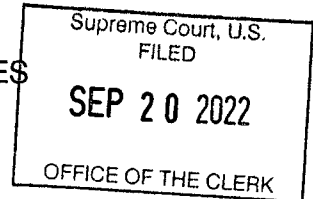


22-5712

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES



Ramona Morgan — PETITIONER
(Your Name)

vs.

Gloria Geither — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

In the United States Court of Appeals for the 10th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ramona Morgan (pro-se)
(Your Name)

T.C.F.
815 SE Rice Rd
(Address)

Topeka KS 66607
(City, State, Zip Code)

785-296-3432
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Should the United States Court of Appeals for the 10th Circuit have granted a Certificate of Appealability to the Petitioner, Ramona Morgan?
- 2.) Should the United States District Court for the District of Kansas have granted Morgan a Certificate of Appealability?
- 3.) IS State of Kansas V. Ramona Morgan case 2007-CR-1481 the same case and part of related case Kansas V. Ramona Morgan 2007-CR-267?
Is it Double Jeopardy or K.S.A. 21-5110 Effect of a former prosecution?
Should the District Court for the 7th District of Kansas have granted the K.S.A. 60-1507 motion to vacate sentence?

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

State of Kansas vs. Ramona I. Morgan
Case: 2007-CR-207

Osage County District Court, Kansas
9-11-2007

State of Kansas vs. Ramona I. Morgan
Case: 2007-CR-207

Osage County District Court, Kansas
8-20-2008
In the Court of Appeals of the State of
Kansas- State of Kansas-Appellee vs.
Ramona I Morgan-Appellant
Case No. 08-100700-A
April 15, 2009

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A-	Case No. 22-3080 CV-3064-SAC- united States Court of Appeals for the Tenth Circuit
APPENDIX B-	Case No. 22-3064 SAC- In the United States District Court for the District of Kansas
APPENDIX C -	Case No. 22-3080 - CV-3064 SAC united states Court of Appeals for the Tenth Circuit
APPENDIX D-	Case No. 2007-CR-1481 Order Granting States motion to summarily deny K.S.A. 60-1507 motion
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Henry V. Cockrell, 327 F.3d 429, 431 (5 th Cir 2003)	6
Puckett V. Mt. Carmel Reg'l Med. Ctr. 290 Kan 406 (April 22, 2010.)	8
Banks V. Workman, 692 F3d 1133, 1144 (10 th Cir 2012.)	12
State V. Dumars, 37 Kan App 2d 600 (April 7, 2007.)	22
Skaggs V. State 59 Kan App 2d 121 (Dec 4, 2020)	27
 STATUTES AND RULES	
K.S.A. 22-3202 - charges can be joined	20
K.S.A. 21-5110 - Effect of a former prosecution	20
K.S.A. 60-1507-(f)(2) manifest injustice	24
K.S.A. 60-401 - relevant evidence	8

OTHER

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 A 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 B 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 D 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 _____ 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.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 21, 2022

☐ 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: July 28, 2022, and a copy of the order denying rehearing appears at Appendix - C

☐ 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 August 20, 2021
A copy of that decision appears at Appendix D

☒ 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 _____ (date) on _____ (date) in Application No. A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

6th Amendment - right to Counsel

5th Amendment - due process

7th Amendment - evidentiary matters

STATEMENT OF THE CASE

9-11-2007- State of KANSAS v Ramona Morgan
listed under related case 2007-cr-207.
Fleeing and eluding.

9-25-2007- State of KANSAS v Ramona Morgan
2007-CR-1481 happened on 9-11-2007 charged
with 2 counts second degree murder 1 count
aggravated battery.

12-3-2019- KSA 60-1507-Motion to Vacate
Sentence, District Court of Douglas County KS,
7th Judicial District-Division 1 case 2007-CR-1481.

8-12-2020-District Court of Douglas County KS
Denied motion.

11-10-2020-IN the Court of Appeals of Kansas
20-123,272-A Brief of the Appellant.

8-20-2021-The Court of Appeals entered
Memorandum Opinion affirming the District
Courts Judgement.

STATEMENT OF THE CASE

9-1-2001- Petition for Review in the Supreme Court of Kansas.

3-28-2022- In the Supreme Court of Kansas order denying review.

4-6-2022- Petition for habeas Corpus § 2254 filed by Ramona Morgan in the District Court of Kansas.

4-8-2022- Memorandum and Order entered Dismissing habeas corpus § 2254. No certificate of Appealability will issue.

6-21-2022- United States Court of Appeals denied Certificate of Appealability.

7-28-2022- Petition for rehearing was denied by United States Court of Appeals.

REASONS FOR GRANTING THE PETITION

Ramona Morgan Submitted an appeal to the U.S. Court of Appeals Tenth Circuit for a Certificate of Appealability No. 22-3080 Appendix A -

After filing a Habeas Corpus 28 U.S.C. § 2254 in the U.S. District of Kansas, Case No. 22-3064 SAC. Appendix B -

On page 3 - Appendix A - the court of Appeals states a claim "presented in a prior application" will not be authorized (28 U.S.C. § 2244(b)(1)) and a new claim will be authorized only if it falls within one or two narrow categories, category number 2, or if it alleges previous undiscoverable facts that would establish (the prisoner's) innocence. "

In Henry V Cockrell, 327 F.3d 429, 431 (5th Cir 2003) the court explained that: Under the antiterrorism and effective Death Penalty Act, a petitioner must obtain a C.O.A. before he can appeal the district's decision.

REASONS FOR GRANTING THE PETITION

28 U.S.C. § 2253(c)(1) A C.O.A. will be granted only if the petitioner makes a substantial showing of a constitutional right. see U.S.C. 2253(c)(2.)

The 911 call mentioned on page 3, Appendix A—of the Court of Appeals order denying a C.O.A. was evidence of Morgan's innocence and substantiated her testimony. The excluded evidence was the fault of trial Attorney Rork. This can be proved by trial transcripts and by the trial Judges memorandum opinion of the 2012-60-1507 hearing.

Trial Judge Martin found Mr. Rork ineffective on 2 instances. 1 for not admitting into evidence a 911 call, and 1 for a News Video played at trial showing Ramona Morgan and her only witness, her daughter Sabrina chained and shackled.

In Judge Martins opinion found that the 911 call supported the evidence. proving Morgan and her daughters testimony.

REASONS FOR GRANTING THE PETITION

This is a due process violation of the 5th Amendment and a 6th Amendment right to Counsel.

The Court of Appeals could have given Morgan a C.O.A. for the showing of a constitutional right.

Puckett v. Mt. Carmel Reg'l Med. Ctr. 290 Kan 406 Supreme Court April 22, 2010.

Abuse of Discretion - Standards of Review,
The standard of review for questions regarding the admissibility of evidence is a multi-step standard. The first step is relevance. Kan. Ann. § 60-401 (b) defines relevant evidence as evidence that is probative and material.

On appeal, the question of whether evidence is probative is judged under an abuse of discretion standard, materially is judged under a de novo standard.

If the evidence is relevant to a material

REASONS FOR GRANTING THE PETITION

fact, it may be admitted in accordance with the rules of evidence.

However, a trial Court abuses its discretion when its decision outside the legal framework or fails to properly consider Statutory limitations. For this reason, Appellate Courts review de Novo whether a district Court applied the correct legal standards when ruling on the admission or exclusion of evidence.

Syllabus by the Court - A trial Court is required to give a jury instruction supporting a party's theory if the instruction is requested and there is evidence supporting the theory which, if accepted as true and viewed in the light most favorable to the requesting party, is sufficient for reasonable minds to reach different conclusions based on the evidence.

The 911 call was evidence A 7th Amendment violation - evidentiary matters.

REASONS FOR GRANTING THE PETITION

Petitioner filed a 28 U.S.C. § 2254 Writ of habeas corpus, April 6, 2022.

1.) mistrial-defense counsel "was not in a mental state to represent her"

2.) 911 call not admitted into evidence.

The U.S. District Court of Kansas gave two different reasons for dismissing and denying the case. Appendix B.

Page 1 - The Court lacks jurisdiction.

Page 3 - Successive application

On page 3 where a petitioner fails to obtain the prior authorization, a federal district court must dismiss the matter or, "if it is in the interest of justice, "transfer the petition to the Court of Appeals for possible authorization."

Petitioner, Ramona Morgan had incompetent Attornies, from the paid trial counsel to

REASONS FOR GRANTING THE PETITION

the appointed counsel. If a mistrial had been granted the 911 call would have been played for the jury, A Key piece of evidence Supporting Morgan's defense. Defense that it was an accident, not second degree murder and aggravated battery.

Page 4- Successive applications shall be dismissed unless.

(ii) the facts underlying the claim, if proven and viewed in the light of the evidence as a whole...

The evidence was not admitted into the evidence at trial and without it being played for the jury there was no way to prove Morgan's testimony.

(ii) but for constitutional error...

Petitioner's constitutional right to counsel was violated at trial due to his drug abuse and incapacitation and the Douglas County

REASONS FOR GRANTING THE PETITION

District Court's failure to declare a mistrial.

Denial of the K.S.A. 60-1507 by the Court was inappropriate due to the fundamental failure in the trial process and the need for evidence on the issue. An evidentiary hearing would have allowed Morgan to further develop evidence on these claims and provided her the opportunity to present expert testimony on Counsel's incapacity and its affect on the trial allowing a more thorough review on the merits.

The U.S. District Court of Kansas in the interest of Justice could have issued a C.O.A. Banks V. Workman, 692 F.3d 1133, 1144 (10th Cir 2012.)

2.) demonstrate that failure to consider the claim will result in a fundamental miscarriage of justice.

REASONS FOR GRANTING THE PETITION

This is a brief background on how the case 2007-CR-1481 happened.

On September 11, 2007 Ramona Morgan was pursued by robbers who thought she had \$100,000 cash with her to purchase a property. As she drove up to a highway construction site, she stopped and a woman with a stop pole began beating the truck she was driving with the stop pole until it broke.

Morgan thought the woman was connected to the robbers chasing her. She drove forward, one of the construction crew threw an object breaking her vehicle's windshield. Seconds later she hit what was thought to be barricades only.

A police chase began and Morgan was too terrified to pull over, and didn't know if they were actually Police Officers.

REASONS FOR GRANTING THE PETITION

Morgan was arrested and charged with the case listed in the Related Cases 2007-CR-207, Fleeing and Eluding in Osage County Kansas.

Petitioner, Morgan was held on 1 million dollars bond. Immediately after the arrest Morgan was questioned about hitting construction workers with her vehicle.

Morgan explained that she did not see people only barricades and equipment.

The accident happened so quickly she did not know there were people involved.

She was trying to avoid the people chasing her to rob her.

Morgan was in fear for herself and her daughter Sabrina.

While making court appearances Morgan and her only witness were filmed by a

REASONS FOR GRANTING THE PETITION

News crew hand cuffed and shackled together. This film was played over and over everyday on the local news. At the first court appearance Morgan was charged with case 2007-CR-207 and was accused of being a murderer by the Judge. This continued for several court appearances until Morgan told her Attorney to tell him to stop calling her that.

While in jail in Lyndon Kansas, Morgan was charged with case 2007-CR-1481 on September 25, 2007. The charges were given on a piece of paper and thrown into the jail cell. The charges were 2 counts of second degree murder and one count of aggravated battery. The charges were from Douglas County Kansas, Lawrence KS.

REASONS FOR GRANTING THE PETITION

In May of 2008 case No. 2007-CR-207 was taken to trial.

At trial Morgan testified explaining the accident that occurred and how it happened. (R.V, 47-64).

Testimony was given by a state trooper and evidence of the accident.

Morgan was found guilty of fleeing and eluding in May of 2008 and was sentenced to 7 months but had already served 8½ months in jail.

This put a felony on Morgan's record who previously had only 2 misdemeanors.

The Attorney for Morgan appealed the case on compulsion.

The response from the state in the Court of Appeals of the State of Kansas case 2007-CR-207- No. 08-100700 A.

REASONS FOR GRANTING THE PETITION

A brief of Appellee. Page 2.

On approximately 9:45, Sept. 11, 2007 the Kansas Highway Patrol central dispatch put out an attempt to locate a vehicle that was involved in a "hit and run" accident with possible fatalities (R. V, 7).

The pickup had extensive front end damage and a broken windshield (R. V, 7-8).

Page 17. of the brief

The facts presented at trial clearly revealed that this entire situation was one that the defendant created. She was involved in an accident in Douglas County, fled the scene, and was spotted by a State trooper in Osage County. (R. V, 7-9) The trooper attempted to pull her over to investigate her potential involvement in the Douglas County accident, the defendant refused to stop. (R. V, 9)

The references are from the trial held in

REASONS FOR GRANTING THE PETITION

Osage County Kansas for fleeing and eluding.

On May 20, 2008 a Sheriff picked up Morgan from jail in Lyndon, Kansas and drove her to Douglas County Kansas for case 2007-CR-1481.

The charges were read virtual by a Judge on May 21, 2008.

The trial began in Sept. 2008, 1 year after the accident.

The same evidence and testimony was given at case 2007-CR-207 as the 2007 CR-1481 case.

Ramona Morgan was not told by her Attorney Mr. Rork that he was taking drugs.

The following occurred at trial.

The video that was taken in Osage County of Ramona Morgan and her daughter Sabrina cuffed and shackled was played at trial.

REASONS FOR GRANTING THE PETITION

A 911 call that proved Morgan's theory of the case was left out of evidence by trial counsel.

Biased testimony was allowed of the woman with the stop pole who was suing Morgan's insurance company.

A Juror did what he was instructed not to and was reported to the bailiff who told the Judge but nothing was done about it.

The prosecutor kept making gross and flagrant comments.

Trial Attorney admitted he was taking Oxycotin, Morphine and other drugs and had little sleep.

On Sept. 9, 2008 Morgan was found guilty of the charges and sentenced to 190 months, 117 month and 8 months for a total of 315 months in prison.

REASONS FOR GRANTING THE PETITION

According to K.S.A. 22-3202 charges can be joined if.

- 1.) The crimes are similar in character.
- 2.) Based on the same transaction or,
- 3.) Constitute parts of a common Scheme

Not consolidating case 2007-CR-207 and case 2007-CR-1481 affected the rights of Ramona Morgan and put her in a higher sentencing grid.

According to K.S.A. 21-5110 Effect of a former prosecution.

A.) A prosecution is barred if the defendant was formerly prosecuted for the same crime, based upon the same facts, if such prosecution:

REASONS FOR GRANTING THE PETITION

b.) A prosecution is barred if the defendant was formerly prosecuted for a different crime, or for the same crime based upon different facts, if such prosecution:

1.) Resulted in either a conviction or an acquittal and the subsequent prosecution is for a crime or crimes of which evidence has been admitted in the former prosecution and which might have been included as other counts in the complaint; indictment or information filed in such former prosecution or upon which the state then might have elected to rely; or was for a crime which involves the same conduct, unless each prosecution requires proof of a fact not required in the other prosecution, or the crime was not consummated when the former trial began.

REASONS FOR GRANTING THE PETITION

The Osage County related case 2007-CR-207 relied on the accident that occurred in case 2007-CR-1481 for a conviction. The proof of that is the Osage County transcript, that Morgan does not have. But does have the copy of the States Appellate Brief in case 2007-CR-207. No. 08-100700A.

Ramona Morgan believes that K.S.A. 21-5110 bars prosecution of case 2007-CR-1481 because of the previous conviction of case 2007-CR-207.

Double Jeopardy - Due Process

State V. Dumas 37 Kan App 2d 600 April 7,

2007

Reversed for double jeopardy - Due Process
violation - Procedural Due Process.

REASONS FOR GRANTING THE PETITION

The most recent appeal, Motion to Vacate Sentence KSA 60-1507, 2007-CR-1481 was filed in the District Court of Douglas County, KS 7th Judicial District.

The motion was filed by hired Attorney Napoleon Crews, who was hired by Ramona Morgan's son Eric in March of 2019.

Mr. Crews was told that there was a 1 year time limit to file the motion to Vacate Sentence that ended April 23, 2019.

Morgan and her daughter Sabrina told Crews several times he had to file before April of 2019.

If Mr. Crews thought he didn't have the time to meet that criteria he should not have taken the case. Mr. Crews could have motioned the Court and asked for an extension of time to file.

REASONS FOR GRANTING THE PETITION

Mr. Crews was given all the records he needed and was told by Morgan that she was innocent of the charges that it was an accident.

Mr. Crews did not file the Motion to Vacate Sentence until Dec. 3, 2019 and did not put in the motion that it was an accident. The Motion to Vacate Sentence was denied Aug 12, 2020. Appendix D.

Page(3) of the District Court of Douglas County, KS ORDER Granting States Motion to Summarily deny K.S.A. 60-1507 Motion.

K.S.A. 2019 Supp. 60-1507(f)(2) By Statute, the District court's manifest-injustice examination is limited to considering (2) whether the motion includes a colorable claim of actual innocence.

The proof of actual innocence was the

REASONS FOR GRANTING THE PETITION

testimony at trial by Morgan and the 911 call that was excluded from evidence by trial counsel forgetting to put it in.

Morgan was appointed Joseph Desch to represent her in the Appellate Court of Kansas 123,272 A.

A 26 page letter was written to Mr. Desch explaining the entire case and how Mr. Crews filed the 60-1507 motion late. Morgan also told Mr. Desch she was innocent and it was an accident.

This was not put in the Appellate Brief. The Appellate Court of Kansas denied the appeal 123,272 A on Aug 20, 2021.

Both paid Attorney Napoleon Crews and Appointed Attorney Joseph Desch did not represent their client Morgan correctly.

REASONS FOR GRANTING THE PETITION

Morgan had to try to represent herself in the Court system with very little legal experience.

A Writ of habeas Corpus in the United States District Court for the District of Kansas. Case 22-3064. This was denied.

Appendix B.

Appeal to the United States Court of Appeals 10th Circuit, Colorado. Denied.

Appendix A

Ramona Morgan now appeals to the U.S. Supreme Court for relief from a conviction that should not of been made. It was an accident, and she has spent 15 years in jail and prison combined.

REASONS FOR GRANTING THE PETITION

Mr. Crews paid Attorney did not include the fact of Morgan's innocence or file the motion to Vacate Sentence on time.

Mr. Desch appointed attorney did not include in the Appellate Brief that it was Mr. Crews who made the 60-1507 untimely and the fact of Morgan's innocence.

SKaggs v. State 59 Kan App 2d 121-Dec 4, 2020 - Reversed and Remanded

Effective Assistance of Counsel tests

- 1.) Counsel's performance was deficient
- 2.) As A result of that performance the Movant Suffered legal prejudice.

There have been multiple ineffective Counsel representing Morgan. A 6th Amendment Violation.

Case No. 2007-CR-1481 needs to be overturned or reversed.

By definition of K.S.A. 21-5110 it is a barred prosecution and Double Jeopardy.

Ramona Morgan's constitutional rights were violated, 5th Amendment, 6th Amendment, 7th Amendment.

She has spent 15 years incarcerated for an accident and is innocent of the charges against her.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ramona Morgan

Date: Sept 21, 2022