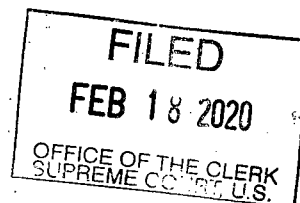


19-7791

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

JERMAINE JACKSON — PETITIONER
(Your Name)

vs.

PENNSYLVANIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

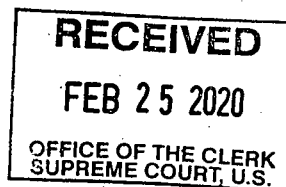
PETITION FOR WRIT OF CERTIORARI

Jermaine Jackson
(Your Name)

10745, Route 18
(Address)

Albion, Penna. 16475
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

1. DID THE SUPERIOR COURT FAIL TO ANALYSIS PETITIONER CLAIM UNDER THE PRESUMPTION OF PREJUDICE STANDARD UNDER CRONIC ?
2. WAS TRIAL COUNSEL ABANDONMENT OF A READILY AVAILABLE ALIBI DEFENSE IN PLACE OF NO DEFENSE A VIOLATION OF PETITIONER INALIENABLE RIGHT UNDER THE SIXTH AND FOURTEENTH AMENDMENTS ?

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 CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	5-6
REASONS FOR GRANTING THE WRIT	7 to 11
CONCLUSION.....	11

INDEX TO APPENDICES

APPENDIX A	<i>The State Superior Court Opinion</i>
APPENDIX B	<i>The lower Common Pleas Court Opinion</i>
APPENDIX C	<i>The State Supreme Court Per Curiam Order</i>
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

United States v. Cronin, 466 U.S. 648 (1984) 7

STATUTES AND RULES

The Sixth Amendment

9, 3,

The Fourteenth Amendment

3,

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☐ is unpublished.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 P.C.R.A. Court of Common Pleas 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 _____.

☐ 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 July 15th 2018.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: Jan. 2, 2020 (Allowance To Appeal) and a copy of the order denying rehearing appears at Appendix N/A. The Allowance To Appeal Was To The State Supreme Court. It was not a Re-hearing.

☐ 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

THE FOURTEENTH AMENDMENT

STATEMENT OF THE CASE

On December 28, 2011, police responded to a shooting in Levittown, Pennsylvania. Upon arrival they discovered Danny DeGennaro, the deceased bleeding from a gunshot wound to the chest in his home. The deceased and his roommate (James Meszaros) were home at the time.

Meszaros testified him and Mr. DeGennaro were upstairs together, then he went down stairs to the basement to the bathroom, and when he returned Mr. DeGennaro was walking towards him and fell backwards, he tried to catch him, and could see blood profusely.

He ran to get help, Nick Wilson came to the home and called 911. Police testified that a gunshot wound was two (2) to three (3) inches. There was no force entry, the kitchen area had blood on the floor and table. A bullet case, shotgun wadding, and plastic sheating from a shotgun shell.

Nick Wilson, had a for sale sign on his Volkswagen with the telephone number behind the deceased home. He received a phone call about the car from a female. Police obtained the subscriber data and came upon Tatyana Henderson. Records further revealed a cell number to Danasia Bakr who sent text messages to Henderson during the night of the shooting.

She also made multiple calls to petitioner. Petitioner cell phone showed calls to and from Breon Powell and Kazair Gist just minutes after the shooting.

Police interviewed Bakr whom implicated herself, Henderson, Powell, Gist and Petitioner. Bakr claimed she was the getaway driver and Henderson helped

Petitioner rob someone who owed him money for drugs.

Five minutes after getting out of the car Baker heard noise that sounded like a shotgun. She sped off, with Powell and Gist chasing behind the car, she slowed down and they got in. She incredulously claim both co-defendants said they shot the deceased Mr. De Gennaro; albeit, the physical evidence shows one gunshot to the victim.

REASONS FOR GRANTING THE PETITION

Trial Counsel rendered ineffective assistance during a critical stage of the trial process that absolutely violated Mr. Jackson right to a defense at trial in accord with due process of law, that demonstrates counsel's abandonment and a Sixth Amendment establishment under *United States v. Cronin*, 466 U.S. 648, 659, (1984).

Trial Counsel met with Mr. Jackson at the County jail on numerous occasions and never discussed any potential defenses at all. E.g., the room¹ could have committed the offense, especially, when considering he never heard the shot or seen anyone enter their home, or the police conducted an inadequate and shoddy investigation. Either would have created reasonable doubt.

Mr. Jackson, complained to the trial court that he could not write or call his lawyer, because the attorney did not communicate that way. This complaint was later adduced at the p.c.a. hearing. Mr. Jackson, testified and trial counsel acquiesced that there was no defense strategy or defense plan.

Mr. Jackson, submitted the names of individuals that were willing and available to testify at the time of trial, that Mr. Jackson was at a different location during the time of the crime. The lawyer abandoned the Alibi defense on the whimsical notion that the prosecution evidence shows Mr. Jackson was there.

This was not a reasonable trial strategy, because in all cases of Alibi defenses, the Prosecutor theory is the person was at the scene.

It is the duty of the trial lawyer to put forth evidence to show otherwise.

This was a case that was linch pinned on a witness who was given a generous handout in exchange for implication. There was no physical evidence linking Mr. Jackson to the scene of the home where evidence was collected.

Instead of the lawyer properly preparing an Alibi defense, he choose a strategy that had no likelihood of success. He simply challenged the witnesses testimony, for which he must do anyway, even when putting on his own defense. He thought this strategy alone would create reasonable doubt, which failed. Thereby leaving the defendant with no defense, and a horrific outcome.

Based on this abandonment, which was of a devastating nature to Mr. Jackson right to a defense, which in turn, shows a presumption of prejudice, for relief.

This Court duly ruled that three cases warrant Cronin's presumption of prejudice analysis. The first is the complete denial of counsel, in which "the accused is denied the presence of counsel at a critical stage. The second is when counsel "entirely fails to subject the prosecution's case to meaningful adversarial testing. The third is when counsel is placed in circumstances in which competent counsel very likely could not render assistance. Id at 466 U.S. 659.

Mr. Jackson, claim easily support the criteria set by this Court to be granted a presumption of prejudice. The first one is: the trial phase is a critical stage, for which no defense was introduced. The second one is: trial counsel failed to subject the prosecution case to a meaningful adversarial test.

The Sixth Amendment to the United States Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy the right... to have the assistance of counsel for his defense." U.S. Const. Amendment VI.

Mr. Jackson, inalienable right to effective assistance under the Sixth Amendment fell short. The choice to discard a ready available defense of Alibi cannot be said, was a competent decision by counsel, especially in the face of the pretext that he gave. His pretext does not excuse abandonment.

The Superior Court of Pennsylvania determination to affirm Mr. Jackson case did not evaluate his claim under the correct standard. The Court relied on the Strickland Standard which is adopted under Commonwealth v. Pierce, 527 A. 2d 973 (Pa. 1987), and its progeny.

The Superior Court determined Mr. Jackson claim erroneously. Stating: "Specifically, the volume and length of consultations a trial counsel has with a client prior to trial cannot serve as the sole factor considered in an ineffective assistance of counsel determination." Citing Commonwealth v. Brown², 51 A.3d 237, 244 (Pa. Super. 2012) (en banc). This Court ruled to the contrary in Cronin, supra. Consultation or lack thereof is sufficient to presume prejudice.

NOTE: 2
Com. v. Johnson

Then continued to rule that the ineffective claim premised on failure to present witnesses, the petitioner must demonstrate 1. witnesses exist; 2. counsel's awareness; 3. witnesses willing to cooperate; 4. the testimony was necessary to avoid prejudice.

Finally, the petitioner must establish prejudice. See, the memorandum order pages 3, 4, and 5. Mr. Jackson claim did not fall under failure to present witnesses meaning counsel failed to investigate a possible Alibi defense. This is a case where trial counsel abandoned an Alibi defense under the pretext the Prosecution have evidence his client was there at the scene. Albeit, there was no physical evidence linking Mr. Jackson to the home. The evidence came from a witness whom curried a favor in exchange for implication.

In adopting the findings they came to the wrong conclusion in fact and law. Mr. Jackson never had to establish prejudice for his abandon Alibi defense, because the defense was readily available, except the lawyer made it clear, he was not going to utilize it. He made it clear, he would not use any defense... The Superior Court simply did not render a proper independent³ analysis; they basically adopted the *pro* judge erroneous findings of fact and conclusion of law.

This is not a case **where** counsel choose one defense over another. This situation is far from that. This is a case where counsel choose not to put on any defence.

NOTE: 3
independant

Thereby leaving his client to swim against the current in the water. Without no safety net (defense) he was sure to drown in a sea of water. No man, or woman should be left by his/her counsel to sit idle awaiting the jury to return a verdict of guilt, because the lawyer took it upon him, or herself to utilize no defense, but instead go through the profunctory procedure of cross and recross examination.

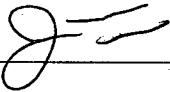
This is a matter of importance to the nation and its Court system. Abandon alibi defenses by trial counsel have been entertained through out our appellate system under the prejudice standards for decades.

CONCLUSION

Mr. Jackson, respectfully request a fresh pair of eyes from a Court that author the opinion on presumption of prejudice.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: February 16th 2020