

No.

19-7769

ORIGINAL

Supreme Court, U.S.
FILED

FEB 19 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Demetrius A. Wilson — PETITIONER
(Your Name)

old Director ← Charles Ryans^{vs.}

new Director ← Daniel Shinn — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the Ninth Circuit # Case no. 16514
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Demetrius Antwon Wilson #165175
(Your Name)

P.O. Box 24402 OR 10004 S. Wilmot. RD
(Address)

Tucson, Arizona 85734
(City, State, Zip Code)

312-502-8902
(Phone Number)

QUESTION(S) PRESENTED

Was Petitioner Fifth, Sixth, and 14th Amendment Violated?

① IF you're representing yourself do you think I'm Competent to Stand trial or Sign a plea IF you had recent surgery of having part of your Intestine removed and after surgery you are bleeding out your rectum, having Stomach Pain, Dizziness, Short of breath ~

② Petitioner was the only person present handcuff standing out in open. When alleged victim told police wasn't sure it was the Petitioner. The Police broke protocol by coaching the alleged victim to say 90 percent and absolutely sure by asking what percentage are you, and showing and giving the alleged evidence money to alleged victim, that suppose to be taken 7 thousand 3 hundred and 60 dollars. Basically bought Petitioner Identity. (In victim Deposition) saying he became Absolutely Sure once he seen money in envelope ~

was petitioner 14 Amendment Violated

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:

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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 _____; 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- ☐ is unpublished.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 _____.

☐ 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

Violation of Petitioner Fifth, Sixth and Fourteenth
Amendment of the U.S. Constitution.

My Civil Rights was Violated

STATEMENT OF THE CASE

Please Help

Petitioner has 2½ years left on his sentence before he's release and pray this court correct and stop the illegal violation going on in this case before I'm released. [REDACTED]

[REDACTED] Arizona State is corrupt and vindictive, My human rights has been violated and theirs nothing else to live for. Once your civil rights, constitutional rights has been violated.

The rule favoring liberality to Pleadings is particularly important for the Pro Se litigant. Presumably unskilled in the law, the Pro Se litigant is far more prone to making errors in Pleading than the person who benefits from the representation of counsel. (Lopez V. Smith,) 203 F.3d 1122, 1131 (9th Cir. 2000) (quoting Noll V. Carlson,) 809 F.2d 1446, 1448 (9th Cir. 1987) This leniency is amplified in Civil Rights Cases. (Eldridge V. Block,) 832 F.2d 1132, 1136 (9th Cir. 1987)

But as the United States Court of Appeals for the Ninth Circuit has instructed courts must continue to construe Pro Se filing liberally. (Hebbe V. Piler,) 627 F.3d 338, 342 (9th Cir. 2010) A Complaint filed by a Pro Se Prisoner must be held to less stringent standard than formal Pleading drafted by lawyers. (quoting Erickson V. Pardum,) 551 U.S. 89, 94 (2007)

Same Statement of The Case
Attach that was Filed in District court
of Phoenix with argument against the
Attorney General.

"Ground-1"

Fact-1

- 1) IF the State interfere with a Petitioner Self-Representation,
- 2) Due Process may be Violated (See: Tate V. Wood,) 963 F.2d 20, 26 (2d Cir. 1992)
- 3) Remand to determine whether due Process Violated by Petitioner Confinement and
- 4) medical issues between arraignment and Plea because No opportunity to
- 5) Prepare own defense.] State Judge unjustifiably hindered Self-Representation
- 6) by denying Petitioner to leave Court room unless he gave up his Proper Status,
- 7) his constitutional right while Sick. "FACTS" Petitioner was admitted
- 8) in the hospital on July 14, 2016. See: Exhibit-A July of 2016 Medical Records.
- 9)
- 10) Whenever the Uniform Commercial Code Creates a "Presumption"
- 11) with respect to a Fact, or Provides that a Fact is "Presumed," the
- 12) trier of fact must find the existence of the fact unless and until
- 13) Evidence is introduced that Supports a Finding of its Nonexistence.
- 14)
- 15) Petitioner was admitted in hospital to try to stop the external bleeding in
- 16) Petitioner intestines, that was causing a low hemoglobin, bloody stool, dizziness,
- 17) Stomach Pain, and Short of breath, blurry eye vision. The Petitioner must
- 18) have Sufficient Present ability to Consult with the Court with a Reasonable
- 19) degree of rational understanding [And have] a Rational as well as Factual
- 20) understanding of the Proceedings against him. (See: Dusky V. United States,)
- 21) 362 U.S. 402, 80 S.Ct. 788, 4L. Ed 2d 719 (1972)
- 22) The Court Should have evaluated the Petitioner to determine whether
- 23) the Petitioner could Proceed by reason of medical disorder. The Court Should
- 24) have establish the Constitutional necessity of at least applying this minimal
- 25) Common law Standard by Seeking a evaluation of Competency. instead of Seeking
- 26) the advise From (C H S-Medical) who had a conflict with Petitioner due to
- 27) Case: CV2014-01613-Jat-(DMF) that was in Petitioner favor. This is well
- 28)

"Ground - 1"

Fact 1 Continues

1) Documented that Petitioner Physiological and behavioral change
2) in the body and dangerous. The Court took advantage, of
3) my health, and mental stability as well as my physical ability.

"Fact 2"

4) The attorney general in Feb. 15, 2019 Filing Page "3" number
5) 21 conducted a search in the records stating that Petitioner had a
6) low blood sugar level. The Court records would show that
7) Wilson inform the Judge that it was blood in his stool and medical
8) record will legally and lawfully back this up. Nothing about
9) a low blood sugar level. Let the record reflect that on
10) June 21, 2016 Petitioner Filed Motion that C.H.S. Provider
11) Doctor Gregorio Gerardo #A046 (622) 876-9155 State the
12) Petitioner health was not right, From External bleeding and hemoglobin
13) has drop causing bloody stool, Dizziness, Stomach Pain, and Short of
14) breath and needed time to get blood level back up. See Exhibit - B

15) Let the record reflect that Feb. 15, 2019 Filing limited
16) answer to petition For writ of habeas Corpus by the
17) Attorney General Andrew Reilly, are "Frivolous" of
18) little weight or importance, having NO sound basis (as in fact of law
19) As the Court can see And let the record reflect this assistant
20) Attorney General is Pleasing to the court in this motion that he
21) Filed Feb. 15, 2019 leave to ~~resp~~ file another responsive Pleading to
22) address the merits of Wilson's Claims ("quoting Page 2 number 23; 24
23) The merits should had been address in the Feb. 15, 2019 Filing.
24) This is what the court will find Vague - Vacant

"Ground - 1" Continue
Fact - 3

- 1) In the assistance Attorney General Filing on Page 3 number 2 and 8,
- 2) Say that Wilson delay his trial more than 2 years but fell to inform
- 3) the Court on the records in his Filing that the County Attorney Casey Munde
- 4) also help in the delays by Filing motions Jan. 8, 2015 Electronically Filed
- 5) by E. Masis, Deputy Filing I.D. 6331858 also on Aug. 28, 2015 at 2:17:10 PM
- 6) Electronically Filed by K. Curthier deputy Filing I.D. 6831487

7)

8)

Fact - 4

- 9) let the Court records reflect Mr. Wilson the Petitioner was
- 10) not Exaggerating about his health. See: Court of Appeals, Division
- 11) One Case NO. 1 CA-CR 18-0566 Medical Records Filed Aug. 17, 2018
- 12) as Supporting Facts that Mr. Wilson health was not up to par
- 13) On 3-11-16 Blood transfusion, On 4-19-16 Blood transfusion, On 5-11-16
- 14) Blood transfusion, On 7-14-16 Blood transfusion and another Surgery
- 15) 12-20-16 Blood transfusion, Aug. 31, 2017 Blood transfusion,
- 16) 10-16-17 Blood transfusion, Nov. 20, 2017 Blood transfusion,
- 17) Feb. 16, 2018 Blood transfusion;

18)

- 19) let the record reflect Your Honor can assist ~~the~~ Attorney
- 20) General Andrew S. Reilly or did he in his Filing Feb. 15, 2015
- 21) introduce any Supporting evidence of the Nonexistence of
- 22) Mr. Wilson medical health of the severity of his health condition
- 23) eliminating the hospital records of Mr. Wilson health that provide
- 24) medical information. Mr. Wilson, Physical and mental capacity, to stand
- 25) trial or to sign a Plea. Mr. Wilson, due to medical health was Powerless
- 26) to Produce, Perform or deploy or deliver under specified condition
- 27) The Court took advantage of that knowledge under uniform Commercial

Ground 1

Fact - 4 Continue

- 1) Code 31-206, A.R.S. Title 47-1206. Presumptions whenever the Uniform
- 2) Commercial Code creates a "Presumption" with respect to a fact, or
- 3) Provides that a fact is "Presumed," the trier of fact must find the
- 4) existence of the fact unless and until evidence is introduced that supports
- 5) a finding of its nonexistence. § 1-202. Notice; Knowledge
- 6) You Honor and this honorable Court under this uniform
- 7) Commercial Code § 1-202. Notice; knowledge of § 5-102.
- 8) Definitions (a)(7) "Good Faith" means honesty in fact in the conduct
- 9) of transaction concerned.
- 10) let the record reflect were was the good Faith by the
- 11) Court knowing from Court File documentation of Mr. Wilson,
- 12) Physical well being that alter his thinking. You Honor the Court
- 13) used in Person Mr. Wilson Pain and Choose to take advantage of
- 14) it, even while Mr. Wilson was in the hospital at the time upon
- 15) release Mr. Wilson ask the attorney Jamie Jackson to file a
- 16) motion for mistrial due to Jury Selection Court Proceeding
- 17) While Mr. Wilson was still in the hospital fighting for his life.
- 18) Filing By Attorney Jamie Jackson Aug. 15, 2016 State of Arizona
- 19) V. Demestrius Wilson case NO. CR 2014-122610 Motion for Mistrial
- 20) Page "2" Memorandum of Points and Authority
- 21) I. Facts quoting on 7-6-16 defended trial started. The defendant
- 22) was representing himself with Jamie Jackson as advisory council.
- 23) The defendant filed a motion to continue base on his medical concerns
- 24) and that he was medically not fit to stand trial. Defendant Orally

"Ground - 1"

- 1) Fact - 4 Continued with Attorney Jamie Jackson Memorandum of Points
- 2) asked for continuance based on his Stomach Pain, light headedness based
- 3) on blood being in his Stool and his hemoglobin level were low. The Court
- 4) denied his motion and Jury Selection began, during Jury Selection the
- 5) defendant Complained of Pain and feeling ill and asked Court to let him
- 6) be Seen by medical, also defended asked For a Continuance, at this time
- 7) Continuance was denied but he was taken to medical.
- 8)
- 9) After lunch defendant returned and he was still ill, he asked that the Court
- 10) Continue the trial, Jury Selection was to Continue at this time the defendant
- 11) asked to be taken to his cell to lay down because he was feeling ill. The
- 12) Judge would not let the defendant leave unless he waive his proper status.
- 13) The defendant agreed because he was ill and he left and Defense Counsel
- 14) Jamie Jackson was moved from advisory to attorney of record. Mr. Jackson
- 15) Orally asked for a continuance from Jury Selection because the defendant
- 16) did not voluntarily remove himself because his medical conditions. That
- 17) motion was denied and Jury Selection Continued.
- 18)
- 19) Trial continued with the defendant Present for certain portions and leaving
- 20) others due to him being medically unable to sit through trial. Each time
- 21) defendant was not Present defense counsel asked for a continuance and the
- 22) motion was denied. The trial was ultimately continued for a short period
- 23) because the state untimely disclosed new material. Trial resumed and
- 24) then the defendant was taken to hospital and a surgery was done. Based on
- 25) that surgery the trial was continued till 8-16-16. The jury was only screened
- 26) through 7-28-16. The surgery that was performed on Mr. Wilson was to repair
- 27) a bleed in his intestines that was causing his low hemoglobin.
- 28)

Ground-1

1) Fact-4 Continued with Attorney Jamie Jackson Authority

2) LAW

- 3) The cases are legion that a defendant is entitled to
- 4) a Fair, impartial and unbiased jury. (State V. Rojas,) 177
- 5) Ariz. 454, 457, 868 P.2d 1037, 1040 (App 1993). When events
- 6) Occur that cast an irrevocable [cloud] over the jury's
- 7) Fairness and impartiality, it is far better to grant the motion
- 8) For mistrial and start over again. This action should not be
- 9) taken lightly, but when the interest of justice so demands,
- 10) it should never the less be done. (State V. Reynolds,) 11 Ariz.
- 11) App. 532, 535, 466 P.2d 405, 408 (1970) When trial Judge finds
- 12) that a defendant has been unduly harmed on his trial made
- 13) unfair, he should in interest of justice grant a new trial.
- 14) (State V. Davis,) 104 Ariz. 142, 449 P.2d 607 (1969) (quoting
- 15) United States V. Johnson,) 337 P.2d 180, 203 (4th Cir. 1964)
- 16) The Due Process Clause of the Fifth, Sixth, and
- 17) Fourteenth Amendments to the United States constitution
- 18) guarantee a criminal defendant "a meaningful opportunity
- 19) to present a complete defense" (California V. Trombetta,) 467 U.S.
- 20) 479, 485, 104 S. Ct. 2528, 81 L. Ed. 2d 413 (1984). A criminal
- 21) proceeding must comport with "prevailing notions of fundamental
- 22) fairness." Id. The law has invested courts of justice with
- 23) the authority to discharge a jury from giving any verdict
- 24) whenever, in their opinion, taking all circumstances into
- 25) consideration, there is a manifest necessity for the act, or
- 26) the ends of public justice would otherwise be defeated.
- 27) (United States V. Perez,) 22 U.S. (9 Wheat) 579 at 580 6 L. Ed. 165 (1824)
- 28) A mistrial can be declared when no reasonable alternative exist.

End Ground 1

- 1) ~~Fact 4~~ Continued with Attorney Jamie Jackson Authority
- 2) (Evans V. Abbey,) 130 Ariz. 157, 159, 634 P.2d 969, 971 (App. 1981)
- 3)
- 4) Further More, Petitioner Was under duress When Signing
- 5) a Plea, because Mr. Wilson did not know what was going
- 6) on in court While in hospital When his Proper Status was
- 7) taken away, his constitutional right
- 8)
- 9) Within this Filing to the Court. See Page 4 Paragraph 3rd lines 19
- 10) through 27. Petitioner medical records speaks for its self,
- 11) let the record reflect Since Mr. Wilson, has the courts attention
- 12) look to Paragraph 2nd lines 9 through 17 in the Same Filed document
- 13) Page 4.
- 14)
- 15) let the record reflect Facts is Facts, and truth is truth,
- 16) and over looking those Facts and truth and Filed law documentation
- 17) by this honor court, Will be a Cover up. And Mr. Reilly, was
- 18) given the opportunity to dispute the Facts and truth, in his
- 19) Filings. Filed Feb. 15, 2019 instead of Producing ~~under~~ the uniform
- 20) Commercial code Creates a "Presumption" this honor court legally
- 21) know and Andrew Reilly as a law attorney, Should have knowledge
- 22) that when a Fact is "Presumed," the trier of Fact must Find the
- 23) existence of the Fact unless and untill Evidence is introduced that Supports
- 24) a Finding of its Nonexistence. Mr. Wilson is Providing documentation
- 25) that alloid the Fact that Mr. Wilson was truly Sick and in Pain.
- 26) to were No food or water was appealing to him,
- 27)
- 28) Hospital Records Filed and logged in the Courts to be Viewed by the Judge in cas

Ground - 2

Fact - 1

1)

- 2) Petitioner Identification Procedures Which Violated
- 3) Petitioner Rights a guaranteed by the 5th, 6th, Amendment
- 4) to the United States Constitution as incorporated by the
- 5) Fourteenth Amendment, and Article 2 & 4, 24 of the Arizona
- 6) Constitution, as well as the holding of State V. Dessureault,
- 7) 104 Ariz. 380, 453 P.2d 96 (1969) Due Process Violation Confrontatio
- 8) evidence was tainted and suggestive when alleged victim
- 9) stated he was not entirely sure if the Petitioner was the
- 10) subject that fobbed him, in a one on one subjective identity
- 11) But when alleged money in envelope was showed to victim
- 12) the alleged victim change statement to 90 percent and Absolute
- 13) Sure.

14)

Fact-2 material to the issue Presented

- 15) On May 13, 2014 allegedly a crime was committed hours
- 16) there after, without counsel a suggestive identification
- 17) was done with only one person present the Petitioner on the
- 18) street for the purpose of identifying the culprit which was
- 19) carried out in lieu or without the constitutional (6-PACK)
- 20) line up with other faces to which would have represented
- 21) a fair and impartial line up. Petitioner was the only person present
- 22) handcuff standing out in open. When the alleged victim told
- 23) police he wasn't sure it was the Petitioner. (See: Exhibit - 4,
- 24) In Petitioner Writ of habeas Corpus.) The Police broke
- 25) protocol by coaching the alleged victim to say 90 percent
- 26) and Absolutely Sure by asking what percentage are you,
- 27) and showing and giving the alleged evidence money to alleged
- 28) victim, that suppose to be taken 7 thousand 3 hundred and 60 dollar.

Ground - 2

Fact - 2 material issued Presented

- 1) Basically bought Petitioner Identity, (See: Exhibit-5,
- 2) In Petitioner writ of habeas Corpus, (Deposition of Victim)
- 3) Saying he became Absolutely Sure once he Seen money in envelope
- 4)
- 5)

6) LAW:

- 7) Absent Sufficient aspects of Reliability, a Suggestive Identification
- 8) Procedure, Violate due Process. (State V. Williams,) 144 Ariz. 433, 698 P.2d 684 (1985)
- 9) (Citing manson v. Brathwaite,) 432, U.S. 98, 106 (1977). Suggestive Confrontations
- 10) are disapproved because the increase the likelihood of misidentification;
- 11) (quoting Neil v. Biggers,) 409 U.S. 188, 198 (1972) is the likelihood of misidentification
- 12) Which Violates a Petitioner's rights to due Process T.D. What constitute
- 13) undue Suggestibility depends on the totality of Circumstances. (See;
- 14) State V. Schilleman,) 125 Ariz. 294, 609 P.2d 564, 567 (1980)
- 15) One-Man Show-ups are Permissible in Arizona, (State V. Daniel
- 16) 106 Ariz. 224, 474 P.2d 815, 817 (1970) BUT THEY ARE
- 17) INHERENT SUGGESTIVE (In State V. Williams,) 144 Ariz. 433
- 18) 698 P.2d 684 (1985) Because of the inherent taint, the burden
- 19) is on the Prosecution to establish From all the circumstances
- 20) Surrounding the Pretrial Identification that it was not such as
- 21) to be unduly Suggestive. (See; State V. Dessureault,) at 453 P.2d
- 22) at 955

23)

24)

25)

26)

27)

28)

Ground - 3
Fact - 1

1)

2) A Discovery Violation may be analyzed in one or two ways

3) it can be analyzed as a due Process Violation. (See: Arizona v.

4) youngblood, 488 U.S. 51, 58 (1988). When Police ask the Victim what

5) Percentage are you. (See: Police Report and Deposition in Exhibit -

6) 4 and 5 in Petitioner writ of habeas corpus.) youngblood,

7) Requires Petitioner to show bad Faith both limit extent of

8) Police obligation to Preserve evidence, to impound evidence,

9) NOT go to Victim home and give it to him. Due to Suppression

10) of money that was taken by Officer's From the envelope

11) in bad Faith is a Violation of Petitioner Due Process

12) of law under the 14th Amendment of the U.S. Constitution

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REASONS FOR GRANTING THE PETITION

Petitioner is requesting time serve for violation of his Civil Rights, my human rights of the United States Constitution. To move on with his life. Petitioner rights was violated and case and rights are being ignored.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Demetrius Wilson

Date: Feb. 19, 2020