No. 20-6303

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Lamar E. Whatley — PETITIONER
(Your Name)

vs.

Illinois ILCS No. 126028 — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

203 N. LaSalle St. 24th Fl.
State of Illinois Appellate Court First Judicial Destrict.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lamar E. Whatley
(Your Name)

P.O. Box 1700 Galesburg Ill.
(Address)

Galesburg, Illinois 61402
(City, State, Zip Code)

N/A
(Phone Number)

NO.

IN THE

SUPREM COURT OF THE UNITED STATE

OCTOBER TERM,2020

Lamar Whatley
petitioner

v.

People of The State of Illinois
Responent,

PETITION FOR WRIT OF CERTIORARI TO THE

APPELLATE COURT OF ILLINOIS,FIRST JUDICIAL DISTRICT

TO THE CHIEF JUSTICE OF THE UNITED STATES AND TO THE ASSOCIATE JUSTICE OF THE SUPREM COURT OF THE UNITED STATES:

may it please the court:

LAMAR WHATLEY respectfully prays that a writ of certiorari issue to review the decision of the appellate of illinois first judicial district.

QUESTION PRESENTED FOR REVIEW

1, The seperation of powers clause,as legislature has power to fix sentences for mr.whatley crime and limit the scope of the judicial decsrition to imposing a sentence of aggravating and mitigating factors need not be necessary by part sentencing equation if legislature deem such factors inappréate. De-Novo.

2. As the suprem court address the attempt provision public act 91-404 subsection (A) held attempt murder statue is unconstitutional of the illinois const.Amend rights violate the proportionat penaltie clause article 1,section 11, an law against double enhancement,article

2,section 10 amendment 6th,14th,5th,8th. and cruel an unusual punishment of the United States constitution althogh a facial challenge requires a showing that the statue (720 ilcs 5/8-4-9 (west 2000) is invalid under any set of facts as applied to whatley.

3. the petitioner 6 amendment rights under the federal and state costitution was violated, even though sentencing does not concern the petitioners guilt or innonece, ineffective assistent of counsel during a setencing hearing can result in prejudice under the prejudice prong of the strickland test for ineffective assistent of counsel becouse any amount of additional jail time has sixth amendment significance,U.S.C.A. const,amend,6 even if the trial court itself is free from constitutional flaws the petitioner who based on the deficient performance of counsel,from either a conviction on a more serious counts or the imposition of a more sever sentence.const amend,6.see lafler v.cooper,132 s,ct,1376(2012)182,1,ed,2d,398,80,uslw,4244, Hill v. lockhart,474,u.s.52.106.s.ct.366.88.1.ed.2d.203. see montgomery v.peterson,846,f,2d,407,412,(7th cir,1988), in the context of a petitioner having rejected a plea offer from the prosecution indeed the was a 21 year at 85%, the district court granted a conditional writ and ordered specific performance of the orginal offer.KIMMELMAN V.MORRISOM,477,u,s, 365,379,106,s,ct,2574,91,1,ed,2d,305,see MISSOURI V.FRYE,u,s, 132,s,ct,1399,1,ed,2d.

OPINION BELOW

The order of the appellate court of illinois,first judicial district,which was published in 2020 Ill,App,(1st Dist) 1-16-3179 was not published pursuant to illinois suprem court Rule 23,is included herein in Appendix A.The order of the illinois suprem court denying the petitioner's request for review is attached hereto as Appendix B.

JURISDICTION

The order of the appellate court of illinois ,first judicial district,was entered on April 23,2020.the petition is timely filed within (90) days of the denial of the petitioner's request for review by the illinois suprem court DATE.

This court's jurisdiction is invoked under 28 U.S.C.Section 1257(3).

CONSTITUTIONAL PROVISIONS INVOLVED

1. Petitioner asserted a statue may be raised at any time as I cite;people v.wright,194,ill,2d,1,23,(2000).The statue of constitutionality is reviewed De Novo see people v.carpenter ,229,ill,2d,250 267,(2008).Miller v.Alabama,567,U.S.460,469,(2012) However the illinois suprem court has been inconsistent as to whether the proportionate penaltie clause and the 8th Amend.are coextensive compare people v.clemons,2012,il,107821,40. finding the clause went beyond the framers understanding the 8th amendment and is not synonymous with that provision with people v.patterson,2014, ill,115102,106,becouse the proportionate penaltise,clause atl least arguably provides greater prtection against unjust sentence s than the 8th Amend. The petitioner statues,mandatory enhance sentences of 66 years at 85% violated the APPRENDI v.NEW JERSEY 530,U.S.446,144,L.E.D,2d,435,2000. The statue (720 ILCS 5/8-4-9 (West2000) is unconstitutional as (Ab initio) becous it allows a trial court to factual findings.

2. In,Re, Rodney,H,223,ill,2d,510,521,308,ill,dec,292,861,ne,2d,623 2006.the multiple sentences that run consecutively pursuant to section 5-8-4(A) affect the manner in which the 66 years will be served only the legislature can revise an restore the 15,20,25 to life firearm enhancement,sentencing shcem section 8-6 the offense for the purpose of this article is NO PERSON SHALL BE CONVICTED OF BOTH THE INCHOATE and principal offense LAWs,1961, p,198,s,8-5,Jan,1,1962,il,Rev,stat,1991,ch,38,8.

THE ERRANIOUS DENIAL OF PETITIONER

OF MOTION TO SUPPRESS EVIDENCE AND THE

WARRANTLESS INVENTORY SEARCH OF PETITIONERS AUTOMOBLE

1.The search and seizure was not suffiently regulated tosa satify the fourth Amendment to the UNITED STATE constitution 4th(U.S..CONST.AMEND.)

The applicable legal principal are clear,the central purpose of the fourth amendment is to safeguard the privacy and security of individauls against abirtrary invasions by government officials SOUTH DAKOTA V.OPPERMAN(1976)428,U.S.364,377,96.s.ct,3092,3101, 49,L,ED,2d,1000,1009,-10.

2.Inventorys and similar intrusions into vehicles for purpose of the fourth amendment is to safeguard the privacy other than seizing evidence of crimess are searches within the meaning of t the 4th Amendment(EMPHASIS IN ORIGINAL.)3W.LaFave,SEARCH&SEIZURE s.7,4,at,69,(2d ed1987).Routine inventory searches of automoble are generally constitutional becouse an individual disminished expectation of privacy in an automoble is out weighed by three governmental interest;protection of the owners property while it remains in police custody..

3.Thus, base on OPPERMAN,what is needed in the vehicle inventory context,is not probable couse but rather a regularized set of procedures which adequatelyguard against arbitrainess3W,LaFave, SEARCH & SEIZURE7.4(A)at 109(2d ed, 1887.

LAMAR WHATLEY"S 66-year sentence is unconstitutional as applied to him where the convergence of sentencing statues required the trial court to impose, without any meaningful consideration of either WHATLEY individual characteristicts or the actual facts of the case,what amount tos a de facto natural-life sentence that is so disproportionate to the petitioner and the offense as to shock the conscience.

1.becouse the petitioner will not be eligible for release until he is 89 years old.the 66-years sentence is a de facto life sentence.Such a severe sentence is unconstitioinal as applied to whatley where it is so disproportionate to petitioner lack of significant criminal background,his potential for rehabilitation,and the circumstamnces of the case an offense.Indeed,the state concluded that the

circumstances of the case justifies a plea offer of only 21 years.PEOPLE V.GARVINS,219,ILL,2d,104,117, (2006)..The 8th amendment applicable to the States via the 14th amendment prohibitscr cruel and unusual punishments. U.S.Const.14th an 8th,amends,PEOPLE V. DAVIS,2014,IL,115595,

2. Similarly,the proportionate penalties clause of the Illinois Constitution provides that (ALL)penalties shall be determined both according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship,Ill,Const.1970,art.1,sec. 11, the ultimate inquiry is whether the legislature has set the sentence in accord with the seriousness of the offense.PEOPLE V.GUEVARA,216,Ill,2d,533,543,(2005)(citing PEOPLE V.LOMBARDI,184,Ill,2d,462-74(1998).

3.Whatley's de facto life sentence was the result of the convergence of multiple statues.The statue defining the offense of attempt provides that 'an attempt to commit first degree murder during which the person personally discharged a firearm that proximately caused great bodily harm is a Class X felony for which 25 years or up toa a term of natural life shall be added to the term of imprisonment imposed by the court,720 ILCS 5/8-4(C)(1)(D) (West 2014) Section 5-4,5-25 of the Code of correction provides that the sentebcing rang for Class X felony is 6to30 his sentence must be served consecutively 720ILCS 5/5-8-4(d)(1)(West2014).Acting together,these statues mandated that the minimum sentence the trial court could impose in this case was 62 years.Even if given the statutory minimum, Whatley would be 89 years old when released,well past his expected life expectancy in prison. Furthermore whatley was given 8 years for the attempt murder and a 25 YEAR. gun enhancement,

4.Whatley conduct in this case warranted a plea offer of only 21 years at 85% time.see PEOPLE V. SCOTT,266,Ill, App,3d,844,855,(1st dist,1993)(sentencing court should give proper consideration to previous plea offer when determining appropiate sentence)..see PEOPLE V.CARMICHAEL 343,Ill,App,3d,855,861-82(1st dist.2003).

STATEMENT OF CASE

On the night AUGUST 21,2014,Dana Harvey,H Jarrod Wright where outside of the risident of 6958 s.throop chicago south side,Nakia Wright testified on the night of the shooting,a group of friends and family were outside her house drinking and playing cards to celebrate the birthday of king collier a family friend (R,II 199-200.)However,NAKIA stayed inside and never went outside to the party (R II201)At some point in the even,WHATLEY her boyfriend of eight years came into the house to see her,(R,II,198,II,201)The two talked in room for a couple of hours,(R,II202)Whatley never went out to the party becouse he din't deal with her family (R,II,206)Evenyualy stated that he wanted to leave,(R,II202)Nakis declined to go with him becouse his car lacked air conditioner and she did not want to go outh in the heat,(R,II203.204)They then had a little "spat"where they played the mad roled"with each other becouse he wanted her to go with him and had wasted gas comming to see her,(R,II,204.).

WHATLEY then left about 8;00,or 9;00 p.m.when he left the house,she did not know whether he had driven to her house that night,but she stated that he owned a two-door silver thunderbird (R,II,199,II,201).About five to ten minutes later,people came into nakia's room and told her to call the police becouse some one had beeb shot outside,(R,II206-10)Nakis never identified who came into the house and gave her that information she then called the police,who arrived at her house sometime later at night (R,II,210=11)She did not personally see or hear anything happen outside her house (R,II,221)The next day,Nakia was taken to the police station where she gave a videotaped statement to an ASA Assistent States Attorney at trial the state played a few-second long snippet of the statement over the defense objecti -on,which only continued a single question and answer;ASA:JB was mad when he left?Nakia;yeah .. Dana Harvey testified that he attended the gathering in front of nakia house,where he played cards,drank cognac,and smoked marijuana there were arond ten people at the party (R,II,226)Dana stated that he was familar with WHATLEY but only know him as JB,at around 9;00 p.p. Dana was standing in front of nakia house near the corner of 70th and throop when heard someone say something about a gun (R.II,229-30).He looked and saw an individual whom he did not recongnize in WHATLEY tan thunderbird point a firearm out the rd drivers window towards the crowd of people,Dana had seen whatley's car two or three times previous, though he acknowledged that there were other tan thunderbird in the neihborhood .He estimated that he was sbout five to ten feetaway from the individ -ual,(R.II.233).He saw the individual's face but did not get a good look (R.II233)He explained that he was concentrating on the gun,not the driver the individual pulled the trigger anumber of times after first the gun made one or twp clicking sounds, then fired three to six shot ,Dana was struck in the left shoulde he layed on the ground until the ambulance taken him to the hospital ,(R,II,266)(R,II234-35)(R,II,235)(R,II,235)Detectives came to speak with him while he was in the hospital Dana

testified that he was being given dydrocozone at the time he

acknowledged that he told the detectives that he saw WHATLEY drive eastbound in a tan tan thunder,stop of the east side of 70th throop,and point a gun out the drivers side window,he further told the detectives that WHATLEYpulled trigger three or fcur times before the gun started firing ,and Whatley was shootin in his direction . He stated that he TESTIFIED at trial that did not actually see who shot him, he (STATED)that he initially told the detectives that he did not know who shothim,but the detectivi kept asking him for a name,He eventually told the detectives that the shooter was WHATLEY only becouse he had been told that by a person named Anthony Mchenry,(R,JJ113,JJ116)(R,JJ,108-110).

The day after the shooting,Dana gave a videotaped statement to an (ASA) at the police station,he testfied that he told the ASA,that WHATLEY, was the shooter becouse someone told him whatl =ey, was the shooting.He stated that he was on painkiller when spoke with the (ASA) and felt numb,he also stated that he smoke weed sometime prior to meeting with the assistent attorney(ASA) The state played Dana's video statement fot the jury over the defense's objection(R,II,263,)(R,II264). JARROD WRIGHT testified he was at the party infront the house of nakia's risident when at aroumd 9;00 p.m. heard gun shots about five or six shot were fired.He did not know which direction the shots were fired from after being hit the side,he ran to porch,an ambulance took him to the hospital where he underwent surgery,(R,JJ,12-14)(R,JJ,14-15)(R,JJ,16-17).His speen was remove and recieve 50 stapple in hi his stomach he testified that he was not aware of any arguement taking place before the shootingm and that he did not know who shot him (R,JJ16-17)JARROD stated that he knew WHATLEY,as Nakia boyfriend but had only seen him three times in the last past two years.he asserted that he nver saw WHATLEY on the day of the shooting and that he never saw WHATLEY AT nakia's house or driving a car(R,JJ,8)(R,JJ,11-13).

The day after the shooting,some detectives and (ASA) came to speak with Jarrod at the hospital after his surgery ,He stated that the (ASA) never ask him to give a handwritten statement though he was on morphine at the time and did not remember much of that day,(R,JJ,19) He denied telling the ASA,that;he saw WHATL -EY) drive away in a thunderbird JARROD acknowledge that the,ASA after writting out the as statement, asked him if he could read and write english JARROD testified that he not read anything in out loud at the time becouse he had tubess in his throat, (R,JJ,30 (R,JJ,32)HE further testified that neither the ASA nor detectives gave him anything to ssign. He stated that the a nurse gave him papers and told him to sign them(R,JJ,19-20) when the prosecutor handed Jarrod a copy of the statement at trial, JARROD stated that he did not recongnize it,.HE acknowledg that his singnature was on easch page of the statement and that h his initials appeared next to each correction, but stated that he signed and initialed the pages becouse he thought thy were medica papers(R,JJ33,jj40,41,jj,45-46)... AT sentevcing,the trial court MERGED all the counts into the two ATTEMPT MUDER counts the corut stated "LEGISLATURE mandate the crimes committed which guns have more severe sentences whether or not this deters anybody from com committing other crimes, I question that(R,LL8).THE court then sentenced WHATLEY to consecutively terms of 33years in prison each ATTEMPT MURDER count for a aggregate total of 66years.(C,237).

REAESON FOR GRANTING WRIT

1.The court should grant leave to "CLARIFY"an important

issues to review;

The erroneous denial of petitioner motion to suppress was not harmless beyond a reasonable doubt,CHAMPMAN,V.CALIFORNIA,386, U.S.18,23-(1967)PEOPLE V.R.C.108,Ill,2d,349,355(1985)So long as there is a possibility that the erroneous admitted evidence influenced the jurys verdicts, the error can't not be deem harmless even if the remaining evidence was sufficient to sutain the conviction ,FATHY V.CONNECUIT,375,U.B.85,86-87(1963 Furthermore unlike when reviewing the sufficiency of theev evidence under harmless-error ANALYSIS a reviewin did not take any consideration of the case. PEOPLE V.LOVE,2013,Il,App, 3d,200113,33.

2.BURK testified that it wasdepartmebt policy to inventory cars that are to be towed.neither he or COTTON testified that WHATLEY car was to be towed as part of standard depattment policy the search ofthe car is invalid,an unlawful.CLARCK,394,il,App,3d, 344.349,(1st dist,2000).But the reviewing court acknowledge the detectives did not have a search warrant,nor had petitioner given his permission for the search detective COTTON did not have a arrest warrant forWhatley,he had not seen whatley break the law and the car was parked legally.PEOPLE V.LAWSON,298,ill, 2d.269.(2002). U.S.const.Amend.4th & 14th Ill.const.1970.Art.1 section.6.

3.In addition,other than the gun there was no physical evidence implicating petitioner,in fact his hand tested negative forgun shot residue,there was no fingerprint or DNA evidence no surveillance video or any other forensic or physical evident limking petitoner to the shboting no inculpatory statements was not given the questionable eyewitnesses testomony and lack of other evidece The evidenc of the gun was very prejudicial the fact that petitioner was found with a gun hidden in hus car shortly after the shooting was very damning evidence even though there was no ballistic tying the gun tb the shooting .
This evidence strongly implicating petitioner in the shooting and likely caused the jury to overlooked the inconsistencies in the states other evidehce and to accept the witnesses prior statements is a fundamental fairness defoult of my DUE PROCESS well as prejudice.

4.Last but least REASON's as followed;the 66 years compared to the 21years at 85% 3time more than what the court imposed for the statue for ATTEMPT MURDER with a mandatory sentencing enhancement with a 25 year add on amount to a de faco natural-life sentence that violat the U.S.& ILLINOIS CONSTITUTION AMEND.

CONLUSION

Wherefore, LAMAR WHATLEY respectfully requests that a writ of certiorai issue to the Appellate Court of Illinois, First Judicial District.

Respecfully submitted,

LAMAR WHATLEY

APPENDIX A

(Appellate Court Decision)

APPENDIX B

Order of Illinois Suprem court.

Grounds for supporting facts:

1. The appellate courts states: "a claim of counsel's ineffectiveness stems from the failure to file a motion to suppress evidence. Id. 15. to show prejudice in that situation, the defendant must "demonstrate that the unargued suppression motion is Maritorious and that a reasonable probability exists that the outcome would have been different had the evidence been suppressed.

2. Petitioner argues, the courts of appellate saying: only way the trial counsel was ineffective if had not counsel filed a motion to suppress evidence is erroneous and prejudice because he did not challenged the arrest when the arrest intermwined with the search as a whole of the search? Seizure of the 4th Amendment had the evidence (firearm) been suppressed and proper documents been presented at hearing the trial outcome would had been different as the State relied on this damning evidence is very prejudice and prejudicially.

3. The appellate court go on stating: based on this evidence it was reasonable trial strategy by trial counsel not to challenged the probable cause for defendant's arrest them state: but instead to challenge the search of the vehicle If the trial counsel argued the search & seizure is also unconstitutional

including the unlawful search" inventory" search of the vehicle is also unlawful. and because the counsel failed to not include the arrest dose not matter because under the Illinois Constitution 1970 article I section 6

4. When applying De Novo Review the appellate courts may make there own determination as to whether the facts justify the challenged police action as a matter of law See exhibits regarding the suppression hearing, officers Burk & Cotton testimony. clearly show a matter of common law "De-Novo" as the court's of appeals rejects Petitioner's Claims but rejects all arguements is erroneous as the courts ignores the facts that the state did not present any evidence at the hearing to prove probable cause to arrest Mr. Whatley there was no first hand knowledge of any witnesses identification at the hearing that led up to the arrest itself investigative alerts & Illinois - The Chicago Police department employs two types of investigative alerts the first is called investigative alert probable cause to arrest" and it identifies and individual thats is wanted by bureau of detectives (BOD) or bureau of Organized Crime (BOC), investigative personnel Concerning a specific Crime and while and arrest (warrant has not been issued) there is no probable cause for arrest, See exh-13-14-22-14-12 therefore the state failed to present evidence of any witnesses. who identified whatleys vehicle or gave a full discription

of whatleys vehicle on any officers from the Chicago Police department on a Supervisor any authority who had Knowledge as a result, the denyial of whatleys Motion to suppress evidence under Article 1. section 6 of the Illinois Constitution is erreaneous and prejudice as a matter of law. as argued above had the firearm been suppressed the trial outcome would have been different.

The United State constitution
4th Amendment Article 1. section 6.

1. The unlawful use of weapon "firearm" class 4 charge is unconstitutional of the united state 2nd Amendment Provides: a well regulated Militia being necessary to the security of a free state the right of the pepe to keep and bear arms shall not infringed. U.S. Cons 2n Amend. the Supreme Court undertook its first ever in-depth examination of the second amendment's meaning after a lengthy historical discussion the court ultimately concluded that the second amendment guarantees the individual rights to possess and carry weapons in case of confrontation that central to this right is the inherent right of self-defense that the home is where the need for defense of self, family or property is most acute and that above all other interest the 2nd amendment devotes the rights of law abiding responsible citizens to use arms in defense of hearth and homes." (Id at. 635, 103. S. Ct. 3183)"

Id at 608.138, S.Ct 2783). Based on this understanding the court held that the (Class 4) unlawful use of weapon is unconstitional, Search & Seizure 4th amendment Illinois constitution 1970 article 1 Section 6, is a crucial difference between the 4th amendment, to the united state constition an the Illinois Search & Seizure clause, Ill. Const. 1970 article 1. Section 6 in portion of the text that pertain to issuing a warrant the united states constitution requires probable cause supported by "Oath or affirmantion" but the Illinois Const. requires probable Cause supported by affidavit Ill. Const: 1970 article 1. section 6. of the Illinois Supreme Court in Cases decide in time to the amendment of our Constitution, explained that the required of and affidavits goes a step "beyond the united states const. importantly these Cases doses not limit their reasoning to just the requirement for probable cause more generally a long legal tradition in this state requir more than just a word of an official accuser, usually a police officer to support a finding of probable cause against this rule the chicago police department has a system where an officer reports a suspected crime to his or her supervisor not a judge if the supervisor agrees that their is probable cause an investigative alerts goes out ordering the arrest of suspect, in other words police officers can obtain approval for arrest without the thing the framers of the Illinois Const. thought most

essential the presentation of sworn facts to a judge under a state constitution search & seizure clause the mere word of an executive branch officials fails on its own as a substance for finding of probable cause and the interposition of a neutral magistrate because the Paradigm of investigative property U.D. became. the Const. 4th amendment. Ill. const. article 1. section 6 the Constitution of this state does not cloth any officer with the autocratic power and the pride in expleiting it to disregard power to order the summary arrest and incarceration of any citizens without warrant on process of law. to hold otherwise would allow for officers law urged in some cases by popular clamor in others by the advise of person in a position to exert influence and yet in others by an exaggerated notion to their power and the end sought to be accomplised will justify the means. Illinois const. article 1. Section 6. Requires in ordinary cases a warrant to issue before and arrest can be made's arrest based on investigative alerts vidate that rule.

5. If the state seeks to use a fact other than a prior conviction to increase the sentence range applicable to whatley, that fact must be charge in the charging instrument and proved to the trier of facts beyond reasonable doubt. the fact as issue is that whatley personally discharge a firearm, has neither charged in the information nor submitted to the jury as a fact that

Could increase the sentencing range. Whatley faced if was convicted of attempted murder.
People v. Ellis. No. 2d (2012). 2012. Ill. app (2d) 110815-u.

6. Thus to enhance the sentencing for attempted murder the state need to include the fact at issue in the information and jury instructions for that offense.
An "injury" is not the same as great bodily harm permanent disability or permanent disfigurement or death to enhance whatley's sentence to 60 years at 85%
Thus the elements for the aggravated battery charge and the elements for the sentencing enhancement are not the same. Baker, 341. Ill. App. 3d, 942, 955. (2010)
The elements of the attempted murder charge also do not supply the elements required for the sentencing enhancement during the jury instructions the trial court instructed the jury about the elements of attempted murder, also even the 25-year enhancement for personally discharging a fire arm applies to the first degree, it does not apply to the attempted murder statute People v. Gibson 403. Ill. app. 3d 940. 955 (2010).
See. People v. edgecombe. 2011. Ill. app. (1st) 092698.

7. Under Strickland v. Washington whatley appellate counsel was ineffective for failing to raise these claims on direct apeal therefore whatley federal & state constitution 6 and 14th Amendment right's was violated 1970 article 1. section 6
People v. Herron. 2010. Ill. app. (1st) 090663, 39.
United State v. Gordon. 156. F. 3d 376, 380. 2d (Cir. 1998).
and knowledge of the comparative sentence expodure between

standing trial and accepting a plea often will often be crucial to the decision whether to plead guilty. United State v Dale 969. F. 2d, 39.43. (3rd Cir 1992).

"Jurisdiction And Venue"

this has jurisdiction because Whatley is being held in violation of the Sixth amendment See. 28. U.S.C. Section 2254 (A) Venue is appropiate in this court because Hill Correctional center, where respondent is holding whatley, lies in the northern dis of Illinois 28. U.S.C. Section 2241 (d) 28. U.S.C. Section 93 (A) (1).

"Standard Review"

Accordingly a mixed standard of review applies to this court reviews de-novo whether defense counsel performance was deficient. Porter v. McCollum. 558. U.S. 30, 39. (2009) The Illinois courts of apeals showed prejudice determination, however is subject to determine 28. U.S.C. Section 2254 (d) the state-courts was very prejudice determination. Meets one of two criteria either it was contrary to or involved an unreasonable application of Supreme court precedent or it was based on an unreasonable determination of facts" 28. U.S.C. Section 2254 (d) (1) - a a state court decision is contrary to supreme court's Precedent if the state court applies a rules that Contradics the governing law set forth in Supreme court

precedent williams V. Taylor 529. U.S.C. 362.405 (2000) the decision whether to plead guilty or contest a criminal charge is ordinary the most important single in a criminal case.

CONCLUSION

For the foregoing reasons, Lamar Whatley respectfully requests that this Court reverse outright his attempt murder convictions pursuant to Argument I, reverse his convictions and remand for a new trial with orders that evidence of the gun discovered in his gun by suppressed pursuant to Argument II, or reverse his convictions and remand for a new trial pursuant to Argument III. In the alternative, he requests that this Court vacate his sentences and remand for resentencing pursuant to Argument IV.

Respectfully submitted,

PATRICIA MYSZA
Deputy Defender

BRIAN W. CARROLL
Assistant Appellate Defender
Office of the State Appellate Defender
First Judicial District
203 N. LaSalle St., 24th Floor
Chicago, IL 60601
(312) 814-5472
1stdistrict.eserve@osad.state.il.us

COUNSEL FOR
DEFENDANT-APPELLANT

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Laman E Whatley

Date: 10-22-20