

No. 21-7122

ORIGINAL

Supreme Court, U.S.
FILED

JAN 28 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

THOMAS WARNER — PETITIONER
(Your Name)

vs.

PEOPLE OF THE STATE OF ILLINOIS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

THOMAS WARNER
(Your Name)

P.O. BOX 1000
(Address)

MENARD ILLINOIS 62259
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Whether THOMAS WARNER'S CONVICTIONS FOR Aggravated battery And aggravated discharge of a firearm Should be reversed where they were not Supported by Credible testimony because the State's witnesses were inconsistent, un reliable, and rebutted by the Alibi testimony of the defense witness.
2. Whether Thomas WARNER'S 12 and eight year prison terms for aggravated battery are excessive in light of his background and Significant Support from his family?

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:

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Miller v. Cockrell 537 U.S. 322 (2003)

STATUTES AND RULES

14 AMENDMENT DUE PROCESS

720 ILCS 5/1203, 05 (E)(1)-(H)

~~730~~ 730 ILCS 5/5-4, 5-25 (A)

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 _____ 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☐ is unpublished.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☐ is unpublished.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 C 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☒ is unpublished.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 STATE COURT OF Appeals court appears at Appendix A to the petition and is

- ☒ reported at People v. WARNER Illinois App 1-18-2539; 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 _____.
A copy of that decision appears at Appendix C.

☐ 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

14th AMENDMENT

720 ILCS 5/1203.05(E) (1); 730 ILCS 5/5-4.5-25A

STATEMENT OF THE CASE

Thomas Warner was charged with Multiple Counts of attempt first degree murder aggravated battery and aggravated discharge of a firearm. After Warner was named as the offender in a shooting incident against Brandon Collier, Julius Freeman and Jacari Turner. After a bench trial Thomas Warner was convicted of two counts of aggravated battery and one count of aggravated discharge of a firearm (C-145).

States witness Brandon Collier testified that in the early morning hours of Jan 1, 2016 New Year's day he was at Jacari Turner's house for a party. Mr. Collier, Turner, Julius Freeman, and a few other left because "it wasn't enough female at the party". According to Collier they left and went to another party at 9807 S. Beverly.

According to states witness Turner and Freeman the party was at 9824 S. Beverly. Collier told Detective Roxanne Happs, that they stayed at the party for 30 minutes, and as they tried to leave, a group of people attempted to stop them from leaving by blocking the front door. Freeman testified that while they were trying to leave, he twice felt someone touch his pockets. They never reported this to the police.

Collier also testified that as they walked back toward the car, a man whom they later identified as Warner asked Collier if he wanted to buy some Xanax. Collier declined.

Collier testified that the man had red dreadlocks, and tattoos on his face.

Turner testified that the offender had red dreadlocks. Collier described the offender to Det. Happs as having "red dreadlocks with blond tips" and to responding officer James Beaven as having "Blond Strawberry dreadlocks". No one described the offender as having a beard.

Collier testified as he got into the car driver's seat, the offender grabbed the door, but Collier was able to close the door.

Freeman testified that the offender was trying to snatch Collier's chain from around Collier's neck. Collier never told the police this.

the offender then pulled out his gun and started shooting inside Collier's car. Collier admitted that he did not look at the shooter for long, because he was being shot at.

Freeman did not see the offenders until the second shot. Freeman fell on the ground out the car after being shot in the back and "side spine".

Collier helped Freeman back in the car and they drove to Christ Hospital.

Turner testified that he had not yet closed the back door when the shooting started, and that he got right out the car and ran around the car and ran through the neighborhood until some friends he called came to pick him up.

Collier was shot in his wrist. Collier identified Warner from a photo array. At trial Collier denied looking at Warner's Facebook page prior to the viewing of the photo array, but Collier did tell Detective

Hopps that he viewed Warner's Facebook page
(R. 339-344)

Freeman identified Warner's picture and named Warner as Thomas. Freeman testified that he never saw Warner before that night, and denied viewing Warner's Facebook page prior to viewing the photo array (R. 182-83)

Freeman told Det Hopps that he had viewed Warner's Facebook page prior to the array.
(R-326)

In an interview with Assistant State Attorney, Freeman acknowledged that he viewed Warner's Facebook page and went through his pictures (R-198-99)

Freeman also told A.S.A. in the same interview that he was on a morphine drip and "a little drowsy" when he made the photo identification (R 202) Freeman testified that he could not remember any of the questions and answers from the interview with the A.S.A. (R-191-203) Freeman told Det Hopps that he learned Warner's name from

Turner (R 345)

Turner also denied viewing Warner's Facebook page prior to identifying Warner in a photo array (R 294). According to Det Hoppes FREEMAN's Mother, Lawrence Freeman reported to police that Turner gave her Warner's name (R 325-26, 334)

Jocelyn Solomon testified for Warner. According to Solomon she testified that on New Years eve Warner came to her house by 2 AM. Solomon remembered the time because the television program she watched goes off at that time, and that was when Warner arrived (R 388-89). And that Warner remained with her there until they fell asleep around 7 AM. Solomon provided two "Selfie" photographs with Warner from that night, taken around 5 AM. (R 382, 392) These photos show Warner with deep red dreadlocks without any blond tips, and a full, visible beard.

in its ruling the lower court found Solomon Credible but that she did not provide an alibi for the relevant time frame. The court also found that the witnesses failure to describe the shooter having a beard was not fatal to their identifications.

The trial court acquitted Warner of the attempted murder charges, but found him guilty of aggravated battery with a firearm as to Collier and Freeman and aggravated discharge of a firearm as to Turner (R 458) and denied Warner's Motion for a new trial. Warner was sentenced to 12 years 8 years and 4 years to be served consecutively and followed by three years MSR. The court found that Collier and Freeman both suffered severe bodily injuries which mandated consecutive sentences.

The court denied Warner's motion to reconsider sentence. Warner appealed and the Appellate Court agreed with the trial court.

REASONS FOR GRANTING THE PETITION

Petitioner Thomas Warner has attempted at every stage to raise the claims that his convictions for aggravated battery and aggravated discharge of a firearm, and his unconstitutional consecutive sentence, should be reversed. Because the trial court, and Illinois courts of appeals failed to acknowledge the States witnesses inconsistent misleading and false testimony.

In Illinois inconsistent, misleading and false testimony is used as impeachment evidence. The prosecution in Thomas Warners case called multiple States witnesses who testified to what occurred before during and after the shooting. Each of the States occurrence witnesses testified that before identifying Thomas Warner that they all looked at petitioners face book page before identifying the petitioner. These same States witnesses testified that the petitioner had red dreadlocks with blond tips. Petitioner presented evidence to the court in the form of a "Selfie" phone photo which was taken that same day of the shooting which clearly shows Thomas Warner having all red dreadlocks. Not Red dreadlocks with Blond tips, which is important evidence because, this particular hairstyle was popular then. Meaning that there were probably numerous people at that party with a similar hairstyle.

REASONS FOR GRANTING THE PETITION continued.

and misidentified the petitioner. Petitioner also had a full face beard which neither witness identified. A beard is most definitely a particular characteristic that a witness would acknowledge if seen at the distance in which these witnesses claimed to be with the petitioner. These witness identification was wrong. They did see a guy with red and blond dreadlocks but it wasn't Thomas Warner and the Selfie photo evidence supported that.

Thomas Warner's Reasons for granting the Petition is because the trial court and the Illinois appellate courts failed in their rulings denying petitioners appeals. Illinois has implemented a appellate procedure which offers each person convicted, rights under the 14th amendment. A right to a fair and impartial trial, and to have their claims reviewed on appeal, when a State opts to get in a field where its action has significant discretionary elements, it must nevertheless act in accordance with the dictates of the Constitution, and in particular in accord with the 14th amendment Due process clause.

The appeals court erred when it agreed with the trial courts decision even after the trial court elected to just over-look the evidence that was presented by the defense in trial. We clearly have a misidentification. The states witnesses in

their identification was so specific as to the Petitioner, these witnesses saw blond tips on Thomas warners red dreadlocks these blond tips cant be missed. Just like the beard that the petitioner had. Clearly the person these witnesses had this incident with was not Thomas Warner. These witnesses did go through, and did experience a nightmare of a shooting but it wasn't Thomas Warner who committed this shooting, and the evidence do support it. These witnesses lied to the court about not looking at the Facebook Page before they identified petitioner as the shooter. Their testimony should not have carried any weight, their testimony was not believable when considered with the evidence presented at trial.

The entire procedure that Illinois have when it comes to weighing and using the testimony of states witnesses. In Thomas warners case this procedure lacked Due process protections.

The Illinois Court of Appeals denied Thomas Warners appeals. A review of the record clearly shows that the court did not give full consideration to the substantial evidence that Thomas Warner put forward in support of the prima facie case Miller V. Cockrell 537 U.S 322 (2003)

1. Petitioner also asserts that his consecutive sentence is unconstitutional because it violates the single course of conduct rules under one act one crime. Illinois has passed legislature which makes a defendants sentence consecutive if its found that the victim suffered great bodily harm 720 ILCS 5/12-3, 05 (E)(1); H: 730 ILCS 5/5-4, 5-25A. This statute is in direct conflict with the one act one crime and should be vacated.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Thomas Warren

Date: 12-21-21