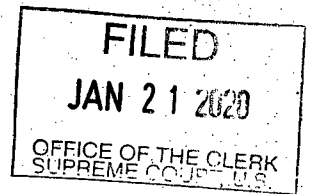


ORIGINAL

No. 19-7523



IN THE
SUPREME COURT OF THE UNITED STATES

MICAH LYNN LAWSON — PETITIONER
(Your Name)

vs.

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

MICAH L. LAWSON
(Your Name)

Calhoun Correctional Institution
19562 S.E. Institutional Dr.
(Address)

Blountstown, Florida 32424
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Whether the decision by the United States Court of Appeals for the Eleventh Circuit in *Lanusson v. Secretary Department of Corrections*, Docket No. 17-14802 is in conflict with the law set forth in *Katze v. Cooper* 123 S.Ct 1376 (2012) (were the prejudice,

test set forth in "Laffer" was mis applied to Lanusson unique circumstances) ?

2. Whether Lanusson's process was prejudiced were he entered plea negotiations on three felony offenses, two of which were barred from prosecution by law, and further counsel's mis-advice that 10 counts two and three were (not) barred from prosecution by the Statute of limitations 2. The only way to prevail on counts two and three was to proceed to trial and 3. That the score sheet entering negotiations was valid. (The record reflects that petitioner and the State were amicable to plea negotiations as there was a 25 year offer).

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:

1. United States District Court, Middle District Court of Florida Fort Myers Division.
2. District Court of Appeals of Florida, Second District.

RELATED CASES

Strickland v Washington 466 U.S S.Ct 688 (1984)

Lafley v Cooper 123 S.Ct 1376 (U.S 2012)

Lawson v. State 51 So 3d 1287 (2011)

Lawson v. State 182 So 3d 649 (Fla Dist Ct App 2015)

Sullivan V. Secretary, Dept of Corr. 837 F.3d 1195 1203-1204 (11th Cir 2016)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<i>Lafley v Cooper</i> 123 S.Ct 1376 (US 2012)	
<i>Lawson v State</i> 51 So 3d 1287 (2011)	
<i>Sullivan v Secretary, Dept of Corrections</i> 837 F3d 1195, 1203-1204 (11th Cir)	
<i>Lawson v. Secretary Dept of Corrections</i> Docket No. 17-14802	

STATUTES AND RULES

F.S § 810.02 (2)(A)
F.S § 825.1025(2)
F.S § 825.102(1)

OTHER

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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 No. 17-14802; 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 B to the petition and is

☒ reported at 2017 U.S. District Lexis 158003; 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 C to the petition and is

☒ reported at 51 So 3d 1287 (Fla 2nd DCA 2011); 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 August 28th 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: 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 JANUARY 25 2019 (date) on Nov 13, 2019 (date) in Application No. 19 A 823.

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 Feb 4th 2011.
A copy of that decision appears at Appendix C.

☐ 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 _____ (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

In the case at hand, violations of the Fifth, Sixth and Fourteenth Amendment of the U.S. Constitution are involved. Petitioner was denied his right to due process and effective assistance of counsel.

STATEMENT of the CASE

In the instant case, Lawson states that UNITED STATES COURT OF APPEALS for the Eleventh Circuit made a ruling in Lawson v. Secretary, Florida Dept of Corrections, DC Docket No; 17-14802 that is in conflict with the Law set forth in Lafley v. Cooper 132 S.Ct 1376 (US 2012).

In Short, on Nov, 20th 2008 Lawson was charged with a three count information. Count (1), Burglary with an assault or battery, F.S. § 810.02(2)(A) Count (2), Lewd or Lascivious battery F.S. § 825.1025(2) and Count (3), Abuse on an elderly person F.S. § 825.102(1).

The offense allegedly occurred in Jan, of 2003. After arrest, pre-trial Lawson was offered a ple of 25 years imprisonment for all offenses. (Two of which were barred from prosecution by law.)

Further, Lawson was amenable to a ple but did not wish to ple to offenses he believed were barred from prosecution. Due to counsels misadvise that counts II and III were [Not] barred, ple negotiations could not be finalized and the case proceeded to trial, in April of 2009. The State trial court sentenced Lawson to sixty-five years for count one, fifteen years for count two, and five years for count three. (with all sentences to run concurrently)

However, on Direct Appeal the Florida District Court of Appeals 2nd DCA, affirmed the conviction on count one but vacated the convictions for counts two and three as barred by the applicable statute of limitations. See Lawson v State 51 So 3d 1287 (Fla 2nd DCA 2011)

Due to Lawson's success on Direct Appeal, petitioner has alleged that trial counsel was Constitutionally deficient where he failed to file a motion to dismiss counts two and three prior to plea negotiations, thus specifically prejudicing the entire plea process.

Lawson has timely exhausted all Florida State Court remedies on this issue. However, after the affirmance of petitioner's 2254 in the Middle District of Florida, Lawson filed for a Certificate of Appealability to the U.S. Court of Appeals for the Eleventh Circuit. On August 21st 2018, the Eleventh Circuit granted ("COA") as to the following issue;

"Whether Trial Counsel's failure to move for the dismissal of the charges of Lewd or Lascivious Battery and the charge of Abuse of an elderly person resulted in Lawson receiving a longer sentence for his conviction of Burglary of a dwelling with an assault or battery."

Consequently, on August 28th 2019, the Eleventh Circuit issued an order and opinion affirming this issue. Stating; "Lawson can not meet the first and last prongs of the 'Lafley' test."

The Eleventh Circuit's opinion in Lawson is in direct conflict with Lafley where the prongs of Lafley are mis-applied to the "uniquely circumstances" of Lawson's case. Yet in the case at hand, the record reflects that Lawson clearly met all prongs set forth in Lafley.

In the context of a defendant having rejected a plea offer from the prosecution based on deficient advice of counsel and having stood trial, the defendant, to establish the prejudice prong of the Strickland test for ineffective assistance of counsel, must show but for the ineffective assistance/advice of counsel there is a reasonable probability that a plea would have been presented to the court, See "Latter" i.e.,

1. That the defendant would have accepted the plea. (The record reflects that Lawson spoke with and wrote counsel several times concerning the acceptance of a plea)
2. That the prosecution would not have withdrawn the plea in light of intervening circumstances. (The record reflects that the state offered a substantial plea of 25 years approx 1 hour before trial was scheduled, on a six year old cold case where the alleged victim was unavailable for trial.)
3. That the court would have accepted its terms. (Again there was a substantial plea made in this case within one hour of trial a reasonable probability exist that the terms of the plea were discussed with the court. Should the record need be developed more on this issue, the courts would need the benefit of a Federal evidentiary hearing) See Sullivan v Fla Dept of Corrections 837 F.3d 1195 1203-1204 (11th Cir 2016)
4. That the conviction or sentence or both under the terms would have been less severe than under the terms of the plea would have been less severe than under the judgement and sentence imposed. (A 25 year plea offer is substantially less than the 65 year sentence imposed after loss at trial.

However, in the Eleventh Circuit's opinion they mis-apply the Law of "Lafley" to the circumstances in Lawson's case. Attacking a single statement made by Lawson and basing their affirmance on the statement made by Lawson in his initial brief to the 11th Circuit stating "a reasonable probability exist that had counts two and three been vacated prior to ple negotiations the ple made by the state [may] have been less than 25 years. See pg 7 Initial Brief. (Notably the sentencing score sheet would have dropped from 164 points on all offenses to 74.4 points entering negotiations had counsel filed a motion to dismiss) Yet, this was not Lawson's legal argument nor a legal basis for denial. [Lawson's argument was that he met all the prongs set forth in "Lafley" See pg 4 Initial Brief]

Consequently, the 11th Cir mis-applied the law and mis-stated facts of Lawson's case, stating "Lawson offered no evidence that he would have received what he deemed an acceptable deal to plead guilty that the trial court would have accepted" Here a 25 year ple was offered, The Burglary with assault offense included. Lawson was not totally against the 25 years but did not wish to ple to count (two) Specifically were he did not believe by law he had too and it would of required him to register as a sexual offender for the remainder of his life.

Had trial counsel not misadvised Lawson concerning counts II and III a reasonable probability exist Lawson would have finalized a ple deal and not proceeded to trial.

REASONS FOR GRANTING THE PETITION

→ The United States Court of Appeals for the Eleventh Circuit has entered a decision in, Lawson v. Secretary, Florida Department of Corrections, Docket No. 17-14802 that is directly in conflict with the law set forth in Lafley v. Cooper 123 S.Ct 1376 (US 2012). Were the Eleventh Circuit mis-applied the prongs of the "Lafley" prejudice test to Lawsons case.

→ Petitioner begs this Honorable Court to exercise its Supervisory power and grant certiorari in this cause to decide the conflict between these two courts concerning the application of the prongs of "Lafley" to the unique circumstances of Lawsons case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Miriah Lawson

Date: JANUARY 21st 2020
21st