment: Article III Section 1-2. 28. Const.: Article IV Sec. 1-4.

Due Process Clause.
Constitutional Laws of the U.S. see, e.g. R.I. Gen. L. § 9-5.3.5 Cal. Code: Cal. civ. pro code § 410.10; Const. US Amend. XIV sec. 1-5.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Wendy C. Lucas

Date: *Oct. 2019*

Legal Mail
Received

OCT 03 2019

Dade CJ.

HL