

SEP 30 2021

OFFICE OF THE CLERK

No. _____

21-6113

IN THE
SUPREME COURT OF THE UNITED STATES

CLINTON RAYSHAWN GRAYSON — PETITIONER

vs.

STATE OF MICHIGAN — RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Clinton R. Grayson

Prisoner ID Number 958917

Department of Corrections

Chippewa Correctional Facility

4269 West M-80

Kincheloe, Michigan 49784

(not applicable)

(Phone Number)

ORIGINAL

Question(s) Presented

Did the court of Appeals
Commit clear error by using
the Brecht test of harmless
error instead of Chapman

petitioner answers: yes

Respondent presumably answers: No

Should this Court vacate petitioner's
conviction since the trial
court violated his right to
a fair trial

petitioner answers: yes

Respondent presumably answers: No

Is it Brecht or Chapman
that governs federal habeas
harmless error review?

petitioner answers yes
Chapman

Respondent presumably answers:
No Brecht

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

Grayson and three other codefendants were charged with offenses arising from a robbery and shooting at the Moon Lite Party Store in Clinton Township on March 28, 2014.

Grayson's trial was severed from the trials of the three other codefendants by stipulation.

People v Kenneth Hill, unpublished opinion per curiam of the Court of Appeals, issued February 9, 2017 (Docket No. 329166); 2017 Mich App LEXIS 208; lv den 501 Mich 863

People v Jomar Robinson, unpublished opinion per curiam of the Court of Appeals, issued February 9, 2017 (Docket No. 329209); 2017 Mich App LEXIS 208; lv den 501 Mich 863

People v Darius Diaz-Gaskin, unpublished opinion per curiam of the Court of Appeals, issued February 9, 2017 (Docket No. 329223); 2017 Mich App LEXIS 208, lv den 501 Mich 863

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	order from the michigan Court of Appeals for the sixth circuit
APPENDIX B	order from Eastern District of Michigan Southern Division
APPENDIX C	order from the michigan Court of appeals
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Mitchell v. ESparza , 540 U.S. 12

Ruelas v. Wolfenbarger, 580 F.3d 403

Gutierrez v. McGinnis, 389 F.3d 300, 304

STATUTES AND RULES

OTHER

U.S. Const, 5th Amendment

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 ^A_____ 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 ^B_____ 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 _____ 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

[X] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was May 3, 2021.

[X] 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).

[X] See attached Order of the U.S. Supreme Court dated March 19, 2020

[] 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Const. 5th Amendment

STATEMENT OF THE CASE

The Charges against Grayson Arose from a Shooting and robbery at a Party Store in Clinton Township, Michigan on March 28, 2014. Petitioner-Appellant's Brief on Appeal in the U.S. Court of Appeals for the Sixth Circuit, filed. (Case No. 20-1287).

At an Evidentiary hearing held in the State trial Court, the Court found that there was no express questioning After [the Defendant] invoked his request for an attorney, and ruled that the motion to Suppress his Confession be denied. People v Grayson Walker Hearing held October 27, 2014.

On his Direct appeal of right, the Michigan Court of Appeals Concluded that the trial court erred by denying the motion to Suppress

Because the police had continued to interrogate Grayson after he had unequivocally asserted his right to remain silent, Grayson v Horton, 2017 U.S. App. Lexis, 13172, nonetheless, the court concluded that the admission of Grayson's confession had been harmless beyond a reasonable doubt in light of the following evidence presented at trial. People v Grayson, 2017 Mich. App. Lexis 483

In the Habeas Corpus proceeding the claim was as followed:

The admission of petitioner's self-incriminating state police violated petitioner's fifth Amendment right to freedom from compelled self-incrimination.

The District Court denied Grayson's 2254 petition. As to the fifth Amendment claim, the court determined that the Michigan Court of appeals had reasonably concluded that police questioning of Grayson

after he invoked his right to remain silent constituted impermissible interrogation in light of *Miranda v. Arizona*. The district court nevertheless concluded that the error in admitting the confession was harmless under the harmless-error test from *Brecht v. Abrahamson*, 507 U.S. 619 (1993). The district court granted a COA with respect to Grayson's fifth Amendment claim.

On Appeal Grayson reasserts his fifth Amendment claim. Although the state concedes that the trial court erroneously admitted Grayson's confession, the state contends that the error was harmless. *Grayson v. Horton*, opinion of the U.S. Court of Appeals for the Sixth Circuit, filed May 3, 2021 (Case No. 20-1287).

REASONS FOR GRANTING THE PETITION

The Sixth Circuit has decided an important question of federal law that has not been, but should be, settled by the U.S. Supreme Court. Is it Brecht or Chapman that govern federal habeas harmless error review?

The U.S. Supreme Court in *Mitchell v. Esparza* 540 U.S. 12 (2001), the Court rejected Brecht as the proper lens for examining the harmless ness of Constitutional errors on Collateral review, at least where the state explicitly adjudicated a federal claim on harmless error grounds.

The Sixth Circuit has said that Brecht is always the test, and there is no reason to ask both whether the state court unreasonably applied Chapman under the AEDPA, further, whether the Constitutional error had a

Substantial and injurious effect on the jury's verdict. *Ruelas v Woffenbarger*, 580 F.3d 403, 412 (6th Cir 2009).

Yet the Second Circuit Mitchell signals and we therefore hold, that when a state court explicitly conducts harmless error review of a constitutional error, a habeas court must evaluate whether the state court unreasonably applied *Chapman*. *Gutierrez v McGinnis* 389 F.3d 300, 304 (2nd Cir 2004)

My Constitutional guarantee should not be dependant on the magistrates opinion on my guilt or innocence. That would defeat my right to a jury trial, if the magistrate was allowed to RIG the trial by allowing the prosecutor to use a coerced confession as evidence, on the pretense that it was harmless error.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Clinton Grayson

Date: 09/28/21