

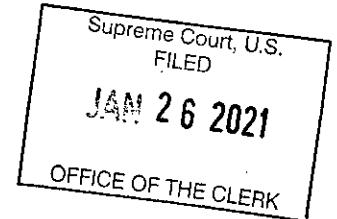
21-5204

No. \_\_\_\_\_

**ORIGINAL**

IN THE

SUPREME COURT OF THE UNITED STATES



WALTER PATRICK — PETITIONER  
(Your Name)

vs.

STATE of ALABAMA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

ELEVENTH CIRCUIT COURTS OF APPEALS  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Walter Patrick A.S 109647  
(Your Name)

565 Bibb Lane

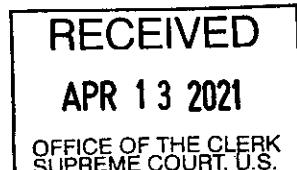
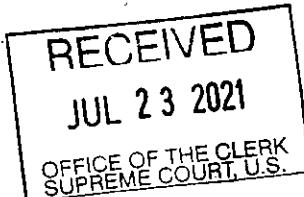
(Address)

BRENT, AL 35034

(City, State, Zip Code)

N/A

(Phone Number)



QUESTION(S) PRESENTED

Did the Eleventh Circuit failed to apprehend that "Actual innocent" is a gateway through which a petitioner may pass, despite any procedural default or expired statute of limitations. McQuiggan v. Perkins, 569 U.S. 383, 386, 133 S.Ct. 1924, 1928 (2013).

DOES THE ELEVENTH CIRCUIT COURT HOLD SOUTHEAST INCARCERATED INMATES TO A STANDARD THAT DISALLOW INCARCERATED CITIZENS TO LITIGATE. BY HOLDING PRISONERS TO A STANDARD THAT GOVERN PROFESSIONALS IN THE LAW PROFESSION.

## **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**

N/A

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## OTHER

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 1 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 1 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 Sept. 18, 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: \_\_\_\_\_, 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).

For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

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).

## STATEMENT OF THE CASE

WALTER PATRICK IS AN ALABAMA PRISONER SERVING A 30-YEAR SENTENCE AFTER A JURY CONVICTED HIM OF FIRST DEGREE SODOMY IN 2004. IN 2016, PROCEEDING PRO SE, HE FILED A MOTION UNDER 28 U.S.C. §2254, ALLEGING INEFFECTIVE ASSISTANCE OF COUNSEL. THE DISTRICT COURT DISMISSED THE MOTION AS TIME-BARRED.

MR. PATRICK APPEALED HIS CONVICTION TO ALABAMA COURT OF CRIMINAL APPEALS, WHICH AFFIRMED HIS CONVICTION. TO THE ALABAMA COURT OF CRIMINAL APPEALS, WHICH AFFIRMED PATRICK'S OUTRIGHT REHEARING, AND A WRIT OF CERTIORARI WAS SOUGHT AFTER, REHEARING WAS OVERRULED, WITH THE ALABAMA SUPREME COURT [BOTH] DENIED SEPT. 23, 2005 AND DEC. 9TH 2005.

IN AUG. 2009 PATRICK FILED A RULE 32 PETITION PRO SE, IN TRIAL COURT IN WASHINGTON COUNTY, ALABAMA, 2010. PATRICK AMENDED THE PETITION WITH NEWLY DISCOVERED EVIDENCE THE STATE ONLY VICTIM RECOUNTED HER STATEMENT. IN SEPT. 24, 2014 PATRICK'S RULE 32 WAS DENIED. PATRICK APPEALED THE (ACCA) AFFIRMED THE DENIAL OF RULE 32 PETITION. ON OCT. 7, 2015 CERTIFICATE OF SERVICE OF FINAL JUDGMENT BY THE (ACCA) WAS ISSUED. IN OCT. 3, 2016 PATRICK FILED A §2254 PETITION IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA, WHICH WAS AMENDED JAN. 30TH, 2017. IN AUG. 2017 THE MAGISTRATE JUDGE ENTERED ORDER STATING "SHOW CAUSE". PATRICK OBJECTED BASED ON ACTUAL INNOCENCE. ON DEC. 6, 2017 RECOMMENDATION FOR DISMISSAL AS TIME BARRED WAS FILED BY MAGISTRATE. ON DEC. 29TH, 2017 PATRICK OBJECTION WAS FILED.

## REASONS FOR GRANTING THE PETITION

PETITIONER Patrick contends that the 11th Circuit overlooked or failed to apprehend that "Actual innocent" is a gateway through which a petitioner may pass, despite any procedural default or expired statute of limitations. MCQUIGGIN V. PERKINS, 569 U.S. 383, 384, 133 S.Ct. 1924 (2013). The only "Victim" for ALABAMA prosecution of Patrick, RECANTED HER testimony via Affidavit SWORN! Within the sworn statement and sworn testimony of Elizabeth Patrick the PERSON who recanted her testimony she GAVE AT TRIAL, via Affidavit and sworn testimony in state court hearing.

THE 11th CIRCUIT totally ignored Elizabeth's testimony attesting truthfully she "lied" when she claimed the PETITIONER RAPED and SODOMISED her at the evidentiary hearing held in State Court on Patrick's Rule 32 Petition. This DENIED PATRICK due Process, 14th Amendment.

PETITIONER's ACTUAL INNOCENT CLAIM EVEN WITH THE ALLEGED VICTIM'S RECAN-  
TATION AFFIDAVIT MADE YEARS AFTER  
PATRICK WENT TO TRIAL AND THE PURPOSE  
FOR THE EVIDENTIARY HEARING IN STATE  
COURT, WAS DISREGARDED AS IRRELEVANT.

INSTEAD, THE ELEVENTH CIRCUIT HOLDING AN HEARING IN FEDERAL COURT ON PATRICK'S ACTUAL INNOCENT CLAIM WHICH ENTAILS PATRICK RULE 32 ATTORNEY DID NOT SUBPOENA JULIANA FORT M.D. THE PSYCHIATRIST THAT DIAGNOSED ELIZABETH

AS BI-POLAR DISORDER ON 9-29-09, TO WHOM EXPERT TESTIMONY WOULD'VE BUTTRESS ELIZABETH TESTIMONY AT RULE 32 HEARING. HER ORIGINAL TESTIMONY AT THE TRIAL THAT PATRICK DID RAPE AND SODOMIZE HER. SHE CONFESSED SHE LIED ON PATRICK AS A RESULT OF HER MENTAL ILLNESS. DR. LINDA FARMER ALSO ~~DIAGNOSED~~ ELIZABETH AS SUFFERING FROM SEVERE BI-POLAR DISORDER AT A DIFFERENT TIME. SHE WAS NOT SUBPOENAED. THE ELEVENTH CIRCUIT CHOOSED TO ONLY ADDRESS EQUITABLE TOLLING.<sup>1</sup> THIS APPROACH BY THE ELEVENTH CIRCUIT CONFLICT GREATLY WITH MARTINEZ V. RYAN, 182 F.3d 272 (2012); MCQUIGGIN V. PERKINS, 569 U.S. 383, 386, 133 S. Ct. 1924, 1928 (2013).<sup>2</sup>

#### **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Walter Patrick

Date: 3-30-21

#### Note 1

The 11th Circuit dismissed Patrick's § 2254 as time barred. 28 U.S.C. § 2244(d)(1)

#### Note 2

Alabama Prison Bibb is overcrowded and Patrick age and health disallow him to litigate. An Attorney is requested to further litigate this Writ. Patrick relied on help of a prisoner.