

19-6390

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

OCT 09 2019

OFFICE OF THE CLERK

EDWARD L. COLLINS — PETITIONER

(Your Name)

VS.

STATE OF FLROIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEAL FOR THE ELEVENTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

EDWARD L. COLLINS

(Your Name)

RECEPTION AND MEDICAL CENTER WORK CAMP, P.O. BOX 628

(Address)

LAKE BUTLER, FL 32054-0628

(City, State, Zip Code)

NONE

(Phone Number)

SCHEDULE 'A' QUESTIONS PRESENTED

1. Was the Petitioner's right to due process under the Fifth and Fourteenth Amendments and right to a jury trial under the Sixth and Fourteenth Amendments to the United States Constitution to the United States Constitution violated because the trial court allowed the jury to view a video interrogation of the Petitioner that was not admitted into evidence because law enforcement violated the Petitioner's *Miranda* rights before conducting the interrogation?
2. Was the Petitioner's right to due process and freedom from self-incrimination under the Fifth and Fourteenth Amendments to the United States Constitution violated when the trial court allowed the jury to view a video interrogation of the Petitioner that occurred before the Petitioner waived his *Miranda* rights?
3. Was the Petitioner's right to due process under the Fifth and Fourteenth Amendments to the United States Constitution and right to equal protection of the law under the Eighth Amendment to the United States Constitution violated when the state postconviction court did not allow the Petitioner an opportunity to amend his facially insufficient postconviction motion as required by Florida law?
4. Was the Petitioner's right to effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution violated because Petitioner's counsel failed to investigate, interview or call a witness to testify who would have provided exculpatory testimony that the alleged victim, not the Petitioner actually possessed the firearm?

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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CASES

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STATUTES AND RULES

OTHER

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

[X] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix "B" 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 _____ 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 _____ 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.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was April 25, 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: JUNE 11, 2018, and a copy of the order denying rehearing appears at Appendix "A".

[] An extension of time to file the petition for a writ of certiorari was granted to and including OCTOBER 9, 2019 (date) on SEPTEMBER 11, 2019 (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 _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

SEE SCHEDULE "B" ATTACHED HERETO

SCHEDULE "B" CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 5.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment 6

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Amendment 14 Sec. 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 State 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.

STATEMENT OF THE CASE

SEE SCHEDULE "C" ATTACHED HERETO

SCHEDULE "C" STATEMENT OF THE CASE

After a jury trial, the Circuit Court for Duval County Florida convicted the Petitioner of Aggravated Battery, Possession of a Firearm by a Convicted Felon, and Possession of Cocaine. The Trial Court sentenced the Petitioner on December 17, 2009 to a 20-year prison term for Aggravated Battery, a 15-year prison term for Possession of a Firearm by Convicted Felon, and a 5-year prison term for Possession of Cocaine.

The Petitioner filed a Fla. R. Crim. P. 3.850 motion for postconviction relief based on newly discovered evidence, on March 18, 2013. Circuit Judge Adrian G. Soud, on August 28, 2013, "dismissed" the Fla. R. Crim. P. 3.850 Motion.

The Petitioner filed a second Fla. R. Crim. P. 3.850(b) (1) motion based on newly discovered evidence. The victim recanted his trial testimony against the Petitioner. Circuit Court Judge Adrian G. Soud dismissed Defendant's motion.

The Petitioner filed a third Fla. R. Crim. P. 3.850 motion that the State court denied.

The First District Court of Appeal in *per curiam* decisions without a written opinion affirmed the Petitioner's appeal of his conviction and sentence and the denial of each of the Petitioner's Fla. R. Crim. P. 3.850 motions.

The Petitioner filed a 28 U.S.C. §2254 petition for a writ of habeas corpus in the Federal District Court for the Middle District of Florida. The petitioner alleged in the petition that:

1. The Petitioner's right to due process under the Fifth and Fourteenth Amendments and right to a jury trial under the Sixth and Fourteenth Amendments to the United States Constitution to the United States Constitution was violated because the trial court allowed the jury to view a video interrogation of the Petitioner that was not admitted into evidence because law enforcement violated the Petitioner's *Miranda* rights before conducting an interrogation of the Petitioner.
2. The Petitioner's right to due process and freedom from self-incrimination under the Fifth and Fourteenth Amendments to the United States Constitution was violated because the trial court allowed the jury to view a video interrogation of the Petitioner that occurred before the Petitioner waived his *Miranda rights*.
3. The Petitioner's right to due process under the Fifth and Fourteenth Amendments to the United States Constitution and right to equal protection of the law under the Eighth Amendment to the United States Constitution violated when the state postconviction court did not allow

the Petitioner an opportunity to amend his facially insufficient postconviction motion as required by Florida law.

4. The Petitioner's right to effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution was violated because Petitioner's counsel failed to investigate, interview or call a witness to testify who would have provided exculpatory testimony that the alleged victim, not the Petitioner actually possessed the firearm.

After the Respondents filed a response, the District Court denied the petition.

The District Court declined to grant certificate of appealability.

The Petitioner requested that the United States Court of Appeals for the Eleventh Circuit issue a certificate of appealability. The Circuit Court declined to issue a certificate of appealability.

REASONS FOR GRANTING THE PETITION

SEE SCHEDULE "D" ATTACHED HERETO

SCHEDULE "D" REASONS FOR GRANTING THE PETITION

The Court should grant the Petition because jurists of reason could debate, or for that matter agree that the District Court should have handled the petition for a writ of habeas corpus differently because:

1. The Petitioner's right to due process under the Fifth and Fourteenth Amendments and right to a jury trial under the Sixth and Fourteenth Amendments to the United States Constitution to the United States Constitution was violated because the trial court allowed the jury to view a video interrogation of the Petitioner that was not admitted into evidence because law enforcement violated the Petitioner's *Miranda* rights before conducting the interrogation.
2. The Petitioner's right to due process and freedom from self-incrimination under the Fifth and Fourteenth Amendments to the United States Constitution was violated when the trial court allowed the jury to view a video interrogation of the Petitioner that occurred before the Petitioner waived his *Miranda* rights.
3. The Petitioner's right to due process under the Fifth and Fourteenth Amendments to the United States Constitution and right to equal protection of the law under the Eighth Amendment to the United States Constitution violated when the state postconviction court did not allow the Petitioner an

opportunity to amend his facially insufficient postconviction motion as required by Florida law.

4. The Petitioner's right to effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution was violated because Petitioner's counsel failed to investigate, interview or call a witness to testify who would have provided exculpatory testimony that the alleged victim, not the Petitioner, actually possessed the firearm.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Edward L. Collins

EDWARD L. COLLINS

Date: _____