

No. 20-6175

ORIGINAL

Supreme Court, U.S.
FILED

OCT 19 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Rico Walker — PETITIONER
(Your Name)

vs.

Vance Laughlin — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Rico Walker
(Your Name)

Wheeler Correctional Facility
(Address) Po. Box 466

Alamo Georgia 30411
(City, State, Zip Code)

NONE
(Phone Number)

QUESTION(S) PRESENTED

- ① Can petitioner be convicted of a crime Where the Indictment fail to allege the essential elements of the crime charged.
- ② Does the trial court have Jurisdiction to convict petitioner Where the essential are Not alleged in the Indictment on the Crime charged.
- ③ Is the conviction void upon the Face of the Record IN Violation of petitioners 6th and 14th Amendment Rights of the united States Constitution, Due process clause & Equal protection of the LAW. Petitioner has the Right to be tried in the court of competent Jurisdiction
- ④ Was Trial Counsel Ineffective For failure to Investigate And then advise petitioner to plead Guilty under Alford V. North Carolina 400 U.S. 25, 91 S.Ct 160, 27 L.Ed 2d 162 (1970) In Violation of petitioners Sixth Amendment & Fourteenth Amendment Rights of the united states Constitution.
- ⑤ Was petitioner Deprived of his Sixth and Fourteenth Amendment Right of the united states Constitution, To be put on Notice of the Nature and cause of the accusations against him

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

~~XXXXXXXXXXXXXXXXXXXX~~

Smith v. Hardwick 266 Ga 54 (1995)

STRICKLAND V. WASHINGTON 466 US 668 (1984)

Tollett v. Henderson 411 US 258 1973

Alford v. North Carolina 400 US 25 (1970)

Padilla v. Kentucky 130 Sct 1473 2010

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	Georgia Supreme court order
APPENDIX B	State Habeas corpus court order
APPENDIX C	Motion for Extension of time for Filing Habeas Brief to comport with Evidence out side the Record.
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>Tollett v. Henderson</u> 411 U.S. 258 at 276 (1973)	12.
<u>Strickland v Washington</u> 466 US 668 (1984)	6.-7.-14
<u>Alford v. North Carolina</u> 400 U.S. 25 (1970)	6.7.8.9.10
<u>Smith v. Hardwick</u> 266 Ga 54, 466 SE2d 198 (1995)	11.-14
<u>Padilla v. Kentucky</u> 130 Sct 1473 at 1482 (2010)	14.

STATUTES AND RULES

OCGA 16-6-22
 OCGA 16-6-2
 OCGA 42-1-12
 OCGA 9-11-15

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 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 State Habeas corpus court appears at Appendix B 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 _____.

☐ 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 8,10,2020.
A copy of that decision appears at Appendix A.

☐ 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

6th Amendment of the United States Constitution

14th Amendment of the United States Constitution

OCGA 9-11-15

STATEMENT OF THE CASE

Petitioner Rico Walker filed a writ of Habeas Corpus in the Superior Court of Wheeler County, Alamo Georgia on April 3, 2018 challenging the validity of his September 22, 2016 Thomas County Guilty plea; an Evidentiary Hearing was held on October 1, 2018 and May 30, 2019. On November 26, 2019 petitioner filed a Motion For Extension of time for filing petitioners Brief, to allow him to Amend his Ineffective Assistance of trial counsel claims to conform with the Evidence submitted during the Evidentiary Hearing. The Ineffective Assistance of Counsel claims Required Evidentiary Testimony from trial counsel that was out side of the Record on the Guilty plea Hearing, petitioner had a Constitutional Right to Amend his claim under OCGA 9-11-15, Without the Amendment petitioner was deprived of Due process of Law in Violation of his Fourteenth Amendment Rights of the United States Constitution. The State Habeas Corpus Court Never made a Ruling on this motion. The Habeas Corpus Court Ruled that petitioners claims had been Raised after the Close of the evidence and that petitioner did not obtain leave of the court to Amend his petition, In the Habeas Corpus final ORDER, "ADDITIONAL GROUNDS".

ORDERED January 27, 2020
Petitioner Sixth Amendment Rights to a Fair Hearing was Violated by the court ORDER Denying, that petitioner Did not file for leave and obtain leave to Amend his petition, petitioner did file for leave to Amend See: APPENDIX C.

Petitioner was convicted upon count one of the indictment, all other counts of the Indictment were Nolle-prossed, count one charged petitioner with the offense of Incest OCGA 16-6-22, count one of the Indictment does not allege that petitioner committed any sexual act upon the alleged victim. petitioner's conviction is Void.

REASONS FOR GRANTING THE PETITION

Petitioner was Deprived of his Sixth Amendment Rights to A Fair Hearing in Violation of his Fourteenth Amendment Rights of the united states constitution, under the Due process clause, and equal protection of the LAW. petitioner believes that had the Court allowed him leave to Amend upon his Motion, before the courts final order was issued, The Evidence submitted by petitioner and Trial counsel During the Evidentiary Hearing and the additional Grounds filed by petitioner to conform to the evidence under Ineffective Assistance of Guilty plea counsel, that the outcome of the Habeas corpus Court would have been different.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Rico Walker

Date: 10-5-2020