

22-5428

In the United States Supreme Court

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Norman Pryor : Original Case No. : 2016 CR 1548;
v. : Original Extraordinary Writ Case No. :
Warden : (Prohibition) 2017-CA-00023 (Mandamus
: 2017CA00033 (Quo Warranto) 2017-CA-00029
: Appeal Case No. : 2017CA00121;
: 2017CA00122; 2019CA1438; 2019CA0762
: 2020CA00172; 2020CA00122; 2021CA0164
:
: Habeas Corpus case No. : 5:20CV2863;
: 6TH Circuit Appeal Case No. : 21-3908
:
: "On petition for Writ of Certiorari to
: the United States Supreme Court of Appeals"

Petition For Writ of Certiorari

(propria persona)

Norman Pryor 700-536
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(Consul of Record)

Questions presented for Review

- If when the petitioner Initially requested a Habeas Corpus petition (during pre-trial proceedings) On the record to retained Counsel and counsel stated: "He never did Habeas Corpus work and that I would have to contact an attorney that does" (Dec. 11, 2016 Transcript PG ID# 673); and was denied a Habeas Corpus petition It constituted plain error, or an exception to the limitations requirement set in the 28 U.S.C. § 2244?
- If when the petitioner after receiving the Denial of his appeal, being placed on Suicide watch and having all of the petitioners belongings confiscated including legal-mail, and the prison law library protocols being changed due to COVID-19 constitute an exemption for Mental health as found in McSwain v. Davis 2006 U.S. Dist. LEXIS 32286 at *6; Ata v. Swift, 662 F.3d 736; Drope v. Missouri, 420 U.S. 162 (See Appendix "Informal Complaint" attachment² Attachment on record of case No. 5:20 CV 2863) or Subject to plain Error or Equitable tolling of 28 U.S.C. § 2244?
- If the trial court erred in failing to reappoint full-time Counsel during the petitioners competency hearing of which standby Counsel stated on the record he did not go over the findings of the evaluation with the petitioner. Nor did standby Counsel investigate the petitioners mental health background or express any opinion on the petitioners competence. See Transcript PG ID # 677-683?
- If the court had a financial interest In the petitioners conviction due to the conviction being Mortgaged?

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APPENDIX

- Transcript Page ID # Contents guide
T-ID #673 Dated Dec. 16, 2016 — T-ID #635 Dated
May 18, 2017
- Original Complaint for notice change of address
- Original Complaint for Rape
- Original U.S. Marshals arrest report
- The Court of Appeals for Stark County, OHIO fifth
appellate District Judgment entry to CASE No. 2017CA00122
- The Court of Appeals for Stark County, OHIO fifth appellate
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- The court of Appeals for Stark County, OHIO fifth appellate District judgment entry to CASE No. 2017CA00033
- The Court of Appeals for Stark County, OHIO fifth appellate District judgment entry to CASE No. 2017CA000121 (26B)
- United States District Court, Northern District of OHIO "order" of petitioners request to proceed in forma pauperis
- United States Court of Appeals for the Sixth Circuit "order"
- In the Court of Appeals for Stark County, OHIO fifth appellate District for judgment entry to CASE No. 2020CA00172
- The Supreme Court of Ohio judgment entry to case No. 2019-1438 (State of Ohio v. Norman L. Prior) [Motion for delayed appeal] Justice Donnelly J. Dissenting) from CASE No. 2017CA00122
- In the Court of Appeals for Stark County, OHIO fifth appellate District judgment entry to CASE No. 2017CA00122 (26B)
- Court of Appeals for Stark County, OHIO fifth appellate District judgments entry to CASE No. 2017CA00122 (Direct Appeal)
- Court of Common Pleas Stark County, OHIO judgment entry and Sentence to CASE No. 2016-CR-1548
- In Stark County Court of Common Pleas, motion for request for appropriation of funds, CASE No. 2016-CR-1548
- Informal Complaint resolution/correspondence between the petitioner and administration in regards to legal-mail property and the petitioners continued suicide watches.

Table of Authorities

Cases

McSwain v. Davis 2006 U.S. Dist. LEXIS 32286

Ata v. Scutt, 662 F.3d 736

Drope v. Missouri 420 U.S. 162

State v. Hand 149 Ohio St. 3d 94

Ake v. Oklahoma 470 U.S. 68

State v. Ayers 185 Ohio app. 3d 168

United States v. Martin, 608 Fed. appx. 340

State v. Logan, 60 Ohio St. 2d 126

Melendez-Diaz v. Massachusetts 557 U.S. 305

Bullcoming v. New Mexico 564 U.S. 647

Lafler, 132 S. Ct. 1376

Frye, 132 S. Ct. 1399

Padilla v. Kentucky 559 U.S. 130 S. Ct. 1473

William v. Illinois, 567 U.S. 50

State v. Thomas, 152 Ohio St. 3d 15

Statutes - other Authorities

Kidnapping R.C. 2905.01 (A)(2); (A)(3); (A)(4)

3 Rape R.C. 2907.02(A)(2)

Felonious Assault R.C. 2903.11(A)(2)

Failure to change address R.C. 2905.01

- If the trial court committed reversible error when it used a juvenile adjudication to sentence the petitioner to mandatory time under 2929.13(E) which was held unconstitutional in State v. Hand 149 Ohio St. 3d 94 See Transcript Pg ID #635?
- If the court committed Double Jeopardy when, After instructing the jury "before it can find the defendant guilty of kidnapping it must first beyond a reasonable doubt find the defendant guilty of Rape and/or felonious assault..." but sentenced the petitioner consecutively? See Transcript Pg ID # 639 & 640
- If the trial court violated petitioner's right to confront the witnesses against him (6th Amendment) by allowing two Analysts that did not do the testing of the petitioner's DNA to testify about the testing of the Petitioner's DNA See Transcript Pg ID # 647, 648, 649, 645; Also allowing hearsay testimony of the non-testifying witness Mr. Rowlands. See Transcript Pg ID # 653
- If the trial court erred in failing to address illegal arrest in Atlanta GA. proof of which is provided (See Appendix for Original Time-stamped Complaints & U.S. Marshals arrest report) the 675 Complaints are time-stamped after the initial arrest? T-Pg ID # 669
- If the trial court abused its discretion when it denied the defendant appropriation of funds for testing of the DNA See Appendix for Motion for appropriation of funds; Transcript Pg ID # 665, 667, 668. Which was held a Constitutional violation in Ake v. Oklahoma 470 U.S. 68, State v. Ayers 185 Ohio app. 3d 168...
- If the Court committed reversible error when it allowed detective

monter to testify to statements made by a non-testifying witness? See Transcript PG ID #'s 654, 655, 653.

- If the trial court erred when it allowed Defense Counsel to give the Petitioner erroneous legal advice, stating "If the petitioner raises the issue of Competency he loses his right to self representation. Also deterring the petitioner from continuing to obtain retesting of the DNA by stating the petitioner would have to pay for it himself?
- If the trial court erred in not clearly notifying the petitioner of the Suppression hearing? See Transcript PG ID # 664
- If the petitioner's conviction was against the sufficiency and manifest weight of the Evidence: 1st the Alleged victim failed to disclose any information in regards to a rape by digital penetration. 2nd the SAME nurse mislabeled the DNA? See Transcript PG ID # 660
- If the trial court abused its discretion when it violated evidence rule 404(B) by introducing evidence of Several box-cutters that had no evidentiary value and testimony by a witness of the petitioner having a box-cutter in his possession prior to the alleged event? See Transcript PG ID # 653
- If the State failed to prove Venue?
- If the trial court erred on Instructing the jury of flight instructions?
- If the trial court erred in allowing the petitioner's conviction to be mortgaged and converted for Monetary gain?

Statement of facts

On August 1, 2016 at approximately 5:30 a.m. A nurse anesthetist student Brandi Albini arrived at Aultman Hospital. While walking toward the hospital she saw a man behind her wearing hoodie, mask, & glasses. He ran towards her tackling her to the ground. Then B.A. alleged she was cut with a box-cutter and digitally penetrated. Later forced into her vehicle where she was forced to drive to another location where she was vaginally and anally raped. she alleged the assailant ejaculated on her stomach and whipped off her stomach with a bag, later discarding it on the street. Afterwards forced to drive to a park where she was led into a stream of water at the park where she was instructed to vigorously wash her body. Then driving back to the hospital where she reported she had been raped. The Sexual Assault Nurse Examiner (SANE) conducted the rape kit examination (which she later testifies to mislabeling). Through the Detectives Investigations, A shopping bag was found; Rebecca Diamond, and Summerly Bowlands as witnesses. A search of Ms. Bowlands home found box-cutters and wet clothing (of which were never proven to be the petitioners and at trial Detective states they had no evidentiary value). However they were admitted into evidence for jury deliberations.

Statement of Facts material to consideration of the Questions presented.

On Aug 3rd, 2016 the petitioner was arrested prior to the filing of any documents In Atlanta, GA. for an alleged crime that occurred In Canton, OH Aug 1st. The Petitioner appeared at an extradition hearing (without counsel) and waived extradition. After being transferred to Ohio the petitioner made his first court appearance, which counsel (public defender) entered a plea of not guilty. Petitioner's bail was set at \$ 20,000,000. Petitioner requested Public Defender Steven Reisch for a bond Reduction. The Request was denied. The Petitioner was denied a preliminary hearing prior to the results of any DNA testing. A warrant was issued for a DNA sample of the Petitioner's of which was executed outside of the allotted time stated on the warrant (view time-stamp). A witness for the Prosecution retained counsel for the Defendant/Petitioner. At the following pre-trial the retained counsel told the petitioner that he had to sign a time-waiver in order to receive representation. The petitioner informed counsel that the petitioner's name was not on the time-waiver counsel stated the petitioner had to sign it anyway. Through newly retained counsel the Petitioner requested a pre-trial hearing. At which Petitioner informed the judge that the prosecution and that counsel would not grant the petitioner a habeas Corpus Petition, Due to the fact he (Anthony Koukourtas) Never did Habeas Corpus work. Request for Habeas Corpus was denied. DNA test

result revealed 3 male DNA's One of which was unidentified. The prosecutions lab personnel destroyed the unidentified male DNA that was unidentified. Petitioner made a request for retesting of DNA and request was Denied. Petitioner made specific request to counsel in private, 1) to Contact Ms. Jamie Bates 2) to inquire into the alleged victims past past allegations of Rape claims. Following, Pre-trial the prosecution filed a Rape-shield motion and had a statement from Ms. Bates taken by the investigating detective. Due to the Privat Conversation between counsel & the petitioner, the petitioner believed Counsel was communicating with prosecution. The petitioner requested new counsel. The state requested a competency evaluation because the petitioner requested self-representation. During the Evaluation the Dr. was asking specific questions pertaining to the case also If the petitioner did not know the answer to a question the Dr. would provide the Answer then re-ask the question. Due to this the petitioner did not cooperate with the first evaluation and expressed the concerns had with the judge at the following pre-trial. At the Second evaluation the Questions continued. After the evaluation the petitioner attempted to file a Motion stipulating to the States Competency request along with the request that an additional evaluation is conducted by a different Doctor. Appointed standby counsel (Derrick Larry) stated "if" I pursue another evaluation I lose my right to self-representation. The petitioner also requested "The

oath of office; Hazard & Malpractice Bond; and "The Delegation of Authority order". These request were denied. The Petitioner requested motion to dismiss for want of "Subject matter & Personam Jurisdiction" Request denied. The Petitioner represented himself at the Competency hearing. "At" the competency Evaluation findings, Counsel did not go over the Eval with the Defendant nor Investigate or express any opinion on the petitioner Competency. At trial Counsel & the Judge would not allow the Petitioner to show the videos of the Alleged victim laughing during the interviews to the jury. The SANE nurse admitted to mislabeling the DNA. The Judge would not allow the SANE nurses prior "Bad acts" at the workplace on the record. Detective Mauter committed perjury when testifying about the times of the arrest. Also testifying to a statement given to the Police by Ms. Rawlands who did not testify. The Forensic Analyst stated she (Lindsey Pruneski) had nothing to do with the testing of the Petitioners DNA. Samuel Troyer Stated "he receives all the Data from the other Analyst and interprets it". Neither analyst ran tests on the petitioners DNA. Trial court allowed irrelevant knife evidence and testimony of which Detective Mauter states the knives have no evidentiary value. At Sentencing the trial court used a juvenile adjudication to Sentence the petitioner under 2929.13 (F) Also instructing the jury before you can find the defendant guilty of Kidnapping you must first beyond a reasonable doubt.

find the defendant guilty of Rape/or Felonious Assault. However the petitioner was sentenced concurrently. The Petitioner objected to the sentence. On direct appeal, Appellate Counsel (Mathew Petit) refused to raise the issues given to counsel on a list by the petitioner. Counsel raised 4 issues; "State failed to prove Venue"; "Trial court erred on jury flight instructions"; "Conviction was against the Sufficiency and Manifest weight of the Evidence"; "Trial court committed error by introducing irrelevant testimony & box-cutter evidence. (Direct appeal 2017-CA-000122. Filed July 10, 2017. Affirmed July 9, 2018). On September 20, 2018 the petitioner filed "pro se" an application to reopen appeal 26B (2017-CA-000122). Raising ineffective assistance of counsel claims for failing to argue: 1) The trial court erred by not reappointing counsel for a competency hearing 2) The trial court erred by using a prior juvenile adjudication as a Sentencing factor 3) The trial court erred by failing to merge the kidnapping with the rape and/or felonious assault. 4) The trial court erred in allowing forensic experts who did not conduct the testing on the petitioners DNA to testify 5) The trial & Appellate Counsel erred in not addressing the illegal arrest in AH GA. 6) The trial court erred in denying funds for retesting of the DNA 7) the trial court erred in allowing counsel to give the Defendant erroneous legal advice. 8) The trial court erred in not clearly notifying the Defendant of the Suppression hearing 9) the trial court abused its discretion in allowing Detective Montier to testify to hearsay statements of a non-testifying witness. 10) the trial

court abused its discretion when it allowed Detective Munter to commit "perjury testimony". (On Jan. 18, 2019 the Court of Appeals denied application to reopen). On Feb. 19, 2019 the petitioner filed a notice of appeal to the Ohio Supreme Court. "propositions of law" raised 1) It is well established law that a competency hearing conducted is a critical stage of a criminal proceeding ORC Ann. 2945.37(D) : The Defendant shall be represented by counsel at the hearing conducted under division (C) of this Section. If the Defendant is unable to obtain counsel, the court shall appoint counsel under chapter 120 of the revised code or under the authority recognized in division (c) of Section 120.06, division (e) of Section 120.06 or Section 2941.51 of the revised code before proceeding with the hearing. 2) The use of a prior juvenile adjudication to enhance adult sentence violates a Defendants right to due process as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution and the right to trial by jury as guaranteed by the Sixth Amendment to the United States Constitution and Article II, Section 5 of the Ohio Constitution. 3) An offense committed from a single act without a specific animus should be sentenced concurrently. 4) The Sixth amendment confrontation clause gives the accused in all criminal prosecutions, the right to be confronted by the witnesses against him. 5) The knowing use of perjured testimony constitutes a denial of due process if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury. 6) The trial Court abused its discretion

when it denied the defendant appropriation of funds to an indigent Defendant, Under the equal protection clause. A Defendant has a right to be treated equally. 7) The court erred when it allowed Det. Montor to testify to statements made by a non-testifying witness. 8) The court abused its discretion when it allowed the defense counsel to give the Defendant erroneous advice on two separate occasions. 9) The court failed to clearly notify the defendant of the Suppression hearing. On May 1st 2019 The Ohio Supreme Court declined to accept Jurisdiction. On June 26, 2020 the petitioner filed an untimely motion to vacate or set aside Judgment of Conviction or Sentence. Outside of the Record the Petitioners conviction was Mortgaged using DF forms proving there was a financial interest in the Convictions of the Defendant. On Oct. 29, 2020 the court denied the petitioners motion to vacate or set aside judgment as untimely. On Dec. 7th, 2020 the petitioner filed an untimely notice of appeal pursuant to the Fifth District Court of Appeals, Case No. 2020CA00172. On Jan. 11, 2021, the District court denied the appeal as untimely. On Feb. 2nd, 2021 The petitioner filed a notice of appeal with the Ohio Supreme Court. Case No. 2021-0164. On Feb. 19, 2021 the Petitioner filed an amended notice of appeal. The State filed a Waiver of memorandum in response. On Oct. 21, 2019 the petitioner filed a "DELAYED APPEAL" to the "Direct-appeal" of Case No. 2016CR1548. On Dec. 17, 2019 The Supreme Court Denied and Dismissed the appeal

JUSTICE DONNELLY J. DISSENTING case No. 2019-1438

(State of Ohio v. Prior), On Dec. 16TH, 2020 the petitioner petitioned for a writ of Habeas Corpus in the United States district court, Northern District. Denied Aug. 17, 2021 raising issues: 1) the petitioner was completely deprived of Counsel during his competency hearing, a violation of the Sixth Amendment 2) The petitioner was sentenced under 2929.13(F) per the Judgment entry of the trial. However 2929.13(F) does not apply to the petitioner. The petitioner does not have a prior conviction rather (State v. Hand, 149 Ohio St. 3d 94) a juvenile adjudication which cannot be used as a prior conviction. 3) The Court Instructed the jury as follows: to find the Defendant guilty of kidnapping you must first beyond a reasonable doubt find the defendant... guilty of felonious Assault and/or Rape. Petitioner was sentenced consecutively. Double Jeopardy. 4) The Petitioner was denied right to confront witnesses against him. 5) The Court abused its discretion. A) failing to provide appropriation of funds B) failing to address illegal search & seizure. C) failing to clearly notify the Defendant of the Suppression hearing D) Allowing counsel to give erroneous legal advice. E) Allowing Detective Munter to commit perjury and give hearsay testimony F) Allowing Irrelevant Knife testimony². prejudicial evidence. Denied Aug. 17, 2021 as Untimely. Objections filed Aug. 27, 2021 Denied Sept. 17, 2021. Objections: 1) Petitioner had a complete mental health breakdown². placed on Suicide Watch. 2) Legal-mail was confiscated 3) COVID-19 protocols made petitioners access to legal materials

impossible within the time frame allotted. COA application filed Oct. 4, 2021 "Identical issues raised. Denied March 31, 2022

Now pursuant to rule 11 USC Federal Rules Ann; 28 U.S.C. 1254; and 28 U.S.C. § 2101(c)... This case is of such imperative public importance as to require this court to accept jurisdiction.

Concise argument amplifying reasons for allowance

- To deny a criminal Defendant a right to petition for Habeas corpus is a denial of one of the most basic fundamental Rights. 1st Amendment and clearly is a denial of adequate counsel by counsel refusing to file. 6th Amendment.
- It was found In McSwain v. Davis 2006 U.S. Dist. LEXIS 32286; Ata V. Scutt, 1662 F.3d 736; Drape V. Missouri 420 U.S. 162; Severe Mental health issues including Suicide attempts can be considered a Mental health breakdown subject to equitable tolling.
- The Sixth Amendment of the United States guarantees a criminal defendant be represented by counsel at all critical stages at trial. It was reversed In United States v. Martin 608 Fed. Appx. 340 where full-time Counsel was not reappointed.
- The Court violated the petitioners Equal protection of the laws when it mortgaged the petitioners conviction for financial gains
- The court violated the petitioners 14th Amendment right, Sixth Amendment right, 4th Article I, Section 16 of the Ohio Constitution It was held in State V. Hand, 149 Ohio st. 3d 94 to be

fundamentally unfair to treat a juvenile adjudication as a previous conviction that enhanced the statutory maximum, the degree of the Sentence, or "Mandatory time"

- It is well known kidnapping and rape are allied offenses. The rape is an "Element" of the kidnapping instruction. And was relied upon for the purpose of guilt. The court violated double jeopardy by sentencing the petitioner consecutively on allied offenses. As in State v. Logan, 60 Ohio St. 2d 126.
- A criminal defendant has the right to confront the witnesses against him. By allowing 2 Analyst who did not test the Petitioner's DNA to testify to the testing and results of the Petitioner's DNA denying the Petitioner's right to confront the witnesses against him As was held in McKendree-Diaz v. Massachusetts 557 U.S. 305, 129 S.Ct. 2527, ²; Bullcoming v. New Mexico 564 U.S. 647
- The petitioner has time-stamped original complaints ² U.S. Marshals report showing the petitioner's arrest occurred prior to the filing of the original Complaints being filed. This is a violation of the 4th Amendment.
- Additional male DNA was found at the alleged scene of the crime in each place where the alleged victim stated the assailant had been. Due to the additional male DNA being destroyed after requests were made by the petitioner which is a "Brady Violation"; but it also shows a particularized need for appropriation of funds for additional DNA testing. As was held in State v. Ayers 185 Ohio app. 3d 168, ²; Ake v. Oklahoma 470 U.S. 68

- clear violation of Due process & Equal protection of the law. The United States supreme court has held in several cases that erroneous legal advice by counsel which induces a decision by a defendant that results in prejudice to that defendant is grounds for reversal. See: *Lafler*, 132 S. Ct. 1376, 182 L. Ed. 2d 398; *Frye*, 182 S. Ct. 1399, 182 L. Ed. 2d 379. *Padilla v. Kentucky* 559 U.S. 130 S. Ct. 1473, 176 L. Ed. 2d 284 (2010)
- The conviction for rape by digital penetration was against the sufficiency and manifest weight. During the 3 interviews prior to the indictment the alleged victim disclosed no information in her statements of a digital penetration. Only the testimony at trial was there any mention of digital penetration. Clear "Brady violation"; not allowing defense an opportunity to properly prepare a defense for the digital penetration offense; Also there were 3 male DNA's identified in the case and the SAME nurse admitted to mislabeling the DNA sample. See Justice Kagan Dissent in *William V. Illinois*, 567 U.S. 50
- The trial court abused its discretion and violated the petitioners right by violating the Ohio rules of evidence 404(a)(1). Allowing into evidence several box-cutters the prosecution knew had no evidentiary value, as testified to by the investigating detective. It was reversed in *State v. Thomas*, 152 Ohio St. 3d 15 (trial court committed prejudicial error by admitting evidence of 5 knives state knew were not used in victims murder)
- The state failed to establish venue. At no time did the alleged

Victim state the alleged crimes occurred In Stark County Ohio.

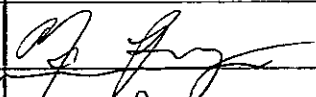
- The trial court erred In giving flight instructions. There was no testimony given via first-hand knowledge that the petitioner was not in Atlanta GA. at the time of the alleged crime.

Conclusion

The petitioner believes he is entitled to equitable tolling, due to a Severe Mental Breakdown & COVID-19 protocols prevented the petitioner from complying with the time set in 28 U.S.C. § 2244. Furthermore the petitioner made a request to counsel to petition for Habeas corpus but was denied. And throughout the entire process the petitioners rights were violated So Severly as to have compromised the entire judicial process. The only remedy of which would be a grant of the writ.

Certificate of Service

I certify that a Copy of this Petition for writ of certiorari was sent via U.S. regular mail on this
_____ day of _____ 2022 to Counsel of Record


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