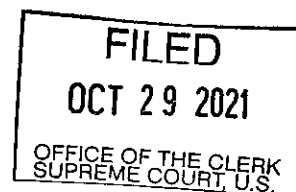


ORIGINAL

No. _____

21 - 6263



IN THE

SUPREME COURT OF THE UNITED STATES

Gary A. Coble — PETITIONER
(Your Name)

vs.

B. Kanode — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Gary A. Coble
(Your Name)
Lawrenceville Correctional Center
1607 Planders Road
(Address)

Lawrenceville, VA 23868
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION PRESENTED

1. WAS COMMONWEALTH OF VIRGINIA IN CONFLICT WITH A DECISION OF THIS COURT WHEN POLICE CONTINUED TO QUESTION PETITIONER AFTER HE EXPRESSED THE NEED OF AN ATTORNEY ALSO VIOLATING PETITIONERS V AMENDMENT OF THE U.S. CONSTITUTION TO REMAIN SILENT AND NOT INCRIMINATING HIMSELF?

LIST OF PARTIES AND RELATED CASES

IN COMPLIANCE WITH RULE 12.6 OF THIS COURT ALL PARTIES THAT ARE REPRESENTED ARE AND APPEAR IN THE CAPTION OF THE CASE.

CASES DIRECTLY RELATED TO THE CASE IN THIS COURT:

1. GARY A. COBLE VS. B. KANODE; U.S. DISTRICT COURT EASTERN DISTRICT OF VIRGINIA, CIVIL ACTION NO. 3:19 CV 509, 3-24-2020

2. GARY A. COBLE VS. B. KANODE, U.S. COURT OF APPEALS 4TH CIRCUIT, NO. 20-6449, 9-28-2021

TABLE OF CONTENTS

TABLE OF AUTHORITIES	v
OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTION AND STATUTORY PROVISIONS INVOLVED-iii	
STATEMENT OF THE CASE	3-6
REASONS FOR GRANTING THE WRIT	6

QUESTION ONE:

A. CONFLICTS WITH DECISIONS OF THIS COURT - 6	
B. IMPORTANCE OF QUESTION PRESENTED - 7	
C. CONFLICTS WITH THE U.S. CONSTITUTION CONCLUSION	
CONCLUSION	9
PROOF OF SERVICE	10

INDEX TO APPENDICIES

APPENDIX A:

UNPUBLISHED DECISION OF U.S. COURT OF APPEALS
FOR THE 4TH CIRCUIT.

APPENDIX B:

DECISION OF THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA.

APPENDIX C:

AFFIDAVIT

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTIONAL AMENDMENT V

NO PERSON SHALL BE HELD TO ANSWER FOR A CAPITAL OR OTHERWISE INFAMOUS CRIME UNLESS ON A PRESENTMENT OR INDICTMENT OF A GRAND JURY, EXCEPT IN CASES IN THE LAND OR NAVAL FORCES, OR IN MILITIA, WHEN IN ACTUAL SERVICE IN TIME OF WAR OR PUBLIC DANGER; NOR SHALL ANY PERSON BE SUBJECT FOR THE SAME OFFENSE TO BE TWICE PUT IN JEOPARDY OF LIFE OR LIMB; NOR SHALL BE COMPELLED IN ANY CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF, NOR BE DEPRIVED OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION.

TABLE OF AUTHORITIES

CASES

PAGE(S)

MIRANDA VS. ARIZONA, 384 U.S. 436, 16
Led 2d 694, 86 S Ct. 1602 (1966) - 6

ARIZONA, 384, U.S. 436 (1966) - 7

ARIZONA, - 7

UNITED STATES CONSTITUTIONAL
AMENDMENTS - AMENDMENT V - 7

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

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was September 28, 2021

☒ 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

MAY 9, 1988, COBLE WAS CONVICTED OF ROBBERY SO HE WAS A CONVICTED FELON AND COULD NOT LEGALLY POSSESS A FIREARM. MARCH 31, 2013, COBLE, THE VICTIM, ROY ELLIOT AND TERESA HOWARD (COBLE'S GIRLFRIEND), HAD ALL BEEN ON A TWO-AND-A-HALF-DAY DRINKING BINGE, THEY WERE ALL VERY INTOXICATED. ACCORDING TO THE MEDICAL EXAMINER THE VICTIM HAD A .25 B.A.C..

AT SOME POINT ON MARCH 31, 2013 THE VICTIM BEGAN TO KIND OF NEEDLE COBLE ABOUT THE VICTIM'S FORMER RELATIONSHIP WITH TERESA HOWARD. AT SOME POINT COBLE LEFT THE HOUSE AND SOMETIME LATER HE RETURNED. MR. COBLE CAME THROUGH THE BACK DOOR, WALKED INTO THE LIVING ROOM WHERE THE VICTIM AND ROY ELLIOT WERE SITTING ON TWO ENDS OF THE COUCH WITH TERESA HOWARD IN THE MIDDLE. COBLE, WALKED UP AND FROM A SHORT DISTANCE PRODUCED A 9 MILLIMETER SEMI-AUTO PISTOL AND FIRED ONE SHOT AT THE VICTIM HITTING HIM IN THE LOWER FOREHEAD, KILLING HIM INSTANTLY.

MS. HOWARD BECAME TERRIFIED THAT COBLE WAS GOING TO SHOOT HER, COBLE ASSURED HER THAT HE WAS NOT. HOWEVER HER CLOTHING WAS SOAKED IN BLOOD. SHE SHOWERED, THEY GATHERED UP THE BLOODY CLOTHING. THERE WAS SOME DISCUSSION ABOUT HOW TO DISPOSE OF THE BODY, AND COVER-UP THE CRIME.

ULTIMATELY THEY DECIDED TO GO TO VARIOUS PLACES TO ATTEMPT TO ESTABLISH AN ALIBI. THEY DID GO TO A FEW PLACES, INCLUDING A CONVENIENT MART IN CAPE CHARLES, VIRGINIA, WHERE THEY WERE SEEN ON VIDEO; AND TO A FRIENDS HOUSE WHERE THEY DROPPED OFF TERESA HOWARD AND ROY ELLIOT, FOR A PERIOD OF TIME. COBLE LEFT BUT LATER RETURNED AFTER HAVING DISPOSED OF THE GUN AND THE BLOOD CLOTHES.

THEREAFTER, THEY RETURNED TO THE SCENE OF THE CRIME; AND WHERE TERESA HOWARD AT THAT TIME CALLED 911. THE STORY GIVEN BY ALL THREE OF THEM WAS THAT THEY HAD LEFT FOR SOME REASON AND WHEN THEY RETURNED, THEY FOUND THAT THE VICTIM HAD BEEN SHOT AND KILLED. PRESUMABLY BY DRUG DEALERS. THIS STORY WAS NOT VIEWED AS CREDIBLE, ESPECIALLY AFTER NINE MILLIMETER BULLETS AND A SHELL CASING WERE FOUND IN COBLE'S TRUCK.

AFTER A COUPLE OF DAYS PAST FROM THE DAY THE VICTIM WAS KILLED, COBLE CAME FORWARD AND TURNED HIMSELF IN. AFTER TURNING HIMSELF IN, COBLE AGREED TO HELP POLICE FIND THE MURDER WEAPON. POLICE, AFTER LOOKING WHERE COBLE SAID IT WOULD BE THEY FOUND A NINE MILLIMETER PISTOL.

THE GUN THAT WAS FOUND WAS POSITIVELY IDENTIFIED BY THE DEPT. OF FORENSIC SCIENCE AS BEING THE GUN THAT FIRED THE BULLET FOUND IN THE WALL NEXT TO THE VICTIM AND ALSO BEING THE GUN THAT FIRED THE CARTRIDGE CASING FOUND ON THE COUCH WHERE THE VICTIM WAS KILLED. ALSO A CASING FOUND IN COBLE'S TRUCK WAS FIRED BY THAT GUN.

COBLE, AFTER TURNING HIMSELF IN COOPERATED WITH POLICE AND GAVE HIS VERSION OF WHAT HAD HAPPENED. WHILE QUESTIONED, LED POLICE TO WHERE THE GUN WAS HID ALONG WITH THE BLOODY CLOTHES. COBLE STATED THAT ONCE THEY FIND THE GUN HE WOULD NEED TO LAWYER UP BECAUSE THIS WAS HIS LIFE. QUESTIONS CONTINUED AFTER HE EXPRESSED HIS DESIRE FOR AN ATTORNEY INVOKING HIS MIRANDA RIGHTS.

DAYS BEFORE THE VICTIM WAS KILLED, COBLE WAS KICKED OUT OF THE HOUSE WHERE HE HAD BEEN STAYING AND THEN HAD AN INCIDENT AT ANOTHER HOUSE WHERE HE WAS HIT IN THE HEAD WITH A METAL PIPE. COBLE SUFFERS FROM TRAUMATIC BRAIN INJURIES AND WAS IN FEAR FOR HIS LIFE. HE FELT HE NEEDED THE WEAPON FOR PROTECTION.

COBLE TESTIFIED AT HIS SENTENCE HEARING ON APRIL 20, 2015 THAT HE HAD THE GUN FOR PROTECTION BECAUSE OF HIM SLEEPING OUTSIDE AND HAD BEEN ATTACKED BEFORE. HE TESTIFIED THAT HE HAD BEEN SHOT AT, RAN OVER, JUMPED AND BEATEN AND STABBED 8 TIMES.

ON APRIL 20, 2015 THE COURT SENTENCED COBLE AS FOLLOWS: 3-YEARS FOR USE OF A FIREARM IN COMMISSION OF A FELONY.

5-YEARS FOR POSSESSION OF A FIREARM BY A CONVICTED FELON

40-YEARS WITH 15 SUSPENDED FOR SECOND DEGREE MURDER. LEAVING 33 YEARS TO SERVE IN PRISON. COBLE WAS ALSO SENTENCED TO 10 YEARS SUPERVISED PROBATION UPON RELEASE.

REASONS FOR GRANTING THE WRIT

QUESTION ONE

A. CONFLICTS WITH DECISION OF THIS COURT THE HOLDING OF THIS COURTS OPINIONS BELOW STATE CLEARLY THE CONTINUING TO QUESTION PETITIONER WHEN HE STATED THAT HE NEED A LAWYER THAT THIS CONTINUED. TO CONTINUE TO QUESTION COBLE WAS IN DIRECT CONFLICT WITH THIS COURTS OPINION IN: MIRANDA VS. ARIZONA, 384 U.S. 436, 16 Led 2d 694, 86 S. Ct. 1602 (1966)

THIS ALSO WAS IN VIOLATION WITH COBLE'S FIFTH AMENDMENT RIGHT TO NOT SELF INCRIMINATE HIMSELF.

B. IMPORTANCE OF QUESTION PRESENTED

THIS CASE PRESENTS A FUNDAMENTAL QUESTION OF THE INTERPRETATION OF THIS COURT'S DECISION IN ARIZONA, 384 U.S. 436 (1966). THE QUESTION PRESENTED IS OF GREAT PUBLIC IMPORTANCE BECAUSE IT AFFECTS THE LOWER COURTS DECISION AND THIS HONORABLE COURT SHOULD INTERCEED TO STOP THE INJUSTICE.

THE V AMENDMENT IS IN PLACE TO PROTECT THE PUBLIC FROM SELF INCRIMINATION WHEN BEING QUESTIONED ABOUT A CRIME. THIS CASE PRESENTS THE ISSUE AND IMPORTANCE THAT IS ENHANCED BY THE FACT THAT THE LOWER COURTS IN THIS CASE HAVE SERIOUSLY MISINTERPRETED ARIZONA.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 10-27-21