

20-7487

No. _____

Supreme Court, U.S.

FILED

DEC 03 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

RODARIUS GRIMES — PETITIONER
(Your Name)

VS.

STATE OF ALABAMA, — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF CRIMINAL APPEALS-STATE OF ALABAMA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RODARIUS GRIMES, ATS#313781
(Your Name)

W.E. DONALDSON CORRECTIONAL FACILITY
(Address)

100 WARRIOR LANE BESSEMER, ALABAMA 35023

(City, State, Zip Code)

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

I. WHETHER THE STATE COURT DECISIONS WAS/IS IN DIRECT CONFLICT
WITH CLEARLY ESTABLISH LAW AS DETERMINED FROM THE U.S. SUPREME
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:

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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 _____ 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 is unpublished.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 is unpublished.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 D _____ 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 is unpublished.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 appears at Appendix _____ 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 is unpublished.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).

[XX] For cases from state courts:

The date on which the highest state court decided my case was JUNE 24, 2020. A copy of that decision appears at Appendix D.

[] A timely petition for rehearing was thereafter denied on the following date: JULY 16, 2020, and a copy of the order denying rehearing appears at Appendix E.

[] An extension of time to file the petition for a writ of certiorari was granted to and including August 4, 2020 (date) on _____ (date) in Application No. A Appendix F

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

STATEMENT OF THE CASE

Petitioner's proffer an admission of the Statement of the case as presented in his brief on appeal which provides the following relevant facts.

A Jefferson County Grand Jury indicted Rodarius Grimes of Capital murder pursuant to Ala. Code 13A-5-40(a)(17). [C.89] The indictment provided that Mr. Grimes "did intentionally cause the death of Cortez Leman Rhynes, to-wit: by shooting him with a pistol, while said Cortez Leman Rhynes was in a vehicle ...". [Id.]. Although the State charged Mr. Grimes with capital murder, his case was not eligible for the death penalty as no aggravating circumstances existed. [R.65-66].

Mr. Grimes's first trial ended in a mistrial due to the defense's unopposed motion based on the prospective jurors seeing him in shackles. [R. 279-285]. At the second trial, the jury convicted Mr. Grimes of capital murder as indicted. [R. 1352-54; C. 52]. Prior to sentencing and while he was represented by counsel, Mr. Grimes filed a pro se motion for new trial. [C. 383]. On February 20, 2018, the court sentenced Mr. grimes to life in prison without the possibility of parole. [R. 1372; C. 62].

Following sentencing, the court appointed successor counsel for purposes of appeal, including the filing of the motion for new trial. [C. 58-59]. However, successor counsel did not per-

fect Mr. Grime's direct appeal within the prescribed time from his February 20, 2018, sentencing. [See C. 434-37]. Thus, Mr. Grimes petitioned for leave to file an out-of-time appeal, which the circuit court granted. [C. 426, C. 84]. In a Memorandum Opinion dated June 26, 2020, the Court of Criminal Appeals [State of Alabama] affirmed Mr. Grimes's conviction. It overruled his Application for Rehearing on July 24, 2020. The Supreme Court of Alabama denied his petition for Writ of Certiorari and Mr. Grimes now timely file his Petition for Writ of Certiorari to this Honorable Court. Thus, this Court has jurisdiction to entertain this petition.

REASONS FOR GRANTING THE PETITION

The State Court's decision[s] was/is in direct conflict with clearly establish law as determine by the U.S. Supreme Court.

In the instant case, the record of the court clearly shows the following:

On appeal, Grimes argues that the evidence was insufficient to convict him of capital murder pursuant to 13A-5-40(a)(17). Grimes argues that the trial court committed reversal error when it did not allow the evidence technician Mrs/Ms. Murrary to give her lay opinion pursuant to Rule 701 FED.R.EVID. of whether Mr. Rymes was shot in the car based on her experience and observation of the evidence. The Court of Criminal Appeals June 26, 2020 Memorandum Opinion on page 12 lines 29-36 holding directly conflicts with holdings from the U.S. Supreme Court in Jackson v. Virginia, 61 L.ED.2d 560 (1979) wherein the court held: "A federal court must consider not whether there was any evidence to support a state-court conviction, but whether there was sufficient evidence to justify a rational trier of fact to find guilt beyond a reasonable doubt." In re Winship, 397 US 358, 25 L.ED. 2d 368(1970) Grimes submit that had the jury heard this evidence no rational trier of fact could have found proof of guilt beyond a reasonable doubt. See In re Winship, supra.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

x *Rodarius Grimes*

RODARIUS GRIMES, AIS#313781

Date: DAY OF NOVEMBER 18, 2020