

JUL 20 2020

OFFICE OF THE CLERK

No. 20-6017

IN THE  
SUPREME COURT OF THE UNITED STATES

TRACEY R. GODFREY — PETITIONER  
(Your Name)

vs.

LYNN GUYER (WARDEN) — RESPONDENT(S)  
HABEAS CORPUS  
ON PETITION FOR A WRIT OF CERTIORARI TO

9<sup>th</sup> CIRCUIT COURT OF APPEALS REQUEST for COA DENIED 7-13-2020  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

HABEAS CORPUS  
PETITION FOR WRIT OF CERTIORARI

TRACEY R. GODFREY 41852  
(Your Name)

700 CONLEY UC, B.D.  
(Address)

DEER LODGE, MT, 59722  
(City, State, Zip Code)

None  
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

① IS DOUBLE JEOPARDY A MISCHIEF OF JUSTICE JUST AS CONCERNING AN INNOCENT PERSON ENTRAPPED TO HABEAS ROUSED?

② IS 2 SEPERATE SENTENCES FOR THE VIOLATION OF 46-18-502 mca DOUBLE JEOPARDY?

ON (NOV 27<sup>TH</sup> 2000) A 10 YEAR SENTENCE WAS IMPOSED

ON (OCT 16<sup>TH</sup> 2013) A 60 YEAR SENTENCE WAS IMPOSED,  
3 YEARS AFTER THE FIRST SENTENCE WAS FULLY SERVED.

③ IS TRACEY R. GOURLEY SERVING A VOID JUDGMENT?

## 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:

LYNN GUYER (WARDEN)

## RELATED CASES

THE MONTANA SUPREME COURT HELD IN LARSEN v STATE 362 Mont 543  
"A portion of LARSEN'S sentence - THE PFO. SENTENCE - IS LEGAL.  
YET IN GODFREY'S CASE THE SAME COURT FRAUDULENTLY HELD  
"UNDER OUR PRECEDENT, THE PFO. ~~PORTION~~<sup>(PORTION)</sup> OF THE SENTENCE IS  
INVALID." (Op 13-0258).  
BOTH OPINIONS CAN NOT AND ARE NOT TRUE.

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APPENDIX E

APPENDIX F

ALL OPINIONS CAN BE ACCESSED ON  
LEXIS NEXIS ELECTRONIC FILES AT  
THE 'REPORTED' TABLE PROVIDED.



## TABLE OF AUTHORITIES CITED

CASES

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STATUTES AND RULES

OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES

*WA BOIDS Corpus*  
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 GODFREY V. QUAYLE 2020 US APPLEX 21696; 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[ ] is unpublished.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

[ ] reported at GODFREY V. KIRKENDALL 2014 US DIST LEXIS 62160; 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 C to the petition and is

[ ] reported at GODFREY V. KIRKENDALL 2013 MARYLAND 344; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the 21<sup>st</sup> JUD DIST COURT (DC 99-114) court appears at Appendix D to the petition and is

[ ] reported at STATE V. GUFFEY 2000 ML 5282; 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 7-13-2020.

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 7-2-2013. 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

5<sup>TH</sup> AMENDMENT OF THE U.S. CONSTITUTION

ARTICLE II SECTION 28 OF THE MONTANA CONSTITUTION

M.C.A. § 46-13-108 NOTICE OF INTENT TO SEEK PFO STATUS

M.C.A. § 46-18-502 POSSESSANT FELONY OFFENDER

M.C.A. § 46-22-101(1) APPENDIX OF MARSH CORPUS.

M.C.A. § 45-5-502 SEXUAL ASSAULT

#### STATEMENT OF THE CASE

ONCE THE STATE FILES "NOTICE OF INTENT TO SEEK PFO STATUS" AS REQUIRED BY MCA § 46-13-108 A SENTENCE PURSUANT TO THE OFFENCE OF MCA § 46-18-502 IS MANDATORY. AN ADDITIONAL SENTENCE FOR THE ~~PREDICATE~~ FELONY (MCA § 45-5-502) IS NOT PERMITTED. UNDER MCA § 46-22-101(1) HABEAS CORPUS IS APPLICABLE ONLY TO ILLEGAL SENTENCES.

THE COURT IMPOSED 2 SEPARATE SENTENCES, ONE WAS AUTHORIZED (A 10 YEAR TERM FOR MCA § 46-18-502) THE OTHER WAS UN AUTHORIZED (A 60 YEAR TERM FOR MCA § 45-5-502). THE MONTANA SUPREME COURT VACATED BOTH THE VALID AND THE ILLEGAL SENTENCE, WHEN THE HABEAS STATUTE ONLY AUTHORIZED AN "ILLEGAL" SENTENCE TO BE VACATED. THE CASE WAS "REMANDED FOR IMPOSITION OF A LEGAL SENTENCE" TO THE 21<sup>ST</sup> JUDICIAL DISTRICT COURT WHILE (A 60 YEAR SENTENCE WAS IMPOSED FOR THE VIOLATION OF MCA § 46-18-502), 3 YEARS AFTER THE LEGAL, VACED, AUTHORIZED, 10 YEAR ORIGINAL SENTENCE WAS FULLY SERVED, DISCHARGED, AND EXPIRED.

THE IMPOSITION OF A 2<sup>ND</sup> SENTENCE FOR THE SAME OFFENSE IS A CLEAR VIOLATION OF THE 5<sup>TH</sup> AMENDMENT AND ART 1 SEC 25 OF BOTH THE USA AND MT. CONSTITUTIONS.

THE COURTS DID NOT HAVE JURISDICTION TO IMPOSE A 2<sup>ND</sup> SENTENCE. THE 9<sup>TH</sup> CIRCUIT DENED A REQUEST FOR CJA, ON 7-13-2020.

**REASONS FOR GRANTING THE PETITION**

TO ESTABLISH THAT GIVING A PERSON AN ILLEGAL SENTENCE IS A MISCHIEF OF JUSTICE THAT WARRANTS RELIEF JUST AS CONVICTING AN INNOCENT PERSON AND TIME BARS OR PROCEDURAL HURDLES DO NOT APPLY.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

TRACEY R. BOURGEOIS

Date: 7-18-2020