

No. 21 - 5430

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

"In re PERCY ALLEN STUCKS" — PRO SE PETITIONER

FILED

AUG 04 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Vs.

DAREN L. SHIPPY - RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI

SUPREME COURT OF FLORIDA

NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE

PETITION FOR WRIT OF CERTIORARI

PERCY ALLEN STUCKS

500 East Adams Street

Jacksonville, Florida, 32202

QUESTION(S) PRESENTED

1. Does a Florida defendant have the right to withdraw plea before trial?

LIST OF PARTIES

1. Daren L. Shippy

Assistant Attorney General

PL-01, The Capitol

Tallahassee, Florida 32399- 1050

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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 at Appendix _____ to

The petitioner 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is unpublished.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 of appeals at Appendix _____ to the petitioner 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is unpublished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 A to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

[X] is unpublished.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,

[X] is unpublished

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case
was N/A.

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

[] A timely petition for rehearing was thereafter denied on the following date:

_____, and a copy of the order denying rehearing appears at
Appendix N/A.

[] An extension of time to file the petition for 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 August 03, 2021. A copy of that decision appears at Appendix A.

A timely petitioner for rehearing was thereafter denied on the following date: July 2021, 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 _____ (date) on _____ (date) in Application No. _____ A _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FLORIDA STATUES

1. Alexander v. State,

App.5 Dist., 380 So. 2d. 1188 (1980).

“A person adjudged to be presumed to continue insane until it is shown that his sanity has returned.”

2. Foley v. State,

969 So. 2d 283 (Fla. 2007)

"This Court's jurisdiction to issue extraordinary writs may not be used to seek review of an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cities to an authority that is not as a case pending review in, or reversed or quashed by, this Court."

3. Grate v. State.

750 So. 2d 265 (Fla. 1999)

"This Court's jurisdiction to issue extraordinary writs may not be used to seek review of an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cities to an authority that is not as a case pending review in, or reversed or quashed by, this Court."

4. King v. State.

App. 1 Dist., 387 So. 2d 463 (1980)

" If a person is adjudicated to be mentally incompetent, it is presumed he continues to be so until he has shown his sanity has returned, and the presumption shifts of providing competency to state."

5. Livingston v. State.

App. 2 Dist., 383 So.2d 947 (1980).

"Defendant was entitled to evidentiary hearing on his request to vacate his conviction for First degree Murder, where he alleged that prior to the time of

his conviction he had been declared insane and there was no showing that his sanity had returned."

"One who has been adjudged insane is presumed to continue so until it is shown that his sanity has returned and an accused cannot be tried or sentenced while insane."

6. Manning v. State,

378 So. 2d 274 (1979).

"Trial Judge is bound to grant motion for change of venue when evidence presented reflects that community is so pervasively exposed to circumstances of incident that prejudice, bias and preconceived opinions are result."

7. Murphy v. State,

App. 3 Dist., 252 So. 2d 385 (1971).

"If there is likelihood of bias by jury, question of accused's constitutional right to fair trial is involved and federally established standards must be applied in determining whether denial of accused's motion for change of venue constituted an abuse of discretion."

8. Persaud v. State,

838 So. 2d 529 (Fla. 2003)

"This Court's jurisdiction to issue extraordinary writs may not be used to seek review of an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to an authority

that is not as a case pending review in, or reversed or quashed by, this Court."

9. Stallworth v. Moore,

827 So. 2d 974 (Fla. 2002)

"This Court's jurisdiction to issue extraordinary writs may not be used to seek review of an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cities to an authority that is not as a case pending review in, or reversed or quashed by, this Court."

FLORIDA CASE LAWS

STATEMENT OF THE CASE APPENDIX A

1. The petitioner went on appeal for an Order Denying Withdrawal of Plea. See Exhibit 1. Then, the petitioner was denied jurisdiction by the District Court of Appeal, First District. See Exhibit 1. Later, the petitioner appeal to the Supreme Court of Florida and his case was dismissed stating, "This Court's jurisdiction to issue extraordinary writs may not be used to seek review of an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cities to an authority

that is not as a case pending review in, or reversed or quashed by, this Court. See *Foley v. State*, 969 So. 2d 283 (Fla. 2007); *Persaud v. State*, 838 So. 2d 529 (Fla. 2003); *Stallworth v. Moore*, 827 So. 2d 974 (Fla. 2002); *Grate v. State*, 750 So. 2d 265 (Fla. 1999). See Exhibit 2. The petitioner is being denied; his U.S. Constitutional Right to withdraw at any time before trial. The petitioner wanted to change; his plea to Not Guilty by Reason of Insanity. The petitioner's first experience with the U.S. Army's Mental Health was in 2006. The petitioner's command sent him to mh after; they returned from Iraq; due to having confrontations with everybody and disregarding authority. "That ordered him in Anger Management Classes, saw psychiatrist." "was rx'd something does not know what it was, did not take neds and would throw them away." See Exhibit 3. In August 09, 2021, the petitioner saw a psychology and was diagnosed with "Adjustment Disorder." Also, the petitioner suffers from "Adjustment Disorder with Disturbance of Emotions and Conduct. See Exhibit 4. The petitioner continued his Mental Health treatment with the Department of Veteran Affairs. See Exhibit 5. The petitioner felt like "Everyone is setting me up for failure." See Exhibit 5. On December 17, 2009, the petitioner was diagnosed with Anxiety and PTSD related to Iraq Deployment from 2005 to 2006. See Exhibit 6. The petitioner is 40% service-connected from the U.S. Army from his deployment to Iraq from 2005-2006. See Exhibit 7. The petitioner was in college and had a Mental Health Specialist as his VA College counselor. See Exhibit 8,9, 10, 11,

and 12. The petitioner was a victim of JSO Police Brutality in 2014 and was awarded \$5,000.00. See Exhibit 13. The petitioner slept with a machete under his mattress for protection. See Exhibit 14. Once the petitioner was detained in Georgia, the petitioner had a box of 380 ammunition on the bed with 21 live rounds and a gun cleaning kit. See Exhibit 15. The petitioner was evaluated by Dr. Stephen I. Bloomfield stated, "The issue having to do with a Defense of Not Guilty by Reason of Insanity will need continued work and evaluation. See Exhibit 16. The petitioner sent evidence to Dr. Larry Neidigh and he stated, "I have received correspondence from Percy Allen Stucks Jr. Requesting that I perform an evaluation to assist in a determination of Not Guilty by Reason of Insanity. I am writing to confirm that I am willing and available to perform this service if funds are available."

See Exhibit 17. "A person adjudged to be presumed to continue insane until it is shown that his sanity has returned." See Alexander v. State, App.5 Dist., 380 So. 2d. 1188 (1980). "One who has been adjudged insane is presumed to continue so until it is shown that his sanity has returned and an accused cannot be tried or sentenced while insane." See Livingston v. State, App. 2 Dist., 383 So.2d 947 (1980). "Defendant was entitled to evidentiary hearing on his request to vacate his conviction for First degree Murder, where he alleged that prior to the time of his conviction he had been declared insane and there was no showing that his sanity had returned." See Livingston v. State, App. 2 Dist., 383 So.2d 947 (1980). "If a person is adjudicated to be

mentally incompetent, it is presumed he continues to be so until he has shown his sanity has returned, and the presumption shifts of providing competency to state." See King v. State, App. 1 Dist., 387 So. 2d 463 (1980). On February 4th 2020, the Hon. Judge Lester Bass granted a "Motion For Appointment OF Expert." See Exhibit 18. The petitioner was granted funding for the NGI testing from the Justice Administrative Commission on September 9 2020. See Exhibit 19. The petitioner would also like to withdraw to plea; because there was a never a sworn affidavit; from a alleged material witness; which is a violation of my right to face my accuser and witness. See U.S. Constitutional 6th Amendment. The petitioner has written up two state attorney up; because of their fraudulent claims. See Exhibit 20 and 21. Florida law clearly establishes two (2) requirements when filing an information, that (1) "*an information charging the commission of a felony shall be signed by the State Attorney or a designated Assistant State Attorney, under oath stating his or her good faith in instituting the prosecution,*" and (2), "*certifying that he or she has received testimony under oath from the material witness or witnesses.* See Fla. R. Crim. P. 3140(g). In supplementary report from August 8, 2016, it stated, John Oneal stated, he is a crack cocaine addicted and generally buys his drugs from a black man he knows as "Smoke". The witness stated that he was at the above house on 07-11-2016, and overheard "Smoke" speaking with another unknown Black male. The witness stated that "Smoke" said that a female was saying that he sold her bad drugs and she was going to report "Smoke" to the Police. The witness stated "Smoke" then

stated that he was going to get the female "Fucked up". See Exhibit 23. The petitioner has the charging information; stating a sworn affidavit was obtained by; it was never obtained. See Exhibit 24.

REASONS FOR GRANTING THE PETITION

The petitioner is entitled to have his petitions heard; because Mental Health experts have received mental health documentations to administer the Not Guilty By Reason Of Insanity. See Exhibit 14 and 15. My case has been the local news and on the internet. I will not have a fair trial in Florida. See Exhibit 25, 26, and 27. I currently have a couple of civil lawsuits in Florida. See Exhibit 28 and 29. "Trial Judge is bound to grant motion for change of venue when evidence presented reflects that community is so pervasively exposed to circumstances of incident that prejudice, bias and preconceived opinions are result." See Manning v. State, 378 So. 2d 274 (1979). "If there is likelihood of bias by jury, question of accused's constitutional right to fair trial is involved and federally established standards must be applied in determining whether denial of accused's motion for change of venue constituted an abuse of discretion." Murphy v. State, App. 3 Dist., 252 So. 2d 385 (1971).

CONCLUSION

The petition for status on stay should be granted.

Respectfully Submitted and served

Is/ Percy Stucks

Date: August 3, 2021

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

PERCY ALLEN STUCKS - PRO SE PETITIONER

VS.