

No. 20-6456

ORIGINAL

Supreme Court, U.S.  
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

MAURICE TRAMMELL — PETITIONER  
(Your Name)

vs.

WENDY KELLEY-DIRECTOR RESPONDENT(S)  
ARKANSAS DEPARTMENT CORR

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF ARKANSAS  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MAURICE TRAMMEL  
(Your Name)

880 E. Gaines St.  
(Address)

Dermit, AR. 71638  
(City, State, Zip Code)

N/A  
(Phone Number)

**QUESTION(S) PRESENTED**

Even under the Arkansas Supreme Courts' facial invalidity or lack of jurisdiction rule. Thus, the petitioner should be entitled to some form of relief. When the Arkansas Supreme Court Majority Opinion incorrectly limit the petitioner's argument.

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## 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 10-22-2020.  
A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date:  
N/A, 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 N/A (date) on N/A (date) in Application No. \_\_\_ A \_\_\_\_\_.  
\_\_\_\_\_

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

## AND STATUTORY PROVISIONS INVOLVED

### Clause 2 of the United States Constitution

The privilege of the Writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion, or when the safety of the public may require it. Similarly, Article 2, Section 11 of the Arkansas Constitution provides that "the privilege of the Writ of habeas corpus shall not be suspended; except by the General Assembly, in cases of rebellion, insurrection or invasion, when the public safety may require it".

At common law, both the federal and Arkansas habeas provisions were understood to mean that habeas relief would only be available when the commitment order is invalid on its face or when the court from which the commitment order issued lacked jurisdiction to issue such an order. Ex parte Watkins, 28 U.S. (3 Pet.) 193, 7 L. Ed. 650 (1830); Ex parte Bostert, 6 Ark. 28 (1845).

In 1915, the United States Supreme Court interpreted these provisions to expand the parameters under which the Writ for habeas corpus will lie. Frank v. Mangum, 237 U.S. 309, 330-31, 35 S. Ct. 582, 59 L. Ed. 969 (1915). There, the court stated:

The effect of [Acts 1876] is to substitute for the bare legal review that seems to have been the limit of judicial authority under the common law practice, and under the act of 31 Cor. II, Chap. 2, a more searching investigation, in which the applicant is put upon his oath to set forth the truth of the matter respecting the cause of his detention, and the court, upon determining the actual facts, is to dispose of the party as law and justice require.

There being no doubt of the authority of the Congress to thus liberalize the common law procedure on habeas corpus in order to safeguard the liberty of all persons within the jurisdiction of the United States against infringement through any violation of the Constitution or a law or treaty established thereunder, it results that under the sections cited a prisoner in custody pursuant to the final judgment of a State Court of Criminal jurisdiction may have a judicial inquiry in a court of the United States into the very truth and substance of the cause of his detention...

## STATEMENT OF THE CASE

In Sethy, the factual background of this case is stated in County Kelley, 2020 Ark. 342, Appendix-A. Nonetheless, petitioner's Commitment Order subjected the petitioner to an enhanced sentence under Arkansas habitual Offender provisions. Ark. Code Ann. § 5-4-504(a); while simultaneously reflecting that the petitioner had a criminal history score of Zero.

The relevant habitual Offender's statutes are found at Ark. Code Ann. § 5-4-501 - 5-4-504 (Repl. 1997). In those statutes the Arkansas General Assembly specifically requires 'a previous conviction or finding of guilt' before the habitual Offender provisions are triggered. Ark. Code Ann. § 5-4-504(a). Habitual-Offenders proof of previous conviction! states in part:

(a) A previous conviction or finding of guilt of a felony may be proved by any evidence that satisfies the trial court beyond a reasonable doubt that the defendant was convicted or found guilty. In the petitioner's case at bar, the State did not introduce proof of the prior felony conviction used to enhance the petitioner sentence during the plea hearing. Likewise, the petitioner's Commitment Order notes; the petitioner's criminal history score was Zero. Which makes petitioner's Commitment Order invalid on its face.

For the habitual Offender Statute to be applicable in the petitioner's case. The petitioner had to have been previously found guilty of more than one (1) but less than four (4), felonies. Ark. Code Ann. § 5-4-501. Moreover, the petitioner had no prior felony conviction. Thus the habitual Offender provision was not applicable.

## REASONS FOR GRANTING THE PETITION

This case present yet another illustration of the various problems with Arkansas Supreme Courts' Jurisprudence addressing state habeas corpus claims. Noteworthy, the Arkansas Department of Correction (ADC), is holding the petitioner on a commitment order that is invalid on its face. In the petitioner's case; Trammel v. Kelley, 2020 Ark. 342, the majority opinion does not address the problem concerning the petitioner's invalid commitment order. Josephine Linker Hart, Justice, dissenting, acknowledging the Ark. Sup. Ct. majority in the petitioner's case incorrectly limited the petitioner's argument. i.e., at 2020 Ark. 342; Citing Stephenson v. Kelley, 2018 Ark. 143, 544 S.W.3d 44 (Hart, J., dissenting).

Nevertheless, Arkansas Supreme Court has substantially narrowed the circumstances in which relief under Arkansas state habeas corpus statute may be had. The stance continues to perplex in light of the Supreme Court of the United States' rejection of Arkansas Supreme Courts' limit on habeas corpus when it reversed Jackson v. Norris, 2011 Ark. 49, 378 S.W.3d 103 (Jackson I), in Miller v. Alabama, 567 U.S. 460, 132 S.Ct. 2455, 183 L.Ed. 2d 407 (2012). The Arkansas Supreme Court analysis is no longer valid.

As in the petitioner's case, the Arkansas Supreme Court in Jackson I, disposed of Jackson habeas petition stating, "Jackson had failed to alleged or show that the original commitment was invalid on its face or that the original sentencing court lacked jurisdiction to enter the sentence. The Arkansas Supreme Court held that the circuit court's dismissal of the petition for writ of habeas corpus was not ... clearly erroneous". Jackson I, 2011 Ark. 49, at 5. Inexplicably the Arkansas Supreme Court continue to cite and rely on the same rationale that the Supreme Court of the United States has expressly rejected in habeas cases.

Moreover, Josephine Linker Hart, Justice, dissented in all case's cited below, because of Arkansas Supreme Court's Jurisprudence addressing state habeas corpus claims. For example, see Watkins v. Kelley, 2018.