ORIGINAL

No. 20-6680

Supreme Court of the United States

Darryl D. Taylor
Petitioner,
v.
Warden, Noble Correctional Inst.
Respondent.

On Petition for Writ of Certiorari to
United States Court of Appeals, Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

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Caldwell, Ohio 43724-8902

In Williams v. Taylor [529 U.S. 362 (2000)], and its line of cases (See, Harrington v. Richter, 562 U.S. 86 (2011); Brown v. Payton, 544 U.S. 133 (2005); Bell v. Cone, 535 U.S. 685 (2002)), this Court reasoned that federal judges ought to safeguard state court decisions unless clearly constituting constitutional error.

Does this bright-line rule guide an analysis of whether opportunity for full and fair consideration in state courts took place?

In Jackson v. Virginia, 433 U.S. 307 (1979), this Court set forth the constitutional standard for evaluating whether evidence is sufficient enough to prove every element of the offense beyond a reasonable doubt.

Is it an unreasonable application of this precedent where the surveillance evidence used to support conviction has been deemed insufficient?

[✓] 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:

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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 A to the petition and is

[✓] reported at 2020 U.S. App. LEXIS 20439; 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[ ] is unpublished.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 B to the petition and is

[✓] reported at 2020 U.S. Dist. LEXIS 2750; 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[ ] is unpublished.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 _____; 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[ ] is unpublished.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.

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was ~~June 30, 2020~~ / July 17, 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: _____, 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 _____. 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 Application No. ___A_____.

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

Petitioner filed a petition for federal habeas corpus relief with the Southern District of Ohio, raising: (1) denial of due process with respect to a motion to suppress; (2) denial of due process when admitting unlawfully gained evidence; (3) insufficient evidence to support first "controlled buy", in the vicinity of a juvenile, beyond a reasonable doubt; (4) denial of effective appellate counsel for failing to raise denial of effective trial counsel; (5) denial of effective appellate counsel for failing to raise denial of a fair trial.

On August 22, 2017, Respondent filed its answer, contending that ground one failed on merits; ground two was procedurally defaulted; ground three failed on merits, as adduced by state appellate court; and grounds four and five were procedurally defaulted.

Petitioner traversed by attempting to demonstrate that a fundamental miscarriage of justice would occur with the application of procedural default.

On May 17, 2018, the magistrate issued his report and recommendation that the petition be dismissed with prejudice. Appendix E.

Thereafter, Petitioner timely objected and, on July 6, 2018, the district court issued a recommittal order. Appendix D.

With the order proving unpersuasive, the magistrate issued a supplemental report and recommendation on July 24, 2018. Appendix C.

Petitioner timely objected, but, on January 8, 2020, the district court overruled objections, modified report and recommendation, and adopted as modified. The court also refused to issue a certificate of appealability. Appendix B.

Petitioner, thereafter, filed notice of appeal and application for a certificate of appealability to the Sixth Circuit court of appeals. On June 30, 2020, the court denied the application. The order of denial had to be reissued on July 18, 2020, due to a typo in Petitioner's inmate number. Appendix A.

Williams v. Taylor, 529 U.S. 362 (2000), and its line of cases, brings to mind the principal that federal judges ought to safeguard state court decisions to the extent they do not constitute constitutional error. This Court has yet to opine how this constitutional democracy affects the Stone v. Powell touchstone of an opportunity for full and fair consideration of a Fourth Amendment claim in state courts. As noted in the precedent used to deny federal habeas review, Good v. Berghuis, 729 F.3d 636, 637-639 (6th Cir. 2013), this touchstone has been difficult to define. This denies congruity and permits gamesmanship pursuant to a ban on assessing the quality of the opportunity offered. As it stands, a state simply can avow that a procedure exists, without justifying whether it was corrupted.

In the instant case, the trial judge created a conflict-of-interest when he dictated the composition of the motion to suppress and denied it in the same breath. Albeit this constitute clear constitutional error, it was papered over under Stone v. Powell. The well learned voice of this Court could end the state of flux in applying the evolution of law.

Albeit Jackson v. Virginia permits testimony to play a limited role in the analysis of sufficient evidence, can such be used to impeach surveillance evidence that negates the crime charged? The state appellate court found it "troubling" that the evidence failed to demonstrate a crime beyond a reasonable doubt, but, nonetheless, allowed the CI's testimony to fill

in the blanks, so to speak, in the abstract. The key concern is if this Court intended a manifest weight analysis (evidence developed at trial) to trump a sufficiency analysis (evidence produced at trial)? Only this Court can set the law straight.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

DARRYL D. TAYLOR, pro se.

Date: 10/8/20