

QUESTION(S) PRESENTED

THE PETITIONER WANTS TO KNOW HOW WAS SET THAT
ON PAGE 8 AT 8-9 OF THE WASHINGTON COUNTY CIRCUIT
COURT TRANSCRIPT PLEA HEARING THE PETITIONER STATES
IT WASN'T NEVER --- NO THAT'S WHAT SHE SAID NO I
DIDN'T HOW WAS IT THAT THIS COURT PROCEDURES
CONTINUED TOO BE OPERATED AFTER PETITIONER
Eddie Binderter PROCLAIMED HIS ACTUAL INNOCENCE??
IN HIS COURT TRANSCRIPT ARKANSAS RULES OF CRIMINAL
PROCEDURES RULE 25.3 (B) WAS VIOLATED BY
WASHINGTON COUNTY CIRCUIT COURT JUDGE HIRSH SMITH
AND THE DEPUTY PROSECUTOR JOHN THREETS
ARKANSAS RULES OF CRIMINAL PROCEDURES RULE 29.4
~~THE~~ ADVICE BY COURT WAS ALSO VIOLATED

(P774)

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:

MS. PAMELA RUMPE ASST. ATTY GENERAL

MR DEXTER PAYNE APPELEE

PETITIONER EDDIE A BINDER

MS LESLIE RUTLEDGE

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TABLE OF AUTHORITIES CITED

CASES *MAGBREW v. JOHNSON* 6/11/1984 467 US 504
McCall v. Benson 114 F.3d 754 - 2016/3086
 8th Cir. 1997 US v Wheeler 753 F.3d 200, PAGE NUMBER
 208 DC Cir 2014 *Gordon v. AR4823* F.3d 1188 8th Cir 2016
US v. Scroggins 485 F.3d 824, 831 5th Cir 2007
US v Bradin 535 F.2d 1039 8th Cir 1976
States v Barker 514 F.2d 208 DC Cir 1975
US v. Carpenter 494 F.3d 13, 23 1st Cir 2007
 SEE *US v. Michaelson* SUPRA
US v Needles 472 F.2d 652 2nd Cir (1973).
US v Garcia Hernandez 530 F.3d 657-663-64
 (8th Cir 2008).

STATUTES AND RULES *ARPA RULE 25.3(B)* *ARCP RULE 24.4*
ACA STATUTES 16-112-101 ET SEQ 16-112-208
FRCP 33(A)(2) *FEDERAL RULES OF CRIMINAL PROCEDURE RULE 32*

OTHER *McQuiggin v. Perkins* 569 US 383 2013
Loftis v. Christman 10th Cir FED 10th 2016
Lee v. HODAS UNITED STATES DISTRICT COURT
 2013 WL 38742907. *MURPHY v. King* 652 F.3d 845
 848-49 (2011). *MACHIBRODA v US* 368 US 487 82 OT
 510

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 A to the petition and is

☐ reported at Pending 8th Circuit; 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☒ is unpublished.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 Notice of Elect Filing; 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 A to the petition and is

☐ reported at 3:20-CV-00009 DPM; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the 8th Circuit court appears at Appendix A 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 1/9/2006.

☐ 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: 10/26/2006, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including NA (date) on NA (date) in Application No. NA NA.

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 APPEX 1/15/2006.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: 10/26/2006, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

CONSTITUTIONAL VIOLATION OF PETITIONER RIGHTS DURING

COURT PROCEEDINGS ON APPROX 3/7/2006 THAT THE

PETITIONER CONTENTS THAT HE IS BEING HELD

UNLAWFULLY AND THAT COURT HAS JURISDICTION PURSUANT

TO ACA AND ARKANSAS CONSTITUTION AND ACA

16-112-208 THAT THE TRIAL COURT LACKED

JURISDICTION AND /OR THE PETITIONER IS HELD

PURSUANT TO AN INVALID CONVICTION

PRORP 33 (A)(2) PREJUDICIALLY AFFECTED

THE DEFENDANT'S PETITIONER'S SUBSTANTIAL

RIGHTS SO AS TO DEPRIVE THE PETITIONER

OF A FAIR TRIAL

STATEMENT OF THE CASE

PETITIONER CONTENDS THAT HE WAS WRONGLY

CONVICTED THAT THE APPELLANT IS BEEN

WOLD UN-LAWFUL PETITIONER ALSO CONTENDS

THAT UNDER 16-12-208 THAT THE JUDICIAL COURT

USING JURISDICTION AND OR THE

PETITIONER IS HELD PURSUANT TO AN

INVOLVED CONVICTION FCIRP 33(a)(2)

PREJUDICIAL AFFECTED THE DEFENDANT'S

SUBSTANTIAL RIGHTS ALTHOUGH THE TERMS F91 AND

JUST LAW AND PRETENSE: OF SCIENTIFIC EXACTNESS

STATEMENT OF THE CASE

Pg ~~145~~

A NUMBER OF FACTORS ARE RELEVANT TO THE QUESTION OF WHETHER A PETITIONER'S SUBSTANTIAL RIGHTS WERE PREJUDICED TO THE POINT OF DENYING HIM A FAIR TRIAL. ABSENT THE REMEDY.

THE STRENGTH OF COMPETENT PROOF INTRODUCED TO ESTABLISH THE GUILT OF THE ACCUSED

AN ALFORD PLEA IS ONE WHERE THE DEFENDANT ENTERS A GUILTY

PLEA WHILE MAINTAINING HIS INNOCENCE

US COURT OF APPEALS SIXTH CIRCUIT AUGUST 22, 2019 936 F3d 386 A COURT

SHOULD NOT ACCEPT AN ALFORD PLEA WITHOUT ENSURING THAT THERE IS A FACTUAL BASIS FOR THE PLEA.

US COURT OF APPEALS FOURTH CIRCUIT

MARCH 8TH 2012 673 F3d 2274

ALFORD V. US SUPREME COURT OF THE UNITED STATES FEB 24TH, 1931

STICKLAND V. WASHINGTON SUPREME COURT

OF THE US MAY 14TH 1984 ALL PERSONS

BORN OR NATURALIZED IN THE UNITED

STATES AND SUBJECT TO THE JURISDICTION

THEREOF ARE CITIZENS OF THE UNITED

STATES AND OF THE STATE WHEREIN

THEY RESIDE NO STATE SHALL

statement of the case
6/19/76

CONTINUED US CONST 1474 AND
MAY NOT ENFORCE ANY LAW WHICH SHALL
~~ABRIDGE~~ ABRIDGE THE PRIVILEGES OR ~~IMMUNITIES~~
IMMUNITIES OF CITIZENS OF THE
UNITED STATES NOR SHALL ANY STATE
DEPRIVE ANY PERSON OF LIFE, LIBERTY
OR PROPERTY WITHOUT DUE PROCESS
OF LAW NOR DENY TO ANY PERSON
WITHIN ITS JURISDICTION THE
EQUAL PROTECTION OF THE LAWS.
UNITED STATES V. BARKER SUPR guidelines
HAVE EMERGED IN THE ~~1973~~ APPELLATE
CASES FOR APPLYING THIS STANDARD
WHETHER THE MOVANT HAS ASSERTED
HIS LEGAL INNOCENCE IS AN IMPORTANT
FACTOR TO BE WEIGHED UNITED STATES
V. JOHNSON 434 F2d 526 (DC Cir
1970) AS IS THE REASON WHY THE
DEFENSES WERE NOT PUT FORWARD
AT THE TIME OF ORIGINAL PLEADING
UNITED STATES V. NEEDLES 472 F2d
652 2ND CIR (1973) THE AMOUNT
OF TIME WHICH HAS PASSED BETWEEN
THE PLEA AND THE ~~THE~~ MOTION
MUST ALSO BE TAKEN INTO ACCOUNT
A SWIFT CHANGE OF HEART IS ITSELF
STRONG INDICATION THAT THE PLEA WAS
ENTERED IN HASTE AND CONFUSION

STATEMENT OF THE CASE

P94-7

BY CONTRAST if the defendant has long delayed his withdrawal motion and has had the full benefit of competent counsel at all times, the reasons given to support withdrawal must have considerably more force. Please refer back to Federal Rules of Criminal Procedure: Rule 33

See Also US V. Carpenter 494 F3d 13.23 1st Cir 2007 These factors should be ~~examined~~ examined in the context of the entire trial and no one factor is dispositive. The district court must examine the entire case, take into account all facts and circumstances and make an objective evaluation. There must be a real concern that an innocent person may have been convicted. Generally the trial court has broader discretion to grant a new trial under Rule 33 than to grant a motion for acquittal under FRCP 29. But it none the less

STATEMENT OF THE CASE

~~REVIS~~

MUST EXERCISE THE RULE 33 AUTHORITY
SPRINGEX AND IN THE MOST
EXTRAORDINARY CIRCUMSTANCES.

* See Also US V. Garcia Hernandez,
530 F3d 657-663-64 (8th Cir 2008)

The AMOUNT OF TIME WHICH HAS PASSED

BETWEEN THE PLEA AND THE MOTION MUST

ALSO BE TAKEN INTO ACCOUNT. A SWIFT

CHANGE OF HEFT IS ITSELF STRONG

INDICATION THAT THE PLEA WAS ENTERED

IN HASTE AND CONFUSION BY CONTRAST

IF THE DEFENDANT HAS LONG DELAYED

HIS WITHDRAWAL MOTION AND HAS NOT

THE FULL BENEFIT OF COMPETENT COUNSEL

AT ALL TIMES THE REASONS GIVEN TO

SUPPORT WITHDRAWAL MUST HAVE

CONSIDERABLY MORE FORCE PLEASE REFER BACK

TO FEDERAL RULES OF CRIMINAL PROCEDURE,

RULE 33. SEE ALSO 45 V.C. § 494

FSD 13.23 1ST CIRCUIT THESE FACTS

SHOULD BE EXAMINED IN THE CONTEXT

OF THE ENTIRE TRIAL AND NO ONE FACT

IS DISPOSITIVE THE DISTRICT COURT

MUST EXAMINE THE ENTIRE CASE, TAKE

FACTS, ACCOUNT ALL FACTS AND CIRCUMSTANCES

AND MAKE AN OBJECTIVE EVALUATION

THERE MUST BE A REAL CONCERN THAT

AN INNOCENT PERSON MAY HAVE BEEN
CONVICTED GENERALLY THE TRIAL COURT
HAS BROADER DISCRETION TO GRANT
A NEW TRIAL UNDER RULE 33

THAN TO GRANT A MOTION FOR REQUITAL
UNDER FRCP 29 BUT IT MUST

THE LESS MUST AT 10-12 IT ONLY

SHOWS HOW THE COURT REFUSED FURTHER

INQUIRY INTO SUCH GUILTY AND

ADDED SUCH COERCION TRICKERY TO

USE THE LEGAL ANALOGIES TO ASK THE

PETITIONER (2) QUESTIONS AT THE SAME
TIME

(P. 47)

While ONLY THE STATE ANSWERED NOT THE
PETITIONER WELL DID YOU HOLD HER AGAINST

HER WILL? IS THIS KIDNAPING, CHARGE OUT

OF THE SAME INCIDENT? INQUIRING

WITH THE STATE PETITIONER SOUNDS

THE RECORD REFLECTING AT Pg 8 OF

THE COURT TRANSCRIPT AT 13 THE

PROSECUTING ATTORNEY MR JOHN THORNTON

STATES YES SIR AND NOT THE PETITIONER

ACCEPTING THE RESPONSIBILITY OF ANY

CRIMINAL PLOT/CHARGES. PETITIONER

STATES IF THERE IS ANY

QUESTION IN THE MIND OF THE COURT

WITH RESPECT TO THE DEFENDANT

FULL UNDERSTANDING OR IF THERE IS

ANY INCONSISTENCIES WITH WHAT

THE DEFENDANT STATES IN OPEN

COURT AND WHAT HE STATES TO COUNSEL.

THE COURT WILL NOT ACCEPT THE

PLEADING. PETITIONER CONTENDS FURTHER

THAT THIS PLEA OF GUILTY IS

NOT VALID AND THE COURT WAS

PUT ON NOTICE ON Pg 8 OF PETITIONER

Plea hearing, TRANSCRIPT AT 8-9

THAT PETITIONER DENIED COMMITTING

THE CRIME AND FOR THE FACTUAL
BASIS REASONS PETITIONER HAS SHOWN

THAT HIS PETITION IS WARRANTED

SEE APCR RULE 25.3(B)

THE JUDGE DECIDES THAT THE DISPOSITION

SHOULD NOT INCLUDE THE CHARGE OR

SENTENCE CONCESSIONS CONTEMPLATED

BY THE AGREEMENT, HE SHALL SO

ADVISE THE PARTIES AND THEN IN

OPEN COURT CALL UPON THE DEFENDANT

TO EITHER AFFIRM OR WITHDRAW

(P#10)

his Plea ARCP Rule 24.4 Advice

BY COURT THE COURT SHALL NOT ACCEPT
A Plea OF GUILTY OR NOLO

CONTENDERE FROM A DEFENDANT WITHOUT
FIRST Addressing The defendant

PERSONALLY Informing him of
AND determining THAT he
UNDERSTANDS,

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL VIOLATION OF PETITIONER RIGHTS DURING

COURT PROCEEDINGS ON APPROX 3/7/2006 THAT THE

PETITIONER CONTENTS THAT HE IS BEING HELD

UNLAWFULLY AND THAT COURT HAS JURISDICTION PURSUANT

TO ACA AND ARKANSAS CONSTITUTION AND ACA

16-112-208 THAT THE TRIAL COURT LACKED

JURISDICTION AND /OR THE PETITIONER IS HELD

PURSUANT TO AN INVALID CONVICTION

FRCP 33 (A)(2) PREJUDICIALLY AFFECTED

THE DEFENDANT'S PETITIONER'S SUBSTANTIVE

RIGHTS SO AS TO DEPRIVE THE PETITIONER

OF A FAIR TRIAL

STATEMENT OF THE CASE

PETITIONER CONTENDS THAT HE WAS WRONGLY

CONVICTED THAT THE APPELLANT IS BEEN

HELDO UN-LAWFULLY PETITIONER A/TS CONTENDS

THAT UNDER 16-112-208 THAT THE TRIAL COURT

EXERCISED JURISDICTION AND OR THE

PETITIONER IS HELD PURSUANT TO AN

INVALID CONVICTION FICRP 33(a)(2)

PREJUDICIALITY AFFECTED THE DEFENDANT'S

SUBSTANTIAL RIGHTS ALTHOUGH THE TERMS FID AND

JUST LAW AND PRETENSE OF SCIENTIFIC EXACTNESS

REASONS FOR GRANTING THE PETITION

The Petitioner contends that on Pg 8 at 8-9
of The Plea hearing transcript ... IT WASN'T

NEVER --- NO THAT'S WHAT SHE SAID NO I

didn't ONLY SHOWS AT 10-12 how THE COURT

Refused further inquiry into such questions

And added such (TRUDERY) to use the

LEGAL ANALOGIES TO ASK THE PETITIONER (2)

QUESTIONS AT THE SAME TIME WHILE ONLY THE

STATE ANSWERED, NOT THE PETITIONER

WELL DID YOU HOLD HER AGAINST HER WILL?

IS THIS VIOLATING CHARTER OUT OF THE STATE

P120f2

REASONS FOR GRANTING THE PETITION
INCIDENT? INQUIRY WITH THE
STATE. PETITIONER SHOWS THE RECORD
REFLECTING AT PG 8 OF THE COURT
TRANSCRIPT AT 13 MR. THREE
(STATES) YES SIR AND NOT THE PETITIONER
ACCEPTING THE RESPONSIBILITY OF
ANY GUILTY PLEA/CHARGE. PETITIONER
THAT IT IS WITHIN THE DISCRETION
OF THE COURT TO ACCEPT A PLEA
ONLY AFTER ESTABLISHING A
SUFFICIENT FACTUAL BASIS FOR THE
PLEA. PETITIONER STATES IF THERE
IS ANY QUESTION IN THE MIND
OF THE COURT WITH RESPECT TO THE
DEFENDANT FULLY UNDERSTANDING
OR IF THERE IS ANY INCONSISTENCIES
WITH WHAT THE DEFENDANT STATES
IN OPEN COURT AND WHAT HE STATES
TO COUNSEL THE COURT WILL NOT
ACCEPT THE PLEA. PETITIONER CONTENDS
FURTHER THAT THIS PLEA OF GUILTY
IS NOT VALID AND THE COURT WAS
PUT ON NOTICE ON PG 8 OF PETITIONER
PLEA HEARING TRANSCRIPT AT 8-9
THAT PETITIONER DENIED COMMITTING
THE CRIME AND FOR THIS FACTUAL
BASIS REASONS

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Eddie A. Binder

Date: 11/16/2020