

IN THE UNITED STATES SUPREME COURT
WASHINGTON D. C.

WILLIAM N. LUCY
PETITIONER

V.

MARY COOKS
RESPONDANT

U. S. SUPREME COURT 19-0345
U.S. COURT OF APPEALS 11TH CIR 19-10005-B
MOBILE COUNTY CIR. COURT CU3-5332

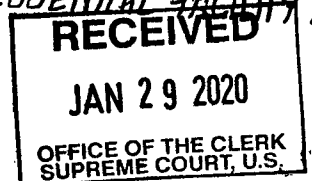
MOTION TO RECONSIDER

COMES NOW WILLIAM N. LUCY, PETITIONER IN THE ABOVE STYLED ACTION AND HEREBY PETITION THIS HONORABLE COURT TO RECONSIDER PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS AND IN SUPPORT THEREOF SUBMIT THE FOLLOWING:

ISSUES PRESENTED

- A.). ILLEGAL SENTENCE
- B.). INEFFECTIVE ASSISTANCE OF COUNSEL
- C.). DENIAL OF DUE PROCESS
- D.). DENIAL OF EQUAL PROTECTION OF THE LAW

A.). PETITIONER WAS SUBJECTED TO A (N) ILLEGAL SENTENCE - AS PART OF PETITIONER'S SENTENCE IMPOSED BY THE MOBILE COUNTY CIRCUIT COURT UPON HIS STATE CONVICTION IS PETITIONER IS REQUIRED TO GET PERMISSION FROM ONE OF THE CIRCUIT JUDGES IN THE THIRTEENTH JUDICIAL CIRCUIT OF ALABAMA BEFORE HE CAN FILE ANY DOCUMENT IN THE MOBILE COUNTY PROBATE COURT. "NO OTHER CITIZEN HAS BEEN SUBJECTED TO THIS RESTRICTION" - WHICH AMOUNTS TO A "DENIAL OF ACCESS TO A (N) ESSENTIAL FACILITY"



B) INEFFECTIVE ASSISTANCE OF COUNSEL - PETITIONER REPRESENTED HIMSELF AT TRIAL, AS PETITIONER IS NOT A BAR-ADMITTED ATTORNEY, WERE DEIED THE COMMON COURTESY AND NORMAL PROTOCOL BY THE TRIAL JUDGE AS HE WERE NOT ALLOWED TO FINISH HIS OPENING STATEMENT OR CLOSING ARGUMENT. PETITIONER'S APPELLATE COUNSEL DID NOT CONSULT WITH PETITIONER ALTHOUGH PETITIONER WERE TRIAL COUNSEL AND APPELLATE COUNSEL REFUSED TO RAIGE OR ADDRESS ANY OF THE ISSUES RAISED BY PETITION AT TRIAL (DENIAL OF WITNESSES, DENIAL OF EVIDENCE TO BE CONSIDERED BY THE SURY, TRIAL JUDGE'S CONFLICT OF INTEREST, TRIAL JUDGE ENTERING THE SURY ROOM DURING DELIBERATIONS AND MARKING THE VERDICT CARD "GUILTY" AND MUCH, MUCH MORE ALL PRESERVED FOR APPELLATE REVIEW,

THE U.S. DISTRICT COURT DENIED PETITIONER ASSISTANCE OF APPELLATE COUNSEL EVEN THOUGH PETITIONER WERE GRANTED INDIGENT STATUS,

C) DENIAL OF DUE PROCESS - PETITIONER WAS DENIED HABEAS CORPUS RELIEF BY FEDERAL DISTRICT COURT AND THE U.S. COURT OF APPEALS (11TH CIR) AND DENIED CERTIFICATE OF PROBABLE CAUSE, STATING PETITIONER WERE BARRED BECAUSE PETITIONER FAILED TO APPEAL FROM THE ALABAMA COURT OF CRIMINAL APPEALS TO THE ALABAMA SUPREME COURT, EXHAUSTING HIS STATE REMEDIES - THIS WAS A DENIAL OF PETITIONER'S "DUE PROCESS" CLAUSE OF THE FOURTEENTH AMENDMENT TO THE U.S. CONSTITUTION, WAS NOT AVAILABLE TO PETITIONER, NOT WITH STANDING THIS, THE UNITED STATES SUPREME COURT IN THE CASE OF FAY V NOLA 9 L.ED 2d 837, IN AN OPINION BY BRENNAN, J., EXPRESSING THE VIEWS OF SIX MEMBERS OF THE COURT, IT WAS HELD THAT

(1). FEDERAL COURTS HAVE POWER UNDER THE FEDERAL HABEAS CORPUS STATUTE TO GRANT RELIEF DESPITE THE APPLICANT'S FAILURE TO HAVE PURSUED A STATE REMEDY NOT AVAILABLE TO HIM AT THE TIME HE APPLIES;

IT APPEARS FROM THE RECORD BEFORE US THAT THE DISTRICT COURT DISMISSED PETITIONER'S APPLICATION WITHOUT MAKING ANY EXAMINATION OF THE RECORD OF PROCEEDING IN THE STATE COURTS, AND INSTEAD SIMPLY RELIED ON THE OPINION OF THE SUPREME COURT OF ILLINOIS.

D). DENIAL OF EQUAL PROTECTION OF THE LAW (DUE PROCESS - RIGHT TO BE HEARD) HABEAS CORPUS IS A GREAT CONSTITUTIONAL PRIVILEGE; THERE IS NO HIGHER DUTY THAN TO MAINTAIN IT UNIMPAIRED AND UNSUSPENDED, SAVE ONLY IN THE CASES SPECIFIED IN THE FEDERAL CONSTITUTION.

THE FUNCTION OF THE WRIT OF HABEAS CORPUS IS TO PROVIDE A PROMPT AND EFFICACIOUS REMEDY FOR WHATEVER SOCIETY DEEMS TO BE INTOLERABLE RESTRAINTS; VINDICATION OF DUE PROCESS IS ITS HISTORIC OFFICE.

A DEFENDANT'S FAILURE TO APPEAL FROM HIS STATE COURT CONVICTION IS NOT A FAILURE TO EXHAUST "THE REMEDIES AVAILABLE IN THE COURTS OF THE STATE" AS REQUIRED BY 28 USC § 2254; THAT REQUIREMENT REFERS ONLY TO A FAILURE TO EXHAUST STATE REMEDIES STILL OPEN TO THE APPLICANT AT THE TIME HE FILES HIS APPLICATION FOR HABEAS CORPUS IN THE FEDERAL COURT.

THE JURISDICTION OF THE FEDERAL COURT IN HABEAS CORPUS PROCEEDINGS INSTITUTED BY A STATE PRISONER IS NOT AFFECTED BY PROCEDURAL DEFAULTS INCURRED BY THE APPLICANT DURING THE STATE COURT PROCEEDINGS.

IF A STATE WITHHOLDS AN EFFECTIVE REMEDY FROM THE VICTIM OF UNCONSTITUTIONAL STATE ACTION, THE FEDERAL COURTS, UNDER THE HABEAS CORPUS STATUTE (28 USC § 2241) HAVE THE POWER AND THE DUTY TO PROVE IT.

- 5). WHERE THE MATERIAL FACTS WERE NOT ADEQUATELY DEVELOPED AT THE STATE COURT HEARING; OR
6). WHERE FOR ANY REASON IT APPEARS THAT THE STATE TRIER OF FACT DID NOT AFFORD THE HABEAS APPLICANT A FULL AND FAIR FACT HEARING.

IF THE STATE COURT DECIDED THE CONSTITUTIONAL CLAIM ON THE MERITS, THERE MUST STILL BE A FEDERAL EVIDENTIARY HEARING THE COURT SAID, UNLESS THE FEDERAL COURT IS ABLE TO RECONSTRUCT THE FINDING OF THE STATE TRIER OF FACT, WHICH IS IMPOSSIBLE IF IT IS UNCLEAR WHETHER THE STATE FINDER OF FACT APPLIED CORRECT CONSTITUTIONAL STANDARDS.

THE COURT SAID FURTHER THAT EVEN IF THE STATE TRIER OF FACT APPLIED THE PROPER STANDARDS, A HEARING IS REQUIRED IF ANY COMBINATION OF THE FACTS ALLEGED WOULD PROVE A VIOLATION OF CONSTITUTIONAL RIGHTS AND THE ISSUE OF LAW ON THOSE FACTS PRESENTS A DIFFICULT OR NOVEL PROBLEM FOR DECISION.

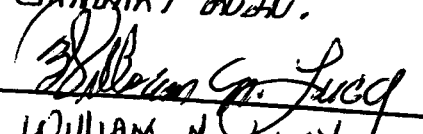
ALTHOUGH THE SUPREME COURT HAS SAID THAT THE DETERMINATION WHETHER A FULL HEARING IS NECESSARY WITH RESPECT TO ISSUES PRESENTED BY A PETITION FOR HABEAS CORPUS IS A MATTER LYING WITHIN THE DISCRETION OF THE DISTRICT COURT IN WHICH THE PETITION IS FILED, THE COURT'S DECISION MAKES IT CLEAR THAT FOR PURPOSES OF THE QUESTION DISCUSSED, DISCRETION IS NOT BOUNDLESS, THUS IT WOULD APPEAR TO BE ESTABLISHED BY THE DECISIONS OF THE SUPREME COURT THAT A DISTRICT COURT ERRS IN DISMISSING A PETITION FOR HABEAS CORPUS WITHOUT A HEARING, WHERE IT DOES NOT FIRST MAKE AN EXAMINATION OF THE RECORD OF THE CRIMINAL PROCEEDING LEADING TO THE CONVICTION WHICH THE HABEAS CORPUS PETITION CHALLENGES.

THE FRAMERS OF THE UNITED STATES CONSTITUTION AND THE UNITED STATES CONGRESS HAD SITUATIONS SUCH AS THIS ONE, THIS PETITIONER FINDS HIMSELF IN "ACTUALLY INNOCENT" OF ANY WRONGDOING, BUT "SUFFERING IRREPARABLE HARM". WHEN THEY GAVE "THE GREAT WRIT" (WRIT OF HABEAS CORPUS), THE POWER TO RIGHT ANY WRONG INCARCERATION INFLICTED BY ANY STATE OR TERRITORY OF THE UNITED STATES INVOLVING THE DENIAL OF ANY CONSTITUTIONAL RIGHT OF ANY OF ITS CITIZENS.

THE CONSTITUTIONAL RIGHTS DEPRIVATION THIS PETITIONER IS SUFFERING, IN THIS INSTANT CASE, IS JUST WHAT THE GREAT WRIT WAS CREATED FOR.

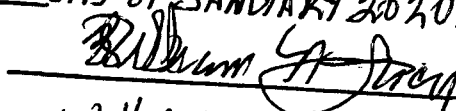
THIS CASE IS DUE TO BE AND SHOULD BE RECONSIDERED BY THE COURT EN BANC (FULL COURT) AND REVERSED AND REMANDED.

DONE THIS 17TH DAY OF JANUARY 2020.


WILLIAM N. LUCY
AIS # 204880-12-53A
BULLOCK COUNTY CORR. FAC.,
P.O. BOX 5107
UNION SPRINGS, AL 36089

CERTIFICATE OF SERVICE

I WILLIAM N. LUCY DO HEREBY CERTIFY I HAVE SERVED A COPY OF THE FOREGOING ON THE RESPONDANT BY DEPOSITING A COPY OF THE SAME IN THE U.S. MAIL "LEGAL MAIL" BOX INSIDE OF BULLOCK COUNTY CORR. FAC., PROPERLY ADDRESSED WITH FIRST CLASS POSTAGE PRE-PAID.
DONE THIS 17TH DAY OF JANUARY 2020,


WILLIAM N. LUCY