

19-8718

No. 18-2288

5-1

JUN 6 2

OFFICE OF THE

IN THE

SUPREME COURT OF THE UNITED STATES

Second Circuit

JAMES MILLER — PETITIONER
(Your Name)

vs.

Superintendent of Sing Sing RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, Second Circuit

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

PETITION FOR WRIT OF CERTIORARI

JAMES MILLER
(Your Name)

AUBURN CORRECTIONAL FACILITY
(Address)

P.O. Box 618 AUBURN, New York 13024
(City, State, Zip Code)

(Phone Number)

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:

RELATED CASES

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Crawford v. Washington</u> , 541 US 36 (2004)	
<u>Davis v. Washington</u> , 547 US 813 (2006)	
<u>Eze v. Senkowski</u> , 321 F.3d 110 (2d Cir. 2003)	
<u>Harrington v. Richter</u> , 562 US 89 (2011)	
<u>Jimenez v. Walker</u> , 458 F.3d 130 (2d Cir. 2006)	
<u>Johnson v. Williams</u> , 568 US 289 (2013)	
<u>McCleskey v. Zant</u> , 499 US 467 (1991)	

STATUTES AND RULES

US Const, Amend Vi

28 U.S.C. 2254

N.Y. Criminal Procedure Law §440.10

N.Y. Criminal Procedure Law §470.05

N.Y. Penal Law §140.25[2]

N.Y. Penal Law §155.30[2]

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[] is unpublished.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[] is unpublished.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 _____ 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[] is unpublished.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[] is unpublished.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 March 12, 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 _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: April 27, 2020, 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

The Appellant's trial counsel was constitutionally ineffective for failing to object to the criminalist's testimony that her findings were confirmed by two non-testifying finger print examiners.

The violation of the appellant's right of confrontation warrants the granting of Hebeas relief.

STATEMENT OF THE CASE

On March 30, 2009 at 590 Ocean Ave in Brooklyn, N.Y. defendant entered the Apartment of Jacqueline and Lionel Jean and stole jewerly, watches and approximately \$2,300. in cash belonging to the Jeans, defendant's finger-prints were found inside the armore in the jeans bedroom, the jeans did not know defendant and had not authorized defendant to enter their apartment or take their property for his acts, defendant was charged by Kings County indictment number §4792/09 with burglary in the second degree N.Y. Penal Law §140.20[2] Grand Larceny in the ~~forth~~ degree (N.Y. Penal Law 140.20) Petit Larceny (N.Y. P.L. §155.25) Criminal Trespass in the Second degree (N.Y.P.L. §140.15) Criminal Trespass in the third degree (N.Y.P.L. §140.10);(N.Y.P.L. §140.3)

REASONS FOR GRANTING THE PETITION

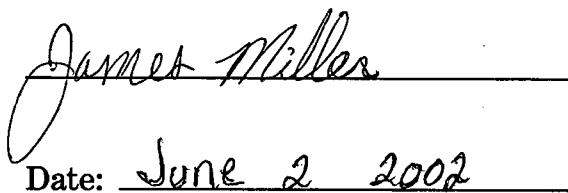
The District Court Judge granted defendant a certificate of appealability on the following issue's:

1]. What is the standard of review for petitioner claim that the procedural default of his confrontation clause claim should be excused by the ineffectiveness of his counsel and; [2] If the standard of review is De Novo was petitioner's counsel constitutionally ineffective for failing to preserve the confrontation clause claim (A-41) Id at (31-32) By order dated December 21, 2018 this court granted in part defendant's motion to expand the certificate of appealability to include the following issue's [3] Was appellant's Sixth Amendment Right to the effecive assistance of counsel violated when his counsel did not seek to preserve a confrontation clause claim and [4] Were appellant's right under the confrontation clause violated by his inability to cross examine certain declarants Miller v. Warden-Superintendent of Sing Sing Correctional Facility No §18-2288 (2d Cir. Dec 21, 18.)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: June 2 2002