

22-5155

ORIGINAL

UNITED STATES OF AMERICAN
UNITED STATES SUPREME COURT

Supreme Court, U.S.
FILED

APR 07 2022

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DONALD R. WILLIAMS
PETITIONER

CIVIL ACTION:
NO: _____

VERSUS

FILED: TPR/L, 22

STATE OF LOUISIANA, ET AL
RESPONDENTS

CLERK

APPLICATION FOR WRIT OF HABEAS CORPUS
FROM THE FIFTH CIRCUIT JUDGMENT DENYING
LEAVE TO FILE A SECOND WRIT UNDER DOCKET NO:
22-3000,30

Donald Williams

Donald Williams #93824
Louisiana State Penitentiary
Angola, La., 70712

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QUESTIONS FOR REVIEW

1) Whether the facts of Cockerham and Petitioner Williams are exactly the same for purpose of out of time appeal and application of Cage to their conviction and sentence.

In Cockerham v. Cain, 283 F. 3d 657 (5th Cir. 2002).

2) Whether petitioner has showed "caused and prejudice to obtain evidentiary hearing in Federal habeas court.

In Keeney v. Tamayo- Reyes, 504 U. S. 1 (1992).

3) Whether 930.8 applies to petitioner claim of ineffective assistance of counsel in Martinez v. Ryan, 132 S. Ct. 1309, 182 L. ed. 2D 272 (March 2012)

INTERESTED PARTIES

1) **Jason Williams**

 District Attorney

 619 So. White St.

 New Orleans, La., 70119

2) **Jeff Landry**

 Attorney General

 La. Dept, of Justice

 P. O. Box 94095

 Baton Rouge, La.,

3) **Laurie White- Judge**

 Criminal District Court

 2700 Tulane Ave

 New Orleans, La., 70119

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Anders v. California, 18 L. ed 2d 493, 386 U. S. 738 (May 8, 1967)

Cage v. Louisiana, 498 U. S. 39, 111 S. ct., 388 1112 L. ed. 339 (1990)

Martinez v. Ryan, 566 U. S. 1

Madison v. Ward, 825 So. 2D 1245 (La. App. 1 Cir. 2002 (enbanc)

Cockerham v. Cain, 283 F. 3d 675 (5th Cir. 2002)

Comier v. State, 680 So. 2D 1168 (1990)

La. C. Cr. P. Article 814 ©

State v. Brown, 214 La., 18, 36 So. 2D 624 (1940).

Neder v. U. S. 527 U. S. 1-7 (1999)

Idho v. Wright, 496 U. S. 805, 822 (1990)

Jackson v. Virginia, 443 U. S. 307 (1979)

State v. Knowles, 392 So. 2D 651 (La. 1980)

State v. Cooded, 448 So. 2D 100, 102 (La. 1984)

Bounds v. Smith, 430 U. S. 817 (1979)

Casey v. Lewis, 518 U. S. 343 (1996)

LSA C. Cr. P. Art. 804

JURISDICTION

Jurisdiction of this court is invoked pursuant to Article III of the constitution of the United States 28 U. S. C. 1251 and 1651 (A)., since this petition is being filed within 90 days of the March 2, 2022 mandate denying leave to file a second successive writ of habeas corpus under docket number 22-300,30 U. S. 5th Cir.

STATEMENT of the Case

The defendant David Williams stated he was ~~drinking~~ wine, smoking marijuana with friends earlier that afternoon when he met Mr. Carter at Mr. Lane apartment 3/34 Thacker Ave. His friends soon left then alone. Mr. Carter expressed the desire to finish partying and proceeded with the defendant to the 1833 Outcrop St. Apartment. Upon arriving both listened to music and smoked marijuana. Mr. Carter then undressed and performed consensual sex with the defendant.

Reason For Granting Writ

The issue of Donald Williams attorney Craig Covert not appearing Donald Williams case is really a part of Donald Williams ineffective assistance of counsel argument. ~~Petitioner~~ Donald Williams attorney Craig Covert never were furnished a transcript of petitioner Donald Williams trial. That is a must for consideration of Direct Appeal AN post-conviction relief

To prevail on appeal, Williams
was required to show that the state
court decision: (1) was contrary to
or an unreasonable application of
clearly established federal law, or
(2) was based on an unreasonable
determination of the facts.

28 U.S.C. § 2254 (d). A state court
decision is contrary to "federal law"
when it applies a rule different from
that set forth by the U.S. Supreme Court
or if it decides a materially substan-
tial issue differently than the
supreme court.

Williams v. Taylor, 529 U.S. 362
(2000).

Habeas ~~petitioner~~ Need n/y
show that the claims are
substantial to excuse procedural
Default under ~~maxine~~.

Donald Wilkins petitioned the fifth
circuit court to file a second
successive writ of habeas corpus
for purpose of out of time direct
appeal. That petition was denied
without allowing discovery, holding an
evidentiary hearing or engaging in a
~~maxine~~ v. Ryan, 366 U.S. 1,
ing u s 11.

The Fifth Circuit court denied writ of habeas corpus out of line direct appeal March 2, 2019 No. 22-30030 Williams IAC claims were procedurally defaulted, and denied relief. The Supreme Court of the United States (Scotus) in ~~MAJINER~~ established an equitable exception for those who have IAC claims that are procedurally defaulted. Scotus in that case ruled that the absence of effective assistance of counsel at an initial review collateral proceedings can establish cause to excuse a petitioner's procedural default of substantial claims.

Williams argued to the Fifth Circuit that he could show cause and prejudice as required by Martinez. IN order to excuse a procedural default, Martinez requires a petitioner to show

- (1) that his ineffective assistance of trial counsel claim is substantial. (2) that he had no counsel during his state collateral review proceeding or that his counsel during that proceeding was ineffective under the standards of Strickland v. Washington, 466 U.S. 688 (1984);

(3.) That the State Collateral
~~Review~~ proceeding was the ~~initial~~
~~Review~~ proceeding with respect to
the ineffective assistance of
trial counsel claim, and (4) that
state law requires ineffective
assistance of trial counsel
claims to be raised in ~~initial~~
~~Review~~ collateral proceeding.

LOUISIANA HAS REQUIRED
PRISONERS to raise the claims
for the first time in initial/
review collateral proceedings, without
noted the court proceeds without
counsel during his initial review
collateral proceeding. Thus, he
was not required to show prejudice
but instead only had to show that
his IAC claims were substantial.
The failure to conduct a ~~margin~~
~~analysis~~ prevented the fifth
circuit court from making a finding
on whether or not the claims of
IAC were substantial.

ANA/4259 the record as to
trial counsel's failures, the court
will find that on the present record
it could not conclude that Williams
etc claims were meritless with
regards to Strickland's first
prong of deficient performance.

As a result of the fifth circuit
court's failure to allow discovery
or hold an evidentiary hearing, the
evidence in the fifth circuit court
record was far too limited for the
court to conclusively evaluate
the ~~substantivity~~ ^{substantivity} of Williams
claims.

Accordingly, the court remanded
the case with instructions to the
fifth circuit court,

Respectfully Submitted

Donald Williams

Don't be W/A #93824

bxp 10/9/9, b9. 10 1/2

CERTIFICATE OF SERVICE

Donald Williams #93824 hereby certify that a copy of the foregoing application for Writ of Habeas Corpus has been served upon all parties.

A handwritten signature in cursive script, reading "Donald Williams", is written over a horizontal line.

Donald Williams #93824
General Delivery
Louisiana State Penitentiary
Angola, La., 70712