

20-6635

No. _____

Supreme Court, U.S.
FILED

NOV 30 2003

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
8TH JUDICIAL CIRCUIT

DAION J. WILLIAMS # 76527 — PETITIONER
(Your Name)

vs.

WILHEM — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE NEBRASKA SUPREME COURT AND COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DAION J. WILLIAMS # 76527
(Your Name)

P.O. BOX 22500

(Address)

LINCOLN, NE 68542-2500
(City, State, Zip Code)

402-471-3161
(Phone Number)

QUESTION(S) PRESENTED

- 1. DID THE DISTRICT COURT JUDGE ANDREW R. JACOBSEN ERROR, In denying the Petitioner's Petition For Writ Of Habeas Corpus pursuant to Neb. Rev. Stat. § 29-2801, when the Petitioner did show cause of action for discharge pursuant to Neb. Rev. Stat. § 29-2801?**
- 2. DID THE DISTRICT COURT JUDGE ANDREW R. JACOBSEN ERROR, In denying the Petitioner's Petition For Writ Of Habeas Corpus without granting an Evidentiary Hearing pursuant to Neb. Rev. Stat. § 29-2805?**
- 3. DID THE DISTRICT COURT JUDGE ANDREW R. JACOBSEN ERROR, In denying the Petitioner's Petition For Writ Of Habeas Corpus, when there was a Jurisdictional Error present in the Petitioner's Petition?**
- 4. DID THE COURT OF APPEALS FOR THE STATE OF NEBRASKA ERROR, In denying the Petitioner relief pursuant to Neb. Rev. Stat. § 29-2801?**
- 5. DID THE COURT OF APPEALS FOR THE STATE OF NEBRASKA ERROR, In sustaining the Appellee's Motion For Summary Affirmance, even-though the Court Of Appeals For The State Of Nebraska cannot determine the Constitutionality of a Statute?**
- 6. DID THE NEBRASKA SUPREME COURT ERROR, In denying the Petitioner's Petition For Further Review in this matter without an Appealable answer?**
- 7. DID THE NEBRASKA SUPREME COURT ERROR, by giving an Unconstitutional and Erroneous Order in this matter, that failed to state a reason for that denial?**
- 8. IS THE NEB. REV. STAT. § 29-2801 UNCONSTITUTIONAL, When the Petitioner was denied the rights of the Writ, even-though the Petitioner raised a Collateral Attack?**
- 9. IS THE NEB. REV. STAT. § 29-2801 UNCONSTITUTIONAL, When the Statutory language is " ambiguous " because it is susceptible to more than one reasonable interpretation?**

10. WAS THE ORDER'S IN THE LOWER COURT'S UNCONSTITUTIONAL, when the decision's in this matter to deny the Petitioner relief is contrary to clearly established federal law under the habeas statute?

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:

THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA
575 S. 10TH STREET
LINCOLN, NEBRASKA 68508-2810

THE COURT OF APPEALS FOR THE STATE OF NEBRASKA
2413 STATE CAPITOL
P.O. BOX 98910
LINCOLN, NEBRASKA 68509-8910

THE NEBRASKA SUPREME COURT
2413 STATE CAPITOL
P.O. BOX 98910
LINCOLN, NEBRASKA 68509-8910

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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.

[x] 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,
[x] is unpublished.

The opinion of the NEBRASKA COURT OF APPEALS court appears at Appendix B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[x] is unpublished.

The opinion of the DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA
appears at Appendix C to the petition and is
]X] 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).

[X] For cases from state courts:

The date on which the highest state court decided my case was 9/14/2020. A copy of that decision appears at Appendix A.

[] A timely petition for rehearing was thereafter denied on the following date: 09/14/2020, and a copy of the order denying rehearing appears at Appendix A.

[] 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

U.S.C.A. AMENDMENT V; AMENDMENT IV; AMENDMENT VIII & AMENDMENT XIV

NEB. REV. STAT. § 29-2801

NEB. REV. STAT. § 43-246.01 (3) (REISSUE 2016)

NEB. REV. STAT. § 24-1106 (1)

NEB. REV. STAT. § 43-247 (2)

NEB. REV. STAT. § 43-277

NEB. REV. STAT. § 43-276

NEB. REV. STAT. § 43-271

NEB. REV. STAT. § 43-278

NEB. REV. STAT. § 29-2805

STATEMENT OF THE CASE

On March 5, 2020 the District Court Judge Andrew R. Jacobsen, entered an Order denying the Petitioner's Petition For Writ Of Habeas Corpus. The Petitioner timely filed a Notice Of Appeal for that denial. The Petitioner then filed his Brief # A-20-0227 with the Court Of Appeals For The State Of Nebraska. On July 27, 2020 the Court Of Appeals, entered an Order to grant the Appellee's Motion For Summary Affirmance. On August 24, 2020 the Petitioner timely filed a Petition For Further Review with the Nebraska Supreme Court. On September 14, 2020 the Nebraska Supreme Court entered an Order to deny the Petitioner's Petition For Further Review.

The Nebraska Supreme Court order that denied the Petitioner's Petition For Further Review was Unconstitutional and Erroneous because the Nebraska Supreme Court failed to give the Petitioner an appealable order. The order that was given stated " Petition of Appellant for further review is denied " and thus failed to give a stated reason as to why that Petition For Further Review was denied and therefore failed to give an appealable answer as to why that petition was denied. The Petitioner has a Constitutional Right to appeal a final order and this order given by the Nebraska Supreme Court failed to state a reason, as to why the Petition For Further Review was denied and because of that failure to state a reason, this order is Unconstitutional and Erroneous.

The Court Of Appeals For The State Of Nebraska cannot determine the Constitutionality of a statute, and thus the Order that was given on July 27, 2020 is Unconstitutional and Erroneous because the Court Of Appeals did make that decision to deny relief and to sustain the Appellee's Motion For Summary Affirmance

based upon the interpretation of the Neb. Rev. Stat. § 29-2801 and Neb. Rev. Stat. § 43-246.01(3) (Reissue 2016) and thus the interpretation of a statute can only be done by the Nebraska Supreme Court and not the Court Of Appeals For The State Of Nebraska, as seen in Neb. Rev. Stat. § 24-1106(1), when there is an issue of Constitutionality of a statue. Both Neb. Rev. Stat. § 29-2801 and Neb. Rev. Stat. § 43-246.01(3) is ambiguous and is in pari materia with related statutes, as seen in Neb. Rev. Stat. § 43-247 (2) " Any juvenile who has committed an act which constitute a felony under the laws of this state; " and this statute also states that " The juvenile court shall have concurrent original jurisdiction with the district court as to any juvenile defined in subdivision (2) of this section. Neb. Rev. Stat. § 43-277 states that a juvenile defendant has a right to a adjudication hearing as soon as possible. The interpretation of a juvenile's jurisdiction for a criminal case pursuant to a statute cannot be made by the Court Of Appeals For The State Of Nebraska and thus to make an interpretation of this statute in this matter was Unconstitutional and Erroneous.

The District Court Judge Andrew R. Jacobsen also gave an Unconstitutional and Erroneous order because there was a Jurisdictional Error present in the Petitioner's Petition For Writ Of Habeas Corpus. Nebraska statutes is clear when it comes to the treatment of juvenile's, as seen in the Neb. Rev. Stat. § 43-276 holds that " all cases against a juvenile shall always begin in the Juvenile court and must literally be transferred by the juvenile court to adult court. ", even under Neb. Rev. Stat. § 43-247 it states that a " juvenile offender is subject to the exclusive jurisdiction of the juvenile court unless that court after a (full investigation) (Emphasis Added) should waive jurisdiction over him and remit him for trial to the District Court " and pursuant to Neb. Rev. Stat. § 29-2801, a person is allowed to collateral attack a " Void And Null " Sentence, Judgment, Conviction and Commitment

when there is an lack of Jurisdiction over the Offense, Personal Jurisdiction over the Petitioner and Jurisdiction to impose a sentence. The Petitioner did present the issue of a Jurisdictional Error in this matter.

The Petitioner in this matter is entitled to absolute discharge because the Petitioner was never given an adjudication hearing within the required time period and thus there was no jurisdiction transferred from the Juvenile Court to the District Court in this matter and therefore the Petitioner's Sentence, Judgment, Conviction and Commitment is " Void And Null " in this matter. There is a statutory right to juveniles to have an adjudication hearing for all juveniles alleged to have committed misdemeanor, felony, or certain traffic offenses or to be disobedient or wayward, as seen in Neb. Rev. Stat. §§ 43-247 (1,2),(3)(b),(4), 43-271, 43-278 In re interest of Brandy M., 1996, 250 Neb. 510, 550 N.W. 2d 17.

The Petitioner was prejudiced by the failure of not having an adjudication hearing because the Petitioner could have been charged as an juvenile and not as an adult and thus the Petitioner's right to " Due Process " was also violated in this matter. The Petitioner never waived his rights to an adjudication hearing, nor did the Petitioner waive his right to have Counsel for an adjudication hearing, as seen in Exhibit #7.

The Petitioner's Sixth Amendment right to have " Competent " counsel at a " Critical " stage in a " Criminal " proceeding was not upheld in this matter because Counsel for a juvenile offender must (Emphasis Added) file a motion in Juvenile Court requesting a hearing on the question of waiver, and access to the Juvenile's social file, and there is nothing in the record that show that ^{He} ~~was~~ done these things and thus did violate a critical statutory right of a juvenile offender.

As seen in Kent V. U.S., 383 U.S. 541 (1966) is directly on point with this issue, in Kent, the petitioner was arrested at the age of 16 in connection with charges of housebreaking, robbery and rape. As a juvenile, he was subject to the exclusive jurisdiction of the District Court of Columbia Juvenile Court unless that court, after " Full Investigation ", should waive jurisdiction over him and remit him for trial to the United States District Court for the District of Columbia. Petitioner's Counsel filed a motion in the Juvenile Court for a hearing on the question of waiver, and for access to the Juvenile Court's Social File which had accumulated on petitioner during his probation for a prior offense. The Juvenile Court did not rule on these motions, but entered an order waiving jurisdiction, with the recitation that this was done after the required " Full Investigation ".

The petitioner was indicted in the District Court, he than moved to dismiss the indictment on the ground that the Juvenile Court's waiver is invalid, although these two case's (Williams and Kent) are similar they differ as well, mainly because Kent was allowed the benefits of the JUVENILE PROCESS while the Petitioner was denied that right of the Juvenile Process. The Petitioner was never given that " Full Investigation " nor was there a waiver order in this matter, and those two things are very critical in the Juvenile Process that must be done to bound over a Juvenile to the District Court as an adult and to deny or omit any and all " Juvenile Court " proceedings can never be considered as a mere irregularity.

The record in this matter does prove that the District Court's reasoning was untenable and unfair to the Petitioner and the Petitioner was denied his rights as an Juvenile Offender. The order to bound jurisdiction over to the District Court on January 23, 2012 by the Honorable Judge Susan Bazis, was an Unconstitutional and Erroneous order because there was never an Adjudication Hearing in this matter and because of an absent of a waiver order and " Full Investigation ", there is no

valid order to bound jurisdiction in this matter, and thus the Petitioner is entitled to collateral attack his " Void And Null " Sentence, Judgment, Conviction and Commitment pursuant to Neb. Rev. Stat. § 29-2801 because the sentence imposed in this matter is absolutely void because there was no Jurisdiction over the Offense, there was no Personal Jurisdiction over the Petitioner in the District Court and thus the District Court did exceed it's Unlawful Authority in imposing a sentence in this matter.

REASONS FOR GRANTING THE PETITION

Neb. Rev. Stat. § 29-2801; § 43-246.01(3) (Reissue 2016); § 24-1106(1); § 43-247(2) and § 43-277 is being drawn into question by the Petitioner on the ground of them being repugant to the Constitution, treaties, or laws of the United States, and the Petitioner's right, entitlement, and privilege for relief pursuant to Neb. Rev. Stat. § 29-2801 is being denied by the State Of Nebraska. On Habeas Corpus, the inquiry is confined to jurisdictional matters, see Keller V. Davis, 1903, 69 Neb. 494, 95 N.W. 1028.

The decision given in Appendices A, to deny the Petitioner's request for Further Review, was Unconstitutional and Erroneous because the Nebraska Supreme Court failed to give the Petitioner an Appealable answer and the statement that was given failed to state any reason as to why that " Petition For Further Review " was denied, and under both State and Federal Constitutional Right to " Due Process ", the Petitioner have a right to an Appealable order in this matter.

The decision given in Appendices B, to deny the Petitioner's request for relief pursuant to Neb. Rev. Stat. § 29-2801 and to sustain the Appellee's Motion For Summary Affirmance was Unconstitutional and Erroneous because the Court Of Appeals for the State Of Nebraska cannot determine the Constitutionality of a statute. The Order to deny relief in this matter was based upon the Court Of Appeals own interpretation of said statutes and as seen in Neb. Rev. Stat. § 24-1106(1) an issue that deals with the Constitutionality of a statute must be made by the Nebraska Supreme Court and not by the Nebraska Court Of Appeals and therefore the Order to grant the Appellee's Motion For Summary Affirmance in this matter, was also Unconstitutional and Erroneous. The Petitioner's State and Federal Constitutional Right's to " Due Process " was also violated by the Erroneous Order.

The decision given in Appendices C, to deny the Petitioner's Petition For Writ Of Habeas Corpus in this matter was Unconstitutional and Erroneous because the Petitioner did present a Jurisdictional Error that does show and prove that there was no Valid Order that Bounded the Petitioner over from Juvenile Court to the District Court to be charged as an adult in this matter and thus there was no Jurisdiction over the Offense, no Personal Jurisdiction over the Petitioner and therefore there is no Jurisdiction for the District Court to impose a sentence in this matter. There is no Legal Authority for the District Court to impose any sentence without a Valid Order that Bounded the Petitioner over. The Petitioner is being denied his **LIBERTY** by means of a " Void And Null " Sentence, Judgment, Conviction and Commitment and pursuant to Neb. Rev. Stat. § 29-2801, the Petitioner is allowed to attack this " Void And Null " Sentence, Judgment, Conviction and Commitment. The Order to deny the Petitioner's Petition For Writ Of Habeas Corpus in this matter was Unconstitutional and Erroneous. The Petitioner's State and Federal Constitutional Right's to " Due Process " was also violated in this matter.

A Writ Of Habeas Corpus is a remedy which is constitutionally available in a proceeding to challenge and test the legality of a person's detention, imprisonment, or custodial deprivation of liberty. A Void and Invalid Juvenile Jurisdiction waiver is allowed to be Collateral Attacked pursuant to Neb. Rev. Stat. § 29-2801. The Petitioner is seeking that this Court overturn the decision's of the District Court Of Lancaster County, Nebraska and the Nebraska Supreme Court And Court Of Appeals and to grant the Petitioner his requested relief for this matter.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

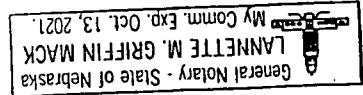
Daron Williams

Date: 11/23/2020

NOTARY:

Laurene M. Giffen, Notary

DATE:



Oath the 23rd day of November 2020 in Lancaster
County, Nebraska