

No. 20-5325

ORIGINAL

Supreme Court, U.S.
FILED

JUN 18 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Maurice Woodard — PETITIONER
(Your Name)

vs.

Sec'y Dept. of Corr. et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

~~PETITION FOR WRIT OF CERTIORARI~~

Maurice Woodard DC #124359
(Your Name)

Okeechobee Corr. Inst., 3420 N.E. 168th St.
(Address)

Okeechobee, Fla. 34972
(City, State, Zip Code)

N/A
(Phone Number)

RECEIVED

JUN 29 2020

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1

Where the State postconviction court's assessment of Petitioner's Ineffective Assistance of Counsel claim was "I guess the only potential issue would be to request a Severance." Yet denied the failing to file for Severance ground on the premise that trial counsel says he's not aware of any legal basis to ask for Severance. Should COA issue, where a substantial showing of the denial of Petitioner's constitutional right to confront his accuser, effective assistance of counsel, and denial of due process of law was demonstrated.

2

Where a State Court fails to resolve all claims which constitutes a non-final non-appealable order. Should COA Issue where a federal district court holds that § 1754(d) does not require a state court to give reasons before its decision can be deemed to have been adjudicated on the merits.

3

Pursuant to the unresolved question presented in *McQuiggin v. Perkins*, 133 S.Ct. 1974, 1931 (2013). Can a prisoner be entitled habeas relief based on a freestanding claim of actual Innocence. Although not resolved, the Ninth Circuit Court assumed the position, that a freestanding claim of actual innocence in the non-capital context is viable in a federal habeas corpus proceeding.

Jones v. Taylor, 763 F.3d 1242, 1246 (9th Cir. 2014) and *Morris v. Hill*, 596 Fed. Appx. 590 (9th Cir. 2015)

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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STATUTES AND RULES

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 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 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 Woodard v. State, 147 So. 2d 991 (Fla. 1st DCA 2014); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Second Judicial Circuit court appears at Appendix _____ to the petition and is

- ☐ reported at State v. Woodard CASE No. 2004-CF-3842; 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 20, 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 1-11-13; 8-12-15.
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

U.S. Constitution Amendments 5th, 6th and 14th

Right to Confrontation

Due Process of Law / Actual Innocence

STATEMENT OF THE CASE

After exhausting his claims in state court, Petitioner Maurice Woodard filed his Section 7754 habeas corpus in the Northern District of Florida. Therein Woodard raised six claims, of which claims two, three and four have been abandoned. And the following claims remain: (1) Denial of Effective Assistance of Counsel in Violation of Sixth and Fourteenth Amendment. Counsel failed to conduct an adequate pre-trial investigation, interview and depose Terrell Powell, Derrick Holmes, and Gary Denson, and failure to move to suppress unlawfully seized evidence; (5) Counsel failed to object to co-defendant's counsel's inappropriate final argument, failure to move for a mistrial and failure to move for severance; (6) Whether Trial Court Erred in Denying Postconviction Relief After State Witness who Identified Defendant as a Masked Car-jacker in 1986 Recanted, stating that he lied when identifying Defendant, Whether Defendant Presents a Claim of "Actual Innocence" Based on Newly Discovered Evidence by Recantation of Co-defendant.

On August 26, 2019 the District Court denied habeas relief and certificate of appealability (Appendix " "). Subsequently Petitioner sought COA in the 11th Circuit Court of Appeal. At which was denied on March 20, 2020 (Appendix " "). Therein, Petitioner contended: (1) Reasonable Jurist could debate whether District Court properly denied Subclaim 1-B and 1-D i.e. (Failure to Investigate Terrell Powell and Derrick Holmes) where they were not resolved by state court, constituting a nonfinal/nonappealable order; (2) Reasonable Jurist could differ whether the District Court properly denied Subclaim concerning Counsel's failure to move for severance due to co-defendant's counsel's closing argument, and (3) Reasonable Jurist could differ as to whether the District Court correctly determined that Appellant failed to make the requisite showing of "Actual Innocence" to merit further proceedings on the issue.

REASONS FOR GRANTING THE PETITION

To determine whether COA should issue on the question concerning "The Supreme Court has not resolved whether a prisoner may be entitled to habeas relief based on a freestanding claim of actual innocence." *McQuiggin v. Perkins* 133 S.Ct. 1914, 1931 (2013); *Jones v. Taylor*, 763 F.2d 1247, 1246 (9th Cir. 2014); *Morris v. Hill*, 596 Fed.Appx. 510 (9th Cir. 2015) also *Magluta v. United States*, 660 Fed.Appx. 903, 907 (11th Cir. 2016).

To determine whether COA should issue where petitioner's sub-claims were not but should have been dismissed without prejudice for petitioner to exhaust his state court postconviction claims.

To determine whether COA should issue where petitioner a substantial showing of the denial of his right to confrontation during closing argument in violation of *Bruton v. United States* 391 U.S. 123, 126 (1968).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be "Michael", written over a horizontal line.

Date: 6/18/2020