20-5520

No. _____

ORIGINAL

Supreme Court, U.S.
FILED
AUG 11 2020
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL WILLIAMSON — PETITIONER
(Your Name)

vs.

HAROLD MAY — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES SIXTH CIRCUIT COURT OF APPEALS, DENIAL OF C.O.A.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael Williamson
(Your Name)

Richland Correctional Inst. 1001 Olivesburg Rd.
(Address)

Mansfield OH 44901
(City, State, Zip Code)

Unknown
(Phone Number)

QUESTION(S) PRESENTED

1) Was Michael Williamson afforded a fair trial and right to confront his accusers or right to witnesses in his favor when the trial court excluded Logan Blakely and Michael Williamson Jr. as witnesses after admitting prejudicial out of court hearsay statements from Sally Weindorf? **California v. Green**, 399 U.S. 149; **In re Murchison**, 349 U.S. 133.

2) Was Michael Williamson afforded a fair trial and right to witnesses in his favor when the trial court excluded the admitted offender, Mark Neiswonger, from testifying at trial? **Washington v. Texas**, 388 U.S. 14, 19 (1967); **Chambers v. Mississippi**, 420 U.S. 284, 302 (1973); **Brady v. Maryland**, 373 U.S. 83; **In re Murchison**, 349 U.S. 133.

3) Did the carbon-copy, duplicious 12 count indictment deny Michael Williamson a fair trial and protection from double jeopardy? And does the denial of the district and circuit courts' conflict with **Valentine v. Konteh**, 395 F. 3d 626 (6th Cir. 2005)?

LIST OF PARTIES

[X] 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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TABLE OF AUTHORITIES CITED

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

[X] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[X] reported at Williamson v. May, 2020 U.S. App.LEXIS 21604; 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[ ] is unpublished.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 B to the petition and is

[X] reported at Williamson v. May, 2020 U.S. Dist. LEXIS 27216; 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

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was July 10, 2020.

[X] 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: _____, 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

PAGE

Constitutional Provisions (in relevant part)

Fifth Amendment: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of a Grand Jury,...; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; ..., nor be deprived of life, liberty, or property, without due process of law; ... passim

Sixth Amendment: In all criminal prosecutions, the accused shall enjoy the right to a spedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been 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; ... passim

Fourteenth Amendment: 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. ... passim

State Statutory Provision: Appendix A

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED (con't)

STATEMENT OF THE CASE

On April 20, 2000, Michael Williamson was arrested for the alleged rape of his step-daughter, Larissa Bakley. Police seized numerous items from Williamson's household, claiming his semen to be on the items per the statement of the step-daughter. Williamson, confused and shocked by the events, proclaimed his innocence.

On May 7, 2000 the Grand Jury of Cuyahoga County, Ohio, indicted Williamson on 12 carbon-copy, duplicious counts of rape, O.R.C. 2907.02, with the specification that the alleged victim was under 13 years of age. Williamson plead not guilty to all counts and was subsequently released on a 10% of $15,000 dollar bond.

Pending trial, numerous events occurred that pointed to Williamson's actual innocence. All bedding and clothing confiscated by the State tested negative for Williamson's DNA. However, when this little inconvenience for the State arose the State claimed Williamson had transmitted clamydia to his step-daughter - the step-daughter was then treated with clamydis medication. Upon being informed of this alleged development, Williamson was ordered by the trial judge to submit to the excruciatingly painful STD test at a lab appointed by the Court. Williamson tested negative for any sexually transmitted disease. After this stick was thrown in the State's spokes the State then claimed that the step-daughter merely had a yeast infection and was misdiagnosed - it is unfortunate, however, that it was never established whether or not clamydia medication also cure yeast infections (please, also, keep this in mind as the State then switched their case to only felatio). Additionally, it became known that the step-daughter recanted her accusations to her younger siblings, Logan Blakely and Michael Williamson Jr..

A couple of pretrial hearings subsequently took place. At one inparticular, the trial court guarenteed Williamson that if he pled guilty, even to multiple

counts, the court would impose no more than seven years, concurrent. Being innocent, Williamson rejected the State's and the court's offer. Williamson's trial began on December 17, 2001.

At trial the State presented several hearsay witnesses, none of which submitted consistent testimony to the alleged events or physical evidence that should have existed. The State also called Larissa Blakely to testify to her alleged victimization.

The defense likewise called several witnesses to rebut the State. Three witnesses for the defense were excluded by the trial court, Logan Blakely and Michael Williamson Jr. - whom Larissa Blakely recanted to - and Mark Neiswonger whom confessed under oath to the alleged rapes, and whom admitted to coercing Larissa Blakely into accusing Williamson in order to "get rid of him," as Larissa Blakely did not like her step-father.

On December 21, 2001, the jury returned a verdict of guilty on all counts. On January 29, 2002, the trial court imposed a sentence of 12 consecutive life terms. An extensive procedural history on appeals proceeded, all of which may be found in Appendix - **A** and **B**.

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REASONS FOR GRANTING THE PETITION

As To The First Question Presented

"The right to compel a witness' presence in the courtroom could not protect the integrity of the adversary process if it did not embrace the right to have witness' testimony heard by the trier of fact. The right to offer testimony is thus grounded in the Sixth Amendment even though it is not expressly described in so many words: The right to offer testimony of witnesses, and to compel their attendance, if necessary, is in plain terms the right to present a defense, the right to present the defendant's version of the facts as well as the prosecution's to the jury so it may decide where the truth lies. Just as an accused has the right to confront the prosecutions witness for the purpose of challenging their testimony, he has the right to present his own witnesses to establish a defense. This right is a fundamental element of due process of law." **Washington v. Texas**, 388 U.S. 14, 19 (1967); accord, **Crawford v. Washington**, 541, U.S. 36; **California v. Green**, 399 U.S. 149 (The court concluded that because the declarant was testifying as a witness and subject to full and effective cross-examination, admitting his out-of-court statement did not violate the Sixth Amendment).

As with the Neiswonger affair, the trial court consistently would not allow a defense witness to testify that the prosecution couldn't demean their credibility, hence the exclusion of Logan Blakely and Williamson Jr.. Where Sally Weindorff repeatedly made hearsay statements as to alleged physical abuse within the home, Blakely and Williamson Jr. very well would have given testimony contrary to Weindorff's testimony. Just as Rachell Williamson's testimony did, and as all defense witnesses did, which is why after an unrecorded in chambers meeting with these boys, the trial court deemed their defense testimony "irrelevant." How convenient? One can only speculate how fatal to the prosecution it would have been for the two boys to further testify that the

statements Sally Weindorff testified about were false. Sure, the government can make their case, as they did, by attacking the credibility of adult witnesses who denied making the statements Sally Weindorff said those witnesses made. But, for the prosecution to be forced to attack the credibility of Larissa Blakely's siblings would have proven fatal to the prosecution and trial court's pre-determined and intended result of guilt.

The principles of the confrontation clause and fundamental fairness exclude hearsay for this very reason. To admit statements to condemn, but exclude those that exonerate spits in the face of the constitution and expose the futile sham of our trials in this country. An alleged victims accusation made to another person should be treated no differently than the alleged victim's recantation to another person.

The conclusion by judge Manos and adopted by judge Helmich and McKeague that "... the trial court's refusal to permit Williamson to call the victim's brothers to testify did not violate Williamsons rights under the Confrantation Clause because trial counsel intended to call the brothers as witnesses in order to impeach the victims credibility, not to confront them about any statements they made" (Doc.#: 46, p. 16), is a completely unfounded conclusion that is unsupported by the record. And, assuming, arguendo, that this speculative conclusion was correct (which it's not), even if a partial purpose was to impeach the alleged victim it would be the duty of the prosecution to raise proper objections to the impeachment and not for the habeas court to protect the State on what it perceives the testimony's purpose was. The constitution is to protect the defendant, not the government.

Further, judge McKeague asserts that the testimony of Teresa Williamson and Racheal Williamson, Williamson's [cousin], about acts of alleged domestic violence does not support a violation of the confrontation clause because these

accusations support Weindorff's submitted hearsay. However, this finding is in error due to the fact that these allegations were from isolated incidents-such that every person has-and not a pattern of familial abuse perpetrated by Williamson as the admitted hearsay sought to establish. In fact, Rachell Williamson and Teresa Williamson denied any allegations of on-going domestic abuse by Williamson as Weindorff testified to.

Judge McKeague's adoption of Judge Manos and Helmick's findings fail based on the opinion that "Williamson failed to show he was denied due process because he could not show the 'challenged' statements were improperly admitted or were 'irrelevant' to the main issues in the case." This is because 1) Weindorff's hearsay statements were never "challenged" by Logan Blakely or Williamson Jr.s testimony. This finding lacks any factual basis. And, 2) the question of Weindorff's testimony was not of "irrlelvance" but its relevance to the issue of force by on-going parental abuse which could not be challenged by the exclusion of Logan Blakely and Williamson Jr.'s testimony, the evidence was prejudicial, and the outcome determinativeness of the element of force was not established in compliance with due process.

Judge Helmick and McKeague did not assess the prejudice inherent in the denial of confrontation to the testimonial out-of-court statements of Logan Blakely and Williamson Jr.'s testimony, nor the benefit of having witnesses in one's favor. The foundational protections guarenteed by the 6th and 14th Amendments have never been so manifestly violated as to create a mockery of justice than in this case. Upholding such trials extends tyranny beyond the scope of a single man, but shall spread like wild fire upon the tinder of droughted lands.

As To The Second Question Presented

I. There has consistently been a grossly manipulated factual basis adopted by the Court's pertaining to the Neiswonger confession, most recently being judge Helmick's finding that "[t]he most Neiswonger might have been able to say was that he never witnessed Williamson assault the victim." Doc.#: 46, p. 18. Although such testimony would likely have been adduced, as the trial transcripts and written confession reveal there would have been much more evidence sufficient to create reasonable doubt as to Williamson's alleged guilt had Neiswonger's testimony not been arbitrarily excluded. Neiswonger would have more likely than not exonerated Williamson. Williamson's convictions are against the dicates of the constitutional due process guarentee of a fair and just trial. A jury was best suited to handle the Neiswonger confession as the trier of fact. **Herrera v. Collins**, 506 U.S. 390, 400 (1993).

II. The problem that **Brady** poses is its perceived limitations requiring disclosure of favorable evidence being confined only to the government's factual representative, i.e., a prosecutor, when convenient. However, if an undisclosed document is sitting in the desk of a cop, that is favorable to a defendant, and later discovered, that document is Brady material because an agent of the government had control over the document. Judge Daniel Gaul, a government employee and elected official, had control over Neiswonger, suppressed from the jury testimonial evidence he knew would undermine the validity of a guilty verdict or result in a hung jury, and more likely than not would have resulted in Williamson's acquittal. The testimony of Neiswonger would have been so clearly supportive of Williamson's innocence that no jury would have convicted him. **U.S. v. Clark**, 988 F. 2d 1459, 1467 (6th Cir. 1993); **U.S. v. Bagley**, 473 U.S. 667; and **Giglio v. U.S.**, 405 U.S. 150. This Court is asked to extend **Brady v. Maryland**, 373 U.S. 83 (1963) to trial judges who unconstitutionally exclude

favorable evidence that is outcome determinative when that judge controls the evidence as judges are public employees in service of the government.

III. Trial transcript pages 736-751 demonstrates the arbitrary and vile prosecutorial stance the now self recused judge Daniel Gaul held during the trial against Williamson. It is clear from the face of these documents that if you are a defendant in Gaul's courtroom, and you present witnesses that oppose the State's case, or if a witness comes forward to tell the jury that the wrong man is going to go to prison, then judge Gaul will accuse you and your tenured, well-respected defense counsel of manipulating the tribunal and threaten everyone with imprisonment.

It is also clear that if you're a defense attorney that believes in your clients innocence, judge Gaul will belittle and admonish you like a child during the course of discussion, presenting himself as a sort of God:

> **The Court:** Just a minute, John. When I talk I want you to remain silent. I don't want your speeches. I've heard enough speeches from you on this case to last a lifetime. Okay?

Judge Gaul's vile attitude didn't stop there. After intimidating defense counsel Gill to the point of withdrawing Neiswonger as a witness, Mr. Gill politely states and judge Gaul responds:

> **Mr. Gill:** Your honor, in talking it over with Michael an understanding of the position, he says it would be all right to withdraw him as a witness.
>
> **The Court:** Oh, Michael is controlling the proceedings then? (tr. 749).

Williamson contends, as the record reflects, that at no point during the discussion from tr, 736-751, regarding Neiswonger, did Williamson ever confer with counsel about withdrawing Neiswonger as a witness. Counsel Gill was simply shaken to his core by judge Gaul's threats and so scared that Williamson's

acquittal would result in himself never "breathing another day of fresh air" (tr. 751) that counsel Gill withdrew Neiswonger. If this honorable Court reviews this issue it will find that the impeachment on a collateral matter, which is the holding based on state evidentiary rules, fails. And that the exclusion of Neiswonger's proported testimony was solely based on the misconduct of the trial judge who intimidated defense counsel Gill into withdrawing an exculpatory witness that is violative of the due process right to a fair and impartial tribunal and the effective assistance of counsel as set forth in the standards in **In re Murchison**, 349 U.S. 136 and **Strickland v. Washington**, 446 U.S. 668.

As To The Third Question Presented

In the context of carbon-copy indictments, Williamson's and Michael Valentine's, in **Valentine v. Konteh**, 395 F. 3d 626 (6th Cir. 2005), couldn't mirror each other any better. In fact, these indictments were both out of Cuyahoga County, Ohio and issued by the same prosecutor, and present all the same constitutional questions Valentine did. That is, are indistinguishable carbon-copy, duplicious indictments constitutional? The district Court and the Sixth Circuit Courts' have both said, "no", however, this constitutional protection is being denied to Williamson.

Although Williamson submits that there was no evidence to convict him of a single count of rape, there certainly wasn't enough information, testimony, or diliniation to satisfy the additional 11 counts short of an estimation of "40 times," that Valentine also condemns. The issue of a carbon-copy, duplicious indictment is the same and therefore, the same relief should have been granted to Williamson. The decision to deny Williamson's claim directly conflicts with the Sixth Circuits own holding in **Valentine**.

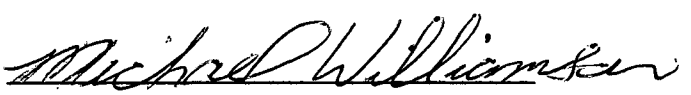
CONCLUSION

The reasons to compel this writ of certiorari are manifest. Williamson was denied the right to a fair trial by any sense of the term. To exclude the admitted offender of these acts who admitted also to conspiring with Larissa Blakely to get Williamson removed from the house is, in short, the denial of a defense and creation of reasonable doubt. To admit prejudicial hearsay and then deny the right to question the declarent is, in short, the denial of the right to confront the witnesses against him and the right to have witnesses in his favor. And to disregard multiplicious, duplicious, carbon-copy indictments contrary to prior holdings in the same circuit only adds insult to the injurous denials of constitutional protections intended to ensure truth in justice.

Pursuant to the provisions of Supreme Court Rule 10, Williamson prays the Court exercise its discretion and grant the foregoing writ.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Michael Williamson

Date: August 11, 2020