

19-7840

No. 19-7840

ORIGINAL

FILED

MAY 14 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Rehearing Rule 44. (2)

Victor Dewayne Jones — PETITIONER
(Your Name)

vs.

Joe Errington — RESPONDENT(S)

ON PETITION FOR Rehearing Under Rule 44. (2)

The United States Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR Rehearing Under Rule 44. (2)

Victor Dewayne Jones
(Your Name)

S.M.C. 1 P.O. Box 1419
(Address)

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

(Phone Number)

QUESTION(S) PRESENTED

- (1). whether Arguments are Proper enough to grant Petitioner his Rehearing?
- (2). whether Petitioner's Due Process is still being Violated?
- (3.) whether Petitioner's mental state carries no merits with the united States supreme court?

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	4
REASONS FOR GRANTING THE WRIT	5-7
CONCLUSION.....	6

INDEX TO APPENDICES

- APPENDIX A - Decision of state trial court
- APPENDIX B - Decision of State Court of Appeals and Supreme Court of Mississippi
- APPENDIX C - Decision of District court
- APPENDIX D - Decision of court of Appeals 4th cir
- APPENDIX E - Decision of U.S. Supreme court
- APPENDIX F - Petitioner childhood history
- APPENDIX G - Petitioner court transcripts
- APPENDIX H - District Attorney's opinion
- APPENDIX I - Trial courts Personal Opinion
- APPENDIX J - United States Supreme court

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Drope V. Missouri, 420 U.S. 162, 95 S. Ct. 896, 43 L. Ed. 2d 163 (1975) . . .	5
Pate V. Robinson, 383 U.S. 375, 86 S. Ct. 836, 15 L. Ed. 2d 845 (1966) . . .	5
House V. State, 754 So. 2d 1149, 1152 (Miss. 1999)	5
Hannah V. State, 943 So. 2d 20 (2006)	6
Boykin V. Alabama, 395 U.S. 238, 89 S. Ct. 1709, 1711-12, 123 L. Ed. 274 (1969)	6
Dusky V. United States, 362 U.S. 402, 402, 80 S. Ct. 788, 4 L. Ed. 2d 824 (1960)	6
Harper V. Parker, 177 F.3d 369-59 (6th Cir. 1999)	7
United States V. Denkins, 367 F.3d 337, 345-46 (6th Cir. 2004)	7
Miller-El V. Cockrell, 537 U.S. 322, 329 (2003)	7

STATUTES AND RULES

Rule 60 (b) (4)	5
Rule 12.2 (2) (b)	5
Rule 9.06, 909	5
Rule 18 U.S.C. 4241 (2)	7
Rule 44. (2)	i, ii, 10
Amendments 3, 6, 14, 26	3

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR Rehearing. under Rule. 44.(2)

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 B 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 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 Denied, U.S. Supreme court court appears at Appendix E 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 April 27, 2020

☐ 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 4/27/20.
A copy of that decision appears at Appendix 2.

☐ 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 states Plea deal thereby Violating Petitioner Jones' 3rd, 6th and 14th 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 6th and 14th Amendment.

STATEMENT OF THE CASE

In 2004, Petitioner, Victor Newaine 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.

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 Battery 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

Petitioner truly believes that if the United States Supreme Court would have properly reviewed his writ of certiorari, the court would have granted Petitioner's Petition for writ of certiorari.

Petitioner has fully demonstrated to the Hon. Court that he deserves a chance to be heard by a Panel, and fully understands that only 1% of cases that are filed each term are being heard by the United States Supreme Court. But any Petitioner filing Pro-se.

And the court should understand when any lower court has abused their discretion in Pleas or Trial like cases. Petitioner's level of awareness and understanding during "colloquy" is unclear. Petitioner had been in special education classes his entire life.

Psychologist from many institutions has evaluated Petitioner his entire childhood up until now. (mentally incompetent) this did render a void decision Rule 60(b)(4) because Petitioner never received a mental evaluation or competence hearing. according to state and federal laws, Rule 12.2 includes standards provided in former Rules 9.06 and 9.07 of the uniform Rules of Circuit and county court. The determination of the defendant's mental competency should be made at the earliest practicable date. The United States Supreme Court has held that the failure to make a determination of competency.

When there are "Reasonable Grounds" to doubt such is Fundamental Constitutional error, see Drope v. Missouri, 420 U.S. 162, 95 S.Ct. 896, 43 L.Ed.2d 103 (1975), Pate v. Robinson, 383 U.S. 375, 86 S.Ct. 836, 15 L.Ed.2d 815 (1966). See also House v. State, 754 So.2d 1147, 1132 (Miss. 1999).

under Rule 12.2, sections (A and B) makes it clear that the determination of the defendant's competency to stand trial or at a Plea hearing is separate

and distinct from the determination of the defendant's sanity at the time of the offence. See (Exhibits on all Petitioner's mental evaluations from 1980 until now). An examination to investigate competency may be combined with an examination to investigate the defendant's sanity, at the time of the offence.

Provided that the Judicial order makes a clear distinction between the two purposes for evaluation to ensure that the correct legal criteria's are applied.

The United States Supreme Court found in Hannah v. State, 943 So.2d 20 (2006), that a Plea could not be Voluntary in the sense that it constituted an intelligent admission. Petitioner did not meet this common sense standard. See Exhibit's

A guilty Plea is more like a confession which admits that the accused did various acts, it is in its self a conviction. Nothing else remains but to give judgment and determine Punishment. Boykin v. Alabama, 395 U.S. 238, 242, 89 S. Ct. 1709, 1711-12, 23 L.2d 274 (1969). Ignorance, incomprehension, coercion, terror or other inducements, Both subtle and Blatant threaten the constitutionality of a guilty Plea. Citing (Boykin).

The United States Supreme Court held in Dusky v. United States, 362 U.S. 402, 402, 80 S. Ct. 788, 4 L. Ed. 2d 824 (1960). Focusing on the ability to comprehend and understand, rather than on Petitioner's Physical limitations Congress has made clear that a court (circuit or county etc) "shall grant" a motion by the Petitioner or the government requesting a hearing to, determine the mental competency of the Petitioner.

The Supreme Court "never" even considered Petitioner's Writ of Certiorari that Fully showed that Petitioner was Fully incompetent to understand and

Judicial Proceedings see Exhibit if there is reasonable cause to believe that the defendant may Presently be suffering From a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the Proceedings against him, or to assist Properly in his defense. 18 U.S.C. § 4241 (2) -

The court must weigh these options and consider all possible, avenues to assist Petitioner in his mental state see Harper v. Parker, 177 F.3d 362, 371 (6th cir 1999), But statute 18 U.S.C. § 4241 (2) that once and court Finds such Reasonable cause that Petitioner is incompetent, it "shall" grant a request for a competency hearing. United States v. Denkins 367 F.3d 337, 345-46 (6th cir 2004), the government has mandated his order under section § 4241 (2) a mandatory ("shall order") -

Petitioner relies upon this court for a Rehearing on all said issues, and the Supreme court should have Acknowledged Petitioner's writ of certiorari. Because it is a grave Due Process Violation and needs to be addressed, or a competency hearing given, to establish Petitioner's mental state.

Petitioner has Fully Demonstrated that all error's that took Place at his hearing actually had a adverse effect on his case and are adequet to deserve encourgment to Proceed Futher. And that the United State Supreme court should grant Petitioner Jones his Rehearing or Vacate this conviction or grant his competency Hearing, or another relief sought.

See Miller-El v. Cockell, 537 U.S. 322-329 (2003) Pages No: 1-30

This, the 18th day of June 2020.

Victor Newayne Jones
No 81756

Petitioner:

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 **Rehearing** should be granted.

Respectfully submitted,

Victor D. Jones

Date: 6/18/ 2020