

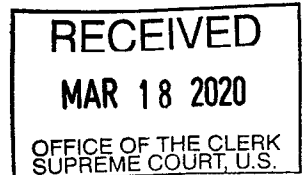
IN THE SUPREME COURT OF THE UNITED STATES

THERIAN WIMBUSH
Petitioner

STATE HABEAS CORPUS CASE

NO. 19-6836

WILLIE SUE MICKENS, et al.
Respondents



PETITION FOR REHEARING

On February 24, 2020, this Court entered the following order in the above-entitled habeas corpus criminal case:

The motion of petitioner for leave to proceed in forma pauperis is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

Pursuant to Rule 39.8, "if satisfied that a petition for a writ of certiorari, jurisdictional statement, or petition for an extraordinary writ is frivolous or malicious, the Court may deny leave to proceed in forma pauperis."

Petitioner first notes that this petition for writ of certiorari stems from the finding that ~~at~~ the challenge of an EXECUTED VOID JUDGMENT OF CONVICTION was PREMATURE in the Supreme Court of Georgia, upon application for a certificate of probable cause after the denial of a state habeas corpus petition.

The petition and the jurisdictional statement are frivolous or malicious, as petitioner seeks to EXHAUST her state court remedies on collateral attack of a VOID JUDGMENT OF CONVICTION.

In the state of Georgia, OCGA § 17-9-4 holds that the judgment of a court having no jurisdiction of the person

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or subject matter, or VOID for any other cause, is a mere nullity and may be so held IN ANY COURT when it becomes material to the interest of the parties to consider it.

Moreover, a VOID judgment is in reality no judgment AT ALL. It is a mere nullity. It is attended by none of the consequences of a valid adjudication, nor is it entitled to the respect accorded to one. It can neither affect, impair, nor create rights. As to the person against whom it professes to be rendered, it binds him in no degree whatever. It is NOT NECESSARY to take any steps to have it ~~reversed~~ reversed, vacated, or set aside. But whenever it is brought up against the party, he may assail its pretensions and show its WORTHLESSNESS. If an order and judgment are VOID and a NULLITY on the face of the record, no petition, notice, hearing, or order is necessary to set the judgment aside. It may be disregarded. Shutkin v. State, 73 Ga. App. 136 (1945)

Furthermore, the Supreme Court of Georgia has held that a habeas corpus will lie to secure a release from detention under a judgment which is UTTERLY VOID. Riley v. Garnett, 219 Ga. 345 (1943) A VOID JUDGMENT may be attacked in ANY COURT, by ANY PERSON. Griffis v. Griffis, 229 Ga. 587 (1972)

Petitioner notes that the Supreme Court of Georgia has vehemently urged the courts to correct, that is reverse and vacate, VOID JUDGMENTS, even sua sponte, in mergers & discrepancies.

A conviction that merges with another conviction is VOID, a NULLITY, and a sentence imposed on such a VOID conviction is ILLEGAL and will be VACATED if noticed by the Supreme Court, even if no merger claim was raised in the trial court and even if the defendant does not enumerate the

error on appeal. Nazarion v. State, 293 Ga. 480 (2013)
[The Supreme Court of Georgia] has no duty to
scour the record searching for merger issues. But
if [they] notice a merger issue in a direct
appeal, ~~as~~ [they] may resolve that issue. Smith v. State,
298 Ga. 357 (2016)

We have the discretion to correct merger errors
SUASPONTE - regardless of who is harmed by
the error and who benefits from its correction -
because a merger error results in an illegal and
void judgment of conviction and sentence. There are
powerful reasons to exercise that discretion when
a merger error leads to an unauthorized conviction
and sentence, particularly when it may cause the
defendant to serve a total sentence that is longer
than the law allows. Where a case challenging a
criminal conviction is properly brought before a
court and the court realizes, on its own or based
on the defendant's argument, that the record shows
that certain convictions merged, to disregard that
determination and allow the defendant to serve a
sentence for a criminal conviction that has been
identified as illegal and void would not comport
with fundamental fairness ~~of~~ and due process of law
Dixon v. State, 302 Ga. 691 (2017)

Hence, the Supreme Court of Georgia emphasizes the need
to VACATE and/or REVERSE a VOID JUDGMENT on merger
issues, then, how much more would the same or ANY
OTHER COURT stand on the NEED to VACATE/REVERSE
a VOID CONVICTION due to lack of jurisdiction of
both the parties and subject matter due to the filing
of a Notice of Appeal.

Briefly, petitioner filed a Noticed Appeal, challenging
the Gwinnett County Superior Court's January 6, 2017,
directly appealable denial of her statutory motion for

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discharge and acquittal on January 30, 2017.

This Court asserted that the filing of a Notice of Appeal is an event of jurisdictional significance in that it confers jurisdiction on the Court of Appeals and divests the trial court of jurisdiction of the case. Griggs v. Provident Consumer Discount Co., 459 U.S. 56 (1982)

However, although petitioner conferred jurisdiction of her underlying criminal case on to the Court of Appeals of Georgia on January 30, 2017, on February 1, 2017, the Fannin County Superior Court filed a judgment of conviction and sentence; on February 3, 2017 the trial court EXECUTED said conviction.

Petitioner has challenged this VOID CONVICTION while in PRISON by means of direct appeal where she raised the VOID CONVICTION claim, and was ignored by the Court of Appeals of Georgia, who docketed three appeals which effected the VOID CONVICTION on the face of the records.

Petitioner challenged the VOID CONVICTIONS by Habeas Corpus now 5 times, in state and federal courts, to no avail, while all courts allege that the challenge of a VOID CONVICTION is PREMATURE, which defies ALL principles of DUE PROCESS OF LAW.

In conclusion, petitioner comes to this Court on a VOID CONVICTION, which is shown on the face of the record, and shall be reversed/vacated UNDER OPERATION OF LAW, BY ANY COURT, AT ANY TIME and BY ANY PERSON.

SUCH a petition to this Court for relief cannot be FRIVOLOUS NOR MALICIOUS, as such would GIVE POWER, AUTHORITY and LEGAL EFFECT TO

that which is VOID/NULLITY, on its FACE.

Petitioner prays that this Court GRANT REHEARING?

This 11th day of March, 2020



CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing, on the opposing parties by depositing a copy of the same in the US Mail addressed as follows:

Christopher M. Carr, Attorney General
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This 11th day of March, 2020



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