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No. _____

ORIGINAL

FILED

MAY 24 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Ryricka N Custis — PETITIONER
(Your Name)

vs.

Commonwealth of VA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Virginia

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

PETITION FOR WRIT OF CERTIORARI

Ryricka N. Kita Custis
(Your Name)

P.O. Box 970 Red onion state prison
(Address)

Pound VA 24279
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1) Wheather The petitioner Constitutional Rights violated Under The Constitution of Virginia and The United States Constitution?

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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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Catlett V. Com</u> , 198 VA 505 (1956)	2.
<u>CAVE V. Cunningham</u> , 203 VA 737 (1962)	1 2
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STATUTES AND RULES

<u>VA. Const. Section 8</u>	1 2
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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☐ is unpublished.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☐ is unpublished.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 B 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☒ is unpublished.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 Accomack County Circuit court appears at Appendix A 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☒ is unpublished.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 February 24 2022
A copy of that decision appears at Appendix B.

☒ A timely petition for rehearing was thereafter denied on the following date: MAY 11 2022, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

United States Constitutional Fourteenth Amendment

VA. Code Section 19.2-257

VA. Constitution Section 8

VA. Sup CT Rule 3A:13(b)

Attachment #1

STATEMENT OF The Case

The petitioner RYBICKA N CUSTIS IS IN STATE Custody pursuant to A conviction ON February 29 2008, following a bench trial In the circuit court for the County OF Accomack FOR one Count of Robbery, one Count of Use of A Firearm In The Commission of a Robbery 1st offence, and one Count of possession OF a Firearm after having been previously convicted OF a felony.

The petitioner conviction order was signed on MARCH 10 2008, And failed to reflect the concurrence OF the Commonwealth's Attorney. (See Exhibit #1)

The petitioner was sentence July 10 2008, TO serve forty years In Virginia penal System...

On August 3 2020, The petitioner filed a motion TO VACATE The Conviction order ~~et al~~ W. In The Accomack County Circuit Court...

On MARCH 1 2021, The petitioner filed a Appeal TO The Supreme Court of Virginia (Record No. 210229)

On February 24 2022, The Virginia Supreme Court Refuses The petition...

On MARCH 8 2022 The petitioner filed for Retesting...

On MAY 11 2022, The Virginia Supreme Court denied The petition...

ATTACHMENT #2

Reasons For Granting The petition

The Supreme Court of Virginia denied my petition of Appeal To VACATE my conviction order dated MARCH 10 2008. AS my conviction order failed to reflect the concurrence of the Commonwealth's Attorney in the WAIVER of A JURY TRIAL AS MANDATORY REQUIRE by SECTION 8 OF THE VIRGINIA CONSTITUTION.. (See Exhibit #1)

The Supreme Court of Virginia decision TO deny my petition IS IN CONFLICT with numerous of The Supreme Court of Virginia own decisions in previous cases AS WELL AS The Virginia Supreme Court's Rule 3A:13(b), AND The Court of Appeals of Virginia..

IN CAVE V. CUNNINGHAM, 203 VA 737 (1962), The Supreme Court of Virginia held that the trial court was without jurisdiction to try the case... because of the failure of the Record to show that the Commonwealth's Attorney concurred in the WAIVER of trial by jury." Id. at 738-39. having reached this conclusion, The Supreme Court declared the conviction order in CAVE "VOID."

IN Cunningham v. Smith, 205 VA 305 (1964),
The Supreme Court of Virginia held that "A Court
Speaks only through its orders. In those cases where
the Jurisdiction of the Court depends upon Compliance
with mandatory provisions of LAW, The Court's
Order spread upon its order book, Must show complian-
ce or Jurisdiction IS not obtained"...

IN Catlett v. Com, 198 VA 505 (1956), The
Supreme Court of Virginia held that "In this
Instance the failure of the order to Record the
Concurrence of the Commonwealth's Attorney as
Required by the Constitution IS fatal"...

IN Richardson v. Com, 67 VA App 436 (2017)
The Court of Appeals of Virginia held that because
a Trial Court fails to enter or Record the Accused's
Consent... The Conviction must be set aside...
for Lack of Compliance with the mandatory
provisions of VA. Cons. Art 1 section 8...

IN Riddick v. Com, 72 VA App 132 (2020)
The Court of Appeals of Virginia held that
Cave v. Cunningham, 203 VA 737 (1962) does
not expressly support Riddick's position, leaving

him to Ask us, As he put it during Oral Argument
In this Court to "work backwards" from the Cave
Court's declaration that the order was "Void" to
Reach the conclusion that the Jury trial Requirements
go to Subject matter Jurisdiction...

Also The Supreme Court of Virginia IS
In conflict with Rule 3A:13(b), which states
The Court MAY determine before trial that the
accused's Consent was voluntarily and intelligently
given, and his Consent and the Concurrence of
the Court and Commonwealth's Attorney must be
entered of Record...

~~The Above IS~~

The Above IS Reasons for Granting
The petition...

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ryckta Nikita Custis

Date: MAY 23 2022