

No. **20-8376**
20-5603

Supreme Court, U.S.
FILED

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IN THE
SUPREME COURT OF THE UNITED STATES

JAY EARL HAYNES PETITIONER

-Vs.-

BERT BOYD RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

JAY EARL HAYNES

PRO-SE; PETITIONER:

JAY EARL HAYNES # 116336

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QUESTION PRESENTED FOR REVIEW

**I. WHETHER THE SIXTH CIRCUIT ERRED IN DENYING THE
CERTIFICATE OF APPEALABILITY?**

PARTIES

Jay Earl Haynes vs. Bert Boyd, Warden Tennessee Department of Corrections

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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.

The opinion of the 6th Circuit Court of Appeals appears at Appendix "A" to the petition and is unpublished at 20-5603 (6th Cir., filed October 22, 2020).

JURISDICTION

The date on which the 6th Circuit Court of Appeals decided my case was October 22, 2020. A copy of that decision appears at Appendix "A".

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

ARTICLE V: (in part):

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury,nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI: (in part):

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

When courts apply rational basis review to a state statute, statute is presumed constitutional under Equal Protection Clause, and the group attacking the statute has the burden of attacking the legislative arrangement to negate every conceivable basis which might support it. U.S.C.A. Const. Amend. 14.

Upon analyzing an equal protection claim under the rational basis test, the burden of showing that a classification is unreasonable and arbitrary is placed upon the individual challenging the statute, and if any state of facts can reasonably be conceived to justify the classification or if the unreasonableness of the class is fairly debatable, the statute must be upheld. U.S.C.A. Const. Amend. 14; West's T.C.A. Const. Art. 11, § 8.

STATEMENT OF THE CASE

That former counsel was ineffective for failing to challenge the constitutionality of the Tennessee Rape statute in derogation of the Supreme Court's holding in Lawrence vs. Texas, 539 U.S. 558 (2003).

REASONS FOR GRANTING THE PETITION

That his convictions for two counts of Rape is illegal, void, and/or voidable in violation of his constitutional rights as set forth under the rights to a fair trial and Effective Assistance of Counsel provided by the U.S. 6th and 14th Amendments and Art. I, §'s 8 & 9 of Tennessee Constitution.

This Court should hold that: (1) This Federal Habeas Court will excuse Petitioner's procedural default even if State law does not require that an ineffective assistance of Trial Counsel claim be raised in an initial collateral review proceeding, (2) Petitioner's Trial Counsel's performance was "I.A.C." for failing to call witnesses; (3) Remand is required to determine whether Petitioner's Attorney in his first State collateral proceeding was ineffective and whether the ineffective assistance of Trial Counsel claim was substantial.

Petitioner declares that for the reasons stated above this Court should conclude that this Court should excuse Petitioner's procedural default even if State law does not require that an Ineffective Assistance of Trial Counsel claim be raised in an initial collateral review proceeding, and relief is required to determine whether Petitioner's Attorney in his first State collateral proceeding was Ineffective for not presenting all meritorious claims and whether the Ineffective Assistance of Trial Counsel claim was substantial.

Petitioner further declares there were substantiated deviations from state and federal constitutional law in the trial, direct appeal, Rule 11; and Post-Conviction Court's ruling denying Petitioner's requested relief; questions for review were fundamentally unfair where the Court failed to properly review, apply the proper federal constitutional law, and deviations substantially prejudiced his rights at trial and all appeal outcomes. Moreover, the facts and circumstances outlined in this Memorandum Of Law clearly demonstrates that the Courts and Petitioner's Attorneys has acted arbitrarily, capricious and illegally in the handling of his case. The decisions of the Trial and Appellate Courts are unsupported by evidence, which are both substantial and material in light of the entire record and not in the best interests of justice.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

/S/ JAY HAYNES

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