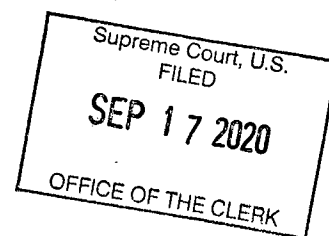


No. **20-6183**

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Timothy Neal Hatton - PETITIONER
(Your Name)

Mark Sewier, - RESPONDENT(S)
Superintendent

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals, 7th Circuit
(NAME THE COURT THAT LAST RULED ON THE MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Timothy Neal Hatton
(Your name)

P.O. Box A
(Address)

New Castle, IN 47362-1041
(City, State, Zip Code)

None
(Phone Number)

8812-18


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CERTIFICATE OF AUTHENTICITY

I declare under penalty of perjury under the laws of the United States of America that the documents contained within the foregoing Appendices are true, authentic and accurate copies of the Original documents.

Executed on: 9 / /20



 Petitioner, pro se

QUESTION(S) PRESENTED

Did the State violate Hutton's U.S. Sixth Amendment right to effective assistance of counsel and speedy trial?

Did the State violate Hutton's U.S. Fifth Amendment right to Due Process by denying evidentiary hearings, the collection of attorney-client files, interrogatories, and the means to collect evidence?

Did Counsel coerce and mislead Hutton into an involuntary plea agreement?

Should Hutton's Habeas Corpus have been dismissed and is he within the one year statute of limitations?

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:

Indiana Attorney General
Government Center South
302 West Washington Street
5th Floor
Indianapolis, IN 46204

Mark Sevier
1000 Van Nuys Road
New Castle, IN 47362

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>Strickland v. Washington, 466 U.S. 693 (1984)</u>	_____
<u>Smith v. Robbins, 528 U.S. 259 (2000)</u>	_____
<u>Lofler v. Cooper, 132 S.Ct. 1376 (2010)</u>	_____
<u>Show v. Wilster, 721 F.3d 908 (7th Cir. 2013)</u>	_____
<u>Beygoza v. Hulick, 474 F.3d 958 (7th Cir. 2007)</u>	_____
<u>White v. Gelinez, 301 F.3d 796 (7th Cir. 2003)</u>	_____
<u>Jones v. Besinger, 635 F.3d 1030 (7th Cir. 2011)</u>	_____
<u>Moore v. Bryant, 237 F.Supp.2d 955 (C.D.Ill. 2003)</u>	_____
<u>Fecchin v. Myers, 160 Fed.Appx. 669 (6th Cir. 2004)</u>	_____
_____	_____
_____	_____

STATUTES AND RULES

<u>28 U.S.C. § 2254(b)(1)</u>	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

OTHER

<u>"Exonerations: From Wrongful Convictions to Release and Beyond" by Ed Lyon</u>	_____
<u>Criminal Legal News, Vol. 2 No. 8 August 2019</u>	_____
_____	_____
_____	_____

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 Courts of Appeals appears in 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 Hutton v. Warden, 2019 U.S. Dist. LEXIS 167735; 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 Hutton v. State, 2019 Ind. App. Unpub. LEXIS 91, 121 ^{N.E.3d 137}; 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

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was June 18th, 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: Would only accept Motion to Recall Mandate, Denied August 13th, 2020, 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 the Court is invoked under 28 U.S.C. §1254(1).

☒ For cases from the state courts:

The date on which the highest state court decided my case was January 17th, 2019.
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 Appendix No. A.

The jurisdiction of the Court is invoked under 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Strickland v. Washington and Smith v. Robbins details the standard of review and standard for evaluating ineffective assistance of counsel claims. Shaw v. Wilson describes ineffective assistance based on prejudice.

Lafler v. Cooper states effectiveness applies to the plea phase. Moore v. Bryant says incorrect advice on a sentence affected defendant's decision to take a plea.

Baygorra v. Hulick, counsel failed to investigate and present alibi and exculpatory evidence.

White v. Golemez counsel did not communicate with his client.

In Jones v. Bessinger, hearsay was used to obtain a conviction and deemed to violate the sixth Amendment.

Ferin v. Myers, the Habeas Corpus was improperly dismissed. 28 USC. § 2254 (b)(1) says a prisoner must first exhaust state remedies.

The article "Exonerations: From wrongful convictions to release and beyond" by Ed Lyon, goes into detail about how wrongful convictions happen, the many difficulties in correcting it, and our nation's struggle with mass incarceration. Indiana is included in this struggle where wrongful convictions, over charging, and over sentencing occur. Often convictions are wrongful because the system is overwheled and appointed counsels are over whelmed.

STATEMENT OF THE CASE

My rights were violated/denied from the beginning. I requested military counsel/JAG official(s), but was denied. I told detectives I did not commit the crimes I was accused of, but they detained me. Within the first few weeks, I requested a fast and speedy trial, but was denied. Just after, the court appointed counsel, but he wouldn't file for fast and speedy either. He and his secretary said they were too busy with paying clients. I also requested DNA and poly graphs for evidence.

I was stuck in county jail waiting for trial for about a year and a half. I wrote my appointed counsel regularly and called weekly, but there was no communication. I presented alibi witnesses, exculpatory evidence, and possible defenses, but he ignored it all. He did not investigate, file pre-trial motions, or prepare a proper defense, or any defense rather.

Court Appointed Counsel's only plan was to coerce and mislead me into an involuntary plea agreement for crimes I did not commit. He told me if I signed the plea, I would be released and could prove my innocence once I got out and could pay an attorney. He said this was the only option and threatened me when I said I did not want to plea for crimes I did not commit. He had me in a small room. I assume now because he did not want witnesses.

I sought relief through state remedies diligently, but was still denied effective counsel (or any counsel), the attorney-client files, interrogatories, evidentiary hearing(s), the means to collect exculpatory evidence, and means to prove my innocence.

The District Court dismissed my Habeas Corpus on Procedural Default. But I had to first exhaust state remedies by law and rules

REASONS FOR GRANTING THE PETITION

I am actual innocent and have been diligently seeking relief for over nine years. My rights were violated to induce an involuntary plea agreement. Indiana has a long history of providing ineffective assistance of counsel. Especially for indigent defendants. There is an upset between the state and public. This is greatly compounded if accused of a sex crime. This creates great prejudice to the defendant with all the fear, stigmas, and underlining politics associated to the process.

Many of the violations I have endured are outlined in the article "Exonerations: From wrongful convictions to Release and Beyond," by Ed Lyon. The system is overwhelmed and too many benefit from over charging, over sentencing, and even by sending innocent people to prison. This makes it near impossible for me to have had a fair chance to prove the allegations were false.

Indiana ignored their own rules and my constitutional rights to wrongfully convict me of crimes I did not commit. This also includes higher courts rulings. The state is using fear tactics, threats, coercion, manipulation, and other dishonorable tactics to involuntarily get defendants to plead in order to avoid costly and lengthy trials. Spectral evidence was sufficient to charge and convict me.

I have been trying to prove my innocence from the beginning, but it has been impossible to this point because my rights were violated and it's so very difficult to get help. In seeking relief, I was often ignored because I am an indigent, pro se litigant.

I am actual innocent, and I demand to be released and my name cleared so I can finally move on. I was coerced and misled into a plea involuntarily. I have served over nine years in prison and lost everything as a result.


Before this, I was actively serving as a combat medic in the Army NG and training to be a physician in active duty Army. I have served honorably for about seven years and am well decorated. I wish to clear my name and continue to serve.

I will never get these years back, but I can move on and continue to serve with your help. I very greatly appreciate your help correcting this! Thank you for granting this writ and helping me to finally move on.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully Submitted,



(SIGNATURE)

Petitioner, pro se

Timothy N. Hatton

(PRINTED NAME)

Date: 9/2/20