

SUPERIOR COURT

No. 2007-CFI-11370

21-7601

APPEALS COURT

NO. 19-CO-679

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

DEC 07 2021

OFFICE OF THE CLERK

District of Columbia

EUGENE PUGH

VS

United States

— PETITIONER

(Your Name)

EUGENE PUGH VS.

United States

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The District of Columbia Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

EUGENE PUGH

(Your Name)

U.S.P. COLEMAN #1

(Address)

COLEMAN, FL 33521

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) WHETHER APPELLATE COURT ERRED BY CONCLUDING THERE WAS NO ERROR IN DENYING APPELLANT'S MOTION TO SUPPRESS OR REVERSIBLE ERROR IN OVERLING OBJECTIONS RAISED DURING THE PROSECUTION'S CLOSING ARGUMENT.
- 2) WHETHER APPELLATE COURT ERRED BY CONCLUDING THERE WAS NO ERROR IN DENYING APPELLANT'S MOTION ASSERTING INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL AND ACTUAL INNOCENCE OF THE MURDER OF MICHAEL HOLMONE BECAUSE THE CRIME STOPPERS REPORT SUPPORTS PETITIONERS INNOCENCE.

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) The DISTRICT OF COLUMBIA COURT OF APPEALS
- 2) The SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

RELATED CASES

TERRY JOHNSON VS. UNITED STATES, 136 A.3d 74 (2016 D.C. Appeals Court)

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STATUTES AND RULES

D.C. code §§ 22-2101-4502

D.C. code §§ 22-4504 (b)

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 is unpublished.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 is unpublished.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 _____ 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 _____.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

MURDER 1# while ARMED, POSSESSION OF FIREARM DURING CRIME OF VIOLENCE,
SUPREME COURT OF THE UNITED STATES, AND THE FIFTH AND SIXTH AMENDMENT
OF THE UNITED STATES

D.C. CODE §§ 22-2101-4502

D.C. CODE §§ 22-4504 (b)

STATEMENT OF THE CASE

NOW COMES PETITIONER EUAENE PUGE. IN PRO SE CAPACITY SEEKING REVIEW OF THE DENIAL OF THE MERITS OF HIS APPEAL IN THE DISTRICT OF COLUMBIA COURT OF APPEALS PER WRIT OF CERTIORARI AVER THE FOLLOWING IN SUPPORT...

IN PETITIONER APPEAL MOTION PETITIONER ASSERTS THAT HIS TRIAL COUNSEL PROVIDED CONSTITUTIONAL INEFFECTIVE ASSISTANCE FOR FAILURE TO INVESTIGATE AND MOUNT A THIRD PARTY PERPETRATOR OFFENSE BASED UPON INFORMATION THE DEFENSE RECEIVED FROM A METRO CRIME STOPPERS TIP FORM (CRIME STOPPERS REPORT). PETITIONER ALSO CLAIMS, VIA AFFIDAVIT, THAT HE IS ACTUALLY INNOCENT OF THE MURDER OF MICHAEL HOLMONE BECAUSE THE "CRIME STOPPERS REPORT" SUPPORTS HIS INNOCENCE.... PETITIONER INDICTMENT RETURNED BY A GRAND JURY ON FEB 12, 2008. PETITIONER WAS CHARGED WITH THE FIRST DEGREE PREMEDITATED MURDER WHILE ARMED OF MICHAEL HOLMONE ON MAY 11, 2007 IN VIOLATION OF D.C. CODE §§ 22-2101-4502; AND POSSESSION OF A FIREARM DURING A CRIME OF VIOLENCE, IN CONNECTION WITH MURDER IN VIOLATION OF D.C. CODE §§ 22-4504 (b)... PETITIONER WAS ARRESTED ON OR ABOUT MAY 18, 2007. TRIAL TOOK PLACE BEFORE THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA, IN EARLY MAY 2009. ON MAY 14, 2009 THE JURY RETURNED UNANIMOUS VERDICTS OF GUILTY ON BOTH COUNTS. ON JULY 17, 2009 THE COURT SENTENCED PETITIONER TO 480 MONTHS IN PRISON ON THE FIRST DEGREE MURDER COUNT, FOLLOWED BY 5 YEARS OF SUPERVISED RELEASE AND A CONCURRENT 60 MONTHS IN PRISON FOLLOWED BY 3 YEARS OF SUPERVISED RELEASE ON THE (PFCV) COUNT. PETITIONER NOTED A TIMELY APPEAL. THROUGH COUNSEL THE DEFENSE RAISED TWO CLAIMS. (1) THE TRIAL COURT ERRED IN OVERRULING PETITIONER'S OBJECTIONS DURING ~~THE~~ THE PROSECUTOR'S CLOSING AND REBUTTAL ARGUMENTS. ON APRIL 22, 2011 THE DISTRICT OF COLUMBIA COURT OF APPEALS ISSUED ITS MEMORANDUM OPINION AND JUDGMENT FINDING NO ERROR AND AFFIRMING PETITIONER'S SENTENCE. ON AUGUST 10, 2017, PETITIONER FILED HIS INSTANT MOTION UNDER D.C. CODES §§ 23-110 AND THE IPA... ON FEB 13, 2008 THE DAY AFTER PETITIONER WAS INDICTED THE GOVERNMENT PROVIDED THE DEFENSE WITH A COPY OF THE AFORE-MENTIONED CRIME STOPPERS REPORT. THAT FORM DOCUMENTED A MAY 13, 2007, ANONYMOUS CALL TO THE METROPOLITAN POLICE DEPARTMENT TIP LINE CONCERNING THE SHOOTING OF A FIREFIGHTER. THE VICTIM IN THIS CASE, MICHAEL HOLMONE WAS MURDERED ON MAY 11, 2007. THE CALLER TOLD (MPD) THAT THEY OVER HEARD SOMEONE SAY THAT

B/M NAMED SEAN BURTON SHOT AND KILLED A FIRE FIGHTER. THE CALLER DESCRIBED THE SUSPECT IN THE SHOOTING AS A 38 YEAR OLD BLACK MALE NAME SEAN BURTON 135 LBS short black hair, dark brown eyes, with a SCAR ON THE LEFT SIDE OF HIS FACE.... ON MAY 30, 2008 THE GOVERNMENT FILED A MOTION IN LIMINE TO EXCLUDE EVIDENCE THAT A THIRD PARTY COMMITTED THE CHARGED CRIMES. CITING THE STANDARD THE DEFENSE MUST MEET TO PRESENT A THIRD PARTY PERPETRATOR DEFENSE AT TRIAL UNDER WINFIELD V. UNITED STATES 676 A.2d 1 (D.C. 1996) ("THERE MUST BE PROOF OF FACTS AND CIRCUMSTANCES WHICH TEND TO INDICATE SOME REASONABLE POSSIBILITY THAT A PERSON OTHER THAN THE DEFENDANT COMMITTED THE CHARGED OFFENSE. THE GOVERNMENT DID NOT REFER TO THE CRIME STOPPERS REPORT IN ITS WINFIELD MOTION. ON JULY 28, 2008 THE COURT ISSUED A WRITTEN ORDER GRANTING THE GOVERNMENT'S WINFIELD MOTION ON GROUNDS THAT "COUNSEL FOR THE DEFENDANT STATED ON THE RECORD AT A STATUS HEARING ON JULY 25, 2008 THAT THE DEFENDANT DOES NOT INTEND TO PRESENT A THIRD PARTY PERPETRATOR DEFENSE AND THAT THE DEFENDANT THEREFORE DOES NOT OPPOSE THE GOVERNMENT'S MOTION.

REASONS FOR GRANTING THE PETITION

Petitioner asserts that his trial counsel was constitutionally ineffective for counsel's failure to investigate and present a third-party perpetrator defense, that would have proved petitioners actual innocence.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Eugene Pugh

Date: 3/23/22