

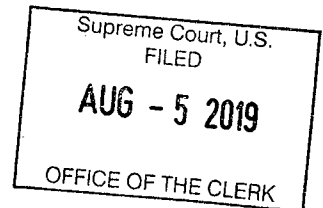
19-6347

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



Rafael Alvarado — PETITIONER
(Your Name)

vs.

Jacqueline Lashbrook (w/under) RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Appellate Court of Illinois Fifth Judicial District
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Rafael Alvarado
(Your Name)

P O Box 1080
(Address)

Memphis TN 38103
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION PRESENTED

The state of Illinois failed to charge Mr. Alvarado with a VOID indictment. Also the circuit court of Cook County being able to execute a sentence of imprisonment that a court had illegally imposed against him.

Plarntiff was charged with invalid statute because there exist no ILCS of 1992. The public Act 87-1005 say did not become effective until 1993.

TABLE OF CONTENTS

	Page.
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.	2
STATEMENT OF THE CASE	2
STATEMENT OF PERTINENT FACTS	3, 4, 5, 6
REASONS FOR GRANTING THE WRIT	5
CONCLUSION	7
STATEMENT OF JURISDICTION	1-2

INDEX TO APPENDICES

APPENDIX A	Appellate Court 2d. Fifth Dist.
APPENDIX B	ILLINOIS SUPREME COURT.

TABLE OF AUTHORITIES CITED

CASES

PAGE NO.

Federal cases

U.S. Const Amend V	2
U.S. Const Amend XIV	2-3
28 U.S.C. section 1257	2
Subject Matter jurisdiction Art 3, Sec. 2 of US const.	2-6

STATE CASES

720 ILCS 5/9-1(g)(1)	2-3
720 ILCS 5/9-1.2(g)(1)	2-3
735 ILCS 5/10-102 et seq.	3
Section II, of article I of Ill Const. and XIV - Amend, of U.S. Const.	3
Illinois compiled statutes of 1992.	4-5-6
People v. Suastegui 374 Ill App. 3d at 646	4-6
Public Act 87-1005, House Bill 3810. effective in (1993) -	4
People v. Fowler # 01-CR-4355-01	4-6
Case NO: 92422 Supreme Court of Illinois	4
People v. Manuel 446 NE 2d 240	5
People v. Spain 321 NE 2d 520-24 Ill 3d 377.	5
invoice lacked subject matter of jurisdiction Article 61 - Section 9, of the Illinois Constitution of (1970).	5
Section 11-3-(g)(3) of code of criminal procedure of (1963) -	6
People v. Nelson, 210 Ill App. 3d 977, 569 NE 2d 1197 -	6
(See Illinois const. 1970) Art 188 2, 7, 8,	

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

Petitioner Rafael Alvarado, pro-se, respectfully petitions for a writ of certiorari to review the judgment of the Illinois Court of Appeals, Fifth Judicial District. Affirmed his conviction and sentences for two counts of a class X one first degree murder, and 2nd intentional homicide of an unborn child.

OPINIONS BELOW

The following opinions and orders are pertinent here, all of which are unpublished: (A) opinion on direct appeal by the Illinois Court of Appeal Fifth Judicial District Affirming Petitioner's convictions and sentences (November 11th - 2018) (B) Denied of leave to appeal by the Illinois Supreme Court. (May - 22 - 2019).

STATEMENT OF JURISDICTION

The opinion of the Illinois Appellate Court Fifth Judicial District was entered on November 11th - 2018 (NO: 5-17-0278) Petition for rehearing not was filed because the Appellate Court denied motion for extension of time to file petition for rehearing. Late petition for leave to appeal was file to the

Illinois Supreme Court was denied on May - 22nd - 2019, The jurisdiction of this court is invoked under 28 U.S.C Section 1257). and Subject Matter jurisdiction Art. 3, Sec. 2, of U.S Const.

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOKED:

The following statutory and constitutional provisions are invoked in this case:

U.S Const Amend. IV, in pertinent part:

in all criminal prosecutions the Accused shall enjoy the Right... to be process According of the Law...

U.S Const. Amend XIV, in Pertinent part;

Nor shall any state deprive any person of life, liberty or property without due process of Law...

STATEMENT OF THE CASE

Petitioner was convicted by an Illinois jury trial of two counts, both of a class X First degree murder under 720 ILCS 5/9-1(a)(1) and 2nd. Intentional homicide of an unborn child under 720-5/9-1.2(a)(1).

Petitioner was sentenced to one term of 60 years on the first degree murder and 40 years for intentional homicide of an unborn child all to be serviced a consecutive term for total 100 years imprisonment.

STATEMENT OF PERTINENT FACTS-

Petitioner was arrest on June 4th-2009, and was charged with two counts of a class X one first degree murder and 2nd intentional homicide of an unborn child, Mr. Alvarado filed on June 26th-2017- petition for habeas corpus relief, in circuit court of the Twentieth Judicial circuit Randolph county - Illinois pursuant to 735 ILCS 5/10-102 et seq. where petitioner alleged that, The state of Illinois failed to charge Mr. Alvarado with, a VOID indictment, Also the circuit court of Cook county,

Being able to execute a sentence of imprisonment that a court had illegally imposed against him, in violation of section 21 of article I, of the Constitution of the state of Illinois and section 1 of the fourteenth Amendment - of the constitution of the united state of america (U.S. C. A.), - Petitioner is currently indicted pursuant to chapter 720 ILCS 5/9-1-(a)-(1) first degree murder and (720 ILCS 5/9-1-2.(a)(1) intentional homicide of and unborn child statute (all under,

The ILLINOIS compiled statutes, 1992 As Amended subsequent to the ILLINOIS compiled statutes, were the ILL. Rev. statute which create the ILLINOIS compiled statutes of 1992.

The circuit court dismissed the petition "sua sponte". Petitioner filed this timely appeal. Also the appeal court Affirmed the judgment of the circuit court of Randolph county they says ~~and~~ cite Swastegui Id 374 ILL APP, 3d at 640. The court held his petition, and The supreme court of ILLINOIS denied his petition for leave to appeal.

The only problem with the state's method of reasoning in applying this particular provision is the fact that Public Act 87-1005 House Bill 3610, did not become effective until 1993. Therefore the indictment and conviction are VOID and invalid because there no exist ILLCS OF 1992.

The unconstitutional of being indicted under a statute not in effect at the time offense occurred under Chapter 720 ILLCS 1992 as Amended Petitioner challenges the 1992 ILLCS ---- As being held unconstitutional, on September 5th 2001, The case of People v Fowler # 01-CR-4355-01. The Honorable Thomas Sumner held 1992 ILLCS as Amended UNCONSTITUTIONAL since a judicial determination, has been rendered pertaining to 1992 ILLCS Amended Petitioner's indictment are therefore VOID.

The state Appealed to the ILLINOIS SUPREME COURT on 25th - 2001 in case NO: 92422, Then the state withdrew the appeal in October - 2003 presumably because they knew that,

The Supreme court would not overturn Judge SUMNER'S Ruling. Thousands of people languish in Prison under an UNCONSTITUTIONAL STATUTE it would have been detrimental to the state to pursue the doctrine of VOID ab initio.

No one can be tried, convicted and sentenced under an UNCONSTITUTIONAL statute see People v. Manuel 446 NE 2d 240, The statute, 1992 ILLS AS Amended was found to be UNCONSTITUTIONAL For Edward Fowler in 01-CR-14355-01, his conviction and sentence were the results of a defective charging instrument and therefore is equally UNCONSTITUTIONAL for Petitioner's case.

See, People v. Spain 321 NE 2d 520-24 2d 377, The General Assembly did not make 1992 ILLS AS Amended Retroactive upon becoming law January 1, 1993, if could it would have violated Ex-post-facto laws see SPAIN 2d. 321 NE, 2d 520.

REASONS FOR GRANTING THE WRIT Argument Summary

The trial court lacked subject matter jurisdiction Article 6, section 9 of the Illinois constitution of (1970) confers jurisdiction of the court over the person if the person was accused of committing a crime in the county of the original jurisdiction of the trial court. Petitioner invoke, Article 6, section 9, of Illinois constitution of (1970).

Does not confer subject matter jurisdiction that is derived from Allegations of a violation of any penal statute. Also petitioner invoke subject matter jurisdiction Article 3, section 2, of United States Const. of (1970) in this certiorari petition. The circuit court of the twentieth judicial circuit of Randolph county, Illinois DISMISSED his petition for habeas corpus Petrel suasante, petitioner Appeal his Dismissal, and 12 months later the appeal court Fifth District affirmed his Dismissal, They alleged that in People v. Suasategui 374, ILL. APP. 13d 635 (2007) The court held that the Defendant was properly charged, with first degree murder. Also the Supreme court of Illinois denied his petition for leave to Appeal.

Concerning with the appellate court dismissal, The case that the state is citing is distinguishable from the Alvarado-case; because in Suasategui 2d. The appellate court say, moreover defendant does not argue that the indictment failed to adequately set forth¹ the nature and elements of the offense charged, as required by section 111-3(g)(3) of Code of Criminal Procedure of (1963)

But Petitioner's Petition for Habeas corpus Petrel and Appellant brief, fulfillment and covered with all this Suasategui 2d failure, can see in the original petition for habeas corpus Petrel page 4th was citing in People v. Nelson 200 ILL APP. 3d 977, 569, N.E. 2d, 1197, the court held under the constitution and states of this state (see ILL const, 1970) Art 1 § 2, 7, 8, moreover on the Reply brief can see Edward Fowler, AFFIDAVIT that Amended 1992 ILLS was found UNCONSTITUTIONAL.

The appellate court failed in affirmed the trial court sentence and the circuit court of the twentieth Judicial circuit Randolph county of Illinois, failed in Dismissal, petitioner's petition for habeas corpus Relief, and supreme court of Illinois failed in denied his petition for leave to Appeal.

CONCLUSION

The Plaintiff, Rafael Alvarado prays that this Honorable court find that Mr. Alvarado indictment is VOID due to the use of an invalid criminal statute, that his conviction and sentence be vacated since the trial court lacked subject matter jurisdiction, and that his immediate release be order because his incarceration is unlawful, otherwise granting habeas corpus relief, and any other such relief deemed fit, just and proper in consideration of the present circumstances, and The Petition for A writ of certiorari should be granted.

Respectfully Submitted
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