

MAR 19 2022

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22-5380

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Wallace A. Gardner — PETITIONER
(Your Name)

vs.

Dexter Payne, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Wallace A. Gardner
(Your Name)

Varner unit - P. Box 400 - Grady, Ark. 71644
(Address)

Grady, Ark 71644-0600
(City, State, Zip Code)

(870) 575-1800
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- (1) Is the U.S. Constitution the Supreme Law of the Land, especially Amendment 5?
- (2) Why wasn't it applied to my case?
- (3) Why wasn't each element I was accused of, and charged - then convicted of at a jury-trial proven?

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

- (1.) wallace A. Gardner v. state - CR 2004-1077
Judgment entered September 29th 2004
- (2.) wallace A. Gardner v. state - CR 2005-472
Judgment - January 5, 2006
- (3.) wallace A. Gardner v. state - CV-20-110
Judgment entered on April 14, 2021 ✓
- (4.) wallace A. Gardner v. state - CV-21-221
Judgment entered on February 17, 2022

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INDEX TO APPENDICES

APPENDIX A	Decision of state court.
APPENDIX B	Decision, Order/Response to petition for rehearing
APPENDIX C	Decision/opinion denied by state court.
APPENDIX D	Decision/acknowledge of receipt by state court.
APPENDIX E	Decision denying motion for counsel.
APPENDIX F	Decision denying state court appeal.

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Johnson v. State</u> , 194 Ark. 133 (1939)	# 5.
Arkansas Constitution -	# 5.
U.S. Constitution	# 5.
Wallace Gardner v. State, (2006)	# 4.

STATUTES AND RULES

Rule 39.

Rule 14.

Rule 14.4(i)

Rule 29.5.

Rule 14.5

OTHER

Appendix A.-F. attached. pages(1-9.)

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 A to the petition and is Pages (1-3.)

- ☒ reported at Gardner v. State, No. CR 05-472 (2006); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Arkansas Supreme court appears at Appendix A-B to the petition and is

- ☒ reported at Wallace Gardner v. State - No. CR 05-472; 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 2007.

☒ 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 02/17/2022.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied 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 Appendix C (date) on 3/30/2022 (date) in Application No. A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

^a The constitutional provisions, treaties, statutes, ordinances and regulations are set out in appendix C. which include the entire history of the petition.

STATEMENT OF THE CASE

The trial court Erred in Denying Petitioners Direct Verdict because it Failed to prove the elements of each charge I was convicted of (1.) Capital Murder (2.) aggravated Robbery... The evidence in this case required a grand-jury Process, because in this case all the state had was an accomplice testimony, but even it failed because no other evidence tended to connect me with the commission of the offenses, in the case of Wallace Gardner v. State of Arkansas, 364 Ark. 506, 221 S.W.3d 339 (2006).

REASONS FOR GRANTING THE PETITION

This great Court of The United States of America should grant This Petition, because (1.) In The case of Johnson v. State, 199 Ark. 146 133 S.W.2d 15 (1939).

On The last page In it's opinion, even The state Court knew it wasn't authorized: "It is true That Section 10885 of Pope's Digest authorizes deputy prosecuting attorneys to file information but we do not think That The passage of This law was justified or authorized by Amendment No 21 to The Constitution, above set out. Therefore, Petitioner ask This Court to review his appeal, and understand both constitutions state and U.S. Constitution especially U.S. Const- Amendment 5- which clearly states That: "No person shall be held to answer a criminal charge unless on The presentment or indictment of a Grand jury. . . . Petitioner, ask This Court to reverse and Remand This Case back to The Lower State Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Wallace A. Gardner

Date: 4/13/2022

(b.)