

19-7187

No. 1599 EDA 2018

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Petition For writ of certiorari

TYRE E MILES

— PETITIONER

(Your Name)

vs.

COMMONWEALTH

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPERIOR COURT OF PENNSYLVANIA

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

PETITION FOR WRIT OF CERTIORARI

TYRE E MILES

(Your Name)

S.C.1 PHOENIX

(Address)

COLLEGEVILLE, PA 19426-0244

(City, State, Zip Code)

(Phone Number)

RECEIVED

DEC 31 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

I. whether Petitioner Sixth Amendment U.S. Const to EFFECTIVE Assistance Counsel was violated when trial counsel failed to REQUEST a mistrial after the prosecutor made improper comments on the defendants right to remain silent by telling the jury that they did not hear the other side of the story?

II. whether Petitioner Sixth Amendment Rights U.S. Const to EFFECTIVE Assistance Counsel was violated when trial counsel failed to REQUEST Funding for a Expert witness.

III whether Petitioner Sixth Amendment Rights U.S. Const to EFFECTIVE Assistance Counsel was violated when trial counsel failed to RAISE a weight of the Evidence claim in a Post-SENTENCE motion.

III whether Petitioner Sixth Amendment Rights to a fair trial was violated when the trial court error when Police Bildl testified that an eyewitness to one of the assaults in question told police that that the perpetrator had been released from prison? Deny petitioner his rights to cross-examine the witness.

V whether Petitioner Sixth Amendment Rights U.S. Const to EFFECTIVE Assistance Counsel was violated when trial counsel told the jury in his opening statement that there ARE two sides to every story Jeopardizing his rights to remain silent.

VI whether Petitioner Appellate counsel was INEFFECTIVE for failing to Argue DENIAL of SEVERANCE motion AND DENIAL of Ross motion. Violation of his Due process rights based upon pre-arrest delay. And a violation of petitioner speedy trial rights.

V whether petitioner was Entitled to an Evidentiary Hearing

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APPENDIX E	ORDER AFFIRMING PETITION FOR ALLOWANCE OF APPEAL
APPENDIX F	

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

Strickland v Washington, 466 U.S. 668 (1984)

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

☐ For cases from **federal courts**:

The opinion of the United States court of appeals 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 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 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 _____ 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 _____.

☐ 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 8/19/19.
A copy of that decision appears at Appendix B.

☐ 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

The Sixth Amendment guarantees that in all case criminal prosecutions the accused shall enjoy the right to have the assistance of counsel for his defense.

The right to effective counsel is a fundamental right under the federal and state constitutions

STATEMENT OF THE CASE

The form of this case is in the nature of a petition for a writ of Certiorari by the petitioner, TYREE MILES hereafter referred to as the defendant. From the judgment of the superior court affirming the judgment of sentence imposed in the court of Common Pleas, Philadelphia county, the defendant presently stands convicted of Attempted Rape. Two counts of Rape, Three counts of Sexual assault. Two counts involuntary deviate sexual intercourse (1DSI), Two counts of Robbery, Two counts of indecent assault, and two counts of terroristic threats. There were three complaining witnesses in the case, The defendant is presently serving the sentence that were imposed in this matter. The defendant was convicted of the above offense by the honorable Glenn B. Bronson at a jury on 8-5-10 and on 3-3-11 the trial court sentence the defendant to an aggregate sentence of 36 to 72 years in prison. Judgment of sentence was affirmed on Appeal on 3-9-12. No Allocatur petition was filed to the state supreme court although Appellate defense counsel informed the defendant that he would file an allocatur petition. After hearing nothing from Appellate defense counsel on 05-20-13, defendant wrote the state supreme which informed him that no allocatur petition had been filed on 6-17-13. The defendant filed a timely prose PCRA petition requesting reinstatement of his Allocatur rights. On 3-26-14, counsel was appointed to represent the defendant in the above matter and filed an Amended PCRA petition requesting reinstatement of allocatur rights Nunc pro tunc. On 7-20-15 the trial court with the agreement of the commonwealth reinstated the defendant's right to file an allocatur petition from the judgment of the superior court affirming the judgment of sentence of the trial court. The defendant's 1925(b) statement was timely file on 5-5-11 and a copy of it is at A-1 to A-2. The trial court order to file a 1925(b) statement is at B-1. The trial court opinion which was timely filed is at C-1 - C-10. The trial court opinion summarizes the evidence in the light most favorable to the commonwealth, The superior court opinion affirming the judgment of sentence is at D-1 to D-8. The trial court order reinstating the Allocatur rights of the defendant is at E-1.

REASONS FOR GRANTING THE PETITION

The Cumulative Prejudicial Effect of the Errors Described in this Petition Denied Petitioner Due Process and the Effective Assistance of Counsel.

Each of the claims contained herein provides petitioner with a basis for relief from his conviction. Even if the courts finds that Petitioner is not entitled to relief based on any single claim, he is entitled to relief because of the cumulative prejudicial effect of these errors.

See Commonwealth v. Johnson 600 Pa 329, 344, 345 966 A.2d 523, 532 (Pa 2009). Collectively, the above errors denied Petitioner his state and federal constitutional rights to due process and the effective assistance of trial and appellate counsel under the Sixth and Fourteenth Amendments. See, e.g. Kyles v. Whitley, 514 U.S. 419, 437-38 (1995).

Wherefore, your Petitioner prays that the Honorable Court grant the petitioner's relief in accordance with the petition for a writ of certiorari to wit, release Petitioner from custody, dismiss, and discharge this case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lynne Mils

Date: 11/11/19