

No. 20-8195

IN THE

SUPREME COURT OF THE UNITED STATES

~~ORIGINAL~~

CALVIN JAMES REID

~~PETITIONER~~

(Your Name)

vs.

STATE OF MICHIGAN

— RESPONDENT(S)

FILED

MAY 13 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

MICHIGAN COURT OF APPEALS

MICHIGAN SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

CALVIN JAMES REID #25278-076

(Your Name)

P.O. BOX 3725, F.C.I. #1 MEDIUM

(Address)

ADELANTO, CA 92301

(City, State, Zip Code)

NONE

(Phone Number)

**QUESTION(S) PRESENTED**

WHETHER A 30 YEAR OLD JURISDICTIONAL DEFECT IN STATE COURT CONVICTION SHOULD STAND UNCORRECTED BECAUSE THE VIOLATION OCCURRED OVER 30 YEARS AGO?

## **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

## TABLE OF AUTHORITES CITED

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<u>Custis v. United States</u> ,	
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469 U.S. 387 (1985) .....	8
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<u>Halbert v. Michigan</u> , 545	
545 U.S. 605 (2005) .....	8
<u>Johnson v. Zerbst</u> ,	
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<u>Lackwanna Co. D.A. v. Coss</u> ,	
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APPENDIX B MICHIGAN COURT OF APPEALS DENIAL

APPENDIX C MICHIGANS LOWER COURT DENIAL

APPENDIX D ORDER DENYING MOTION FOR RECONSIDERATION

APPENDIX E LETTER FROM LOWER COURT CLERK DATED JANUARY 16, 1989  
WITH THE NAME JAMES REID---PETITIONERS NAME IS  
CALVIN REID---PETITIONER NEVER RECEIVED THIS LETTER

APPENDIX F MOTION FOR RELIEF FROM JUDGMENT FILED IN DECEMBER OF  
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APPENDIX G APPLICATION FOR LEAVE TO APPEAL FILED WITH THE  
MICHIGAN COURT OF APPEALS AND MICHIGAN SUPREME COURT

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**

~~XXX For cases from federal courts~~

The opinion of the United States court of appeals appears at Appendix XXXXXX 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.

~~XXX 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 OPINION AND ORDER OF THE LOWER court appears at Appendix C to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

~~XX 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 03/30/2021. A copy of that decision appears at Appendix A.

A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.  
 An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (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 SIXTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

## STATEMENT OF THE CASE

On November 2, 1988, Petitioner pled guilty to escape from prison, (walk away from Correctional Center), with a supplemental allegation that he at least had one prior felony. He was sentenced by Roman J. Snow on December 8, 1988, to a minimum of 18 months and a maximum of 7½ years of incarceration, commencing at termination of sentence he was currently serving. (See Appendix D, Judgment of sentence). Petitioner on January 11, 1989, filed a motion for appointment of counsel, along with an affidavit of indigency, seeking appointment of counsel to perfect his appeal of right. The Court record shows that this motion was filed January 16, 1989. (See Appendix E, Docket Statement). The Court never responded to petitioner's motions, nor were the motions subject of a judicial ruling. In December of 1995, because petitioner had not heard from the court, he filed a motion for relief from judgment and motion for appointment of counsel. (which went unheard)(See Appendix F)

The motions and pleadings filed in January of 1989 were never ruled on by the court, nor was the motions and pleadings filed in December of 1995, subject of a judicial ruling. In January of 1999, petitioner wrote to Judge H. David Soet explaining his situation, and Judge Soet responded on January 26, 1999, with a brief letter explaining that he was not able to take any official actions in response to private correspondence. (See Appendix G)

In January of 2020, Petitioner filed a motion to expunge his escape conviction and the court clerk rejected the motion and sent an application that had to be sent to a Michigan Office in Lansing, Michigan. Petitioner then sent the clerk of the court a letter requesting a certified copy of the criminal conviction for escape so he could pursue the avenue directed by the court clerk. Upon receiving and reviewing the certified record, petitioner noticed that all the motions presented to the court were still subject to a judicial determination, including the December 1995 motion for relief from judgment, so petitioner decided to file an Amended

motion for relief pursuant to MCR 6.500 et., al., requesting that his escape conviction bevacated and set aside based on the jurisdictional defect that occurred when the court failed to subject his motions filed in January of 1989, to a judicial ruling and appoint counsel so he could have perfected his appeal of right. The Michigan court of first instance responded to Petitioner's Amended motion, 25 years after his initial request, and 31 years after his request to appeal his conviction and sentence. The court, without a hearing, or appointment of counsel to investigate why a judicial determination was never made, the court simply apologized to the petitioner with a notation stating that some sort of "oversight or miscommunication" occurred in this matter. (See Appendix C) (Which oversight is the court referring too?) NOTABLY: The court failed to address either of petitioner's pro se filings, the one in 1989 and the one in 1995, neither were subject of a judicial determination.

After receiving the court's denial, petitioner drafted a more detailed motion for reconsideration providing the court with United States Supreme Court precedent showing them that whether the sentence has already been served is not the issue, the issue rest with the jurisdictional defect that occurred and the conviction is therefore void. (See Appendix D, motion for reconsideration.) The court denied his motion for reconsideration, (Appendix D), and petitioner then filed an application for leave to appeal the lower court's decision to the Michigan Court of Appeals. (See Appendix G) Petitioner listed Six error's for appeal and the Michigan Court of Appeals denied leave to appeal, but for some unknown reason, the Court of Appeals granted petitioner's motion for waiver of fees to proceed. (Appendix G)

During the process of the appeals, petitioner had been transferred and all his personal and legal property had either been lost or misplaced by the Bureau of Prisons. The time frame begins on September 23, 2020, and petitioner received most of his

personal and legal property on or around February 17, 2021. And because petitioner did not have his legal property, he did not possess a copy of the filing he submitted to the Michigan Court of Appeals and when he submitted his application for leave to appeal to the Michigan Supreme Court, he made the request to use the same issue's presented in the application he submitted to the Michigan Court of Appeals. On March 30, 2021, the Michigan Supreme Court issued an order of denial, but failed to ground its analysis in any particular provision of the United States Constitution, or in any of the United States Supreme Court precedent that was presented to them. (See Appendix A).

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Petitioner's post-conviction motion for relief from judgment had sat pending for over Twenty-Five years without being subject of a judicial ruling and neither court is able to explain this lapse. The request for appointment of counsel has sat pending on the lower courts docket for over Thirty years without being subject of a judicial ruling and all the Michigan Court's have ignored these facts presented to them and fails to explain why petitioner's motions were not heard and why did it take 25 years to respond to the motion for relief from judgment.

## REASONS FOR GRANTING THE PETITION

This is a Constitutionally compelled issue which resulted in a fundamental miscarriage of justice of firmly established federal law, and court proceedings against petitioner.

A writ of certiorari grant by this United States Supreme Court would not alter the decision of the Michigan Court of Appeals nor the Michigan Supreme Court, but would only affirm that the federal question must be resolved by this United States Supreme Court. The federal question is deeply rooted in this Supreme Courts precedent and the denial from the Michigan court of first instance raises significant questions about standard of review, and will serve as precedent in other reviews of other courts decision making process.

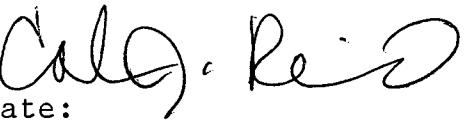
The state court of appeals, and the Michigan Supreme Court, has failed to ground its analysis of denial in any particular provision of the Constitution, or in any of the United States Supreme Court precedent that was placed before them in petitioners application(s) for leave to appeal. This cause involves legal principles of major significance to the state of Michigan's jurisprudence and the decision below was in probable conflict with precedent of the state's highest court. Therefore, it is imperative that this United States Supreme Court "grant" certiorari to resolve the miscarriage of justice that occurred over "30 years" ago, where petitioner still suffers anew from that conviction. Otherwise, the precedent rendered by this Court in landmark holdings would be meaningless where petitioner had a

Federal United States District Court, Western Division of Tennessee used this invalid conviction to enhance his current federal term of imprisonment. Petitioner in effect suffers anew from the deprivation of that right, Sixth Amendment violation, and the Fourteenth Amendment right of due process and equal protection clause. The jurisdictional defect shown to the state court should have been sufficient to excuse the actual prejudice requirement found in MCR 6.508(D)(3), based on the irregularities that occurred in this matter. The decision to ignore the constitutional violations that were presented to the Michigan Court of Appeals and the Michigan Supreme Court, has so far departed from the accepted and usual course of judicial proceedings and sanctioned by the Michigan's upper courts, such a departure by the Michigan lower court, that a call for an exercise of this Court's supervisory power is warranted. The importance of this issue not only affects petitioner, but others in similarly situated cases. The Michigan Court of Appeals and Michigan Supreme Court has ignored an important federal question in a way that conflicts with a number of this United States Supreme Court decisions, continuing the miscarriage of justice that began over Thirty years ago.

#### CONCLUSION

Based on the jurisdictional defect and miscarriage of justice that occurred over Thirty years ago and still present today. The petition for writ of certiorari should be granted.

Respectfully submitted,

  
Date: