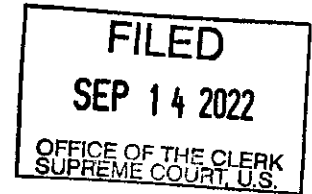


22-5626
No. _____

ORIGINAL



**IN THE
SUPREME COURT OF THE UNITED STATES**

JAMES EARL JONES - Petitioner,

VS.

STATE OF NEW JERSEY – Respondent(s).

**PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF NEW JERSEY**

James E. Jones
#237613 / 601257-B
New Jersey State Prison
P.O. Box 861
Trenton, New Jersey 08625

QUESTIONS PRESENTED

- 1: (A) WHETHER THE TERM "ON ANOTHER" AS UTILIZED IN N.J.S.A. 2C:14-2(a)(3) APPLY or (B) WHETHER N.J.S.A. 2C:14-2(a)(6) CONTROL IN PETITIONER'S CASE OF "AGGRAVATED SEXUAL ASSAULT/MURDER"?
- 2: WHETHER THE CONTROLLING DECISION IN STATE v. RANGEL, 213 N.J. 500 (2013) REQUIRE THIS CASE TO BE REMANDED BACK TO THE MOTION COURT
- 3: WHETHER THE PETITIONER WAS CHARGED UNDER THE CORRECT STATUTE (N.J.S.A. 2C:14-2(a)(6) versus 2C:14-2(a)(3))?

PARTIES

The petitioner is James Earl Jones, a prisoner at New Jersey State Prison, P.O. Box 861, Trenton, New Jersey. The Respondents are the State of New Jersey.

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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

The decision for which Certiorari is sought stems from the State of New Jersey, specifically; the Intermediate State Appellate Court which affirmed the trial (motion) court's decision.

The Opinion of the State Appellate Court appears at Appendix A and is unpublished at State v. Jones, 2021 N.J. Super. Unpub. LEXIS 398 (App. Div. Mar. 11, 2021)

The Opinion of the Trial Court appears at Appendix B and is unpublished.

The Order of the State Supreme Court denying discretionary review appears at Appendix C.

JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. 1257(a).

PRELIMINARY STATEMENT

The State Court erred in stating that Petitioner "correctly argue the matter, then stated that he was wrong in his assessment concerning his case not being an illegal sentence."

The State Court also erred in relying on the Appellate Division decision of State v. Jones, 308 N.J. Super 174 (App. Div. 2008) instead of relying on the controlling case of State v. Rangel.

Furthermore, the Appellate Division erred in affirming the denial of the motion. The Appellate Division noted that the jury found that Petitioner sexually penetrated the victim does not justify getting around the issue presented below.

Moreover, the Appellate Division erred in relying solely upon the lower court's written decision which did not at all address Petitioner's Rangel argument.

On March 25, 1993, the jury found defendant of first-degree murder of Hope Stauffer; first-degree felony murder; first-degree kidnapping of Hope Stauffer; second-degree kidnapping Stauffer's son; conspiracy to commit first-degree robbery; first-degree robbery; second-degree possession of a weapon for an unlawful purpose; third-degree unlawful possession of a weapon; and first-degree

aggravated sexual assault. He was then sentenced to an aggregate life prison term plus sixty years subject to a sixty-year period of parole ineligibility.

Petitioner then filed a direct appeal from the conviction and sentence, which was affirmed by the State Intermediate Appellate Division. State v. Jones, 308 N.J. Super 174 (App. Div. 1998). The New Jersey State Supreme Court denied Certification, 156 N.J. 380 (1990).

Initially, the Petitioner filed his Petition for PCR in or around February 19, 1999, however, was dismissed without explanation on May 7, 1999 and he was never advised that it was dismissed. Petitioner then refiled a Petition for PCR which was ultimately denied by the PCR Court and affirmed on appeal. State v. Jones, 2013 N.J. Super. Unpub. LEXIS 2974 (App. Div. Dec. 18, 2013). Certification was then filed and subsequently denied, 218 N.J. 274 (2014).

In or around September 2019, Petitioner submitted a Notice of Motion to Correct an Illegal Sentence to the Camden County Superior Court based upon N.J.S. 2C:14-2(a)(3) (aggravated sexual assault) and State v. Rangel, 422 N.J. Super. 1 (App. Div. 2011), *aff'd* 213 N.J. 500, 502-03 (2013) (reversing Rangel's conviction based upon the "on another" language in the Statute).

On December 16, 2019, Honorable Edward J. McBride, Jr. of the Camden County Superior Court denied said motion in a letter decision and a signed order which stated in relevant part:

In your motion, you correctly argue that in a prosecution for aggravated sexual assault pursuant to N.J.S.A. 2C:14-2a(3), where the other crime that was allegedly committed along with the act of sexual penetration is aggravated assault, the aggravated assault must have been committed against a person other than the victim of the sexual penetration. However, you are mistaken in arguing that your sentence for aggravated sexual assault is illegal on the basis of lack of proof of an "aggravated assault on another." (Apx. B-2).

Based upon this Order, Petitioner then filed a Notice of Appeal with the Appellate Division.

On March 11, 2021, the Appellate Division affirmed the Law Division's Order denying Petitioner's Motion to Correct an Illegal Sentence. (State v. Jones, A-2159-19T2 (App. Div.)) (See Apx. A-1 to 5). Petitioner then filed for Certification with the New Jersey Supreme Court, who ultimately denied said Petition on June 14, 2021 (Dkt. No: 085694); (Apx. C).

REASONS FOR GRANTING THE WRIT

It is requested that this Court grant Certiorari to clarify New Jersey Statutes 2C:14-2(a)(3) versus 2C:14-2(a)(6) and whether the language "on another" are interchangeable to each subpart of the Statute. New Jersey Courts are in conflict with each other on how and when to utilize the standards set forth in State v. Rangel.

Furthermore, a clarification is being requested concerning "on another" as it relates to the above statutes: (A) Whether "on another" only applies to aggravated assault; or (B) Whether "on another" applies to aggravated sexual assault/murder" such as in this case.

The Petitioner was charged, tried, convicted and sentenced under N.J.S. 2C:14-2(a)(3) (Count 11 of the Indictment) along with numerous other offenses. He was sentenced to 20 years with a ten-year parole disqualifier under this Count.

In this case, it was alleged that Petitioner not only kidnapped Hope Stauffer but also her son. Therefore, there could be cause for the Indictment to have alleged that Stauffer submitted to the sexual assault for fear that her son would be assaulted and/or was assaulted for her to comply. That's where (a)(3) could come into play. However, that is not case in this matter. There was no assault or attempt

to assault Ms. Stauffer's son to get her to submit to a sexual assault, therefore, Petitioner was illegally charged, tried and convicted under (a)(3) and must be reversed. He never committed an act of aggravated assault "on another" to get Ms. Stauffer to submit to the sexual assault. The State failed to prove that Petitioner had committed an act of sexual penetration during an aggravated assault "on another", and his conviction cannot stand on Count 11.

Petitioner should have been charged, tried and convicted under 2C:14-2(a)(6), which requires evidence that a defendant used "physical force or coercion" and caused "severe personal injury." In this matter, the victim, Hope Stauffer, was murdered during the commission of the offense, therefore, she suffered "severe personal injury." Moreover, "physical force" was used against her, therefore, N.J.S. 2C:14-2(a)(6) was the appropriate charged.

In State v. Rangel, 213 N.J. 500 (2013), the Court reversed Rangel's conviction for aggravated sexual assault under 2C:14-2(a)(3) and determined the phrase "on another" deals with a "third person" in order to compel a victim to submit to a sexual assault, therefore, remanded for resentencing. Rangel also determined that N.J.S.A. 2C:14-2(a)(6) was the proper avenue for a defendant to be found guilty of aggravated sexual assault if he commits an act of sexual

penetration and used physical force or coercion and severe personal injury is sustained by or on the victim.

\ That was what occurred here in instant matter and this High Court should grant Certiorari to review the matter of public importance.

CONCLUSION

For the foregoing reasons, certiorari should be granted in this case.

Respectfully submitted,

x Mr. James E. Jones
James Earl Jones Pro Se

Date: x 9-10-2022