

20-6892 ORIGINAL

No. _____

Supreme Court, U.S.
FILED

DEC 07 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Vashaun Williams — PETITIONER
(Your Name)

vs.

Kwame Baoul — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Illinois Supreme Court

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

PETITION FOR WRIT OF CERTIORARI

Vashaun Williams
(Your Name)

711 Kaskaskia ST
(Address)

Menard, IL 62259
(City, State, Zip Code)

N/A
(Phone Number)

RECEIVED

JAN - 6 2021

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- 1) Is the unexplained reason to call a witness for the Defense a violation of both 6th and 14 Amendments?
- 2) Without knowing the weight given by the Trier of Fact, is the Admission of a Void ab initio Conviction an unconstitutional denial of Due Process under the 14th Amendment?
- 3) Did the State Court violate the Petitioner's right to a Fair trial under the 14th Amendment for failing to allow necessary Jury instruction by the trial court?

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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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☐ is unpublished.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☐ is unpublished.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 A 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☒ is unpublished.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 Appellate Court First District court appears at Appendix _____ to the petition and is

- ☒ reported at 2020 IL App (1st) 162512; 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 30, 2020.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 4-06-2020, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

United States Constitution Amendment V, VI, and XIV

725 Ill. Comp. Statute Ann. 5/122-1 et seq.

720 Ill. Comp. Statute Ann. 5/24-1.6 (a)(1)

Statement Of Facts

The State of Illinois indicted Vashaun Williams, Petitioner for several counts of first degree murder, after the September 2, 2007, stabbing deaths of Charles Williams sr. and Charles Williams, Jr., Vashaun's paternal grandfather and uncle, whom he lived with. The Petitioner was arrested early in the morning on September 3, 2007, and explained throughout the investigation and jury trial that he stabbed Senior and Junior in self-defense.

Prior to trial, the defense filed a motion in limine to introduce evidence of Senior's and Junior's propensity for violence, alleging that they physically attacked Vashaun and were the initial aggressors in the confrontation, citing Illinois State case, *People v. Lynch*, 104 Ill.2d 194 (1984). The defense sought to introduce evidence of Junior's May 8, 2004, domestic battery of his girlfriend Verma Wyatt, through Verma's testimony, which the court allowed. It also sought to introduce evidence of Senior's August 7, 1987, aggravated criminal sexual abuse and domestic battery of Vashaun's sister Nicole Robertson, through Nicole's and the Petitioner's testimony.

The defense maintained that as to Senior, the evidence was relevant as propensity for violence towards family members and as evidence of why Senior and Junior would attack the Petitioner, thereby, going to Vashaun's state of mind. The defense's theory of the case was that the incident with Senior and Nicole caused Vashaun's immediate family to break up and led to much hostility within the family, in particular between

the Williams and the Petitioner's mother and sisters. At the time of the attack in 2007, Senior and Junior were offended that the Petitioner and other family members were talking about what had happened, which led directly to the physical encounter at issue. The Court denied the motion as to the 1987 incident but ruled that the Petitioner would need to testify so he could introduce the reason for the altercation that led to the stabbings was because he got into an argument with Junior and Senior about Nicole's allegations.

The evidence at trial showed that on September 2, 2007, the Williams family had a party at the home where Senior, Junior, and the Petitioner lived. Present at the party was Ruth Williams, Senior's ex-wife and mother of Junior and his siblings - Cheryl Williams, Stephannie Thomas, and Prentice Williams. Prentice is the Petitioner's father, and was at the party, along with Vashaun's stepmother. Also present were Cheryl, Stephannie, Stephannie's husband Barry Thomas, Sr., Stephannie's daughter Alicia Brown, and Alicia's partner Phyllis Price. Vashaun was home during the party but did not participate in it.

The Petitioner testified that he acted in self-defense when he swung wildly, and was also cut, at Junior and Senior with a knife. In 1987, when he was seven years old, he lived on the west side of Chicago on West Arthington with Prentice, his mother Vicki Robertson, and his sisters Nicole and Jacquiese Robertson. Senior and Ruth, who lived a few houses away on the same block, were like the Petitioner's parents. The

Petitioner loved Senior and was very close with him. Sometime that summer, the Petitioner was home alone with his sisters when Senior came to the house. The Petitioner and his sisters told Senior that they were hungry. Senior told Nicole to stay behind. When the Petitioner and Jacquiese returned about 20 minutes later, they found Nicole crying while sitting on the couch with a sheet around her. When the Petitioner's parents came home, Nicole spoke with their mother, then the Petitioner's parents started fighting. The police were called and they arrested Senior. Shortly after, the Petitioner's parents split up, and his mother left with his sisters, while the Petitioner stayed with Prentice and Senior. Since that time, the Petitioner had spoken to Nicole about what happened between her and Senior.

The Petitioner testified that he was convicted of possessing a gun in 2004 and was on house arrest after being released from prison in 2006 when he had to move in with Senior and Junior on West Arthington. The Petitioner's relationship with them would be fine, however, Junior and Senior would drink so there was a lot of fighting and bickering whenever they got drunk. Both Junior and Senior became verbally aggressive and physically violent when intoxicated. The Petitioner saw Senior and Junior physically fight numerous times, and knew both served in combat with the military.

The Petitioner's daughter was born in February 2007, and she lived with her mother blocks from the West Arthington house. In the spring of 2007, Senior sold the house and he, Junior, and the Petitioner moved to the south side of the

city to a home on South Perry. The Petitioner did not want to move, as his daughter's mother would not let their child come to Senior's home because she did not want their daughter around Senior. Whenever the Petitioner would speak with Senior and Junior both said that Nicole lied and denied that any incident took place.

After the move, the Petitioner's relationship with Senior and Junior was rocky due to the situation with his daughter. In the week leading up to September 2, 2007, the Petitioner tried to make arrangements to move and he got into a big argument with Senior and Junior over why he was leaving. The Petitioner had never given an opinion before about what he believed happened with Senior and Nicole because they were both the Petitioner's family and he never wanted to say anything about it. When the Petitioner finally told Senior that he believed Nicole, the argument became heated, and it ended with Junior and the Petitioner no longer speaking, and Senior and the Petitioner not really speaking either.

The Petitioner tried to stay out of the house as much as possible the rest of the week. He found out about the party the day of it. The Petitioner briefly spoke with his grandmother and stepmother while they were at the party but he mostly stayed in his room. After it was dark outside, the Petitioner left his bedroom to get the phone from the living room. Everyone who had come to the party was gone. Junior was in the living room and cursed at the Petitioner, asking why he acted like they were no longer his family and why he did not participate

in the party. The Petitioner went back to his room, arguing with Junior while walking away.

A few seconds later, the door to the Petitioner's room burst open, and Junior rushed in holding a knife. The Petitioner jumped up, Junior swung the knife, cutting the Petitioner's hand. Junior told the Petitioner he was going to kill him, and the Petitioner tried to get the knife away from Junior. They tussled outside of the Petitioner's door and into the hallway leading to the dining room. The Petitioner grabbed a knife from the dining room table. They crashed into the living room, they fell on the coffee table, and continued fighting.

After about 30-45 seconds, Senior came into the room and said, "get off my son." Senior picked up a knife from the floor and tried to pull the Petitioner away, swinging the knife at the same time and making contact with the Petitioner's right palm. They were all wrestling and fighting and the Petitioner swung his knife to try to get them off of him, but he did not know how many times. At some point, Senior got up and said, "I'm fittin' to shoot this MF," then went to his bedroom. The Petitioner believed Senior was going to get a gun to shoot him. The Petitioner and Junior were still on the floor and they both swung a couple more times. When Junior finally let go, the Petitioner got up and ran to his bedroom. On the way, the Petitioner looked into Senior's room and saw him fall on the side of his bed. The Petitioner went into his own room and just stood there, panicked and shocked.

The Petitioner changed out of his bloody pants and left the house. He did not clean up, but he did try to stop the bleeding

in the bathroom. The Petitioner drove to his aunt Stephanie's house. When he got out of the car, he saw Stephanie's stepson Barry, Jr. standing outside. As the Petitioner walked toward him, the police pulled up and called them over. They asked the Petitioner for an ID, then saw blood on his hands. The Petitioner said he told them that he fell on some glass, and the officers let them go.

The Petitioner found Stephanie inside and said, "[Junior] just stabbed me, he tried to kill me." The Petitioner told her that Senior tried to help Junior, and that Senior got stabbed too.

Barry, Sr., came into the hallway and asked what happened. The Petitioner told him they had just fought and that all three of them had been stabbed. The Petitioner saw Barry, Sr. walk into his bedroom, and the Petitioner then left the house because he was scared Barry, Sr., was getting a gun.

The Petitioner drove to his sister Jacqueline's house, told her what happened, and asked her to take him to the hospital and then the police station to turn himself in. She drove him to West Suburban Hospital, which was five to seven minutes from her house. Police arrived while the Petitioner was waiting in triage and arrested him. While handcuffed, a doctor put tape on the Petitioner's hand wounds. The Petitioner had four or five cuts on his left hand, and three to five cuts on his right hand, indicative of defense wounds. Furthermore, while incarcerated, the Petitioner's hands got infected and he was transferred to a hospital where he had several surgeries on his hands over the course of five days.

On cross examination, the Petitioner testified his 2004 gun

possession case was a conviction for aggravated unlawful use of a weapon, to which he pleaded guilty.

Sergeant Brian Forberg testified for the State of Illinois that at 10 p.m. on September 2, he was assigned a double homicide at the house on South Perry and went there. The mobile crime lab arrived at the home at around 11:15 p.m. Forberg entered the home and made initial observations of the crime scene, then allowed the crime lab to begin photographing while Forberg continued to assess the scene for items of investigative value. All of the items recovered and photos taken were done in Forberg's presence. Forberg identified various exhibits in court as pictures of what it looked like inside of the house.

The parties stipulated to DNA evidence. The blood on the Petitioner's right shoe recovered matched the Petitioner, and the blood on the left shoe matched Junior. Blood on the jeans recovered from the Petitioner's bedroom contained a mixture of profiles consistent with originating from two people. The major profile matched Junior, and Senior could not be excluded from the minor profile. The Petitioner's own blood was on the jeans and shirt he was wearing when he was arrested.

Blood was on the handles and blades of all five knives found, none of which contained any latent fingerprints suitable for comparison. Knife 11A was a stainless steel knife with an 11.5-inch blade that was 1.5 centimeters wide. The blood on the blade and handle contained a mixture of profiles originating from at least three people. The major profile on the blade matched

Senior, Junior and the Petitioner could not be excluded from having contributed to the mixture as a whole. The Petitioner, Junior, and Senior all were included as possible donors to the blood on the handle. Knife 11B was identical to Knife 11A. The blood on the blade and handle came from at least three people. The major profile on the blade matched Senior, Junior and the Petitioner were included as possible donors to the mixture as a whole. Neither the Petitioner, Junior, nor Senior could be excluded as donors of the blood on the handle.

Knife 11C was a stainless steel knife with a wooden handle. The blade was 15 centimeters long and 2.8 centimeters wide. The blood on the blade originated from at least two people. The Petitioner was included as a donor of the major profile identified. Junior was included as a donor of the minor profile identified. The blood on the handle originated from at least three people, and the Petitioner, Senior, and Junior all were included as donors. Knife 11D was a stainless steel knife with a 17-centimeter long blade that was 2.5 centimeters wide. The blood on the blade was a mixture of profiles originating from two people. The major profile matched the Petitioner. The minor profile could only be used for exclusionary purposes and no conclusions could be drawn as to whether Senior or Junior could have contributed to it. The blood on the handle originated from at least three people and neither the Petitioner, Junior, nor Senior could be excluded. Knife 11E was a stainless steel knife with a wooden handle and a 23-centimeter long

blade that was 2.3 centimeters wide. The blood on the blade and handle originated from at least three people. The Petitioner and Junior could not be excluded from contributing to the mixture of blood on either the blade or the handle.

Dr. Michelle Jorden performed autopsies on Junior and Senior on September 3, 2007. Junior was 60 years old, 6'1.5" tall, and 191 pounds. Jorden noted that Junior appeared younger than his age. His blood was positive for alcohol at a 0.17 in legal terms for purposes of driving.

Jorden explained that a stab wound is more deep than long, an incised wound is more long than deep, and incised wounds on hands are defensive injuries. A large incised wound encompassed Junior's anterior neck, involving his right carotid artery, left jugular vein, and a portion of the left side of the trachea. He had a stab wound to the right base of the neck and upper chest area that punctured the middle and lower lower lobes of the right lung, which Jorden said had to have been inflicted by a long blade. Junior also had a deep penetration stab wound on the mid neck that punctured the upper lobe of the left lung.

Junior had numerous stab and incised wounds to the upper chest and neck area. He had multiple abrasions indicating blunt force trauma to both knees, left leg, and left foot that appeared to be acute injuries. Junior's right palm had multiple incised injuries involving the index, middle, ring, and little fingers. His left hand had incised injuries to the ring and little

fingers.

Junior's cause of death was multiple stab and incised wounds; manner of death was homicide. Jorden believed the cut to his neck was fatal, and the time from injury to death would have been minutes.

Senior was 83 years old, 5'9" tall, and 167 pounds. Senior's body was completely devoid of blood when it arrived. Jorden did not see any signs of cancer during the exam. Senior was stabbed in the head, and the serrated blade made contact with his skull. He had a deep incised wound to the right side of his nose involving the underlying soft tissue and nasal cartilage. He also had an incised wound to the right cheek. There was an L-shaped wound to the right side of Senior's face that probed downward, as well as a jagged stab wound along the right jaw involving the base of the tongue. There was a stab wound to the right side of the neck involving his right carotid artery, and a larger deep incised wound also to the right side of the neck involving neck muscles and right carotid artery.

Senior had incised wounds to the base of his left thumb and to his right hand. Internally there was bleeding around the pancreas and fatty tissue surrounding the small and large intestines, bleeding at a torn ligament where part of the intestine anchors, and an acute rib fracture. Jorden stated that the internal injuries were sustained from deep penetrating blunt force trauma such as a kick, stomp, or punch. Senior's toxicology report was negative for alcohol and drugs. Senior's

cause of death was multiple stab and incised wounds, manner of death was homicide. The stab wound to his neck would have been fatal, and Senior also would have died in a matter of minutes.

The jury was instructed on self-defense and second degree murder based on unreasonable belief in the need to use self-defense. The court refused the defense's request to instruct the jury on provocation based on mutual combat or quarrel. The jury found the Petitioner guilty of first degree murder as to both Senior and Junior, it found that both were over the age of 60, and that both of their deaths resulted from exceptionally brutal or heinous behavior indicative of wanton cruelty.

The court sentenced Vashaun Williams, Petitioner on May 16, 2016. The court stated that the sentence was mandatory life in prison because two people were murdered, but agreed with the State that the brutality and heinous behavior required a life sentence regardless. It stayed the mittimus until it denied his motion to reconsider sentence on August 25, 2016.

The Petitioner Was Denied Effective Assistance Where Counsel Failed To Object To The State's Use Of A Void Prior Conviction For Aggravated Unlawful Use Of A Weapon To Impeach The Petitioner's Credibility

Illinois law mandates the Petitioner's Unlawful use of a weapon be vacated and yet trial counsel was unaware of this, thereby, violating the Petitioner's right under the United States Constitution Amendments VI and XIV; see also *Bompilla v. Beard*, 545 U.S. 374, 383-90 (2005) (Finding counsel ineffective for failing to examine readily available evidence, even where counsel performed reasonably otherwise).

Although the terminology may differ in certain respects, Illinois follows the same basic approach as the United States Supreme Court when dealing with the consequences of a facially unconstitutional in Illinois, it is said to be void ab initio; that is, it is as if the law had never been passed, *Hill v. Cowan*, 202 Ill.2d 151, 156, 269 Ill. Dec. 875, 781 N.E.2d 1065 (2002). However, the Illinois Courts failed to apply these principles strictly where the Petitioner's trial counsel did not assert his constitutional rights. *Perlstein v. Wolk*, 218 Ill.2d 448, 466, 300 Ill. Dec. 480, 844 N.E.2d 923 (2006). "[W]here a statute is violative of constitutional guarantees, we have a duty not only to declare such a legislative act void, but also to correct the wrongs wrought through such an act."

The Circuit Court Denied The Petitioner His Right To Present A Defense, And Thus A Fair Trial, When It Would Not Allow His Sister Nicole Robertson To Testify To An Alleged Criminal Sexual Act And Battery Committed By Senior Against Her, And To The Incident's Effect On The Family, To Corroborate The Petitioner's Testimony And The Defense Theory Of The Case

The Petitioner was denied a meaningful opportunity to present a complete defense by the exclusion of his sister Nicole Robertson's testimony. *Holmes v. South Carolina*, 547 U.S. 319, 324 (2006), United States Constitution Amendments V, VI, and XIV. Defense Counsel explicitly argued in the court below that in addition to being admissible under Illinois Case *People v. Lynch*, 104 Ill. 2d 194, (1984), Nicole's testimony was necessary because it provided a motive for the knife fight, in that Senior and Junior were offended that the Petitioner brought up what happened between Senior and Nicole in 1987, directly leading to the physical encounter at issue, and it also explained the Petitioner's state of mind at the time.

Therefore, reversal is required.

The Circuit Court Denied Vashaun Williams His Right To A Fair Trial Where The Court Refused To Instruct The Jury On Second Degree Murder Based On Provocation

Due process requires that a jury be properly instructed on the law. *Rivera v. Illinois*, 556 U.S. 148, 161 (2009); see also United States Constitution Amendment XIV. Instructions should clearly set out the relevant law, and must not be misleading or confusing.

The omitted element relieved the State of the burden of proving all the elements of the offense. *Neder v. United States*, 527 U.S. 1, 15, 119 S.Ct. 1827, 144 L.Ed.2d 35 (1999); *Mullaney v. Wilbur*, 421 U.S. 684, 704, 95 S.Ct. 1881, 44 L.Ed.2d 508 (1975) (absence of sudden heat is an element of murder, when sudden heat raised as an issue.).

As stated in *Keeran v. Pollard*, 2005 U.S. Dist. Lexis 36818 (E.D. Wis.); *Sanders v. Cotton*, 398 F.3d 572, 583 (7th Cir. 2005), *Sanders* is not, by itself, "clearly established Federal Law, as determined by the Supreme Court of the United States." The Court will, however, treat *Sanders* as an application of *In re Winship*, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970), from which the *Sanders* court derived the proposition that "the Due Process clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime which he is charged." *Id.* at 581 (quoting *In re Winship*, 397 U.S. at 364).

The serious provocation referred to above is what reduces a charge from first to second degree murder. *People v. Moore*, 797 N.E.2d 217, 224 (2003).

Importantly, none of the State witnesses or evidence shows the Petitioner as the aggressor.

This, alone, is prima facie evidence that Petitioner was acting under a sudden and intense passion resulting from serious provocation by the decedents.

The trial court's decision not to consider a lesser included offense substantially denied the Petitioner a right guaranteed him by this Court. *Hooper v. Evans*, 456 U.S. 605, 612, 102 S.Ct. 2049 (1982), "A lesser included offense [consideration] should be given if the evidence would permit [the trier of fact] rationally, to find the defendant guilty of the lesser offense and acquit him on the greater."

Put another way, in *U.S. v. Jackson*, 726 F.2d 1466 (1988), it was held that the trial court committed error when it rejected defendant's proposed motion to consider a lesser included offense that was timely requested.

United States v. Tsanas, 572 F.2d 340, 346 (1978): Where the defendant's liberty is at stake, courts should consider a lesser included offense because the worst that can happen to the Government is a conviction for a lesser rather than greater crime.

Therefore, the error was not harmless, as it was an error that had a direct influence on the outcome of the trial. *Brecht v. Abrahamson*, 507 U.S. 619, 113 S.Ct. 1710, 123 L.Ed.2d 353 (1993).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Vashan Z. [Signature]

Date: 12-5-2020