

IN THE SUPREME COURT OF THE UNITED STATES

AUGUST TERM, 2020

JERRY WALKER
PETITIONER

Supreme Court, U.S.
FILED

AUG 25 2020

OFFICE OF THE CLERK

vs.

CASE No. 20-6138

STATE OF ARKANSAS
RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

ARKANSAS SUPREME COURT LAST RULED ON MERITS

PETITION FOR WRIT OF CERTIORARI

JERRY WALKER; PRO SE
APC # 124248
DELTA REGIONAL UNIT
880 EAST GAINES ST.
DERMOTT, AR. 71638

* Jerry Walker

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QUESTION(S) PRESENTED

MR. WALKER CLAIMS IN HIS STATE PETITION FOR DECLARATORY JUDGEMENT THAT HE WAS DENIED DUE PROCESS IN HIS CRIMINAL TRIAL WHEN THE COURT ADMITTED THE PRIOR TESTIMONY OF AN UNAVAILABLE WITNESS. THE PETITIONER FURTHER CONTENDS THAT THIS ADMISSION VIOLATED THE CONFRONTATION CLAUSE OF THE UNITED STATES CONSTITUTION. THE PETITIONER ATTACHED A PARTIAL TRANSCRIPT OF THE TRIAL THAT REFLECTED DEFENSE COUNSEL'S OBJECTION TO THIS ADMISSION. THIS VIOLATES CONSTITUTIONAL RULE 804, see WALKER V. STATE 2020 ARK 183

1) IN THE UNITED STATES DISTRICT E.D. ARKANSAS WESTERN DIVISION THE PRECEDENT SET IN LARRY NEELY V. STATE OF ARKANSAS 2007 WL 9627500 STATES IN HIS DECLARATORY JUDGEMENT. THE PETITIONER ATTACKING THE FACIAL CONSTITUTIONALITY OF A STATUTE, IN THIS CASE RULE 804 AND ARGUABLY THE VALIDITY OF THE FELONY CONVICTIONS. THIS COURTS DECISION INDICATES THAT A PETITION FOR DECLARATORY JUDGEMENT MAY BE AN AVAILABLE REMEDY WHERE A PETITIONER IS ATTACKING THE FACIAL VALIDITY OF HIS CONVICTION. ITS IMPORTANT TO NOTE THAT UNDER THE DECLARATORY JUDGEMENT ACT A COURT HAS THE AUTHORITY TO GRANT FURTHER RELIEF BASED ON A DECLARATORY JUDGEMENT OR DECREE . . . WHENEVER NECESSARY OR PROPER . . . see ARK. CODE ANN § 16-111-110.

2) THIS CASE MAY COMPLY WITH THE RULES SET FORTH IN, CRAWFORD V. WASHINGTON U.S. 36. 124, 5 CT. 1354, 158 L. ED 2d 177

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LARRY NEELY V. STATE OF ARKANSAS 2007 WL 9627500

REHEARING EN BANC MAY 7, 2020 - 09CV-19-63

SUPPORTING FACTS TO GRANT WRIT

THE TRIAL COURT AND ARKANSAS SUPREME COURT RULING WAS ERRONEOUS BY DECIDING WALKER COULD NOT USE A DECLARATORY JUDGEMENT ACTION TO ATTACK A CRIMINAL CONVICTION.

THE SUPREME COURT HAS REPEATEDLY STATED THAT THE DECLARATORY JUDGEMENT ACT IS TO BE LIBERALLY CONSTRUED, FINDING THAT TO ATTACK A STATUE A PERSON CAN MERELY SHOW THAT THE STATUE RESULTED IN A PREJUDICIAL IMPACT UPON HIM @ 15. 696 S.W. 2d AT 714.

IN VIOLATION OF DUE PROCESS, THE PROTECTION AFFORDED BY THE FOURTEENTH AMENDMENT SECTION 5-14-110 UNQUESTIONABLY HAD A PREJUDICIAL IMPACT UPON PETITIONER, THEREFORE HE HAS STANDING TO FILE A DECLARATORY JUDGEMENT ACTION, SEE LAWSON 287 ARK AT 15, 696 S.W. 2d AT 714.

IN LIGHT OF JEGLEY AND LAWSON IT APPEARS THAT PETITIONER CAN ATTACK THE CONSTITUTIONALITY OF 5-14-110 BY FILING A PETITION FOR DECLARATORY JUDGEMENT. HERE, THE PETITIONER IS ATTACKING THE CONSTITUTIONALITY OF 5-14-110 AND ARGUEABLY THE VALIDITY OF HIS FELONY CONVICTIONS. SEE NEELY V. STATE 2007 WL 9627500

PETITION FOR WRIT OF CERTIORARI

PETITIONER JERRY WALKER RESPECTFULLY REQUEST THAT A WRIT OF CERTIORARI BE GRANTED TO REVIEW ISSUES, OPINIONS, AND JUDGEMENT OF THE STATE COURT OF LAST RESORT, THE ARKANSAS SUPREME COURT, WHICH RENDERED ITS DECISION ON MAY 7, 2020 IN JERRY WALKER 2020 ARK 183.

IN RESPONSE TO THE ARKANSAS SUPREME COURTS ORDER THE PETITIONER FILED A PETITION FOR REHEARING EN BANC ON MAY 7, 2020 • 09-CV-19-63

JURISDICTION

THE OPINION OF THE ARKANSAS SUPREME COURT WAS ENTERED AFTER A TIMELY MOTION WAS FILED TO THE COURT FOR REHEARING, EN BANC.

JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C. § 1254

GROUND(S) 2

THE TRIAL COURT ALLOWED TESTIMONY OF EUBANGI POLK FROM THE FIRST TRIAL TO BE READ TO THE JURY WITHOUT FOLLOWING ARK RULES OF EVIDENCE 804(A)(5) THUS VIOLATING PETITIONERS 5, 6 AND 14 AMENDMENT RIGHTS.

IN U.S.S.C. CASE BARBER V. PAGE APRIL 23, 1968 390 U.S. 719, 88 S. CT 1318 20 L. ED 2D 255 THIS COURT STATED... EXCEPTION TO CONFRONTATION REQUIREMENT WHERE WITNESS IS UNAVAILABLE, HAS GIVEN TESTIMONY AT PREVIOUS JUDICIAL PROCEEDINGS AGAINST SAME DEFENDANT, AND WAS SUBJECT TO CROSS-EXAMINATION BY THAT DEFENDANT IS NOT APPLICABLE UNLESS THE PROSECUTORIAL AUTHORITIES HAVE MADE A GOOD-FAITH EFFORT TO OBTAIN HIS PRESENCE AT TRIAL... U.S.C.A. CONST. AMENDS. 6 AND 14.

PETITIONER STATES IN SECOND TRIAL THE STATE INTRODUCED PRIOR TESTIMONY OF AN UNAVAILABLE WITNESS (EUBANGI POLK) THUS VIOLATING THE CONFRONTATION CLAUSE OF UNITED STATES SIX AMENDMENT WITHOUT SHOWING ON RECORD DURING PRETRIAL HEARING OR DURING TRIAL THAT A GOOD-FAITH EFFORT WAS MADE TO LOCATE MR. POLK.

TRIAL RECORD DOES NOT DOCUMENT WHERE A STATE INVESTIGATOR WAS INSTRUCTED TO LOCATE THE WHEREABOUTS OF MR. POLK BY CHECKING KNOWN ADDRESSES, NURSING HOMES, STANDARD UTILITIES, SOCIAL SERVICES OR CRIMINAL RECORDS OR SUPERVISION, PURSUANT TO RULE 804(A)(5)(B)(1) THE PARTY OFFERING PRIOR TESTIMONY OF A UNAVAILABLE WITNESS HAS BURDEN OF PROVING UNAVAILABILITY PURSUANT TO RULES OF EVIDENCE - RULE 804(A).

CONCLUSION

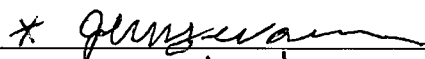
THE ULTIMATE GOAL OF THE SIXTH AMENDMENT, NAMELY THE CONFORMATION CLAUSE IS TO ENSURE RELIABILITY OF A PROCEEDURAL RIGHT GUARANTED BY THE UNITED STATES CONSTITUTION AND THE CONSTITUTION OF SAID STATE.

PETITIONER CONTENDS HIS FOURTHTEENTH AMENDMENT RIGHT WAS VIOLATED BY THE STATE COURT AND ITS PROSECUTORS DURING TRIAL WHEN RULES OF EVIDENCE (A)(5)-(13)-(I) ALONG WITH THE SIXTH, FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION WERE NOT ADHERED TO.

ITS FAIR TO SAY THAT A PROCEEDURAL WRONG WAS COMMITTED AGAINST MR. WALKER, THIS IS SO BECAUSE HIS CASE COMPLIES WITH THE PRECEDENT SET FORTH IN... CRAWFORD V. WASHINGTON U.S.S.C. MARCH 8, 2004 • 541 U.S. 36, 124 S.C.T. 1354, 1. Ed 2d 177

WHEREFORE, PETITIONER PRAYS THAT THIS PETITION BE REVIEWED AND COMPARED TO ALL APPLICABLE LAWS, PROCEDURES AND RULES... THIS PETITION DEMONSTRATES A LEGITIMATE CLAIM FOR REVERSAL AND DEMAND TO THE TRIAL COURT FOR PROPER RELIEF.

RESPECTFULLY SUBMITTED

X 

JERRY W. WALKER, PRO SE

ADC # 124248

STATE OF ARKANSAS

COUNTY OF CHICOT

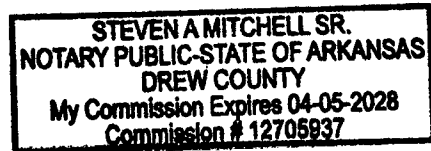
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SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, on this 24 day of

Aug., 2020

St. C. Mitchell Sr.
Notary Public

My Commission Expires : 4-5-2028



CERTIFICATE OF SERVICE

This is to certify that on the 24 day of AUGUST, 2020 a copy of the foregoing PETITION FOR WRIT OF CERTIORARI was mailed, with sufficient postage affixed, to:

U.S.S.C. CLERK

WILLIAM K. SUTER

ONE 1ST ST. NE

WASHINGTON, DC 20543

Greg Walker
Petitioner Pro-Se