

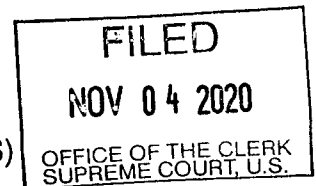
No. 20-6913

IN THE
SUPREME COURT OF THE UNITED STATES

Terry Smith (Pro-Se) — PETITIONER
(Your Name)

vs.

State of Louisiana — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court, Eastern District of Louisiana
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

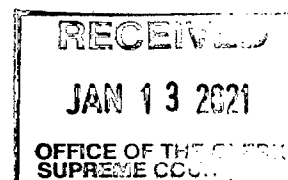
PETITION FOR WRIT OF CERTIORARI

Terry Smith 618207
(Your Name)

La. State Prison, 17544 Tunica Trace
(Address)

Angola, La. 70712
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

(1) These Questions of Law is the primary dispute of the Parties. And therefore must be decided before this Court can address Petitioner's claims of speedy trial and due process rights violation.

(A) Does Petitioner have U.S. Const. Art. III Standing?

(i) Has Petitioner suffered an injury in fact?

(ii) Is that injury fairly traceable to the challenged action of the Respondent(s) and?

(iii) Is it likely, as opposed to merely speculative that the injury will be addressed by a favorable decision?

(B) Can Petitioner adopt motions of Brian Smith in case "2012-CR-313", which Petitioner is not a party to, and after Brian Smith's "2012-CR-303" case was severed from Petitioner's "2012-CR-303". See Appendix G p. 29; Appendix B p. 1 "marked by * and underlined; And Appendix I p. 24(a).

(C) Can a Court of Law change agreed on procedures for filing motions, without giving proper notice of changes? See Appendix 2 p. 15 Line 1 - p. 16 Line 30; Appendix E p. 2 line 7 - p. 3 line 31 and p. 5 line 8-16.

(D) Does the State have a new 2 years to commence trial under La. C.Cr.P. Art. 578, once Petitioner's pre-trial motions have been ruled on? See Appendix B p. 4 "Footnote 1 and 2"

(E) Or, does La. C.Cr.P. Art. 580(A), of 1 year set the tolling of time for the State to commence trial of Petitioner, after his pre-trial motions have been ruled on? See Appendix A p. 28

(2) Has the Respondent violated Petitioner's State Constitutional Right of Article I section 2 Due Process of Law

QUESTION(S) PRESENTED

and section 16 "speed Trial".

(3) When a State (including State Courts) violate state Laws and State Constitutional Rights, that mirrors Federal Laws and United States Constitution, and the victim is of "We the People" class. Does that also constitute a Federal violation, that would give the Federal Courts "Subject Matter Jurisdiction".

(a) And therefore, by Respondent violating State Statutory Speedy Trial Protection, thus violate Federal Speedy Trial Act. Which was enacted to protect "We the People".

(b) And when States violate "We the People" class in State Courts and by State Courts, does this also violate violate U.S. Const. 14th Amendment.

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:

- (1) The 40th Judicial District Court for the Parish of St. John of Louisiana, ruled on July 27, 2017, by Honorable J. Sterling Snowdy in case No. 2012-CR-303(4).
- (2) The 5th Circuit State Court of Appeals of Louisiana, ruled on October 25, 2017, by Honorable Judges; G. Gravois, Stephen J. Windhorst, and Hans J. Liljeberg in case No. 17-K-465.
- (3) The Supreme Court of Louisiana, ruled on January 8, 2019, by Honorable Judges; John L. Weimer, Bernette J. Johnson, Greg G. Guidry, Marcus R. Clark, Scott J. Crichton, James T. Genovese and Jefferson D. Hughes in case no. 2018-KH-29.
- (4) The United States District Court, Eastern District of Louisiana, ruled on August 19, 2019, by Honorable Judge Barry W. Ashe in case No. 2019-01348.
- (5) The United States 5th Circuit Court of Appeal, For Louisiana, ruled on June 17, 2020, by Honorable Judges; Higginbotham, Southwick and Willett, in case No. 2019-30694.

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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 J to the petition and is

☒ reported at 2019-30694; 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 I to the petition and is

☒ reported at 2019-1348; 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 2018-KH-29; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the Louisiana 5th Circuit Appeals court appears at Appendix H to the petition and is

☒ reported at 2017-K-465; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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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 _____ 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 40th Judicial District court appears at Appendix G to the petition and is

☒ reported at 2012-CR-303(4); 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 May 5th, 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: June 17th, 2020, and a copy of the order denying rehearing appears at Appendix J.

☐ 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).

And, us. Const, Art. 1 sec. 9 clause 2, and Art. 3 sec. 2 clause 1.

☒ For cases from state courts:

The date on which the highest state court decided my case was Jan 8, 2018.
A copy of that decision appears at Appendix A.

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(1) All Courts of right, shall be neutral and not bias to the Petitioner, nor the Respondent.

(A) I am "We the People" class of person. Therefore the whole purpose of this Court in this matter is to protect me from wrongful attacks by the State of Louisiana (Respondent). This includes the third branch of the STATE OF LOUISIANA, known as State Courts.

"The interpretation of the law is the proper and peculiar province of the courts. A constitution is in fact, and must be regarded by the Judges as a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcilable variance between the two, that which has the superior obligation and validity ought of course to be preferred; or in other words, the Constitution ought to be preferred to the Statute, the intention of the people to the intention of their agents."

(B) With the above quote from the Federalist Paper No. 78. I have shown that YOU as an agent of the third branch of U.S. Government. Your primary duty is to protect me and my rights from attack (violation) by government through the acts of its agents, whether State or Federal. As well the above quote shows that a Constitutional Right over rules a Statutory Right.

(2) I come to this Court for the purpose of a civil remedy to the wrongs done by State and Federal Courts. I'm simple asking that this Court uphold and force compliance of; Louisiana Constitution Article 1 section 2 "Due Process of Law," and section 16 "Right to Fair Trial (speedy trial)".

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

And Louisiana Code of Criminal Procedure Article 578 A.(2).
Federal Speedy Trial Act of 1974 (18 USC 3161), and Zedner v. U.S.
547 US 489, at 497, points out that my certiorari shall be granted
to resolve the issue of Speedy Trial Rights of a criminal defendant
is a U.S. Const. 6th Amendment Protect and applies to states by
way of the 14th Amendment.

STATEMENT OF CASE

- * (1) On August 16, 2012 Petitioner was arrested in connection to the shooting of Michael Scott Boyington, a St. John Parish Deputy Sheriff working an off duty detail. See Appendix A p.2
- (2) October 10, 2012, Petitioner was charged by a Bill of Information, with Principle to Attempted First Degree Murder. See Appendix A p.1,2
- (3) On October 25, 2012, Petitioner's Public Defender "Mr. Woods" filed an Omnibus Motion for Discovery; suppression of Statements, Evidence, Identifications; Preliminary Examination. See Appendix D p.1-5
- (4) On October 29, 2012, Judge Snowdy granted Petitioner's Omnibus Motion, Ordering the State to respond to each motion individually. And for Petitioner to supplement his motion with particularized motions, within 15 days of complete discovery. See Appendix D, p. 6.
- (5) On December 6, 2013 Petitioner subsequently elected to Represent himself. See Appendix E p.2 line 13-19.
- (6) As well on December 6, 2013 Brian Smith (co-defendant)'s Attorney Bourke's motion to sever, Brian Smith's "2012-CR-303" case from Petitioner's "2012-CR-303" case, was granted. See Appendix B p.1 marked by "*" and underlined, and page 9 line 20-24; Appendix E p.8 line 4-28.
- (7) On January 16, 2014, Petitioner in open court presented a Pro Se "Writ to Continue the March 10, 2014 Trial". The "Writ" was not placed into the Court Record until the next day "January 17, 2014". See Appendix G p.25, 26.
The Writ was denied on January 16, 2014. See Appendix F p. 4 underlined.
Even though the Writ had been denied on January 16, 2014, The State filed a Response on January 31, 2014. In State's

STATEMENT OF CASE

* Response, the State said the "writ" was premature. See Appendix G p. 27 "underlined".

(8) On December 19, 2014, Mr. Whitworth signed on as Petitioner's Public Defender, and represented him until May 2017. See Appendix F p. 7-9 marked by "X"

(9) On March 6, 2015, was the last time Petitioner appeared in Court until March 20, 2017, by the request of the State. See Appendix F p. 9 marked by "X" and underlined.

(10) On March 20, 2017, Petitioner filed a Pro Se "motion to Quash the Indictment." See Appendix G p. 1, 2.

(11) On May 4, 2017, the State filed "State's Response to Motion to Quash Indictment". See Appendix G p. 3-5.

(12) On July 14, 2017, Judge Snowdy denied Petitioner's "motion to Quash the Indictment". See Appendix G p. 20-24.

(13) On July 27, 2017, in court, Petitioner was served with the "Judgment Regarding Defendant's Motion to Quash the Indictment", denying the motion. See Appendix G p. 20-24. Petitioner's newly appointed Public Defender "Michael Smith" orally noticed the Court of intention to seek writs of Appeal. See Appendix H p. 12 underlined.
Judge Snowdy set return date of September 8, 2017.

(14) On August 20, 2017, Petitioner mailed his Pro Se "Motion of Appeal" to Louisiana's State 5th Circuit Court of Appeal. See Appendix H p. 1-4.

(15) On September 8, 2017 Petitioner Attorney Michael Smith filed "Supervisory Writs" to State's 5th Cir. Court of Appeal. See Appendix H p. 5-18.

STATEMENT OF CASE

(16) State filed a Response Brief to the State 5th Circuit Court of Appeals (17-K-501). See Appendix H, p. 19-29.

(17) On October 25, 2017 the State 5th Circuit Court of Appeals denied Petitioner's Appeal. See Appendix H, p. 30, 31 underlined.

(18) On November 6, 2017, Petitioner mailed all parties a Pro Se "Notice of Intent to Appeal", the State 5th Circuit Court of Appeals denied of his Appeal. See Appendix H, p. 32.

(19) On November 30, 2017, Petitioner mailed his Pro Se "Application for Supervisory Review". See Appendix A, p. 3-22., to the Louisiana Supreme Court.

(20) On January 23, 2018, the State's "Opposition Brief" was filed to the Louisiana Supreme Court (18-KH-29). See Appendix C, p. 2-7.

(21) On January 8, 2019, the Louisiana Supreme Court denied Petitioner's Supervisory Writ (2018-KH-29). See Appendix A p. 26-29.

(22) On January 18, 2019 Petitioner Noticed the Louisiana Supreme Court of his intent to Appeal the denial. See Appendix A p. 30.

(23) On February 1, 2019 Petitioner mail his Pro Se 2241 Habeas Corpus to the U.S. Eastern District Court for Louisiana (2019-01348). See Appendix C, p. 2-22.

(24) On August 9, 2019 Petitioner's Pro Se 2241 Habeas Corpus was denied without prejudice, and Final Adjudged and Decreed on August 19, 2019. (2019-01348). See Appendix I p. 7, 8.

STATEMENT OF CASE

(25) On August 18, 2019, Petitioner mailed his Pro Se "Notice of Intent to Appeal" with "Reason for Appeal", to the U.S. Eastern District Court for Louisiana. See Appendix I p. 9-12.

(26) On September 18, 2019, Petitioner mailed his "Petition for Appeal of the 2241 Habeas Corpus", to the U.S. 5th Circuit Court of Appeal, for Louisiana. See Appendix J p. 1-22

(27) On May 5, 2020, the U.S. 5th Circuit Court of Appeals, denied Petitioner's C.O.A. On the grounds he failed to show a substantial denial of a Constitutional Right. (2019-30694). See Appendix J p. 23-25

(28) On May 18, 2020, Petitioner mailed his "Petition for Rehearing and Reason for a Rehearing" (2019-30694) See Appendix J p. 26-29.

(29) On June 17, 2020, The U.S. 5th Circuit Court of Appeals denied the "Petition for Rehearing" (2019-30694). See Appendix J p. 30-32.

(30) On Nov. 2, 2020, Petitioner placed his 2241 Habeas Corpus Writ in the mail by, Prison Classification Officer "Will Folk", who signed the "Prison Legal Mail form. See Appendix 10 p. 33

REASONS FOR GRANTING THE PETITION

(1) "The original jurisdiction of this Court is one of the mighty instruments which the framers of the Constitution provided so that adequate machinery might be available for the peaceful settlement of disputes between States and between a State and citizens of another State.... The traditional methods available to a sovereign for the settlement of such disputes were diplomacy and war. Suit in this Court was provided as an alternative." *Georgia v. Pennsylvania R. Co.*, 324 U.S. 439, at 450, 65 S. Ct. 716, at 722, 89 L. Ed. 1051 (1945)"

(A) This says it so greatly, that I could not say in my own words any better.

"State Courts including the trial Court are filled with Politicians. And their personal interest in being re-elected as a Judge makes it hard for them to uphold the Law and Constitution in highly charged Cases such as this one.

(B) The Courts (Judges) are to remain neutral in all matters before it. And is only to make Judgment on the Plaintiff or Respondent's claims.

(C) The elements of the case, are not before this Court. Only the facts of Law and Constitution are before this Court. It does not matter by what name you call it; "derailment of State Prosecution, side tracking Criminal Prosecution, ect. The fact of Law, the State Legislator's passed "La. C.Cr. P. Art. 578", for the purpose of statutory clarification and Penalty for violation of a Person's Constitutional right of Speedy Public Trial, if the 2 years is violated by State then the Case (charges) are mandatorily dismissed, with no further action can be taken.

The State violated Art. 578, therefore violated La. and U.S. Const. Right of Speedy Trial and This Court

REASONS FOR GRANTING THE PETITION

'has a Constitutional Duty to Grant this Petition and Order the State of Louisiana to Respond.

(2) All of the decisions made in this matter has been made contrary to well established Law (Statutory, Common, and Constitutional).

(A) *State v. Franklin*, 147 So.3d 231, at 237; "The district attorney can choose ---, or allowing the time limitations for the commencement of trial to expire.

Just like in Franklin's case one D.A. chose not to further prosecute the case. And once the bar to prosecute was in place another D.A. tried to re-institute prosecution. See Appendix F p. 9, underlined; "State request not to have TERRY SMITH present during every court date, not dealing with his defense."

And Petitioner did not return to court until he filed a Motion to Quash the Indictment, based on Speedy Trial violation (3-6-2015 until 3-20-2017).

The State (including State Courts) by fraud has tried to fix (cure) this error by Special Asst. District Attorney Hugo Holland Jr. But "Franklin" makes it very clear that to allow further Prosecution of Petitioner would be to violated State and Federal Laws and Constitutions.

This Due Process Protection goes all the way back to "Magna Carta of 1215".

See; *U.S. v Cruikshank*, 92 US 542, at 554-555.,
Moore v. Arizona 94 S.Ct. 188, at 189-190.,

CONCLUSION

The petition for a writ of certiorari should be granted. *So that the Record can be view without prejudice and de novo.*

Respectfully submitted,

Jerry Smith Terry Smith

Date: _____

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