

21-7749

No. \_\_\_\_\_

FILED

FEB 16 2022

OFFICE OF THE CLERK  
SUPREME COURT OF THE UNITED STATES

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

Samba Sarr \_\_\_\_\_ — PETITIONER  
(Your Name)

VS.

Brian Cook, Warden \_\_\_\_\_ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

SAMBA SARR #A 748-199

(Your Name)  
Southeastern Corrections Inst.  
5900 B.I.S. Road

(Address)

Lancaster, Ohio 43130

(City, State, Zip Code)

N/A

(Phone Number)

**QUESTION(S) PRESENTED**

I. Whether Counsel for Defendant was ineffective as trial counsel for his failure to make proper objection.

II. Whether, the evidence presented was insufficient to support the conviction, and whether, the findings were against the manifest weight and or sufficient weight of the evidence of kidnapping (sexual activity), Gross Sexual Imposition (by force), and Assault.

The U.S. District Court's decision stands in direct conflict with this Court's decision in *Mayle v. Felix*, *supra*, and leaves the question as to

Whether, Petitioner has been denied due process and a fair trial  
Dist. LEXIS 199003(S.D. Ohio, Oct. 24, 2020)

## 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:

## RELATED CASES

United State v. Young 470 U.S. 1.

Lawn v. United States, 355 U.S. 339, 2L.Ed.2d 321, 78 S.Ct.311

McDaniel v. Brown, 558 U.S. 120

Brown v. Farwell, 525 F.3d 787 (CA 9, 2008).

Jackson V. Virginia (1979) 443 US 307, 61 L.Ed 2d 560, 99  
S.Ct, 2781

Brown V. Allen, 344 U.S. 443, 97 L.Ed. 469, 73 S.Ct. 397  
(1953).

Dist.LEXIS 199003 (S.D. Ohio, Oct. 24, 2020 Mayle v. Felix, Supra

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APPENDIX C	THE SUPREME COURT OF OHIO (State v. Sarr, 158 Ohio St.3d 1487, 2020 - Ohio - 1634, 2020 LEXIS 1059, 143 N.E. 2d 529(Apr. 28, 2020)
APPENDIX D	THE COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT MONTGOMERY COUNTY (Stat v. Sarr, 2019-Ohio-3398, 2019 Ohio App. Lexis 3468, 2019 WL 3986265) (Ohio Ct. App., Montgomery County, Aug, 23, 2019).
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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 <sup>A</sup> \_\_\_\_\_ to the petition and is

reported at U.S. Dist. LEXIS 219826; 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 2020 LEXIS 1059, 143 N.E. 2d 529 (Apr. 28); 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**

[x] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was April 28, 2020

[\*\*] 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: N/A, 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 N/A (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 August 23, 2019.  
A copy of that decision appears at Appendix D.

[ ] A timely petition for rehearing was thereafter denied on the following date:  
\_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.  
N/A

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

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## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Amendment 6 of the United States Constitution Provides, in Pertinent part  
"In all criminal prosecutions, the accused shall enjoy the right to a  
speedy and public trial, by an imparial jury.

amendment 14 of the United States Constitution provides, in relevant part  
"No state... Shall deprive any person of life, liberty, or property, without  
due process of law; nor deny to any person within its jurisdiction the  
equal protection of the law."

The Federal statutory Provision that is relevant to this petition, 28  
U.S.C. 2254, Rule 4.

## STATEMENT OF THE CASE

At the time Mr. Sarr filed his writ of habeas Corpus Pursuant to 28 U.S.C. 2254, rule 4 governing 2254 gave the District Court the discretion to dismiss a habeas petition without a responsive pleading from a Respondent only if the Court determined after review of the petition and attached documents that the petitioner is not entitled to relief:

.... If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief, the court shall summarily dismiss the petition.

Federal Rule 4 governing 2254

The District Court dismissed Petitioner's ineffective assistance of counsel and sufficiency of the evidence claims without a responsive pleading from Brian Cook, Warden.

On June 25, 2018, Samba Sarr was indicted on charges of kidnapping felony or flight. Kidnapping sexual activity, Gross Sexual imposition (by force), and assault. On September 24, 2018, this matter proceeded to trial.

On the night in question, Sarr met the alleged victim in the case, Takeesha willis, in the parking lot of Delphos Market on hoover Avenue in the early morning, approximately 12:30 a.m., as the two had planned earlier in the day.

Ms. willis followed Sar, whom she only knew by a first name alias as Amir, to a house that she had never been to before to stay just long enough to have sex and leave. The record reflects that Ms. Willis and Mr. Sarr a purely sexual relationship and they had previously on occasion met at hotels to engage in sexual conduct.

The record also reflects that each time before, including this incident the sexual encounter was consensual.

Sarr was found guilty on all counts. Sarr was then sentence on October 11, 2018 to an aggregate prison term of four years and six months to be served at the correctional reception center. Sarr timely filed his notice of appeal on October 29, 2018.

## **REASONS FOR GRANTING THE PETITION**

To decide whether the Sixth Circuit Court misapplied the invited response taken in context unfairly prejudiced the petitioner, and he now dispute the Circuit Court's holding that he lacked standing to challenge the very provisions he was requesting the Court to review.

And to challenge whether the lower Court had properly applied a five factor standard in determining the evidence was insufficient to support petitioner's convictions.

Dist, LEXIS 199003 (S.D. Ohio, Oct. 24, 2020) and is the cause that The U.S. District Court's decision stands in direct conflict with this Court's decision in *Mayle v. Felix*, Supra, and leaves the question as to ....

Whether Petitioner has been denied due process and a fair trial.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature consisting of two stylized letters, possibly 'S' and 'J', written in black ink on a horizontal line.

Date: April 20 2022