

No. 20-6850 ORIGINAL

Supreme Court, U.S.
FILED
DEC 09 2020
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IN THE
SUPREME COURT OF THE UNITED STATES

RONALD EUGENE WEEMS — PETITIONER
(Your Name)

vs.

STATE OF ALABAMA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

RONALD EUGENE WEEMS #
(Your Name)

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HARVEST AL 35749
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- I) DOES THE SIXTH AMENDMENT OF THE U.S. CONST. ALLOW AN ATTORNEY TO REPRESENT A CLIENT IN A POST-CONVICTION PETITION WHICH ALLEGES THAT THE ATTORNEY REPRESENTED THE CLIENT ON DIRECT APPEAL AND IS THE SUBJECT OF THE INEFFECTIVE ASSISTANCE OF COUNSEL IN THE POST-CONVICTION PETITION?
- II) DOES RULE 60(b)(4) ATTACH TO A POST-CONVICTION PETITION WHEN THE JUDGMENT DISMISSING THE POST-CONVICTION PETITION IS VOID?
- III) DOES THE 14TH AMENDMENT AND THE FIRST AMENDMENT OF THE U.S. CONSTITUTION GUARANTEE THE RIGHT TO SEEK REDRESS OF THE DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL AT A CRITICAL STAGE?
- IV) HAS THE ALABAMA SUPREME COURT SANCTIONED ACTIONS OF THE LOWER COURTS IN THIS CASE THAT HAS SO FAR DEPARTED FROM THE GUARANTEES OF THE U.S. CONST. THAT CONFLICTS WITH PRECEDENTS OF THIS COURT, TO CALL FOR THE EXERCISE OF THIS COURT'S SUPERVISORY POWER?

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:

RELATED CASES

NONE

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CASES

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CHRISTENSON V ROPEL, 190 LE2d 763 [2014]
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STATUTES AND RULES

ALA. R. CIV. P. Rule 60 b 4
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OTHER

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☐ is unpublished.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.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix E 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 OF CRIM. APP court appears at Appendix B-C-D 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 _____.

☐ 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 Sept 11-2020.
A copy of that decision appears at Appendix E.

☒ A timely petition for rehearing was thereafter denied on the following date: Aug 7-2020, 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION AMENDMENT I "CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBIT THE FREE EXERCISE THEREOF; OR ABRIDGING THE FREEDOM OF SPEECH, OR OF THE PRESS OR THE RIGHT OF THE PEOPLE TO PEACEABLY ASSEMBLE, AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCE!"

U.S. CONST. AMEND. VI 'IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM; TO HAVE COMPLUSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR; AND TO HAVE ASSISTANCE OF COUNSEL FOR HIS DEFENSE.

U.S. CONST. AMEND. XIV Section 1, 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 MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR 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 EQUAL PROTECTION OF THE LAWS.

STATEMENT OF THE CASE

The petitioner, [hereinafter] Weems, filed a motion to vacate the Colbert County Alabama, Circuit Court's judgment entered on the 21st day of April, 2015, as void pursuant to Rule 60(b)(4) of the A.R. Civ. P. Weems Alleged in the motion that court's judgment was void because it acted in a manner inconsistent with due process when the court appointed attorney B.T. Gardner, Jr, to represent Weems at an evidentiary hearing in the post-conviction petition that Alleged that B.T. Gardner Jr, was ineffective on Weems direct Appeal, AND had filed A no-merit brief on direct Appeal AND thereafter filed A no-merit brief on Appeal of the post-conviction petition. The manner in which the trial court acted in this regard was not only inconsistent with due process, but has resulted the loss of ANY collateral Attack for Weems on the Issue of INeffective assistance of Counsel that occurred at Weems trial AND on direct Appeal.

REASONS FOR GRANTING THE PETITION

The state court of last resort has sanctioned the actions of the lower courts that have departed so far from the provisions of the fourteenth amendment of the United States Constitution, Section 1, which states in pertinent part, "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 equal protection of the laws."

Weems avers that the circuit court in this case has deprived him of his right to redress his ineffective assistance of counsel claim and in conflict with Griffin v. Illinois, 351 U.S. 12 (1956) where this court held, "A defendant has an absolute right to the effective assistance of counsel on direct appeal. Weems contends that on direct appeal attorney B.T. Gardner, Jr., was appointed to represent Weems and filed a no-merit brief on Weems behalf. Weems thereafter filed his second Rule 32 petition in 2014, [APPX. B Footnote 1] Weems first Rule 32 petition was filed to secure an out of time appeal [APPX H Footnote 1] Weems alleged in his Rule 32 petition that he had been denied the effective assistance of trial and appellate counsel. The circuit court granted Weems an evidentiary hearing on the ineffective assistance of counsel claim and appointed attorney B.T. Gardner, Jr. to represent Weems at this hearing, which is in direct conflict with Christenson v. Roper, 190 L.Ed 2d 763 (2014)

"COUNSEL CANNOT BE EXPECTED TO ADVANCE A CLAIM THAT THREATENS THEIR PROFESSIONAL REPUTATION AND LIVELIHOOD A SIGNIFICANT CONFLICT OF INTEREST ARISES WHEN AN ATTORNEY'S INTEREST IN AVOIDING DAMAGES TO HIS OWN REPUTATION IS AT ODDS WITH HIS CLIENT'S INTEREST" MAPLES V. THOMAS 181 LEd 2d 807 [2012] IN THE PRESENT CASE, ATTORNEY B.T. GARDNER JR., COULD NOT EFFECTIVELY REPRESENT WEEMS IN A POST-CONVICTION RULE 32 PETITION THAT ALLEGED B.T. GARDNER JR. WAS INEFFECTIVE IN WEEMS DIRECT APPEAL PROCESS WITHOUT PLACING HIS PROFESSIONAL REPUTATION AND LIVELIHOOD AT RISK, THEREFORE, B.T. GARDNER JR.'S INTEREST IN THE OUTCOME OF THE RULE 32 PROCEEDINGS WERE AT ODDS WITH THE INTEREST OF WEEMS.

THE ALABAMA COURT OF CRIMINAL APPEALS IN DENYING WEEMS RULE 60(b)(4) MOTION TO VACATE A VOID JUDGEMENT MISSTATED THE FACTS PRESENTED BY WEEMS, AND IN FACT, REWROTE THE CLAIM PRESENTED AND STATED IN PARAGRAPH 1 OF APP B "SPECIFICALLY, WEEMS ARGUES THAT HE WAS DENIED DUE PROCESS BECAUSE HE RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL DURING HIS PREVIOUS RULE 32 PETITION AND THE APPEAL OF THAT PETITION" THE ACTUAL CLAIM MADE BY WEEMS IN THE RULE 60(b)(4) MOTION [APP F] IS THAT THE TRIAL COURT'S JUDGEMENT IS VOID BECAUSE IT CLEARLY ACTED IN A MANNER THAT IS INCONSISTENT WITH DUE PROCESS WHEN IT ELECTED TO APPOINT ATTORNEY B.T. GARDNER JR TO REPRESENT WEEMS ON HIS CLAIM IN THE RULE 32 PETITION THAT B.T. GARDNER JR. WAS INEFFECTIVE ON WEEMS DIRECT APPEAL, WHICH HAS RESULTED IN THE TOTAL DEPRIVATION OF WEEMS DUE PROCESS

RIGHTS UNDER THE FIRST, SIXTH, AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION. THE ALABAMA COURT OF CRIMINAL APPEALS FRAUDULENTLY MISSTATED THE FACTS AND REWROTE THE CLAIMS PRESENTED TO THEM AND TOTALLY IGNORED THE PRECEDENTS OF THIS COURT IN THE PRESENT CASE, THEY HAVE FAILED TO ACKNOWLEDGE THAT WEEMS HAS AN ABSOLUTE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL ON DIRECT APPEAL UNDER THE SIXTH AMENDMENT, AND THEY HAVE EFFECTIVELY FORECLOSED TO WEEMS ANY REMEDY TO APPROACH THE COURTS IN THIS MATTER. THE STATE COURTS HAVE STATED IN THIS CASE THAT RULE 60(b)(4) HAS NO APPLICATION TO A RULE 32 POST-CONVICTION PETITION [APP B PARA 2] WHICH IS NOT ONLY IN CONFLICT WITH THE ALABAMA SUPREME COURT IN EX PARTE WRIGHT, 860 SO 2d 1253 [ALA 2003] WHICH STATED "POST-CONVICTION PROCEEDINGS ARE CIVIL ACTIONS," AND FAY V. NOIA, 372 U.S. 391 [1963] "POST-CONVICTION RELIEF IS EVEN FURTHER REMOVED FROM THE CRIMINAL TRIAL THAN IS DIRECT APPEAL, AND IN FACT, CONSIDERED ^{TO BE} CIVIL IN NATURE" THE ALABAMA RULES OF CRIMINAL PROCEDURE REQUIRED THAT WEEMS PRESENT TO THE TRIAL COURT IN A RULE 32 PETITION THE CLAIM THAT B.T. GARDNER JR. WAS INEFFECTIVE ON DIRECT APPEAL AND FOR THE TRIAL COURT TO APPOINT WEEMS ATTORNEY B.T. GARDNER JR. TO REPRESENT WEEMS IN THE POST-CONVICTION PETITION WHERE B.T. GARDNER JR. WAS THE SUBJECT OF THE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM WAS NO KIND OF DUE PROCESS THAT WEEMS IS DUE UNDER THE FIRST AMENDMENT, SIXTH AMENDMENT, AND FOURTEENTH AMENDMENT, AND BECAUSE THIS FEDERAL

WAS VIABLE UNDER RULE 32 IT SHOULD HAVE BEEN GRANTED. SEE MONTGOMERY V LOUISIANA 136 SO 1 718 [2015]

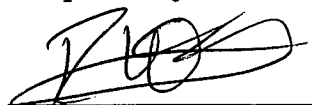
CONCLUSION

THE STATE COURT OF LAST RESORT HAS SANCTIONED THE LOWER COURT'S ACTIONS THAT HAVE SO FAR DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS THAT IT CALLS FOR THE SUPERVISORY POWER OF THIS COURT, AND, THE STATE COURTS HAVE ACTED IN A MANNER THAT IS SO LACKING IN JUSTIFICATION THAT FAIR-MINDED JURIST COULD DISAGREE, THARPE V. WARDEN, 834 F.3d 1323 [11TH CIR 2016] THE STATE COURTS HAVE TOTALLY IGNORED WEEMS CONSTITUTIONAL RIGHTS, AND THE PRECEDENTS OF THIS COURT, AND TWISTED THE RULES OF PROCEDURE IN A GAME OF HIDE THE BALL OF JUSTICE.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

 RONALD WEEMS

Date: 4TH, DECEMBER, 2020