

22-5413

IN THE SUPREME COURT OF THE UNITED STATES

TERM 2021

NO.

RODERICK TAYLOR

PETITIONER

VERSUS

NO.

BURL CAIN, Commissioner Of Corrections

RESPONDENT

ORIGINAL

Supreme Court, U.S.
FILED

MAY 23 2022

OFFICE OF THE CLERK

PETITION FOR WRIT OF CERTIORARI

Petitioner, Roderick Taylor, respectfully prays that a Writ of Certiorari issue to review a judgment and decision of Mississippi Supreme Court which denied his Post Conviction Collateral Relief Motion that presented fundamental issues of importance relating to his convictions and refusing to grant petitioner relief from his sentence that which is not supported by the evidence of the trial record of his case.

OPINIONS BELOW

I.

The Mississippi Supreme Court entered an Order on February 22, 2022, in Cause No. 2021-M-01364, denying relief from Taylor's motion for reconsideration of his Post Conviction Collateral Relief Motion and/or in alternate grant permission to Proceed to the United States Supreme Court upon Writ of Certiorari. Notice of the order was received by your Petitioner March 14, 2022. The final order rendered by the Mississippi Supreme Court, entered on February 22, 2022, is attached hereto as SEE ATTACHMENT..

QUESTIONS PRESENTED FOR REVIEW

WHETHER MISS. CODE ANN. 99-39-21 WAS UNREASONABLY USED THE BAR TO PETITIONER'S FUNDAMENTAL ISSUES OF SEVERE IMPORTANCE THAT WHICH REVOLVES AROUND FEDERAL TREATIES

WHETHER THE UNITED STATES CONSTITUTION AND OTHER FEDERAL TREATIES CITED IN THE PETITIONER'S STATE FILINGS PROHIBIT THE CONVICTION OF AN ACCUSED WHERE THE TRIAL RECORD FAILS TO SUPPORT THE CONVICTION AND SENTENCE

WHETHER APPELLATE'S COUNSEL FAILURE TO RAISE THE ISSUES PRESENTED THEREIN HIS MOTION FOR POST CONVICTION COLLATERAL RELIEF, INCLUDING THE ISSUES RELATING TO THE SUFFICIENCY AND WEIGHT OF THE EVIDENCE ON DIRECT APPEAL HAS RESULTED IN THE ISSUES BEING PROCEDURALLY BARRED, UNDER CIRCUMSTANCES WHERE IN THE ISSUES WOULD HAVE WARRANTED RELIEF HAD THEY BEEN PRESENTED IS SUFFICIENT IN ITSELF TO MEET THE STANDARDS OF STRICKLAND V. WASHINGTON

A. JURISDICTION

a) The Petitioner received his first notice that the Mississippi Supreme entered an Order denying relief from his motion for reconsideration of his Post Conviction Collateral Relief Motion and/or in alternate grant permission to Proceed to the United States Supreme Court upon Writ of Certiorari. Notice of the order was received by your Petitioner March 14, 2022. SEE ATTACHMENT.. attached hereto. Until this date the Mississippi Supreme Court has failed to grant or deny the Petitioner's request to proceed to this Honorable Court.

b) This Court's jurisdiction is invoked pursuant to 28 U.S.C. §1257(a).

B. THE PARTIES

a) The Petitioner is Roderick Taylor. who is confined at the South Mississippi Correctional Institution in Leakesville, Mississippi. Petitioner is indigent and proceeding pro se.

b) The Respondent is Burl Cain. Commissioner of Corrections/State of Mississippi.

C. STATEMENT OF CASE

1. Roderick Taylor was convicted, following a trial, in the Circuit Court of Hinds County, Mississippi, before Honorable Jeff Weill, Circuit Court Judge, presiding, for the offense of Aggravated Domestic Involvement and sentenced to serve a life sentence, without the possibility of parole, in the custody of the Mississippi Department of Corrections. The victim testified at trial that the Petitioner was not the person who had assaulted her in the presence of the jury. No other witness testified that they had witnessed the victim being assaulted by the Petitioner. He still presently stands convicted for the offense(s) and is currently serving a life sentence without the possibility of parole.

2. Taylor initially appealed to the Mississippi Supreme Court on direct appeal

which affirmed his convictions and sentences. Your Petitioner then timely presented his Post Conviction Collateral Relief Motion, specifically addressing his fundamental issues that which were afforded poor or no reasonable consideration at all. The state court declined to afford the Petitioner any redress of his fundamental issues of severe importance and yet rejected the consideration of the issues pursuant to the Mississippi procedural bars and/or appellate counsel's failure to present the issues on direct appeal.

3. Taylor's post-conviction motion has been denied in the State Court in absence of any consideration of his federal issues that were presented being considered. The issues hold merit on a federal basis and at minimal should warrant a reasonable consideration. No bar should be allowed to supersede the consideration of certain federal issues. This lies so especially when the issues are timely presented and clearly revolve around substantial Federal Treaties of Law. Federal Rules Crim.Proc. 52(b), U.S.C.A. 5th,6th,14th.

D. ISSUES AND ARGUMENT

Petitioner had respectfully moved the Mississippi Supreme court to reconsider it's opinion, with the 1st, 5th, 6th, 8th, 14th Amendments of the United States Constitution and the Federal Rules of Evidence in support thereof. The highest State Court entered it's order denying the Motion for Leave to Proceed in the Trial court, including the asserted request for the court to take judicial notice pursuant to Federal Rule of Evidence, Rule 201. The Petitioner's Post Conviction Collateral relief Petition and request to proceed in the trial court upon his petition was timely asserted. The issues of whether trial counsel was ineffective for his failure to raise issues detrimental to the outcome of his appeal is material and a substantial guarantee afforded by the fundamental aspects of our United states constitution. *Evitts V. Lucy*,

That the issues presented therein the petition including the request for the relief pleaded before the State court was reasonable under the circumstances and the issues are supported by the Federal Constitution and other Federal treaties, including, but not limited to, Federal rule of evidence, Rule 201.. The 1st Amendment United States Constitution guarantees the accused the right to petition the court's for redress. No procedure bar asserted on the face of the order supersedes this fundamental right under circumstances wherein there has clearly been a fundamental miscarriage of justice. The 5th and 14th Amendments of Our United States Constitution guarantees the Petitioner the right to have his petition filed in the same fashion as that of other Petitioner's, including to have his petition reasonably considered and to be afforded the appropriate relief. The issues presented in this action resolved around issues of fundamental importance and should have been granted a fair opportunity to be heard by the trial court, and/or at minimum should have entitled the Petitioner for the court to make it's determination in light of taking judicial notice to the presented issues at hand that would warrant an reversal and rendering of the convictions and sentences imposed.

That the court's have the discretion to take judicial notice of such issues at the request of the parties including upon it's own desire to do so upon the issues so designated and that the failure of direct appeal counsel to raise issues that would obviously warrant relief upon the Petitioner should not bar consideration of the issues under the appropriate circumstances. The court order reflects that the issues presented were denied because they were either raised on direct appeal or were capable of being raised on direct appeal relying on Miss. Code Ann. 99-39-21 and that they further lacked merit pursuant to state procedural bars although the issues presented several issues of fundamental importance. The brief of the Appellant asserted by counsel on direct appeal does not reflect any of the issues presented in the Petitioner's Post-conviction collateral Relief. SEE ATTACHMENT.. To allow the convictions to stand under the facts and circumstances of the record creates injustice for the verdicts rendered are not supported by the record of this case. Under all circumstances an accused should not be held in the custody upon charges that the evidence of the trial record has failed to meet the essential elements of the offenses that he/she has been convicted of, and that failure of counsel to present such issues timely should not warrant the Petitioner remaining convicted pursuant to bars that the state has designed that require that counsel present the issues timely. An ineffective assistance of counsel claim wherein the Petitioner can show from the facts of his record that evidence is insufficient and that the record is clear that counsel on direct appeal has failed to

present any issues contesting the sufficiency of the evidence, the prejudice is obvious if after evaluating such issues the record does not support such convictions and sentences. Miss. Code Ann. 99-39-21 does not supersede the right to petition the court's for fundamental redress pursuant to the 1st U.S.C.A., including to have his/her petition filed in the ordinary fashion and to be reasonably considered.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

By: 
RODERICK TAYLOR, #59528
S.M.C.I.
Post Office Box 1419
Leakesville, MS 39451

IN THE SUPREME COURT OF THE UNITED STATES

.....TERM 2021

NO. - - - - -

RODERICK TAYLOR,

PETITIONER

VS.

STATE OF MISSISSIPPI ,

RESPONDENT

PETITION FOR WRIT OF CERTIORARI

TO THE SUPREME COURT OF THE STATE OF MISSISSIPPI

PROOF OF SERVICE

I, Roderick Taylor, do swear or declare that on this date, May 23, 2022, I have served the attached Motion for leave to Proceed in Forma Pauperis and Petition for Writ of Certiorari on each party to the above proceeding, or that party's counsel, and on every other person required to be served by

depositing an envelope containing the above documents in the United States mail properly addressed to each of them with first-class postage prepaid.

Honorable Lynn Fitch
Attorney General
P. O. Box 220
Jackson, MS 39205-0220

Solicitor General
Department Of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 23rd, May 2022.


RODERICK TAYLOR, #59528
S.M.C.I.
P.O. Box 1419
LEAKESVILLE, MS 39451

IN THE SUPREME COURT OF THE UNITED STATES

TERM2022

NO. _____

RODERICK TAYLOR

PETITIONER

VERSUS

NO. 2021-M-01364

BURL CAIN, Commissioner Of Corrections

RESPONDENT

**MOTION TO ENFORCE THE MAILBOX RULE AND/OR IN ALTERNATE FOR
OUT OF TIME APPEAL**

COMES NOW, Petitioner in the above styled and numbered cause respectfully moves this Honorable court to enforce the mailbox rule and/or in alternate to grant an out of time appeal, with the 1st, 5th, 6th, 8th and 14th Amendments of Our United States Constitution and Federal Rule of Evidence Rule 201. in support thereof and the following reasons, to wit;

I.

Per the court's order issued denying the consideration of the Petitioner's Petition for Writ of Certiorari, the order entered by the clerk/court was received by the Petitioner on or about June 14, 2022. The order was postage marked for June 9, 2022, eight day's following the mailing of the document.

II.

That the Petitioner had previously observed that the mail that he had been forwarding to his family and other love ones had been greatly delayed and that some in fact had not been delivered as a result of being lost for some other unidentified reason due to the conditions of his confinement at the South Mississippi Correctional Facility.

III.

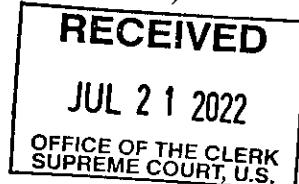
That upon receiving the copy of the Petition from the United States Supreme Court Clerk and drafting the Petition your Petitioner obtained two copies for the limited purposes of ensuring that the Petition was received by the clerk of the court. Your Petitioner drafted two original duplicates of the Petition for Writ of Certiorari and signed the both of them.

IV.

That on or about May 23, 2022, your Petitioner received his Financial Authorization form back from the authorized official and placed his Petition(s) in the inmate mailing system that night. He mailed one to the clerk of the United States Supreme Court and the other to his cousin to have it mailed to the Court just in case the inmate mailing system failed him again. Your Petitioner instructed his cousin that unless he was advised otherwise by him prior to receiving the Petition that he should mail it to the United States Supreme court clerk.(SEE EXHIBIT A)

V.

On the night of June 1, 2022 the Petitioner's cousin notified him that he had received the documents earlier that afternoon and that he had mailed them to the parties as instructed.(SEE EXHIBIT B)



VI.

That the copy of the petition mailed to the clerk of the court by the Petitioner from the South Mississippi Correctional Facility was not received and that the inmate mailing system has resulted in the delay of the document(s) submission.

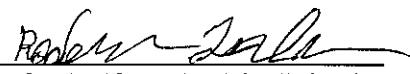
VII.

That the petition is actually innocence and that it is supported by the trial record in his case, including but not limited to issues presented therein his Petition for Writ of Certiorari. That the issues presented resolve around clearly established federal law.

VIII.

That under the facts in circumstances of this case the Petitioner should be entitled to have his Petition be accepted as a timely submission and that the Court should take judicial notice of the issues that are apparent from the record of this case in the interest of preventing a miscarriage of justice.

WHEREFORE, PREMISES CONSIDERED, Petitioner is mailing two original copies of this motion, one to the clerk and one to his cousin in case the document is once again not mailed by the institution of his housing and respectfully prays this Honorable Court accept his filing as being timely submitted.



RODERICK TAYLOR#59528

RODERICK TAYLOR#59528
S.M.C.I.
POST OFFICE 1419
LEAKESVILLE, MISSISSIPPI 39451

CERTIFICATE OF SERVICE

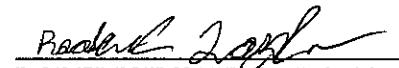
I, Roderick Taylor, hereby certify that I have on this date via U.S. Prepaid mail a true and correct copy of the above and foregoing Motion to Enforce the Mailbox Rule and/or in alternate for Out of Time Appeal to:

U.S. Supreme Court Clerk
First Street NE
Washington, DC. 20543

Honorable Lynn Flicht
Mississippi Attorney General
P.O. Box 220
Jackson, Mississippi 39205

Solitor General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC. 20530

THIS, the 20th day of June, 2022.


RODERICK TAYLOR#59528

RODERICK TAYLOR#59528
S.M.C.I.
POST OFFICE 1419
LEAKESVILLE, MISSISSIPPI 39451