

No. 19-1364

Supreme Court, U.S.
FILED

JAN 03 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Anthony Tawon Williams — PETITIONER
(Your Name)

vs.

Warden Hilton Hall "et al" — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF GEORGIA

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

PETITION FOR WRIT OF CERTIORARI

Anthony Tawon Williams
(Your Name)

196 Laying Farm Rd.
(Address)

Milledgeville, Georgia 31061
(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

The issue before this Court is that there is no bright-line rule, which would prevent other homicides, such as voluntary manslaughter or vehicular homicide from being used as underlying felonies to support felony murder. As of August 2008, 46 states in the United States has a felony murder rule; and federal law recognizes the felony murder rule as well. In 2009, when petitioner went to trial, felony contributing to the deprivation of a minor resulting in death under O.C.G.A. 16-12-1(b)(3)(d.1)(i)(e) was a specific homicide which carried a penalty of one to five years when death results. However, the above mentioned homicide was erroneously used as an underlying felony to support felony murder. Petitioner was sentenced to life imprisonment without any consideration of the lesser homicide under O.C.G.A. 16-12-1. This issue thus presents the following question:

QUESTION(S) PRESENTED

- Continued -

CAN VOLUNTARY MANSLAUGHTER OR ANY
OTHER HOMICIDE BE USED AS AN UN-
DERLYING FELONY TO SUPPORT FELONY MURDER?

Under the Supreme Court of Georgia's Court Rules 61 it states "a party seeking to file certiorari in the United States Supreme Court must first file a motion to stay the remittitur which shall include a concise statement of the issues to be raised within ten days after judgement." Petitioner did file a timely motion to stay the remittitur along with a concise statement of the issues to be raised. See (Appendix C). However, the Supreme Court denied the motion to stay the remittitur without reason or explanation. This issue thus presents the following question:

IS THE HIGHEST STATE COURT OBLIGATED

QUESTION(S) PRESENTED

- Continued -

TO HOLD THE RECORD OF THE CASE
IF PROPERLY REQUESTED TO DO SO,
WHILE A PETITIONER SEEKS CERTIORARI
IN THE U.S. SUPREME COURT?

The Supreme Court of Georgia in a completely different case, Williams v The State 299 Ga 632, 791 S.E.2d 55 (2016) was presented with the issue of whether or not the prior 2013 Code Section of O.C.G.A. 16-12-1(b)(3)(d.i)(i)(e) felony contributing to the deprivation of a minor resulting in death was a separate and distinct homicide which has its own penalty for death and if it could support felony murder. The Supreme Court of Georgia unanimously agreed that the "plain and unambiguous"

QUESTION(S) PRESENTED

- Continued -

language under O.C.G.A. 16-12-1(b)(3)(d.1)(i)(e) specifically provides its own specific penalty for the "death of a child" and therefore cannot support felony murder. In Williams v The State 299 Ga 632, 791 S.E. 2d 55 (2016) Allan Ray Williams was charged with multiple counts of felony murder for the "death of a child," just as Anthony Tawon Williams in the present case. In both cases one of the felony murder counts was predicated or based upon felony contributing to the deprivation of a minor resulting in death. In Allan Ray Williams' case the Supreme Court of Georgia corrected this obvious error of law, and as a result, Allan Ray Williams was found guilty of felony contributing to the deprivation of a minor and sentenced to seven years for the "death of a child." In the present

QUESTION(S) PRESENTED

- Continued -

Case, now before this Court, this obvious misapplication of statutory law has not been corrected and Anthony Tawon Williams stands convicted of life imprisonment without the same opportunity as Allan Ray Williams to be considered for the lesser homicide under O.C.G.A. 16-12-1 (b)(3)(d.1)(i)(e). This issue presents the following question:

WOULD IT VIOLATE EQUAL PROTECTION OF THE 14th AMENDMENT'S DUE PROCESS CLAUSE IF ANTHONY TAWON WILLIAMS WAS NOT GIVEN THE SAME OPPORTUNITY AS ALLAN RAY WILLIAMS TO BE CONSIDERED FOR THE LESSER HOMICIDE OF FELONY DEPRIVATION RESULTING IN DEATH, SINCE

QUESTION(S) PRESENTED

-Continued-

THIS HOMICIDE WAS ERRONEOUSLY
USED AT TRIAL AS AN UNDERLYING
FELONY IN SUPPORT OF FELONY MURDER?

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 judgement is the subject of this petition is as follows:

Greg Dozier, Commissioner of Georgia Department of
Corrections

Clint C. Malcolm, Attorney for Respondent, Georgia

Department of Law Attorney General's Office

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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 N/A; 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 N/A; 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 Habeas Corpus State Trial court 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was N/A.

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 Nov. 4th, 2019. A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (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

Sixth Amendment's "right to effective assistance of counsel"

Sixth Amendment's "right to be informed of the nature and cause
of the accusation"

Fourteenth Amendment's "right to equal protection under
the law and right to a fair trial" under the
Due Process Clause"

Official Code of Georgia Annotated 16-12-1(b)(3)(a.1)(i)(e)

STATEMENT OF THE CASE

The petitioner, Anthony Tawon Williams, in the case now before this Court went to trial in 2009 and the state used another homicide as an underlying felony to support felony murder.¹ (See Appendix E Count⁴)

Petitioner alleged in a state habeas corpus that this misapplication of statutory law resulted in several constitutional violations, which included the 6th Amendment right to effective assistance of counsel, 14th Amendment's right to a fair trial and the 6th Amendment right to be informed of the nature and cause of the accusation. The state habeas corpus was denied mainly on the ground that since the petitioner only stands convicted of felony murder his grounds are moot.¹ Further, the habeas court justified its denial by stating that there was no way his trial attorney, since she is not clairvoyant, could have possibly known that another homicide

cide could not be used to support felony murder.

The same issue was then appealed to the Supreme Court of Georgia which was also denied, even though the Supreme Court of Georgia had unanimously ruled on the very exact same issue in favor of another defendant. See Williams v The State 299 Ga 632, 791 S.E.2d 55 (2016). The other defendant, Allan Ray Williams was found guilty of the lesser homicide after the Supreme Court of Georgia ruled that it could not support
see (Appendix F)
felony murder. Petitioner Anthony Tawon Williams now asserts this would violate equal protection under the 14th Amendment's Due Process Clause if he was not afforded the same opportunity as Allan Ray Williams to be considered for the lesser homicide. Petitioner also alleges that the Supreme Court of Georgia attempted

to thwart his right to file certiorari to the United States Supreme Court by denying his motion to stay the remittitur, although all of the required procedures were carried out correctly. The Supreme Court of Georgia refused to hold the record of the case for no apparent reason and without explanation.

REASONS FOR GRANTING THE PETITION

Felony murder is a homicide which effects 90% of the United States. This is an issue of national importance. As the law stands there is no bright-line rule which would prevent the prosecution from using another homicide as an underlying felony to support felony murder. This Court is being called upon to establish precedent which would prevent such errors of law in the future. An ounce of prevention is worth more than a pound of cure. This issue could very well arise in the future and there are several other cases in Georgia which have also not been corrected. If the United States Supreme Court passes on this issue, then who will correct it. The Supreme Court of Georgia has their

Court rules set up in a way that basically allows them the right to review a petitioner's writ of certiorari to the U.S. Supreme Court, and then decide whether or not it is worthy of review. This is a conflict of interest if the highest state court being challenged is allowed to decide if a petitioner is allowed to pursue certiorari to the United States Supreme Court. This issue must be addressed to prevent such occurrences in the future. The Georgia Supreme Court should have no right to prevent petitioner's from filing certiorari to the United States Supreme Court simply by refusing to hold the record of the case.

The Equal Protection Clause of the 14th Amendment prevents the government from treating similarly situated persons differently without a justifiable reason for

doing so. Both Anthony Tawon Williams and Allan Ray Williams were both charged with multiple counts of felony murder for the death of a child.[↑] One of the felony murder's in both cases was supported by the homicide of felony contributing to the deprivation of a minor resulting in death. Allan Ray Williams' trial attorney competently discovered and challenged this obvious error of law prior to trial. As a result Allan Ray Williams received a seven year sentence for the death in his case. This error of law has not been corrected in Anthony Tawon Williams' case and he presently stands convicted of felony murder. Both defendants were in like circumstances, but they were treated completely different by the Supreme Court of Georgia.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Anthony Williams

Date: 3rd day of January 2020