

NO. 20-7133

IN THE SUPREME COURT OF THE UNITED STATES

ANTHONY REED

VS.

DEXTER PAYNE, DIRECTOR

ARKANSAS DEPARTMENT OF CORRECTIONS

PETITIONER

ORIGINAL

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

8<sup>TH</sup> CIRCUIT COURT OF APPEALS

( NO.:20-2111 )

PETITION FOR WRIT OF CERTIORARI  
BRIEF FOR APPELLANT

FILED

JAN 13 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

PRESENTED BY

ANTHONY REED # 91194,

PRO SE

VARNER SUPERMAX

P.O. BOX 600

GRADY, AR. 71644 - 0600

## QUESTION(S) PRESENTED

### 1. Authority to File

The Arkansas Constitutional Amendment No. 21 States:

Section 1. Prosecution by indictment or Information – all offenses heretofore required to be prosecuted by indictment may be prosecuted either by indictment by a grand jury or information filed by the Prosecuting Attorney.

### 2. Fourteenth Amendment Right to Due Process.

Habeas relief is automatically granted for structural defects.

## 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. Mr. Adam Donner Jackson  
Attorney General's Office  
200 Catlett-Prien Building  
323 Center Street  
Little Rock, AR. 72201
2. Mr. Dexter Payne  
Arkansas Department of Corrections  
P.O. Box 8707  
Pine Bluff, AR. 71611
3. U.S 8<sup>th</sup> Circuit Court of Appeals  
Michael Gans  
Clerk of the Court  
111 South 10<sup>th</sup> Street, Room 24 . 329  
St. Louis, Mo. 63102

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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 49 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☒ is unpublished.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 36 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☒ is unpublished.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 22 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 Circuit, Jefferson County court appears at Appendix 7 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 September 30, 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 FEB-6-2020  
A copy of that decision appears at Appendix 22.

☐ A timely petition for rehearing was thereafter denied on the following date: 3-19-2020, and a copy of the order denying rehearing appears at Appendix 31.

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

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



**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

- (1) 14<sup>th</sup> Amendment, United States Constitution
- (2) Arkansas Amendment 21.

## **STATEMENT OF THE CASE**

### **(1) Authority to file**

The constitutional provision permitting prosecution of offenses by Information filed by Prosecuting Attorney requires that informations be filed in the name of the prosecuting attorney. And although a deputy prosecuting attorney is generally clothed with all the powers and privileges of the prosecuting attorney. He must file an information in the name of the prosecuting attorney and one filed in his own name is VOID. [SEE APP PAGE 4] JOHNSON V. STATE 199 ARK 196, 133 S.W.2D 15 (1939).

### **(2) Fourteenth Amendment: Right to Due Process**

Federal Courts may consider an application for a Writ of Habeas Corpus only on the ground that the prisoner's confinement violates the constitution, laws, or treaties of the United States. The State proceedings are cognizable only if they created fundamental unfairness that violated the Petitioner's Fourteenth Amendment right to due process: Brecht v. Abrahamson 507 US 619, 623, 629-30 (1993).

28 U.S.C. § 2403 (b) may apply:

The United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court: The question of Federal Law that needs to be settled by this Court is, Did

Anthony Reed have a constitutional right for due process of the law, and a right to be charged by a prosecuting attorney?...

An important federal question that conflicts with relevant decisions of this Court: is that this Court has decided that the Fourteenth Amendment Right to Due Process creates fundamental unfairness that violates Anthony Reed constitutional right. Habeas relief should have been automatically granted for “structural defect.”

## REASONS FOR GRANTING THE PETITION

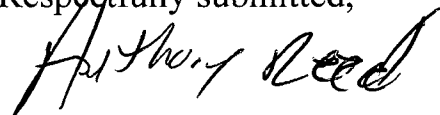
BECAUSE AS LONG AS THERE IS PROBABLE  
CAUSE TO BELIEVE THAT A CITIZEN HAS  
COMMITTED A OFFENSE DEFINED BY STATUTE.  
THE DECISION TO PROSECUTE IS THE PROSECUTOR  
ATTORNEY THAT HAS BEEN ELECTED INTO OFFICE,  
AND THE UNITED STATES CONSTITUTION PROVIDES  
THE RIGHT TO DUE PROCESS.

### CONCLUSION

The petition for a writ of certiorari should be granted.

I Anthony Reed hopes and prays that this Court give legal aid or discharge me (Anthony Reed), from the Arkansas Department of Correction. 28 U.S.C.A. § 2253 C (2)

Respectfully submitted,



ANTHONY REED # 91194,

PRO SE

VARNER SUPERMAX

P.O. BOX 600

GRADY, AR. 71644 - 0600

Date: 1-13-21