

No. 21-6989

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C. 20543

Supreme Court, U.S.

FILED

JAN 20 2022

OFFICE OF THE CLERK

Jason Wayne Oien — PETITIONER
(Your Name)

vs.

East Central Judicial District — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of North Dakota "et al"

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jason Wayne Oien
(Your Name)

2521 Circle Drive
(Address)

Jamestown, N.D. 58401
(City, State, Zip Code)

n/a
(Phone Number)

QUESTION(S) PRESENTED

1. Rule 702, Testimony by Expert Witnesses. My lawyer had me do a polygraph inside of Cass County Jail. with a former Police Officer. (14th Amendment)
2. Luminol testing. DNA was never found on me or victim.
3. Rule 11, Factual Basis - was no Specific factual Basis to what I pled to. Plea was never voluntary when forced, promised something, or on medications. I even sent the Eighth Circuit Courts my proof of medications. Also was promised 8 years. (State vs. Yost) (Decoteau vs. State).
4. Illegal Sentence. I've sent proof the State Illegally Sentenced me to "Special Dangerous Offender". Only felony on my record is from 15 years ago for "Marijuana Possession". (Too much for one to possess).
5. Jackson vs. Virginia - exhaustion requirement, alleges that a state court conviction rests upon insufficient evidence, the Federal Court must consider whether there is sufficient evidence to justify a rational trier of the facts finding guilt beyond a reasonable doubt.
6. The 6th Amendment - States we're entitled to a jury determination of any fact on which the legislature conditions a increase in their maximum punishment. (B - felony manslaughter = 10 years). In my Post convictions, I shown they gave me no proof of sentence enhancements.
7. Inappropriate facts from the prosecutor and Judge on my Sentencing.
8. I also asked in writing to the Supreme Court to Withdraw my plea after Promises were broken before Sentencing Stage. Osborn v. Shillinger.

9. If needing more or better arguments? Please let me know what this Court needs specifically otherwise? Any other document I sent or have are at the courts on the next page. Last courts was the Eighth Circuit of Appeals.

Thank You

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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. East Central Judicial District
2. Supreme Court of North Dakota
3. United States Courts of Appeals for the Eighth Circuit
4. Rhianna Gorham - trial lawyer
5. Ross Brandborg - trial lawyer

(I have all my transcripts and legal documents I've sent to these courts. If needed? Please ask these courts for all and anything I've sent them if need be to prove my case.)

RELATED CASES

Manslaughter - 2 or more people can't be said to recklessly or carelessly kill someone. (Specific Intent?)

State v. Janice Leidholm. Got 2 years on a trial for manslaughter.

State v. Shawn Bingaman. Got 8 years on trial for manslaughter.

* State v. Aune (2021) - this case is one example that my case was Bias and prejudicial. This guy Steven Aune went to trial for shooting his own daughter and got manslaughter. He had a criminal history and got 10 years which they too say is the max. I pled unvoluntarily to just being at the wrong place at the wrong time is all the State could say. And all I had was a marijuana charge they said to enhance my sentence to 15 years.

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	147
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	84-14
STATEMENT OF THE CASE	15
REASONS FOR GRANTING THE WRIT	16
CONCLUSION.....	17

INDEX TO APPENDICES

APPENDIX A	Decision of State Court of Appeals
APPENDIX B	Decision of State trial Court
APPENDIX C	Decision of State Supreme Court Denying Review
APPENDIX D	Order of state Supreme Court Denying Rehearing
APPENDIX E	Decision of United States Court of Appeals for the Eighth Circuit.
APPENDIX F	Order of United States Court of Appeals for the Eighth Circuit Denying Rehearing

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

If I'm doing this right?

My cases and statutes and rules are already on the Question Presented and also Related cases. I'm also sending a copy of my Briefs (Documents) with cases, statutes, and rulings.

If I need anything else please assist me to make sure I'm doing this right? Thank You

STATUTES AND RULES

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 appears at Appendix E & F to the petition and is

☐ reported at 10-9-2020 (20-3428); 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 2C11 to the petition and is

☒ reported at 913 N.W.2d 770(mem), 2018 ND 150; 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 D to the petition and is

☒ reported at 945 N.W.2d 249(mem), 2020 ND 134; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the State 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.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 10-22-2021.

☐ 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: 12-01-2021, and a copy of the order denying rehearing appears at Appendix F.

☐ 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 6-29-20.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: 10-26-20, and a copy of the order denying rehearing appears at Appendix D.

☐ 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

- Appendix A - Post-Conviction Relief -

Under N.D.R. Cr. P. 11(d) Lindsey v. State, 2014 ND 174, 16.
State v. Vetes, 2007 ND 15.
State v. Ferrell, 2000 ND 26. - Froistad v. State, 2002.
State v. Magnuson, 1997. - Tweed v. State, 2010.

- Appendix A - Brief of petitioner No. 20200030. Document 38-6

Incompetent trial counsel. Middleton v. State, 2011. Murchison v. State,
State v. Myers. Strickland v. Washington. Heckelsmiller v. State,
Decoteau v. State, Lange v. State. Moore v. State. Damron v. State,
Murchison v. State. Syvertson v. State.

- Sentence in violation of law - App. 15
- Plea of guilty due to ineffective counsel. App. 20
- no recollection of any specific discussions regarding Habitual offender enhance.
App. 31; Tr. p. 5, Ins. 11-16; Jan. 24, 2020.
- Didn't want to plea to something I didn't do, and I didn't want to spend my life in prison. App. 31; Tr. p. 13, Ins. 2-9; Jan. 24, 2020.
- no paper work explaining habitual offender. App. 31; Tr. p. 33, Ins. 2-10; Jan. 24, 2020.
- relied on attorneys advice on getting 8 years. App. 31; Tr. p. 38-39, Ins. 24-7.
(6th Amendment, 14th Amendment)
- miscarriage of justice, defaulted claims, McCall v. Benson, 114. (8th Cir. 1997).
Ins v. St. Cyr, 533 (2001), Brunelle v. U.S. (8th Cir. 1988)

STATEMENT OF THE CASE

Rule 702. My lawyer at the time Ross Brandenburg had me take a Polygraph to use in my favor of showing innocence. That to this day was never mentioned, yet it can't be hidden due to the Polygraph being done in the Cass County Jail.

DNA. No evidence of DNA of mine anywhere at the crime. Luminol testing would show 10,000 times more even on clothing.

Illegal Sentence (Ineffective Counsel). If looking at transcripts, shows not once did I get anything showing I was to get habitual offender. Only statements was 8 years. Let alone its an illegal sentence because it was Dangerous Offender and never got intent papers on that as well.

Witnesses. Facts I had a witness named Michael Garner in my favor, As of my innocence.

Rule 11. This rule considers specific factual basis. At the preliminary and Sentencing stage, alls my trial lawyer Rhianna Gorham states is Jason was at the wrong place at the wrong time. Whats the factual basis in my case? What is it I did? Wrong place at the wrong time can't be manslaughter. And for voluntary, wasn't Voluntary on Medications, wasn't voluntary on the Enhancement.

Disposition Hearing. I put the victim on stand, the husbands wife who was involved. She was facing me and she didn't even know who I was.

(Cropping)
Videos.

At my hearing my lawyer Rhianna Gorham even states something was off with the timing of the videos. (Ineffective Counsel) 6th Amendment.

* For facts in this case? I went through the Bar Association to get another lawyer. Monty Mertz who's lead public defender wrote nasty things about me then denied my application. If you look at the preliminary and Sentencing, Ryan Youngren the prosecutor only talks about my EX-girlfriend Jenna Pierce. Nothing to do with this ongoing case. I also have both of the documents if needed? Was a Bias and Prejudicial case just for who I am. The State cared more about my past than this crime I was convicted on. I have a misdemeanor past, but for years I was a working law Abiding citizen.

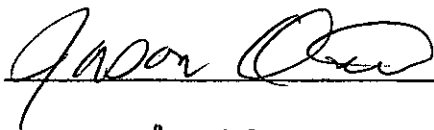
- Reasons for Granting the Petition -

1. Improper facts from the Sentencing Judge to Enhance the Maximum Punishment.
2. No specific factual basis of what my involvement in the crime was other than wrong place at the wrong time.
3. Not a Cognital crime. 2 or more people can't be said to carelessly or recklessly kill someone. (Manslaughter).
4. Judge never asked if I was taking anything that would make it hard to understand my sentencing. (medications).
5. No DNA of mine anywhere at the crime, or on the victim.
6. Polygraph was done in Cass County Jail.
7. Ineffective Counsel - was promised 8 years. Grounds for a withdrawal. Also knew cropping of tapes.
8. Illegal Sentence - Never served intention to Habitual Offender. And it was charged out differently on top of that as an "Dangerous Offender."
9. Bias and Prejudicial - the case was never about the victim. Was about my Ex-Girlfriend. See Preliminary and Sentencing. Was only about my past not the crime. That's why they went for harsh sentencing. Prejudicial also for not properly advising me of the habitual Offender.
10. I claimed innocence throughout every hearing. No specific factual basis of where I was at, what I was doing, or what involvement I had with this crime? Ineffective Counsel, also Rule 11.

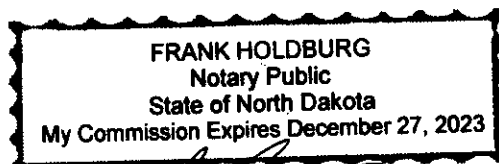
CONCLUSION

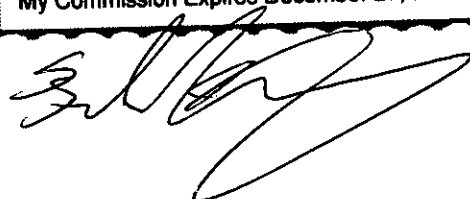
The petition for a writ of certiorari should be granted.

Respectfully submitted,

_____

Date: 1-18-22





1/19/2022