

21-6895 ORIGINAL

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Supreme Court, U.S.
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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

App# 1-19-0703

Marshaun Baykin — PETITIONER
(Your Name)

Ill. State. Court vs.
~~Appellate Ct. of Appeals 1st Dist.~~ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Appellate court of Appeals 1st Judicial District
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Marshaun Baykin
(Your Name)

2848 W. McDonough St.
(Address)

Joliet Illinois 60436
(City, State, Zip Code)

815-730-4400
(Phone Number)

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S. Ct. Ill.
unpublished
opinion

I. Questions Presented

1. Does statutory law require that a criminal complaint be sworn to (and verified) by complainant before Prosecution can be commenced? (Ill. Rev. Stat. ch. 38, Para. 111-3(b)(1965)) People v. Harding, 34 Ill. 2d 475, 216 N.E. 2d 147. And thus violates the 4th Amendment of the U.S. Constitution and Section 6 Article 2 of Illinois Constitution of 1870.
2. Does the criminal complaint also void and taint the line-up Procedure that was obtained with it and by it? If the complainant/witnesses viewed the line-up, do they also have to sign the criminal complaint also? ~~Defendant~~ If the fillers in the line-up appear differently from the suspect, does this violate 725 ILCS 5/107 A-5(c)?
3. If Mr. Baykin was later indicted for the same offense and the line-up Identification Process was employed in the indictment does that make the indictment void and defective? The Fruit of the Poisonous tree?
4. Where the court ordered a Buccal Swab to be taken for Genetic analysis, if the order has someone else's name on it, does that order become defective for not naming the proper person? 4th Amend. on search & seizure? must the order name the person to be searched or seized?

I. Questions Presented

5. ON 3-28-13 Mr. Boykin and his counsel was Denied Access to the Genetic forensic material (which consist of all the charges in this case) # 47 material. IS this not a Discovery violation of S. Ct. R. 417 on Evidence?

6. IS it ineffective Assistance of appellate counsel to not bring up these issues on Mr. Boykin behalf in his Appellate brief? IS it a fatal error of the Illinois Court of Appeals to Allow this to happen?

4th and 5th and 14th Amend. Due-Process.
(People v. Mack 167 Ill. 2d 525, 531 (1995) Ineffective Assistance of counsel).

7. When the first form of charge (Crim. complaint) gets Dismissed, , Does "Double Jeopardy" Attach when the same offense is brought up again for indictment?
People v. creek 447 N.E.2d 330. Also People v. Snell 829 N.E.2d 433 (2005),

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:

1) Marshaun Baykin #R-54017

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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 _____ 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 G to the petition and is

- ☒ reported at 2018 Ill. App. 151347 (@2018); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Illinois ^{Supreme Ct. NOT published} court appears at Appendix G 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 _____.

☐ 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 9/29/21.
A copy of that decision appears at Appendix 6.

☐ 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).

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

West v. Cabell 153 U.S. 78 (1894)
 People v. Creek 447 N.E.2d 330.
 People v. Snell 829 N.E.2d 433 (2005)
 People v. Bass
 People v. Mack 167 Ill. 2d 525, 531 (1995)
 People v. Audi 389 N.E.2d 534 (1979)
 Wong Sun v. United States (Particularity requirement)

STATUTES AND RULES

725 ILCS 5/107 A-5(c)
 Ill. Rev. Stat. 1979, CH. 38, PAR. 111--3(b)
 Ill. Rev. Stat. 1969, CH. 38, PAR 32-2.

OTHER

The Cabell case Deals with court orders for searches+seizure
 The Creek case Deals with Double Jeopardy
 The Snell case Deals with Double Jeopardy
 People v. Bass case Deals with ~~Invest. Alerts*~~ ^{Invest. Alerts*} ~~Hint up, Hint, Suggestiveness~~
 The Mack case is about ineffective Assistance of counsel
 People v. Audi (Criminal complaints) must be sworn!!!

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Article 1 Section 6 of the state of Ill. constitution
2. 4th Amendment to U.S. constitution
3. 5th Amendment to U.S. constitution
4. 14th Amendment to U.S. constitution
5. 8th Amendment to U.S. constitution

STATEMENT OF THE CASE

ON September 16th 2011, Mr. Baykin was placed in a line-up and charged (by criminal complaint) with Pre-datory Criminal Sexual Assault.

ON October ~~4th~~^{12th} 2011 Mr. Baykin was recharged with the same offense but with a different charging method: "INDICTMENT," Due to the fact that the criminal complaint was unconstitutionally Defective/Invalid due to it not being Sworn to and Signed by the Complainant, the mother or a witness.

ON November 9th 2011 Mr. Baykin's counsel (Asst. Pub. Def - Kelly Moor) notified him that the "court ordered" him to submit to a "buccal swab" ON November 18, 2011, Mr. Baykin complied and later requested copy of the order to view it for himself, and found out that the order did "not ORDER him to submit to a swab at all," it ordered "Michael Alvarez" to submit to the taking of a Buccal swab."

ON or about March 2014 Mr. Baykin (was Pro-se) and filed the following motions: 1) Motion to Dismiss charges, 2) Motion to Quash line-up, 3) Motion to Dismiss Indictment, 4) Motion to reconsider line-up suppression based on possible biased by prior Judge. ("See Index to the record of Appellate brief on Direct Appeal") Inside Post conviction Petition also!

(Statement of the case)

The motions were Denied and Mr. Baykin was forced into trial over his will and objections.

“
Mr. Baykin was Denied Access the 47 forensic material as well as his Prior counsel Asst. Publ. Defender Richard Labrador on March 28th 2013 See Court transcripts of that Day on "Page y-4." (also contained in original Post-con.)

Discovery violation*

Mr. Baykin was found Guilty of 2 counts of Predatory crim. Sexual Assault, and given two 35 year consecutive terms For them, which is a total of 70 years at 85%.

Mr. Baykin filed a notice of Appeal, and on Direct Appeal, Mr. Baykin's Appellate Defender TOMAS Gonzalez Decided not to put these issues in Mr. Baykin's Appeal and Mr. Baykin's conviction was Affirmed by the State of Illinois Appellate court. Mr. Baykin filed a Pro-se Post-conviction Petition citing Ineffective Assistance of (Appellate) counsel because the information which he left out had the propensity to get Mr. Baykin's Appeal/conviction Reversed.

Mr. Baykin was given another appellate defender to represent him in his Post-conviction Appeal (Miriam Sierig) and she submitted a motion to withdraw as counsel based on the finley case stating that there was nothing to bring up and was allowed to withdraw as counsel,

(Statement of the case)

So on May 24th 2021 Mr. Baykin Appealled the decision of the State Appellate court to the S.Ct. of Illinois and was denied leave to Appeal in the State Appellate court on September 29th 2021.

Mr. Baykin now Appeals to the U.S. Supreme court for further review.

REASONS FOR GRANTING THE PETITION

"The State S.Ct. IS WRONG"

This case Presents Issues which are in Direct conflict with the U.S. court Rulings, The court of Appeals for Illinois is in Direct conflict with U.S. court Ruling on the matter of unsworn criminal complaints, suggestive/tainted line-ups, should be Dismissed for lack of verification.

The state circuit court and court of Appeals are in conflict with federal constitutional law when they allow Circuit court and court of Appeals to Deny a motion to Dismiss or ~~Surpress~~ Evidence on D.N.A when the order Does not have a Name on who the Evidence should be taken from. (Court order Buccal Surg)

The state court continued to go against U.S. Court Rulings, when they Dismissed the complaint for charges (not the line-up) then brought the charges again but with a different charging method Indictment and thus constitutes "Double Jeopardy"

Mr. Baykin is Seriously mentally Ill and has been on the indigent list for about 2 years now and is on Psychotropic medication and cannot represent

— Reasons for granting the Petition —

his self due to his diagnosis and need help. Mr. Baykin also does not have access to the law library.

There is no law library in the Joliet treatment center where Mr. Baykin resides.

There is also multiple Discovery violations that were committed with respect to the 417 material because Mr. Baykin's previous counsel was denied access to it and so was Mr. Baykin, without this material Mr. Baykin was not able to prepare a proper defense for his self.

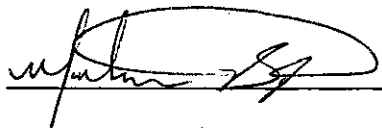
Further more, the U.S. ^{S.} Ct. has said that fillers in a line-up should not look substantially different from the suspect. Mr. Baykin clearly should not be charged with this case when the arguments and evidence in this appeal is brought before the high ^{court}, they will see that a lot of people in the lower court were just biased towards Mr. Baykin. This case needs proper "counsel and reversal."

For the foregoing reasons Mr. Barkin respectfully
requests that

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 11/4/21