No. 21-8154

ORIGINAL

Supreme Court, U.S.
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IN THE

SUPREME COURT OF THE UNITED STATES

Anthony B. Williamson #109343 - PETITIONER
(Your Name)

vs.

Dexter Payne, Director Ark dept of Correction - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

COURT OF APPEALS FOR THE EIGHTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

Anthony Williamson - 22000002398
(Your Name)

106 So. Charlott St
(Address)

Fordyce, Ark. 71742
(City, State, Zip Code)

N/A
(Phone Number)

No.

IN THE
SUPREME COURT OF THE UNITED STATES

ANTHONY BRIAN WILLIAMSON
PETITIONER
VS.
DEXTER PAYNE, Director, ADC
RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
THE U.S COURT OF APPEALS
EIGHTH CIRCUIT

Anthony Brian Williamson #22000000398
106 So. Charlotte St
Fordye, Ark. 71742

QUESTION(S) PRESENTED

1. Is Petitioner in custody on his expired Sentence; if the expired Sentence was used to enhance his Current Sentence?
2. Is the Antiterrorism and effective death penalty act of 1996 unconstitutional if it allows the State of Arkansas to Circumvent Petitioners 13th amendment rights?
3. If Petitioner shows merit the State of Arkansas violated his Constitutional rights; does due process demand a Certificate of appealability?

LIST OF PARTIES

[X] 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:

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Maleng V. Cook, 490 U.S, 488 (1989)	
U.S. V. Kozminski 487 U.S, 931 (1988)	
Bousley V. U.S. 523 U.S. 614 (1998),	
Lackawanna Co. Dist Attorney V. Coss 532 U.S. 394 (2001).	
Alaska V. Wright 141 S. Ct 1467 (2021)	
Bracy V. Gramley 520 U.S. 899 (1997)	
Slack V. McDaniel 529 U.S. 473 (2000).	
Claudio V. Goodridge (D. Colo 2018).	

STATUTES AND RULES

28 U.S.C. § 2241; 2254

18 U.S.C. § 241 and 1584

A.C.A. § 5-14-130; 12-12-904

(AEDPA)

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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The opinion of the United States court of appeals appears at Appendix __A__ to the petition and is unpublished.

[ ] 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 January 19, 2022.

[ ] 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: February 17, 2022, and a copy of the order denying rehearing appears at Appendix B.

[ ] 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 **federal courts:**

The date on which the highest state court decided my case was ______________. A copy of the decision appears at Appendix ____________.

[ ] 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. Amend. IV; V; VI; XIII; XIV

STATEMENT OF THE CASE

1. On November 26, 2007 Petitioner plead guilty to failure to register as a Sex offender pursuant to A.C.A. § 12-12-904. In the Garland Co. Circuit Court. State of Ark v. Williamson No. CR-2007-574-1. In return for a reduced Sentence of five years in the Arkansas dept. of Correction.

2. There was no direct appeal filed on Williamson's behalf to challenge the plea agreement.

3. On August 10, 2020 Petitioner filed a petition for Writ of habeas Corpus in the E.D. Court of Arkansas' claiming factual innocence; his plea agreement came under duress and misinformation by his Counsel as part of a Conspiracy between Appointed Counsel and multiple State agencies. For the purpose of enhancing his Current Sentence; fraudulently induced by the Sebastian Co. Prosecutors office. See State of Ark. v. Williamson No. CR-2008-1236.

4. In order to invoke Jurisdiction of the federal Court on writ of habeas Corpus Petitioner must be in Custody on prior expired Sentence Maleng v. Cook, 490 U.S. 488, 109 S.Ct 1923, 104 L.Ed.2d 540 (1989)

5. Petitioner did seek a certificate of appealability of Said Courts denial. Which was denied January 19, 2022. Apx. A.

6. Petitioners motion for rehearing was denied February 22, 2022. Apx. B.

7. This petition for Certiorari follows.

REASONS FOR GRANTING THE PETITION

1. At the time Petitioner agreed to plea guilty to failure to register as a sex offender he was led to believe by his Counsel he had Committed a Crime. And that if he proceeded to trial he would receive an enhanced Sentence as a habitual Criminal if found guilty. The trial judge accepted petitioners plea upon the Criminal Statute A.C.A. § 12-12-904. See EX's #1-2.

2. The Criminal information filed against Petitioner explained that he had obtained a Arkansas State identification Card on or about March 8, 2007 with a Garland Co. address and Petitioner never registered in Garland Co. See EX #3. From which was not a Crime under any State Statute at the time of incident. See A.C.A. § 5-14-130 Act of 2007. And where evidence exist that show Petitioner lived with his Sister in little Rock Ark. where he was required to register and had a Current drivers license with his sisters address, and his an affirmative defense.

3. Unbeknown to Petitioner during the time he agreed upon this plea the State of Ark. was Conspiring to frame him in a Sebastian Co. prosecution for aggravated robbery/Kidnapping. See EX's #A thr Z-3. Utilizing multiple State agencies. See U.S. V. Kozminski, 487 U.S. 931, 108 S.Ct. 275 (1988). The Ft. Smith City police dept; the Ark. State Police and the Ark. State Crime lab. The Garland Co. Prosecuters office fabricated a Charge of failure to register as a precursor in order for Counsel to Coerce a guilty plea to a charge that was not even a Crime. For the Soul purpose of enhancing his Current Sentence. See EX's # Z-9 thru Z-12.

POST-CONVICTION

4. Procedural law, how and when to apply it and the Courts

interpetation; wrote for skilled lawyers. Is mind boggeling to the average lay person such as Petitioner; whom must rely on a guaranteed right to affective assistence of Counsel and a fair trial Court. Will ordinarily Continue to assume that the advice from his Counsel was accurate during the time for taking an appeal. Where the trial Court and Counsel had knowingly Conspired to deceive him in order to induce him to plead guilty to a crime that he did not Commit. See Bousley V. U.S. 523 U.S. 614, 118 S.Ct. 1604, 140 L. Ed. 2d. 828 (1998)

JURISDICTION

5. The United State Supreme Court held in Maleng V. Cook that the respondent was not "in Custody" on his 1958 Conviction merely because that Conviction had been used to enhance a subsequent sentence. id. at 492, 109 S.Ct. 1923. The Court acknowledged however that because his § 2254 petition "[could] be read as asserting a challenge to the 1978 Sentence as enhanced by the allegedly invalid prior Conviction respondent - satified the "in Custody" requirement for federal habeas Jurisdiction." id. at 493-494, 109 S.Ct. 1923. See Claudio V. Goodridge (D. Colo 2018).

6. In Lackawanna Co. Dist Attorney V. Coss, 532 U.S. 394 121 S. Ct 1567, 176 (2001). The United States Supreme Court explained that when Coss was resentenced on his 1990 Conviction he objected to the presentence report's calculation of his prior record score. The Court sustained that objection and in effect eliminated Coss 1986 Conviction from the prior record score entirely. Because the prior record score is one of two determinants of the applicable sentencing range. And that it was clear that Coss 1986

Conviction had no role in determining the range of sentence to which Coss was exposed.

7. The Court also made a point that the "actions" to which the judge referred were obviously not limited to Coss' Criminal Conduct in 1986 but Coss extensive and violent Criminal record as a whole. The Court Concluded it's opinion agreeing with the dissent in the district Court that the 1986 Convictions are "such a minor Component of [Coss] record that there is no question that the sentencing Court given it's Concerns would have imposed exactly the Same Sentence" had those Convictions been omitted from Coss record. 204 F.3d. at 468 (dissenting opinion).

8. The district Court denied Petitioners Habeas petition on procedural grounds. In it's order Dkt No. 19 P. 1. The district Court adopting the magistrates findings and recommendation. That Petitioner is Currently incarcerated on sentences for aggravated robbery/kid-napping which he does not challenge in this petition. The judge held that this ground alone is adequate to dismiss Petitioners petition because he is no longer "in Custody" under the Conviction he challenges in his petition. Citing Alaska v. Wright, 141 S.Ct. 1467, 209 L.Ed. 2d. 431 (2021).

The district Courts opinion is in conflict with the very case it cites and clearly established U.S. Supreme Court precedent. Where both Petitioners Current and expired Convictions are from State Courts. In Alaska v. Wright the Court Said Wright made a direct challenge to his expired State Conviction, where the 9th Cir. held that

§2254 was the proper mechanism "because Wright is not attacking the constitutionality of his federal conviction for failing to register as a sex offender in Tennessee; he is collaterally attacking the constitutionality of his predicate Alaska conviction for sexual abuse of a minor." The 9th Cir. reversed the district courts decision; in it's view Wright's state conviction was a necessary predicate to his federal conviction, 819 Fed. Appx 544, 545 (CA.9 2020).

9. The U.S. Supreme Court held that the Court of appeals clearly erred in Wrights petition. Section 2254(a) permits a federal Court to entertain an application for a writ of habeas corpus on behalf of a person "in custody pursuant to the judgment of a State Court." Citing Maleng v. Cook; quoting it made no difference they said that the possibility of a prior conviction enhancement had materialized for the habeas petitioner in that case: "When the second sentence is imposed, it is pursuant to the second conviction that the petitioner is incarcerated and is therefore in custody" id. at 492-493 109 S.Ct 1923. That Wrights State Conviction served as a predicate for his federal Conviction thus did not render him "in custody pursuant to the judgment of a State Court" under 2254(a). If Wrights second Conviction had been for a State Crime he independently could have satisfied §2254(a)'s "in custody" requirement. Wright could not satisfy §2254(a) on that independent basis for the simple reason that his second judgment was entered by a federal Court.

THE VIOLATION

10. The 6th and 14th amendment of the U.S. Const. guarantees Petitioner the right to effective assistance of counsel and a

fair trial. Said rights that cannot possibly be guaranteed if Court appointed Counsel and the trial Judge conspire to deceive Petitioner in order to induce him to plead guilty to a crime that at time of incident could not be tried under any State statute, based upon the charged information. Where Counsel and Court knew the charged offense was fraud. 4th amend, U.S. Const.

11. There was no arrest warrant issued by the Crime information Center prior to incident; that Petitioner's drivers license were current at time of incident with correct registered address; and Petitioner's mailing address was in compliance. The Court appointed Counsel never confered with Petitioner about the States evidence or whether or not he lived in Garland Co. before advising him to plea to a crime he didn't commit. Because the only way the Garland Co. Prosecutors office could have even come to know Petitioner, was by agreement with the Sebastian County prosecutors office. All Petitioner did was obtain an Identification card in Garland Co. with an incorrect address by mistake. See Ex's #4 thr 7. The Sebastian Co. Prosecutors office used the wrongful conviction to prejudice Petitioner with the public and potential jurors ahead of a planned malicious prosecution with intent to subject Petitioner to prison for the duration of his life because his prior conviction for 1st degree sexual abuse was sealed from public record on June 6, 2004.

AEDPA

12. The U.S. Supreme Court held in U.S. v. Kozminski 487

U.S. 931, 108 S.Ct. 2751 (1988). That absent change by Congress they hold that for purpose of criminal prosecution under § 241 or § 1584 the term "involuntary servitude necessarily means a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury or by the use or threat of coercion through law or the legal process. This definition encompasses those cases in which the defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion. The U.S. Supreme Court went further and stated their holding does not imply that evidence of other means of coercion or of poor working conditions or of the victims special vulnerabilities is irrelevant in a prosecution under these statutes. As they have indicated the vulnerabilities of the victim are relevant in determining whether the physical or legal coercion or threat thereof could plausibly have compelled the victim to serve.

13. The State of Ark. knowingly abused its judicial authority in effort to violate Petitioner's civil rights, with a systematic and clandestine conspiracy. 13th amend. U.S. Const. The AEDPA is unconstitutional because it allows a state like Arkansas to exclude Petitioner from the writ of habeas corpus by denying him access to a properly functioning criminal court.

MOTION FOR DISCOVERY / EVIDENTIARY HEARING

14. See Bracy v. Gramley, 520 U.S. 899, 117 S.Ct. 1793, 138 L.Ed.2d 97 (1997). Here the U.S. Supreme Court held that @ "before addressing whether Petitioner is entitled to discovery, his claims essential

elements must be identified" Petitioner in the present case has shown good Cause for appropriate discovery to prove his claims. The usual presumption that public officials have properly discharged their official duties has been Soundly rebutted here.

15. See Ex's #1-2 ① The charging statute doesn't match the Criminal information ② discovery of the Garland Co. Prosecutors Criminal file including affidavit for Warrant of arrest will show probable cause was in fact manufactured. ③ like wise Suspicion arose of Petitioner's involvement in a Ft. Smith Ark. robbery/Kidnapping after he was Stopped a month after this alleged incident by Ark. State Police; where items found in his possession appeared to be simular to those in the Ft. Smith robbery investigation and concealed from discovery. After they were submitted to the Ark. State Crime lab for DNA analysis ④. See Ex's # W-X. There was no DNA matching Petitioner to the robbery/kidnapping scene in Ft. Smith ⑤ See Ex's #A-B. Where Ft. Smith Police investigators used this fabricated DNA Search profile in an attempt to elicit a Confession. ⑥ See Ex's # C thr E. In spite of failed attempt Ft. Smith police proceeded with charges knowing the only evidence linking Petitioner to the crime Scene is fabricated. ⑦ See Ex's #F-Z8. And placed a detainer on him upon his release from prison on now expired sentence for failure to register ⑧ See Ex # T. Where just before a scheduled June 2, 2009 jury trial the Sebastian Co. public defender make a last minute request for Ark. State Crime lab data involving the State's DNA evidence. Where the Ark. State Crime lab provide a Complete file under (ASCL) Case No. 2007-012616 that included an evidence submission form; chain of Custody receipt and State match detail report. And on that same disc staff was ordered to download the "Sample Prep" image only for (ASCL) case No. 2007-018193 (excluding) the evidence Submission form; chain of Custody reciept and state match detail report. ⑨ See Ex # U. Where

17. See Slack v. McDaniel 529 U.S. 473, 120 S.Ct. 1595, 146 L.Ed.2d 542 (2000) Here the U.S. Supreme Court rejected the States contentions that because § 2253 (c) provides that a COA may issue upon the "substantial showing of the denial of a Constitutional right," only Constitutional rulings may be appealed and no appeal can be taken if the district Court relies on procedural grounds to dismiss the petition. In setting forth the pre-conditions for issuance of a COA under § 2253, Congress expressed no intention to allow trial Court procedural error to bar vindication of substantial Constitutional rights on appeal. The Court went on to state that this Conclusion follows from AEDPA's present provision which incorporate earlier habeas Corpus principles. Under Barefoot v. Estelle, 463 U.S. 880, 894, 103 S.Ct. 3383, 77 L.Ed.2d 1090, a substantial showing of the denial of a right includes showing that reasonable jurist could debate whether (or for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further. 463 U.S. at 893 and n.4, 103 S.Ct. 3383 - pp. 1603-1604

18. Petitioner has demonstrated that reasonable jurist could conclude that the Court of Appeals order was wrong. Whether Petitioner is otherwise entitled to issuance of a COA on the merits of his claims is a question that should be resolved first upon remand for a full adequate evidentiary hearing.

DUE PROCESS

19. The Petitioner submitted ample reliable evidence of factual innocence and civil rights violations.

20. Refusal to remand the case back to the district Court to Conduct discovery and hold adequate evidentiary hearing is prejudicial and denial of procedural due process and equal protection under the law.

CONCLUSION

The petition for a writ of certiorari should be granted

Respectfully Submitted,

Anthony B. Williamson #109343

Date: 6-2-22