

Copy①

No. _____

20-7485

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Wilber Woodrow Cooper — PETITIONER
(Your Name)

vs.

Willis Chapman, Warden et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FILED
MAR 05 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

United States Court of Appeals for the Sixth Circuit

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

PETITION FOR WRIT OF CERTIORARI

Wilber Woodrow Cooper

(Your Name)

Thumb Correctional Facility
3225 John Conley Drive

(Address)

Lapeer, MI 48446

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

Would the Supreme Court of the United States disregard a Due Process Clause of the Fourteenth Amendment violation that the sixth circuit court had relinquished well established constitutional law that would protect a citizen's constitutional rights and resolve violation that were intentionally committed by the State Agents, that now seek relief through deference allowances to avoid a citizens redress. The State Govt. deems it is to arduous to convict without valid evidence and had surrendered review to the sixth circuit court, conceding their claims against the petitioner.

Why would the sixth circuit court penalized a citizen that had attempted to safe guard his well established constitutional rights and allow a Due Process clause of the Fourteenth Amendment violation by deeming the citizens's method to maintain his rights is evaluated as suspicious behavior and determining equivalent to circumstantial evidence to out weigh and dismiss the facts of physical evidence which concludes innocence as a method of removable of the sufficiency of evidential evaluation. Thereby, to give the state the deference to their surrender claim of the review of merit, has caused injury and prejudice to the petitioner; the charge offense against the petitioner had been totally devoid of evidentiary support as to render his conviction unconstitutional under the due process clause of the fourteenth amendment.

Would the Supreme Court of the United States disregard whether or not the question is upon the sufficiency of the evidence but on the whether this conviction rest upon any evidence at all. That by given deference to the state is disregarding the Constitutional Rights violation suffer by the petitioner and his lost of liberty is dismissed as a arduous task to be performed by the state.

Table of Authoritys

Case:

Brechit v Abrahamso 507 U.S. 619 (1993)
Fulminate v Arizona 499 U.S. 279 (1991)
Henddix v Palmer 893 F.3d 906, 919 (2018)
Jackson v Virginia 99 S. ct 2781 (1979)
Miller-El v Cockrell 123 S.ct 1029 (2003)
Moore v Berghurs 700 F.3d at 889-890 (2012)
O'Neal v Balcarcel 933 F.3d 618,624 (2019)
O'Neal v McAnnish 513 U.S. 432, 436 (1995)
Slack v McDaniel 529 U.S. 473, 484-485 (2000)
Tennard v Dretke 124 Sc. 2526 (2004)

Statutes:

28 U.S.C. § 2253 (1) (2) (3)
28 U.S.C § 2254 (b) (A) (d) (1)

Constitutional Amendments

4th

5th

14th

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ASS. COUNSEL 12/7/18

APPENDIX E

APPENDIX F

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 B 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 _____ 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 MICHIGAN COURT OF APPEALS 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 August 17, 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: August 18, 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. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was Michigan Court of Appeals.
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

The fourth Amendment to the United States, provides, in pertinent part; The right of the people to be secure in their persons, houses... against unreasonable searches and seizures, shall not be violated and warrants shall issue but upon probable cause.. particularly describing the place to be search in the persons or things to be seized.

The Fifth Amendment to the united States Constitution provides in pertinent part:.. nor shall be compelled in any criminal case to be a witnesses against himself nor be deprived of life Liberty or property without due process of law.

The Fourteenth Amendment to the United States Constitution provides in pertinent part: Section number one: No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; no shall any state deprived any person life, liberty, or property without due process of law; no deny to any person within its jurisdiction the equal protection of the law.

Statutes: 28 U.S.C. § 2253 (C) (2) provides:

In order to obtain a certificate of appealability, a petitioner must make a substantial showing of the denial of a Constitutional Right.

28 U.S.C. § 2254 (b) (A) (d) (1): (b) (A), The applicant has exhausted the remedies available in the courts of the state.

(d) an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of the state court shall not be granted with respect to any claim that was adjudicated on the merits in state court proceedings unless the adjudication of the claim-(1) resulted in a decision that was based on a unreasonable application of clearly established Federal law, as determined by the Supreme Court of the United States.

STATEMENT OF THE CASE

The petitioner was convicted of Mich. Comp. Law : 750.316 (b), May 2011; then appealed by right to the Michigan Court of Appeals which had denied the appeal. Michigan Appellate court stating that the petitioner invocations were well accepted but, the review is harmless error to the conviction. The petitioner sought review in the Michigan Supreme Court; this court had decided that the appeal should be federally reviewed. The United States District had denied most of the petition but, had revealed that they were concerned that jurist could reasonably conclude a different render decision. The United States District court reasonably conclude allowed a Certificate of Appealability (COA) on the thrid contested confessional statement for further review. The petitioner had been given assigned counsel up to the United States District court review. The Petitioner had to become Per Se status in order to further gain the court's review. The sixth circuit court had imposed a court jurisdiction in order to authorize the COA and confine for review on the sole Third interview issues. The petitioner had submitted a Per Se brief outling all relevant aspects of this limited inquiry review. The sixth circuit court had recieved the Per Se brief and then afterwards deem authority to assign legal counsel to the petitioner Cooper for Oral Aguements in lieu of 'interest of justice'. Assigned legal counsel had reviewed petitioners brief and then written a Oral Arguement brief that aligns with the petitioners position. The sixth circuit court panel reviewal had opposing views of Opinion reviewal and the petitioner had sought an En Banc hearing to have a full panel review. The sixth circuit review panel had denied further review; each panel side had maintain their opposing opinions and deemed the review settled. This places the jurisdiction in the United States Supreme Court by Cert iori application and the petitioner request: Would the Supreme Court of the United States grant review of a consideration upon the constitutional rights violations that affect every citizen and reviews well establish constitutional laws that protect the citizen from abuses from State Govt. agents? All constitutional rights violations should not be ignored, due to giving deference to State Govt, over their abuses committed upon the U.S. citizen. This case review affects the constitutional rights of all citizens currently and in the future.

REASON FOR GRANTING THE PETITION

A certificate of appealability may issue "only of the applicant has made a substantial showing of the denial of a Constitutional Right" 28 U.S.C § 2253. This court has held that when a federal district court denies a habeas claim on procedural grounds without addressing the claim's merits, a Certificate of Appealability should issue if it is shown that jurist of reason would find it debatable whether the petitioner states a valid claim of a constitutional right, and that jurist of reason would find it debatable whether the district court was correct in its procedural ruling. Slack v McDaniel, 529 U.S. 473, 484-485 (2000). "A petitioner satisfies this standard by demonstrating that ...jurist could conclude the issue presented are adequate to deserve encouragement to proceed further". Miller-El v Cockrell, 123 S.ct 1029(2003). In applying this standard, the court may not conduct a full merit review, but must limit its examination to a threshold inquiry into the underlying merit of the petitioner's claims. Id. See also Tennard V Dretke 124S.ct 2562 (2004). 28 U.S.C.2253(c) (2) satisfied.

The facts and circumstances, arguments below are predicated upon indeed raises claims which jurist would find debatable, claims that a court could resolve in a different manner then that reached by the sixth circuit court, claims which are supported by authoritative court decisions and factually based on the record of the cases; or at least the claims are adequate to the extent that they deserve encouragement to proceed further as reflected in the DISSENT OPINION of the sixth circuit court by J MOORE. The petitioner claims further upon debatable reasoning that when the sixth circuit court had penalized the petitioner by erroneously declaring 'Suspicious Behavior' as substantial circumstantial evidence to outweigh physical evidence that would directly conclude innocence; the sixth circuit court had declared that a citizen cannot maintain control over their physical DNA in a safeguarding manner and require the police to seek a valid warrant to obtain a citizens, non-discarded DNA. A counter-position of the fourth Amendment provision. See sixth circuit court opinion pages 4-5 is to reflect that petitioner Cooper was safeguarding his DNA- and the sixth circuit court placed high valued upon the Mich. Court of Appeals reference on page 17 on Coopers such action; The jury could have reasonably relied upon Coopers

suspicious action issue. This inference inquisition had only been introduced by the Police at Trial Impeachment process to ensure that Coopers Third confession statement being introduced to the jury on pages 17-18 within the sixth circuit opinion. The inferences placed by the Police to ensure circumstantial evidence and undermining of the Fourth Amendment and the inadmissible evidence would improperly influence the jury was the primary foundation of the sixth circuit decision, which finalizes in the summary of the opinions section III on page 18, and reflects that the petitioners claim has validation.

The sixth circuit court opinion response is that these issues were disregarded constitutional violations; which were heavily relied upon by the prosecution and had influential overwhelming the jury; that there is no substantial and injurious effect or influence in determining the jurys verdict- O'neal v Barcarcel 933F.3d 618,624(6 cir 2019)(quoting O'neal v McAnnish 513U.S.432,436(1995)."an uncertain judge should treat the error not as if it were harmless, but as if it affected the verdict" cited in Hendrix v palmer 893 F.3d 906,919(6 cir 2018). The petitioner claims that the sixth circuit court is not maintaining their latest decisions, or the sixth circuit court is not in agreement upon the courts rulings or the application usage of such rulings; this is the generally of the DISSENT OPINION in which should be reviewed. The sixth circuit court had inferred to the petitioner that the Certificate of Appealability had merits for proper review and encouraged the petitioner to proceed; the court had even unsolicitedly had assigned counsel to the petitioner in presenting Oral Arguements to the court. After court review of habeas claim, the court then declared that the petitioner had lacked merits in his claim. This counters the intital actions of encouraging the petitioner to proceed further granting the COA and the sixth circuit having assigned legal representation to ensure that the petitioner maintained a merited review. When the sixth circuit court had denied En Banc review, even after the court panel had been divided, this presumably moved jursidiction into the United States Supreme Court. The sixth circuit panel had deemed that no other jurist could reasonably debate whether a substantial and injurious effect had been placed upon the petitioner. There are too numberous case citation references to cite, that definitely reflect that every appellate federal court would not be in such agreement and not be favorable to the petitioner. The sixth circuit had been divided with opposing opinions, and

the sixth circuit dismissed the severity of the error along with substantial and injurious affect it had on the determinitive influential factors to the jurys verdict. The petitioner had passed the Brecht Test 507 U.S. at 637; The Fulminate test 499U.S.279,296; The Moore comparison test 700F.3d 889-890. These few case citations would resolve this matter in the petitioners favor, and all represents the best available explication of the,clearly established Federal law, as determined by the Supreme Court of the United States. Whereas, if the sixth court leans towards favor to the prosecution,there is equal dominated standards which favor the petitioner. As described above, this petition of claim directly effects all U.S. citizenss constitutional Due Process claims and violations of their well established and protected rights. By not limiting and easily giving the deference to the State Govt. is allowing the State to continue to abuse their citizens rights, eliminating any need for appellate reviewal claims, and the necessity to prevent overreach from the State Govt.and their agents. The petitioner prays that this claim merits supervisory overview from the United States Supreme Court, and that his claim reflects the necessity to vacate his erroneous conviction. Jackson v Virginia 99 S.ct 2781(1979),reflects the sufficiency of evidence, that is most important to measure proof beyond a reasonable doubt as an essential part of the Fourteenth Amendment Due Process Clause; it follows that when such a conviction occurs in a State trial, it cannot constitutionally stand (quoting from Winship *supra* within Jackson v Virginia. Thompson v Louisville 80 S.ct 624 reflects that the lack of evidence to support a conviction;...finding that the constitutional claims have merit and were substantial and not frivolous the conviction cannot stand. Fulminante v Arizona 499 U.S.279 reflects that the jury should not be improperly influencing the verdict to arrive at a erroneous conviction. The sixth circuit DISSENT Opinion provides the substantial value and a clear division which would indicate that jurist of reason could debate, and the Supreme Court is required to maintain the well established laws, and allow the petitioner his liberty. It has been onus and arduous only to the petitioner to strive for justice that the lower courts simply ignored .

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Wilborn Cooper

Date: 3/1/2021