

Supreme Court, U.S.
FILED

NOV 07 2019

OFFICE OF THE CLERK

19-6729

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Cedric Gray, Jr. — PETITIONER
(Your Name)

vs.

United State Government — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court of Appeals For the Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Cedric Gray, Jr.
(Your Name)

1321 N.W. 13th Street
(Address)

Miami, FL = 33125
(City, State, Zip Code)

305-219-1514
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

1: Can my motion to suppress be denied even after I invoked rights to remain silent?

2: Could the District Court use my 19½ year old priors as proof of showing the jury a criminal propensity?

3: How could the District court add (6) six level points for an offense that a jury of my peers found me not guilty of?

4: Can my lawyer deny me of my alibi, even during trial?

5: Due to my history of mental health issues, how come after I requested an mental competency evaluation from my legal team, I was never given one?

6: How come witness who^{was} almost run over by carjacker and saw his/her face clearly wasn't used during trial by defense team?

7: Why did the courts sentence me to more time than the charge carried it, It carries 10 years max. I was given 13 years along with 3 years probation.

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

Miranda v. Arizona, 384 U.S. 436 (1966).
 U.S. v. Delancy, 502 F.3d 1297, 1304 (11th Cir. 2007).
 U.S. v. Ramirez, 476 F.3d 1231, 1235 (11th Cir. 2007).
 Wong Sun v. U.S., 371 U.S. 471, 484-85, 83 S.Ct. 407, 416, 9 L.Ed.2d 441 (1963).
 U.S. v. Dubose, 598 F.3d 726, 731 (11th Cir. 2010).
 U.S. v. Frediani, 790 F.1196, 1199 (11th Cir. 2015).
 U.S. v. Rothenberg, 610 F.3d 621, 624 (11th Cir. 2010).
 U.S. v. Sanchez, 586 F.3d 918, 935 (11th Cir. 2009).
 Gall v. U.S., 552 U.S. 38, 40, 128 S.Ct. 586, 591, 169 L.
 - Ed. 2d 446 (2007).

STATUTES AND RULES

18 U.S.C. § 924(c)(1)(A)(ii).
 18 U.S.C. § 2119(1).
 U.S.S.G. § 2B3.1(b)(2)(B).
 18 U.S.C. § 17.
 28 U.S.C.A. § 2254.
 Fed. R. Evid. 403.
 Fed. R. Evid. 404(b)(1).
 Fed. R. Evid. 404(b).

OTHER

14th amendment.
 Pate v. Robinson, 383 U.S. 375, 378 (1966).
 Drope v. MO., 420 U.S. 162, 178-83 (1975).
 Yarborough v. Gentry, 540 U.S. 1, 5 (2003).
 Evitts v. Lucey, 469 U.S. 387, 396-99 (1985).
 6th amendment.

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 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 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 _____ 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 May 9th 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: _____, 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 _____.
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

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At trial, over defense Counsel's objection, the government introduced evidence of two prior Conviction For Mr. Gray which where 19½ years old. And because these Conviction Failed to meet the three Part test For admissibility For evidence received pursuant to Federal Rule of Evidence 404(b) the district court erred in denying Mr. Gray's motion in limine. Even considering the broad discretion that district courts enjoy in this arena, we conclude that the court erred in the admitting evidence of Gray's prior cases. Evidence of crime, wrong, or other in not admissible to [prove] a person's character in order to show that on one Particular occasion the person acted in accordance with character. Fed. R. Evid. 404(b)(1). Thus using it only to violate Fed. R. Evid. 403. Following unfair prejudice, confusing the issues, mislead the jury, undue delay, wasting time, or needlessly presenting cumulative evidence. On appeal, the government Argues that Gray's priors Conviction where relevant to show knowledge and intent. Yet the district courts limiting instructions at trial and the jury instructions mention ONLY the accident-or-mistake purpose, telling the members of the jury that "they must not consider this evidence to decide if the defendant engaging in the activity alleged in the indictment" BUT "may consider this evidence to decide whether the defendant committed the acts charged in the indictment by accident mistake". Per, 28 U.S.C.A. § 2254 (2)(B) "the FACTS underlying the claim would be in Sufficient to establish by clear and convincing EVIDENCE that but For constitutional ERROR, no reasonable Factfinder would have found the applicant guilty of the underly offense." My 14th amendment was violated, along with my DUE PROCESS rights to effective Counsel on appeal, in which the 14th amend's "guarantees" this right. Miranda v. Arizona, 384 U.S. 436 (1966) was violated aswell, due to the district court allowing statements made to HELP the courts, yet however denied the defendant statements. Following the "Fruit of the poisonous tree", Wong Sun v. U.S., 371 U.S. 471, 484-85, 83 S.Ct 407, 416, 9 L.Ed 2d 441 (1963). Dealing with my 6th amendment Yarborough v. Gentry, 540 U.S. 1, 5 (2003), due to my counsel not effectively representing me.

Constitutional and Statutory Provisions Involved

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No mental health evaluation was conducted on my behalf; U.S. 18 § 17. Pate v. Robinson 383 U.S. 378 (1966) x Drope v. Mo., 420 U.S. 162, 178-83 (1975) though requested I was not given an adequate Competency determination. "de novo" Factual Finding For clear error, and the district court's application of the Guidelines to the Facts with due deference, which is akin to clear error review, Gall v. U.S., 552 U.S. 38, 40, 128 S.Ct. 586, 591, 169 L.Ed. 2d 446 (2007)... and citing United States v. Sanchez, 586 F.3d 918, 935 (11th Cir. 2009). The reasonableness of a Sentence is reviewed under the abuse of discretion standard, United States v. Rothenberg, 610 F.3d 621, 624 (11th Cir. 2010). A district court's denial of my motion to suppress is a mixed question of law and fact, United States v. Delancy, 502 F.3d 1297, 1304 (11th Cir. 2007). The Court's of appeal review a district court evidentiary rulings for abuse of discretion, United States v. Frediani, 790 F.3d 1196, 1199 (11th Cir. 2015). The Court's reviewed Facts, error for determinations for application of the law to the facts de novo, United States Ramirez, 476 F.3d 1231, 1235 (11th Cir. 2007). When employing an abuse of discretion standard, the Court of Appeals [must] affirm unless it finds that the district court has made a clear error of judgement or has applied the wrong legal standard, United States v. Dubose, 598 F.3d 726, 731 (11th Cir. 2010). On June 20, 2017 the grand jury placed a (2) count indictment against me, Count (1), 18 U.S.C. § 2119(1) carjacking. And Count (2), 18 U.S.C. § 924(c)(1)(A)(ii) brandishing a Firearm in the furtherance of a crime of violence, the indictment also contained a forfeiture provision. I filed a written objections towards my present-ing investigation report, in which I objected the level six (6) enhancement to U.S. § 2B3.1(b)(2)(B), in which I was Found "NOT GUILTY" of the count (2), yet was Sentence none the less as if I was Found guilty of the offense. And as a result I was given an lengthy prison sentence for an count (2), that a jury of my peers Found me not guilty of. Moreso, dealing with why the trial Failed me of my mental health evaluation, I came from jail custody Miami Dade County unto Federal custody June-30th-2017, on psychotropic medication Wellbutrin. Yet the Courts Failed me under, Evitts v. Lucey, 469 U.S. 387, 396-99 (1985), to conduct the mental health status.

STATEMENT OF THE CASE

On January 17th-2018 I was Found guilty of arm carjacking by a jury of my peers and not guilty of brandishing a Firearm in Furtherance of a Crime of Violence. Which the district Court erred Constitutional when no true reasonable FACTFINDER was proven, and I the defendant was Found guilty and not guilty thereof other underlying offense. Then during Sentencing the Courts erred in erroneously added 6 six points on my offense level, when the evidence failed to support the enhancement and resulted in an unreasonable sentence. And the district court erred in allowing the government to introduce evidence of Prior Convictions From 19 $\frac{1}{2}$ years ago, in which the courts held no relevance in which they couldn't prove the charges but only served unduly to prejudice me by showing criminal propensity. Then the district court erred in denying my motion to suppress statements. Moreover the DNA evidence introduced during trial was obtain as a direct result of the second illegal interrogation. The government completely ignores and fails to address the "Fruits of a Poisonous Tree" doctrine raised in the initial brief. Also when the district court added the 6 six level points to enhance me, my DUE PROCESS rights were violated Plus dealing with Federal Rules of Evidence character evidence, the district court erred in its propensity with inadmissible "EXTRINSIC" evidence from the year 1999 to probate value that isn't substantially outweighed by unduly prejudice. Also before trial, I advise my lawyer Julie Holt of my alibi for 08-29-2016, yet she went against my alibi request and didn't even use me during my trial. Plus I suffer from mental health issues, dating back over 18 years, yet when I requested a mental competency from thus said lawyer she failed to provide hearing. I the defendant is correct that "temporal remoteness depreciates the probity of extrinsic evidence." During Sentencing on 03-28-2018 my PSI was set forth in high category of V and an offense level of 30, resulting in an advisory guideline range of 151-188 months of imprisonment. With two (2) level six enhancement, with one (1) for the Firearm charge. Receiving the high end of 162 months of imprisonment, with 3 years supervised release. On appeal I filed a timely notice of appeal, which was denied on May-9th-2019.

REASONS FOR GRANTING THE PETITION

In Faith of the Law of Land and the Supreme Most high God in my Favor.

My appeal held a few grounds that upheld Several Reason to grant it, yet however the United States government denied me Reason #1, my Due Process rights where violated when 6 six points was added to enhance me., even though I was not guilty of count #2. Reason #2, at Sentencing For carjacking which only carries 10 years, I was given 13 years with 3 on Probation., the very high end of the deal. Reason #3, My 5th amendment was violated purely, yet the courts allowed the officers statement to be used at trail. Reason #4, the district court erred when it produced my prior convictions From 1999 to unduly predudice me to the jury in 2018, 19½ years later under RULE 404(B). Reason #5, my lawyer Julie Holt Failed to have me mentally evaulated, after she was informed of my mental health condiction. Reason #6, after giving lawyer Julie Holt my alibi for August 29th 2016, she still refused to allow me to take the stand on my behalf. Reason #7, the courts Failed to place an witness on stand, due to the fact that she didnt point me out., this very witness advised officers that she also saw the face of the carjacker because she was almost run over by the car. And with these 7 reasons I Feel as though clemency should be provided unto me, and my petiton should be GRANTED.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Cecil C. Gray, Jr.

Date: 11 - 4 - 2019



RET 11/04/19