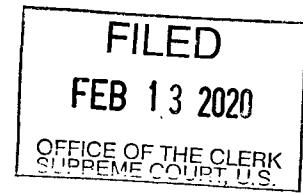


19-7840 ORIGINAL  
No. \_\_\_\_\_



IN THE

SUPREME COURT OF THE UNITED STATES

Victor Dewayne Jones — PETITIONER  
(Your Name)

vs.

State of Mississippi — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The court of Appeals 5th circuit

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

PETITION FOR WRIT OF CERTIORARI

Victor Dewayne Jones  
(Your Name)

S. M. C. I., P.O. Box 1419  
(Address)

Leakesville, MS 39451  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

QUESTION(S) PRESENTED

Whether Petitioner was denied his right to Due Process of Law where the Pike County Circuit Court convicted Petitioner without a Mental Evaluation and competency hearing before taking a Guilty Plea.

Whether the trial judge and Public defender made the right determination, when they diagnosed Petitioner, without a Psychiatrist Present.

Whether a (40) Year sentence for a incompetent Petitioner was Appropriate.

## 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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TABLE OF AUTHORITIES CITED

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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 D 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 is unpublished.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 C 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 is unpublished.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 is unpublished.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: Jan 27, 2020, and a copy of the order denying rehearing appears at Appendix C.D.

[ ] 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

Petitioner Jones asserts that he was denied a fundamental constitutional right to due process at sentencing, where Petitioner Jones mental capacity prevented him from fully understanding the consequences of accepting the State Plea deal thereby Violating Petitioner Jones' 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendment Rights of the U.S. constitution and Article 3 Sections 14 and 26 of the Mississippi constitution.

Petitioner Jones also asserts that he was denied a fundamental constitutional right to Due Process at sentencing, where Judge and Public defender made their own determination on Petitioner's competence thereby Violating Petitioner's, 6<sup>th</sup> and 14<sup>th</sup> Amendment.

## STATEMENT OF THE CASE

In 2004, Petitioner, Victor W. Jones, went into the Pike County Circuit Court, Fourteenth Judicial District of Mississippi and Plea Guilty to two counts of sexual battery.

The court sentenced Jones to twenty (20) years on each count and that each count be run consecutively with one another for a total of forty (40) years.

It was Petitioner Jones belief and understanding that if he accepted the state's Plea offer that he would only receive ten (10) years to serve in prison and five (5) years probation.

Being aggrieved that his trial counsel and the state taking advantage of his mental incapacity to fully understand the consequences of pleading guilty he appealed.

The court of Appeals claims that Jones cannot prove that in 2004 he had any mental problems. But they did not take into account that the two sexual batter charges are physiological in nature.

The court also made their own clinical observation as concerning Jones' mental state at the time of his sentencing. Never checking Jones' mental history.

## REASONS FOR GRANTING THE PETITION

Due Process Prohibits the conviction of a Person who is mental incompetent (Bouchillon v. Collins, 807 F2d 584 + 592 (5th Cir 1990) citing Bishop v. United States, 350 U.S. 961. 76 S.Ct 440. 100 L.Ed 835 (1956) also Medina v. Califom. 505 U.S. 437. 435. 112. S.Ct 2572. 120 L.Ed. 2d 353 (1992). Hollie v. state, 174 So.3d 824 (2015). There is sufficient evidence dating back to 1993 showing that Petitioner Jones is mentally incompetent (APPENDIX F) which shows back in 1993 Petitioner Jones required extended treatment in the state Hospital.

And when released he was on medication and directed to the local mental health center for follow up treatment. Petitioner Jones' argument is that the trial court failed to conduct a competency hearing thereby denying him Procedural Due-Process (Pate v. Robinson, 383 U.S. 375. 384. 86 S.Ct 836. 841. 15 L.Ed 2d - 815 (1966). Smith v. State, 149 So. 3d 1027 (2014).

Petitioner Jones was not competent to fully understand Jones states to the court that he did not understand see (APPENDIX G) Jones transcript.

Petitioner Jones trial counsel told him that he was going to plead guilty and the court was going to sentence him to ten (10) years to serve with Five (5) years Probation see (APPENDIX H) a copy of the Plea agreement the court sentenced Petitioner Jones to two (2) twenty (20) year sentences for a total term of forty (40) years in Prison where it had been explained to Petitioner Jones by his trial counsel that if he plead guilty he would only be sentenced to serve ten (10) years in Prison with Five (5) years Probation.

(5)

Therefore Petitioner Jones entered a guilty Plea under the Presumption that he was Pleading Guilty to (10) year Sentence.

It's been held that the test of incompetency is whether a defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as well as factual understanding of the proceedings against him. (Dusky v. United States, 362 U.S. 402, 402. 80 S. Ct 7884 L.Ed 2d 824 (1960). (Hollie v. State, 174 So.3d 824 (2015) (Loko's v. State, 625 F.2d 1258. 1261. (5th Cir. 1980). (Smith v. State, 149 So.3d 1027 (2014) § 99-13-11, Mental Examination of Accused, Ms. St § 99-13-11. (July 1. 2019).

In the case at hand Petitioner Jones was told by counsel and shown the State's Plea offer of twenty (20) years ten (10) to serve with Five (5) years Probation therefore it was Petitioner Jones rational as well as factual understanding that he was Pleading guilty and in exchange he would be sentenced to serve ten (10) years "Not" forty (40) See Appendix H ) which shows that District Attorney (DeWitt Bates) agrees that the court abused there discretion, and gave Petitioner Jones a much stiffer sentence than recommended.

The judge (Mike Smith). Public defender (Paul M. Buckett). did not present any facts to make a determination that Petitioner Jones was not competent, Because that area of expertise can be determined only by a Psychiatrist or a medical community see (Appendix I) Hall v. Florida, 372 U.S. 701 (2014).

The issue is, Petitioner Jones was incompetent to fully understand the legal terms which the Judge and counsel used against him there is

numerous evidence that proves that Petitioner Jones has been suffering with mental illness for years see (Appendix F) and now see (Appendix E) Attorney's own show statement shows that he did not inform the trial court about Petitioner Jones mental Problem and history of mental illness see (Appendix E).

Petitioner asks this united states Supreme court to Vacate or Remand back to Pike county circuit court, Petitioner has already served (19) years on this illegal sentence. Petitioner has FULLY demonstrated that the issues that has been Presented to the united states court of Appeals for the fifth circuit on Rehearing Violated his due Process, if He would have had a Proper Mental Evaluation and A competency Hearing. (at his Plea hearing).

Petitioner would Not be serving forty (40) years day for day. Petitioner has Filed to the Higest court, consist of Pages 1 - 34.

Conclusion

Evidence proves that Petitioner Jones has a history of mental illness and was incompetent to understand the proceedings against him.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Victor D. Jones

Date: 2/13/2020