

RECEIVED
JUL 21 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

RECEIVED
AUG 26 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

DEAR, ILLINOIS 62259

P.O. Box 1000

NEWARK COLLECTIONAL CENTER

MR. KARL WELCH, NO. 1-30514

PETITION FOR WRIT OF HABEAS CORPUS

(B) ILLINOIS APPELLATE COURT, FIRST DISTRICT

(A) THE ILLINOIS SUPREME COURT,

AS PETITIONER FOR A WRIT OF HABEAS CORPUS TO

PEOPLE OF THE STATE OF ILLINOIS - RESPONDENT

v

KARL WELCH - PETITIONER

SUPREME COURT OF THE UNITED STATES

IN THE

NO.

ORIGINAL
Supreme Court, U.S.
FILED
JUN 16 2021
OFFICE OF THE CLERK

QUESTION(S) PRESENTED

WHETHER PETITIONER WAS DENIED THE RIGHT TO A FAIR TRIAL, DUE PROCESS, AND EQUAL PROTECTION OF THE LAWS, IN VIOLATION OF THE FIFTH AND FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION; (U.S. CONST. AMENDS. 5, 14), WHERE THE DECISION OF THE ILLINOIS APPELLATE COURT WHICH DECIDED THAT THE TRIAL COURT DID NOT COMMIT ERROR OR ABUSE ITS DISCRETION IN ADMITTING UNBOLY AND PREJUDICIAL AND EXCESSIVE OTHER-CRIMES EVIDENCE, THE ILLINOIS SUPREME COURT DENIED PETITIONER LEAVE TO APPEAL THE DECISION OF THAT COURT.

LIST OF PARTIES

PETITIONER STATES ALL PARTIES APPEAR IN THE CAPTION OF THE CASE ON THE COVER PAGE.

TABLE OF CONTENTS

OPINION BELOW - Pg. 1

JURISDICTION - Pg. 1, 2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED - Pg. 2

STATEMENT OF THE CASE - Pg. 3

REASON FOR GRANTING THE WRIT - Pg. 4

CONCLUSION - Pg. 7

INDEX TO APPENDICES

APPENDIX A: DECISION OF THE ILLINOIS APPELLATE COURT;

APPENDIX B: DECISION OF THE ILLINOIS SUPREME COURT DENYING REVIEW;

APPENDIX C:

TABLE OF AUTHORITIES CITED

CASES:

STATUTES AND RULES:

U.S. CONST. AMEND. 5

U.S. CONST. AMEND. 14

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.

OPINION BELOW

THE OPINION OF THE HIGHEST STATE COURT TO REVIEW
THE MERITS APPEARS AT APPENDIX () TO THE PETITION
AND IS REPORTED AT: PEOPLE V. BARREL WELCH, NO. 1-18-
2156, ILLINOIS APPELLATE COURT, FIRST JUDICIAL DISTRICT

THE OPINION OF THE ILLINOIS SUPREME COURT APPEARS AT
APPENDIX (B) TO THE PETITION AND LEAVE TO APPEAL WAS
DENIED.

JURISDICTION

~~THE DATE ON WHICH THE HIGHEST STATE COURT DECIDES MY~~
CASE WAS DECEMBER 3, 2020. A COPY OF THAT DECISION
APPEARS AT APPENDIX (A). A TIMELY PETITION FOR

LEAVE TO APPEAL TO THE ILLINOIS SUPREME COURT WAS
FILED AND THEREAFTER DENIED ON THE FOLLOWING DATE:
MARCH 24, 2021, AND A COPY OF THE ORDER DENYING LEAVE
TO APPEAL TO THE ILLINOIS SUPREME COURT APPEARS AT
APPENDIX (B).

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28
U.S.C. § 1257 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PETITIONER RELIES ON THE CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVING THE:

UNITED STATES CONSTITUTIONAL AMENDMENTS; FIFTH AND
THE FOURTEENTH. . . (U.S. CONST. AMEND. 5, 14)

STATEMENT OF THE CASE

PETITIONER BARREL WELCH WAS CONVICTED OF THREE COUNTS OF AGGRAVATED CRIMINAL SEXUAL ASSAULT AND ONE COUNT OF AGGRAVATED KIDNAPPING AND RECEIVED A SENTENCE OF 72 YEARS IN PRISON. PETITIONER CONTENTS THAT THE TRIAL COURT ABUSED ITS DISCRETION IN ALLOWING THE STATE TO PRESENT EVIDENCE THAT PETITIONER COMMITTED PRIOR, UNCHARGED SEXUAL ASSAULT AGAINST A DIFFERENT VICTIM. PETITIONER ARGUES THAT THE PROBATIVE VALUE OF THE OTHER-CRIMES EVIDENCE WAS SUBSTANTIALLY OUTWEIGHED BY THE DANGER OF UNFAIR PREJUDICE BECAUSE THE PRIOR ASSAULT WAS TO REMOTE IN TIME AND FACTUALLY DISSIMILAR FROM THE CHARGED OFFENSE WHICH VIOLATED PETITIONER'S RIGHT TO A FAIR TRIAL AND DUE PROCESS, RIGHTS WHICH ARE GUARANTEED BY THE UNITED STATES CONSTITUTIONAL AMENDMENTS 5, 14. PETITIONER STATES THE PROSECUTION RELIED EXCESSIVELY ON THE OTHER-CRIMES EVIDENCE AT TRIAL AND THUS CREATED AN IMPROPER "MINI-TRIAL" ON THE PETITIONER'S UNCHARGED CONDUCT.

REASONS FOR GRANTING THE PETITION

PETITIONER RESPECTFULLY STATES THE ILLINOIS APPELLATE COURT ERRED AND DENIED PETITIONER'S GUARANTEED RIGHT TO DUE PROCESS. THE DUE PROCESS OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION IS THE CONSTITUTIONAL PROVISIONS THAT PROHIBITS THE GOVERNMENT FROM UNFAIRLY OR ARBITRARILY DEPRIVING A PERSON OF LIFE, LIBERTY, OR PROPERTY, (U.S. CONST. AMEND. 14)

ALONG WITH THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT IS THE PROVISION THAT CLEARLY REQUIRES THE STATES TO GIVE SIMILARLY SITUATED PERSONS OR CLASSES SIMILAR TREATMENT UNDER THE LAW.

(U.S. CONST. AMEND. 14) PETITIONER STATES THAT THE COURT IMPROPERLY ALLOWED THE PROSECUTION TO USE OTHER-CRIMES EVIDENCE AGAINST HIM AT TRIAL, WHICH MADE THE EVENTS SEEM FAR MORE SIMILAR THAN THEY WERE IN REALITY WHICH VIOLATED PETITIONER'S RIGHT TO DUE PROCESS AND EQUAL PROTECTION OF THE LAWS.

PETITIONER STATES, AS A GENERAL RULE, THE PROXIMITY IN TIME IS THE FIRST RELEVANT QUESTION CONCERNING WHETHER OTHER-CRIMES EVIDENCE SHOULD BE ADMITTED, AND WHILE THERE IS NO BRIGHT LINE RULE AS TO WHEN

AS OTHER-CRIMES WILL BE TOO OLD FOR ADMISSION, A
LONG PASSAGE OF TIME IN BETWEEN EVENTS DOES NOT LESSEN
THE PROBATIVE VALUE, PARTICULARLY WHERE "SUBSTANTIAL"
SIMILARITIES ARE ABSENT. PETITIONER RESPECTFULLY
STATES IN THIS MATTER, THE PROSECUTION LARGELY IGNORED
THE FACT THAT ITS DESCRIPTION OF THE OTHER-CRIMES
EVIDENCE VARIED WIDELY AND THE ACTIONS OF THE PROSECUTION
DENIED PETITIONER THE RIGHT TO DUE PROCESS WHEN IT
FALSELY DESCRIBED EVENTS WITH THE SOLE PURPOSE OF
HAVING OTHER-CRIMES EVIDENCE ADMITTED. PETITIONER
STATES THE RECORD SHOWS THAT THE PROSECUTION INCLUDED
FALSE DETAILS THAT BORE STRIKING SIMILARITY TO THE
CHARGED OFFENSE, AND THE PROSECUTION'S INCLUSION OF
FALSE DETAILS PERSUADED THE TRIAL COURT TO ALLOW
THE OTHER-CRIMES EVIDENCE PLUS, THE RECORD CLEARLY
SHOWS THAT THE PROSECUTION SPOKE IN DEFTY ABOUT T.B.'S
CASE, AND URGED THE JURY TO BELIEVE THEM BOTH THE
PETITIONER'S GUARANTEED RIGHTS TO DUE PROCESS AND
EQUAL PROTECTION, RIGHTS GUARANTEED BY THE UNITED
STATES CONSTITUTIONAL AMENDMENT 14, WERE VIOLATED
WHERE THE PRIOR OFFENSE INVOLVED AN UNCHARGED AND
UNPROVEN ALLEGATION OF SEXUAL ASSAULT, AND THE

DETAILS OF THAT ALLEGATION WERE SIGNIFICANTLY DIFFERENT FROM THE CASE AT BAR, AND UNDER THESE CIRCUMSTANCES, THE APPELLATE COURT ERRED IN FAILING TO CORRECT THE TRIAL COURT'S DECISION IN ADMITTING THE OTHER-CRIMES EVIDENCE, WHICH IN TURN VIOLATED PETITIONER'S RIGHT TO DUE PROCESS AND EQUAL PROTECTION OF THE LAWS. (U.S. CONST. AMENDS. 5, 14) PETITIONER STATES, IN ADDITION TO A 15-YEAR GAP IN TIME, THE OTHER-CRIMES EVIDENCE WAS LARGELY DISSIMILAR TO THE CHARGED OFFENSE, AND THE STATE'S INTRODUCTION OF FALSE DETAILS IN ITS ATTEMPTS TO PERSUADE THE COURT INTO ADMITTING THE EVIDENCE VIOLATED PETITIONER'S GUARANTEED RIGHTS AND THE PETITIONER'S DUE PROCESS RIGHTS ARE SO FUNDAMENTALLY IMPORTANT THAT THE PROSECUTION'S FAILURE TO COMPLY WITH THE DUE-PROCESS STANDARDS OF FAIRNESS AND JUSTICE REQUIRES THIS HONORABLE COURT TO GRANT PETITIONER'S WRIT OF CERTIORARI TO DETERMINE THE ISSUE OF:

WHETHER PETITIONER WAS DENIED THE RIGHT TO A FAIR TRIAL, DUE PROCESS AND EQUAL PROTECTION OF THE LAWS IN VIOLATION OF THE 5TH AND 14TH AMENDMENTS OF THE UNITED STATES CONSTITUTION, WHERE THE ILLINOIS APPELLATE COURT DETERMINED THAT THE TRIAL COURT DID NOT ERROR

OF ABUSE ITS DISCRETION IN ADJUSTING UNLAWY AND

PREDUDICIAL AND EXCESSIVE OTHER-CRIMES EVIDENCE

WHICH THE ILLINOIS SUPREME COURT DENIED PETITIONER

LEAVE TO APPEAL TO THE COURT.

CONCLUSION

PETITIONER RESPECTFULLY STATES FOR THE REASON

STATED IN THIS DOCUMENT THIS HONORABLE COURT

SHOULD GRANT THE PETITION FOR WRIT OF HABEAS

RESPECTFULLY SUBMITTED

SIGNED: *Daniel W. B. B. B.*

DATED: 6.15.21

AFFIDAVIT IN SUPPORT OF WRIT

I, DANIEL WELSH, ATTEST TO UNDER PENALTY OF PERJURY THAT

THE STATEMENT IN THIS PETITION FOR A WRIT OF HABEAS ARE

TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

SIGNED: *Daniel W. B. B. B.* DATED: 6.15.21