

ORIGINAL

19-8476

Supreme Court, U.S.
FILED

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In the
Supreme Court of the United States

Robert Roland Yerton, Jr. - Petitioner

VS

Oklahoma Court of Criminal Appeals-Respondent

On Petition for a Writ of Certiorari to
the Oklahoma Court of Criminal Appeals

Petition for Writ of Certiorari

Robert Roland Yerton, Jr.

OK DOC # 663423 AN-149

Cimarron Correctional Facility

3200 South Kings Highway

Cushing, OK 74023

Question Presented

Whether the Oklahoma Court of Criminal Appeals erred in their original 1-3-2020, and subsequent 3-13-2020 request for rehearing, decision to refuse jurisdiction of his appeal from his 7-23-19 Tulsa County Post Conviction Relief motion.

List of Parties

All parties appear in the
caption of the case on the cover
page

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Index of Appendicies

Appendix A	Oklahoma Court of Criminal Appeals PC-2019-925 Motion for Appeal
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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 judgement below.

OPINIONS BELOW

For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix B

The opinion of The Tulsa County District Court appears at Appendix C

Jurisdiction

For cases from state courts:

The date on which the highest state court decided my case was 1-3-20. A copy of that decision appears at Appendix B

A timely petition for rehearing was thereafter denied on the following date: 3-18-20, and a copy of the order denying rehearing appears at Appendix D.

Table of Authorities Cited

Cases

Page Number

Baldyague v. US,	338 F.3d 145
Calindo v. Warden,	365 F.3d 691
Cassett v. Stewart,	406 F.3d 614
Foster v. Barbour,	613 F.2d 590
Galindo v. Johnson,	19 F. Supp. 2d 697
Harris v. Reed,	109 S.ct. 1038
Holland v. Florida,	130 S.ct 2549
Jackson v. Virginia,	(1979)
Massand v. U.S.,	123 S.ct 1690
Rompilla v. Beard,	125 S.ct 2456
Taylor v. Maddox,	366 F.3d 933
U.S. v. Mitchell	F.3d 235
Waldron v. Jackson,	348 F. Supp. 2d 877
Wiggins v. Smith,	123 S.ct 2527

Statutes

U.S. Constitution Amendment V
U.S. Constitution Amendment XIV
28 USC 2244, 2254

Statement of Case

Petitioner Robert Roland Yerton, Jr., a state prisoner proceeding Pro se, appeals the Ruling of the Oklahoma Court of Criminal Appeals holding that they Decline Jurisdiction.

Acting Pro se, the Petitioner filed for Post Conviction Relief in Tulsa County District Court on 7-23-19. That Petition was dismissed on 10-9-19.

Again, acting Pro se, the Petitioner filed PC-2019-925 on 12-16-19 with the Oklahoma Court of Criminal Appeals requesting relief. That appeal was answered with an Order Declining Jurisdiction on 1-3-20 because the Petitioner failed to include a certified copy of the District Court order denying the request for relief.

Acting Pro se, the Petitioner then filed a Petition to Assume Jurisdiction and Rehearing on 3-13-2020. 4

On 3-24-20 the Petitioner received his Petition back in the mail with a printed out "Rule 5.5²² response.

The Pro se Petitioner asserts that Certiorari is needed to resolve questions of exceptional importance which he believes have been overlooked by the Tulsa County District Court and the Oklahoma Court of Criminal Appeals. His Post Conviction Relief was an attempt to remedy the issues that this Honorable Court directed him to do in its 3-18-19 ruling in 18-7322 and a new issue revolving around the withholding of exculpatory evidence by lead detective Diana Baughman of the Tulsa Police Department (see Appendix A page(s) 16-21 and Appendix A page(s) 37.)

Reasons for Granting the Petition

This Pro se Petitioner moves this honorable court to overrule the Oklahoma Court of Criminal Appeals (OCCA) 1-3-2020 Order Declining Jurisdiction and allow the petitioner the opportunity to go forward.

Plain error relief and review is on point and Petitioner moves for same. USCA 5, 14; 28 USC 224; 28 USC 2245; Baldyague v. US, 338 F.3d 145.

The Petitioner moves the court to overturn the OCCA's Order to Decline Jurisdiction and direct said Court to rule on his Appeal for Post Conviction Relief based on the arguments that were presented there-in (see Appendix A). The Petitioner moves the court to direct the OCCA to rule on the issues presented due to the prejudicial impact

on the jury, which was high and severe, with passion, against the Petitioner Harris v. Reed, 109 S.Ct. 1038; Massand v. U.S., 123 S.Ct 1690.

Due to the possible non-disclosure of exculpatory evidence by Tulsa Police Department Diana Baumann^①, as well as the other three issues raised in the 7-23-19 Post Conviction Relief and subsequent appeal (PC-2019-925), the Petitioner asks for relief. These four issues were a deployment needed by the prosecution to prejudice, with passion, the jury against the accused. When such prejudicial impact enters the jury they cannot disregard it. The only remedy to cure this error is a reversal for a new trial. The Petitioner ask for the same pursuant to 28 USC 2254; USCA 5, 14;

① see <https://www.tulsaworld.com/news/local/crime-and-courts/error-in-investigation-process-caused-delay-in-discovery-of-witness/article>

which should include, but is not limited to prior lawsuits, guilty pleas of another, signs of guilt from outside sources, and "diversions of the jury" U.S. v. Mitchell 1F.3d 235 which is in the proper perspective for review before this court's bar Foster v. Barbour, 613 F.2d 590; Cassett v. Stewart, 406 F.3d 614.

The Petitioner submits to the court that the limited testimonial non-hearsay statements presented by his son, Brandon Yerton-Henderson, Antonio Paquette, and Bella Mendoza, was insufficient to sustain the jury's verdict of guilty beyond a reasonable doubt Jackson v. Virginia, 443 US 307, 318-319, 99 S.Ct 2781, 61 L. Ed. 2d 560, 573 (1979). Furthermore, the refusal of TPD detective Baumann to bring her master files with her to court and her refusal to comply with her correctly served subpoena duces tecum created prejudice and bias against the

Petitioner. The Petitioner asks this court to determine whether any rational jury, viewing the evidence in the light most favorable to the prosecution, could have found the defendant guilty beyond a reasonable doubt.

The Petitioner moves the court for Pro se leniency, Pro se special privileges, liberal construmts to special treatment, and that this court not hold his actions or inactions to "too rigid a standard" Holland v. Florida, 130 S.Ct. 2549.

The Petitioner also asserts that a Pro Se party is "unable to protect his interest, which demands that counsel be appointed" Waldron v. Jackson, 348 F. Supp. 2d 877; Galindo v. Johnson, 19 F. Supp. 2d 697; Taylor v. Maddox, 366 F.3d 933.

Conclusion

For as stated herein above, the Petitioner submits to the court that his case should go forward. Post Conviction Relief was, and is, proper and appropriate due to all the aforesaid: prejudice, unfairness, miscarriage of justice, cause and prejudice, and Constitutional violations. Petitioner asks for relief pursuant to 28 USC 2244; 28 USC 2254; USCA 5, 14; 28 USC 2254(b)(1); (d)(1); (d)(2); (e)(1); (e)(2)(A); (2)(B), for counsel to be appointed Taylor v. Maddox, 366 F.3d 993, and for relief due to ineffective assistance of counsel Wiggins v. Smith, 123 S.Ct 2527; Rompilla v. Beard, 125 S.Ct 2456; Caliendo v. Warden, 365 F.3d 691.

Petitioner moves this court to grant Post Conviction Relief, direct the OCCA to accept jurisdiction on his PC-19-925 12-16-19 Appeal, or grant other relief deemed necessary.

Note to the Court: I was in transport detention at James Crabtree C.C. from 1-2-20 thru 2-1-20. I arrived at Cimarron Corr. Facility on 2-1-20. Our facility has been on Corona Virus quarantine-lockdown from 4-5-20 to the current day. I have had limited and then no access to law library resources, but was informed that all "deadlines" have been extended.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert Yerton Jr

Date: April 30, 2020

Verification Affidavit
and Certificate of Mailing

I swear under penalty of the laws of the State of Oklahoma, that the foregoing is true and correct, to the best of my belief and knowledge 12 O.S. 426

I affirm under the penalty of perjury that I placed this Writ of Certiorari with first-class postage prepaid into the USPS, addressed to the United States Supreme Court, Washington, DC 20543-001 on April 30, 2020

Robert Roland Yerton Jr
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