ORIGINAL

Supreme Court, U.S.
FILED
MAY 11 2021
OFFICE OF THE CLERK

No. 21-5165

IN THE

SUPREME COURT OF THE UNITED STATES

Robert Allen Custard — PETITIONER
(Your Name)

vs.

Scott Crow — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Tenth Circuit United States Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Robert Allen Custard
(Your Name)

6888 East 133rd Road
(Address)

Holdenville, OK. 74848
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

Because -as admitted by both lower Courts appealled from (WDOK and 10th Cir.)i.e., Please see both Federal [and Oklahoma state] Orders @ APPENDIX A-D, and as set forth w/ Authority @ WDOC Doc.10:

> "Because the fourteen [14] Year difference -where as it stands now [and Still does] Petitioner was incarcerated but serving no saetance---------- is significant..." WDOK #CIV. 19.540.J @ Doc. 10

-and-

Because:

> "In state Court, the trial JUdge believed that FLoyd, 540 P.2d 1195 (Okla. Crim. App. 1975) did not apply because Petitioners vacated sentence was of federal origin. THIS COURT DOES NOT NECESSARILY READ FLOYD SO NARROWLY. Custard, Custard, id. also @ doc.10.

1)Question Presented: In light above- as factually verified by B-O-T-H Lower Federal Courts Appealled from [and state Courts]- Is it possible - in the'United States of America' Today- that in spite of the Article VI Authority to keep 'United' the United States of America'-a person who is a United States Citizen can "spend fourteen (14) Years in an American Prison "while as it stands now'Serving No Sentence?'"

2) Question Presented: id., ref Cruel and Unusual Punishments?

3) Question Presented? id., ref Multiple Punishments?

4) Question Presented: id., ref Double Jeopardies?

In Russia?...Perhaps. In China?...Of Course. -But in the 'United States of America? An American Citizen CAN? serve 14 Years in an American Prison " 'while Serving NO Sentence'?"... That IS the only Question before this Court.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[x] 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:

i.e., The state of Oklahoma is a party by and thru Respondent Scott Crow (the Director of the Oklahoma Dept. of Corrections).

It is noted that the United STates of America is 'at issue' also inthis case and matter -as an implicit, if not formal Party.

RELATED CASES

FLOYD V. STATE, 540 P.2d 1195 (Okla. Crim. App. 1975)

Foster V. Booher, 296 F.3d 947 (10th Cir. 2002)

McGirt v. Oklahoma, 140 S.Ct. 2452 (i.e., In that this case is merely 'one more' attempted sovereignty Power-grab' by the State of Oklahomas' Century-long U.S.S.Ct. Proven longline of attempted Oklahoma state sovereignty, Power-grabs.)

Article VI of the United States Constitution.

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APPENDIX B : Order Appealled from/USDC-WDOK Case#CIV.19.540.J.

APPENDIX C : Order Appealled from/Okla.Crim.App.#CJ.2019. 0271.

APPENDIX D : Order Appealled from/Payne County,OK #CJ.2018.458.

APPENDIX E : Petitioners Exhibits 01 - 10.

APPENDIX F : N/A

TABLE OF AUTHORITIES CITED

CASES **PAGE NUMBER**

Floyd v. State, 540 P. 2d 1195 (Okla.Crim.App. 1975)..3,5,8,9,10.
Please see also at APPENDIX.

Foster v. Booher, 296 F.3d 947 (10th Cir. 2002).....3,5,8,9,10.
Please see also at APPENDIX.

McGirt v. State, 140 S.Ct. 2458.....9.

STATUTES AND RULES

Oklahoma Title 22 §§976.....01-10&APPENDIX E.
(Please see Specifically below Court pleadings consistently.)

ARTICLE VI OF THE UNITED STATES CONSTITUTION....01-10 & Appendix.

OTHER

1st , 5th & 8th Amendments of the United States Constitution 01-10.

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

[xx] For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[xx] reported at 10TH Cir., U.S. Court of Appeals ; or, Case #20.6092
[ ] has been designated for publication but is not yet reported; or,
[xx] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[xx] reported at USDC-WDOK CASE # CIV.19.540.J ; or,
[ ] has been designated for publication but is not yet reported; or,
[xx] is unpublished.

[xx] For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

[xx] reported at Okla.Cy.of Criminal Appeals# ; (20.271)
[ ] has been designated for publication but is not yet reported; or,
[x] is unpublished.

The opinion of the Payne County, Okla.Dist. Ct.# CJ18.458 court appears at Appendix D to the petition and is

[xx] reported at id., ; or,
[ ] has been designated for publication but is not yet reported; or,
[xx] is unpublished.

JURISDICTION

[ ] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was March 01, 2021.

[ ] No petition for rehearing was timely filed in my case.

[xx] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: On/About April 15,21 and a copy of the order denying rehearing appears at Appendix Please See USSC Cle Communications of 5/13/21 and ON/ABOUT May 25,2021 Stating 60 Day From this Date.

[xx] An extension of time to file the petition for a writ of certiorari was granted to and including July 24,2021 (date) on/About 5/25/21 (date) in Application No. A. Please See USSCt Clerk Letter To Petitioner stating "refile w/i 60 Days of this date."(7/24/21)

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

Please see also the Article VI of the U.S. Constitution.

[ ] For cases from state courts:

The date on which the highest state court decided mv case was May 06, 2019. A copy of that decision appears at Appendix C

[ ] 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 _____.

[A] An extension of time to file the petition for a writ of certiorari was granted to and including August 10, '21 (date) on May 13, 2021 (date) in Application No. A. Please See USSCt Clerk Notices of May 13, 2021.

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

Please see also Article VI of the U.S. Constitution.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A$ Both the USDC/WDOK admitted (WDOK #Civ.19.540.J @ Doc 10) and the Tenth Cir. admitted (10th Cir. @ #20.6092):

> "...Because Custard [Petitioner] spent approximately fourteen [14] Years in Prison 'Where as it stands Now' While 'Serving NO Sentence'"!

1) Does this, In America, amount to Cruel and Unusual Punishment? (i.e., In Violation of the U.S. Const. 8th Amendment.)

2) Does this, In America, amount to Multiple Punishments on the State Crime ? (In Violation of the U.S. Const. 5th Amendment.)

3) Does this, InAmerica, amount to, essentially and as a Matter of Law, Double Jeopardy ? (In Violation of the U.S. Const. 5th Amendment.)

STATEMENT OF THE CASE

° March 31,1993 Custard plead guilty to various charges in the USDC/D.Colo. Case #93.CR.0050.WYD, and was sentenced to 360 Months Imprisonment.

°October 21, 1993 Custard was convicted upon Trial on various charges in Stephens County, Oklahoma, Case #CRF.92.209, and was sentenced to yet another "360 Months" imprisonment, "...to begin 'at and from' the delivery of Custards' body to the Warden ofthe Lexington Assessment and Reception Center" (in Lexington, Okla.) and "to be served consecutive to 'any' federal sentence he is'now serving'."

°Custard served the federal sentence first.

°August 10 2017 USDC/D.COLO Grants Custards'petition pursuant to Title 28 U.S.C. § 2255 and Vacates his federal sentence under Johnson v. U.S. 135 S.Ct 2551 (2015).

° October 17,2017 Custard is resentenced in federal Court to 137 Months and the federal Court Judge States "Mr. Custard you were wrongly forced to overserve you federal sentence by fourteen Year under the most Brutal of Circumstances." i.e., At the Federal Supermax Prison at Florence, Colorado; every day in Solitary Confinement.

°Based on the resentencing CUstards Fed. sentence ended May 31,'0

° October 17, 2017 Stephens COunty, Okla. Authorities begin trans porting Custard to OKlahoma.

INTERESTINGLY Nad tellingly and as Noted Oklahoma Authorities waived any "strict interpretation' of "Custards' body to LARC " when admitting that because they layed-over in Amarillo,Texas before getting to Oklahoma on October 18, 2017 the day before Okla. Dept. of Corr. Began Custards' Okla. Sentence ---When Respondent stated in pleadings below "..if Custard is entitled to anything he is entitled to the one day prior to October 18, 2017'!!!

PLease See Respondent Response Brief (@ USDC/WDOK)

Please See Also USDC/WDOK Court Order in Custard v. Crow @ DOc.10

REASONS FOR GRANTING THE PETITION

1) The U.S. CONSTITUTIONs' Article VI Provides for the Federal Courts to guard against, and justly remedy when necessary when the state Courts Overbearingly, Diabolically and Outrageously subject a United States CItizen to Cruel and Unusual Punishment (as is plain and clear to any honest persons' logic in this case and matter). e.g.,:

> "...The Constitution, and the laws made in pursuance thereof shall be the law of the land...AND THE JUDGES IN EVERY STATE SHALL BE BOUND THEREBY, A-N-Y-T-H-I-N-G IN THE Constitutions or laws of A-N-y state N-O-T-W-I-T-H-S-T-A-N-D-I-N-G."

2) 'The Cut to the Chase' in this case IS "Plain and Clear': 'If" ..."served 14-Years in Prison...'While serving No Sentence'..." is not 'Cruel and Unusual Punishment' then that Legal Term and Doctrine- and that American Constitutional Right has no meaning.

Moreover, an'experienced reading between the lines' of the WDOK Order(appealled from) should'give pause' to experienced Jurists that that Judge had some noteable concerns about that ruling(@ WDOK), and for good reason Petitioner respectfully avers

Neither of the lower Courts Could bring themselves to draw upon the Article VI Mandates; and that is plainly and clearly where the Truth of this case and matter resides.

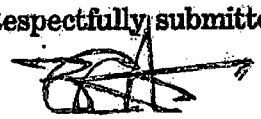
Between the lines, as much as in the lines, the Courts below beseech this Court for help and guidance.

CONCLUSION

Certiorari should be granted in this case because, inter alia, the lower COurt cases relied on by Respondents were split. Additionally the lower Courts in this case(WDOK especially) had some honest skepticism relevant to it's deliberations and holdings.

The petition for a writ of certiorari should be granted. Also because Johnson, id., and like cases are continuing to surface more and more often, under like circumstances.

Respectfully submitted,



Robert Allen Custard
Petitioner, Pro Se

Date: July 08 , 2021