

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C. 20543

JERRELL BERGER, PRO SE — PETITIONER  
(Your Name)

vs.

STEVE C. JONES, JUDGE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE  
ELEVENTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

JERRELL BERGER, PRO SE  
(Your Name)

JENKINS CORRECTIONAL CENTER  
3404 KENT FARM DRIVE  
(Address)

MILLEN, GEORGIA 30442  
(City, State, Zip Code)

N/A  
(Phone Number)

## QUESTION(S) PRESENTED

My trial counsel was ineffective for failing to make court aware of two charges that had been severed in my case and granted by trial judge, this case also involve the sentencing guideline for my charges; one charge of murder carries the three sentences of life, life without or death. The Eleventh Circuit is clearly in conflict with Strickland v. Washington, this court should examine my case and make a lawful decision.

## 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:

1. STEVE C. JONES, Magistrate Judge
2. CATHERINE M. SALINAS, Magistrate Judge
3. ELIZABETH L. BRANCH, Circuit Judge
4. JILL PRYOR, ANDERSON AND MARCUS, Circuit Judges
5. ROBERT Z ADAMS, WARDEN - JENKIN CORR. CTR.

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## TABLE OF AUTHORITIES CITED

### CASES

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| HAYWARD V. DANFORTH                                                |  |
| HUMPHREY V. STATE, 297 GA. 349, 773 S.E. 2d 760 (2015)             |  |
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| TERRY V. HAMRICK, 284 GA. 24 (2008)                                |  |
| PETREZ V. STATE, 254 GA. App. 872, 873 (1) (564 S.E. 2d 208) 2008. |  |

### STATUTES AND RULES

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| 28 U.S.C. 1257 (a)                                 |  |
| 28 U.S.C. 1254                                     |  |
| 28 U.S.C. 2254                                     |  |
| U.S. CONST. AMEND. VI                              |  |
| U.S. CONST. AMEND. XIV                             |  |
| GA. CONST. of 1983, Art. IV, SEC. 11, PAR. 11 (A). |  |

### 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 Eleventh Circuit court 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.

## 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 JAN. 23, 2020.  
A copy of that decision appears at Appendix E.

☒ A timely petition for rehearing was thereafter denied on the following date: JAN. 23, 2020, and a copy of the order denying rehearing appears at Appendix E.

☐ 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 following statutory AND constitutional provision ARE INVOLVED IN THIS CASE.

### U.S. CONST., AMEND. VI

IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW; AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM; TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE.

### U.S. CONST., AMEND. XIV

SECTION 1. ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

### 28 U.S.C. 2254

THE SUPREME COURT, A JUSTICE THEREOF, A CIRCUIT JUDGE, OR A DISTRICT COURT SHALL ENTERTAIN AN APPLICATION FOR A WRIT OF HABEAS CORPUS IN BEHALF OF A PERSON IN CUSTODY PURSUANT TO THE JUDGMENT OF A STATE COURT ONLY ON THE GROUND THAT HE IS IN CUSTODY IN VIOLATION OF THE CONSTITUTION OR LAWS OR TREATIES OF THE UNITED STATES.



## STATEMENT OF THE CASE

I WAS CONVICTED FOR MURDER AT MY SENTENCING HEARING ON October 31, 2017 WHERE I PLEA GUILTY UNDER O.C.G.A. 17-10-6.1 (E), BUT HAD NO IDEA I WAS PAROLING TO A UNPAROLABLE SENTENCE OF THIRTY (30) YEARS FOR MURDER, I PLEA GUILTY UNDER MUCH PRESSURE FROM MY ATTORNEY AND A ATTORNEY THAT MY ATTORNEY JOINED US AS HIS ASSISTANCE, THIS ASSISTANCE ATTORNEY WAS ON MY CASE FOR ONLY TWO (2) DAYS AND ONLY PRESSURED ME TO PLEA OUT INSTEAD OF GOING TO TRIAL, I CAN ONLY EXPLAIN TO THIS COURT THAT I WOULD HAVE GONE TO TRIAL INSTEAD OF PLEADING TO THIS HARSH SENTENCE WITHOUT PAROLE, THE TWO PRONG DECISION CONCERNING STRICKLAND V. WASHINGTON, 466 U.S. 668, 687-88 (1984) WAS VIOLATED, ALSO VARIOUS AMENDMENTS OF FIFTH AMENDMENT AND SIXTH AMENDMENT ALSO SEVENTH AMENDMENT. A MOTION FOR SEVERANCE WAS FILED IN MY CASE BEFORE MY SENTENCING PHASE AND WAS GRANTED BY THE JUDGE WITH AN ORDER BUT THE CHARGES WAS NOT REDACTED OFF MY INDICTMENT AND THE JUDGE SENTENCED ME ON THE CHARGES THAT HAD NOTHING TO DO WITH OTHER CHARGES ON INDICTMENT THEY HAPPENED AT DIFFERENT TIMES AND DIFFERENT DATES, I FILED A HABEAS CORPUS AND WAS DENIED BY DISTRICT COURT, I WAS GRANTED A CERTIFICATE OF APPEALABILITY ON THE ISSUE PRESENTED IN THE PETITION, HOWEVER, THE ELEVENTH CIRCUIT DENIED RELIEF, THEREFORE, I ASK THIS COURT TO WEIGH ALL EVIDENCE IN MY CASE AND MAKE A LAWFULLY DECISION.

## REASONS FOR GRANTING THE PETITION

THE ELEVENTH CIRCUIT MISAPPLICATION OF THE PREJUDICE STANDARD OF STRICKLAND WARRANTS THIS COURT'S ATTENTION, THE ELEVENTH CIRCUIT'S OPINION MISAPPLIED THE STRICKLAND V. WASHINGTON, 466 U.S. 668, 687-88 (1984), TEST FOR PREJUDICE IN TWO IMPORTANT WAYS. FIRST, THE COURT FLAGRANTLY MISSTATED THE TWO PRONG PROCEDURE OF MY ATTORNEY FOR INEFFECTIVE ASSISTANCE OF COUNSEL BY NOT OBJECTING TO PROSECUTOR FOR SEVERANCE OF TWO(2) CHARGES IN MY INDICTMENT, AND SECOND, DID NOT OBJECT TO UNLAWFUL AND VOID SENTENCE FOR MURDER WHICH ONLY CARRIES A LIFE, LIFE WITHOUT PAROLE OR DEATH SENTENCE, INSTEAD MY ATTORNEY ALLOWED ME TO BE SENTENCED TO AN UNLAWFUL AND VOID SENTENCE LIKE THE CASE OF HUMPHREY V. STATE, 297 GA. 349, 773 S.E. 2d 760 (2015).

THESE CASES ILLUSTRATE THE FACT THAT THE ELEVENTH CIRCUIT COURT OF APPEALS IS OUT OF STEP WITH THIS COURT AND WITH OTHER CIRCUITS IN ITS CONSIDERATION OF THE STRICKLAND V. WASHINGTON, 466 U.S. 668, 687-88 (1984), PREJUDICE PRONG.

CERTIORARI SHOULD BE GRANTED TO CORRECT THIS ERROR.

## Conclusion

For these reasons, A Writ of Certiorari should issue to review the judgment and opinion of the Eleventh Circuit Court of Appeals.

Respectfully submitted,

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March 30, 2020