

No. 22-5106JUNE 28, 2022

ORIGINAL

Supreme Court, U.S.  
FILED

JUL 01 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

HALVIN LAMAR WASHINGTON — PETITIONER  
(Your Name)

VS.

STATE OF MICHIGAN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

MICHIGAN SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

HALVIN LAMAR WASHINGTON  
(Your Name)1500 CARRIAGE HWY  
OAKS CORRECTIONAL FACILITY  
(Address)MANISTEE, MICHIGAN 49660  
(City, State, Zip Code)(231) 723-8278  
(Phone Number)

## QUESTION(S) PRESENTED

- I. CAN THE STATE OF MICHIGAN VIOLATE THE PROTECTION AGAINST A SECOND PROSECUTION FOR THE SAME OFFENSE AFTER ACQUITTAL BY RELITIGATING THE ACQUITTAL EVIDENCE UNTIL CONVICTION AFTER THREE JURY TRIALS IN TWO DIFFERENT COURTS AND COUNTIES IN THE STATE OF MICHIGAN WHERE THE FIRST TRIAL WAS THE ACQUITTAL
- II. ARE STATE COURTS CONSTITUTIONALLY REQUIRED TO APPLY PRINCIPLES OF COLLATERAL ESTOPPEL IN CRIMINAL CASES ... IF THE PROTECTIONS OF THE DOUBLE JEOPARDY CLAUSE HAVE BEEN TRIGGERED BY A PRIOR PROCEEDING

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**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

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| <u>BENTON V. MARYLAND</u> , 395 U.S. 784, 794 (1969)               | 3. |
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## STATUTES AND RULES

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| <u>28 U.S.C § 2243</u>       | 4. |
| <u>MCR 3.303 (Q) (5)</u>     | 4. |
| <u>MCL 750.520 d (1) (b)</u> | 4. |

## 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 6 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☒ is unpublished.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 A to the petition and is

☒ reported at ORDER OF ACQUITTAL (First-trial); or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the ORDER OF CONVICTION (Second-trial) court appears at Appendix B to the petition and is

☐ reported at APPENDIX-C, D, E, F.; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

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## JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was FEB. 07, 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: \_\_\_\_\_, 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 JANUARY 04, 2022  
A copy of that decision appears at Appendix: Appendix.

☒ A timely petition for rehearing was thereafter denied on the following date: April 05, 2022, and a copy of the order denying rehearing appears at Appendix F.

☐ 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

It is well-settled that the Fifth Amendment's Double Jeopardy clause, made applicable to the states through the Fourteenth Amendment, see Benton v. Maryland, 395 U.S. 784, 794, 89 S.Ct. 2056, 23 L.Ed. 2d 707 (1967), "protects against a second prosecution for the same offense after acquittal."

This court has established that the doctrine of collateral estoppel is included in the constitutional prohibition against double jeopardy. See Aghe v. Swenson, 397 U.S. 443, 448-46, 90 S.Ct. 1189, 25 L.Ed. 2d 469 (1970). Smith v. Dimmock, 510 F.3d 1180, 1186 § 87 (10th Cir. 2007).

## U.S. Const. amend. V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

## U.S. Const. amend. XIV § 1

All person born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state 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 laws.

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## STATEMENT OF THE CASE

ON 6-27-03, the state of Michigan issued a charging writ of Habeas Corpus where the trial court moved to order petitioner to be returned back to Wayne county for jury trial. From Oakland county sheriff Personnell, who responded by bringing petitioner forth in case file no. 2003-4019-FC, where he was placed on trial August 13th, 2003 for the alleged criminal offense in the city of Hazel Park, Michigan on February 9th, 2003 by complainant witness Terri Dowd (B.F. 16). (MER 3.303(a)(5))

However, the state prosecutor Lori Dawson (P-40665) went on record to inform the court that she made changes in the jury instructions that she wanted the court to instruct them right after to testimony of its complainant witness Terri Dowd [See: T.T. Aug. 13, 2003 pg. 107-109 attached in Appendix - A]. [28 U.S.C § 2243].

Further, the court instructed the jury that they have to decide who committed the crime that the defendant is charged with, ~~before~~ and that the defendant engaged in nonconsensual sexual activity with the complainant, before making this final statement: ALL THE EVIDENCE MUST CONVINCE you beyond a reasonable doubt that the defendant committed this alleged crime, or you must find him not guilty. And I will repeat this. [SEE: August 13th, 2003 pg. 163-164].

Appendix-A will show this court the third judicial circuit court judge entered acquittal order in petitioner favor after the jury declared with its not guilty verdict that petitioner is not the person who committed this crime in the city of Hazel Park Michigan on February 09, 2003 and nor did he engage with nonconsensual sexual activity with the complainant. [See: Court order of acquittal dated Aug. 20th, 2003 pg. 163-164 entry].

ON April 02, 2004 the state of Michigan took petitioner to the sixth judicial circuit court in case no. 2003-190459-TH, and retried him in two additional jury trials before he was found guilty. ON April 27, 2004 of the same acquittal evidence from first case, and appeals followed up to the Michigan supreme courts and rehearing was denied April 5th, 2004. MCL 750.520 d(1)(b).

## REASONS FOR GRANTING THE PETITION

On August 20, 2003 the Wayne County Jury declared that petitioner is not the person who committed this crime on Feb. 9th, 2003 in the city of Hazel Park, against the complainant witness TIRNI Dowl, before the state of Michigan violated the protection against a second prosecution for the same offense after acquittal, which triggered more protections under the collateral estoppel doctrine that barred the second court's Retrial April 06, 2004.

Furthermore, without a court order reversing the acquittal order, the state of Michigan must recognize that ~~at~~ the time of its judgment in case NO 2003-190439-FH, it had NO jurisdiction to rendered the second verdict, because the acquittal itself triggered a multitude of protections from the 5th and 14 amendment to the constitution of the U.S..

RELIEF REQUESTED

Appendix - A, is the acquittal proceeding dated august 20-03 is a final judgment of acquittal and can not be over ruled by the state with out a court order appeal reversing that verdict, which the state violated and must be barred from making any more violations towards other citizens with these inconsistant verdicts.

Respectfully, Thank this  
Court for this opportunity

Petitioner Requesting Release... from all custody and control by the Oakland County Sixth Judicial Circuit Court for any and all claims relating to the alleged February 9th, 2003 criminal complaint in case NO 2003-190459-~~TH~~, based upon the third judicial circuit court order of acquittal in case NO. 2003-4019-FC.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kalvin Ramez Washington

Date: JUNE 28, 2022

#### PROOF OF SERVICE

I certify that I served the opposing party with a copy of this said document by placing in prison staff hands to be mailed out to the parties last known address

KRW/  
ccs file  
attorney General

Respectfully Submitted  
Kalvin Ramez Washington

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