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ORIGINAL

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

Washington D C

Supreme Court, U.S.
FILED

OCT 12 2022

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Christopher Wade - Petitioner
(Your Name)

VS.

Ricky D. Dixon D.O.C - Respondent(s)

on

PETITION FOR A WRIT OF CERTIORARI

to

Florida Supreme Court

(Name of Court that last ruled on merits of your case)

PETITION FOR A WRIT OF CERTIORARI

Christopher Wade
(Your Name)

F.D.O.C. # P09443

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MILTON, FLORIDA 32583

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SUPREME COURT U.S.

QUESTION(S) PRESENTED

- 1) WAS THE PETITIONER DENIED HIS 6TH AND 14TH AMENDMENTS RIGHTS TO EFFECTIVE ASSISTANCE OF APPELLATE UNDER THE UNITED STATES CONSTITUTION?
- 2) WAS THE PETITIONER DENIED EFFECTIVE ASSISTANCE OF TRIAL COUNSEL UNDER BOTH THE U.S. AND FIA. CONSTITUTIONS 6TH AND 14TH AMENDMENT DUE TO CONFLICT COUNSEL'S REPERSENTATION?
- 3) DID THE TRIAL COURT ERR, ABUSE ITS DISCRETION AND DEPART FROM THE ESSENTIAL REQUIREMENTS OF THE LAW WHEN IT FAILED TO ADVISE PETITIONER OF THE THREE (3) PRONGS OF WAIVING HIS RIGHTS TO BE REPRESENTED BY ANOTHER COUNSEL DUE TO THE CONFLICT?
- 4) WAS THE PETITIONER DENIED HIS 5TH AMENDMENT RIGHT OF THE UNITED STATES CONSTITUTION TO A FAIR TRIAL DUE TO BEING REPRESENTED BY CONFLICT COUNSEL?

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:

Judge: Thomas V. Dannheisser

State Attorney: Cassandra Andres

Trial Lawyer: Elizabeth Amond

Victim: Kerri Holland

Appeal Attorney: Kathleen Stover

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FLA. R. APP. P. 9.141

90.400 (2)(a)(1), FLA. STAT. 2015

UNITED STATES CONSTITUTION 5TH, 6TH AND 14TH AMENDMENT

FLORIDA CONSTITUTION 5TH, 6TH AND 14TH AMENDMENT

Other:

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari 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[] is unpublished.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;

reported at SC 22-1020; or,
 has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the First District Court of Appeal Court appears at Appendix B to this petition and is;

reported at Wade v. State 265 So. 3d 677 (Fla. 1st DCA Feb 11, 2019); 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 _____, 20____.

- 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 9-6-22.
A copy of that decision appears at Appendix A.

- A timely petition for rehearing was thereafter denied on the following date: N/A, 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 N/A (date) on N/A (date) in Application No. __ A ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CUYLER V. SULLIVAN, 466 U.S. 335, 348 (1980) IN ORDER TO ESTABLISH A VIOLATION OF THE SIXTH AMENDMENT, A DEFENDANT WHO RAISED NO OBJECTION AT TRIAL MUST DEMONSTRATE THAT AN ACTUAL CONFLICT OF INTEREST ADVERSELY AFFECTED HIS LAWYER'S PERFORMANCE.

EVITTS V. LUCREY, 469 U.S. 389, 396, 105 S.Ct. 830, 83 L.Ed. 2d 821 (1985) A DEFENDANT HAS THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL IN HIS OWN AND ON AN APPEAL.

SIMS V. STATE, 998 So. 2d 496 (FLIA, 2008) THE FLORIDA SUPREME COURT GRANTED HIS ALL WRITS PETITION FOR REINSTATEMENT TO INVOKe DISCRETIONARY REVIEW DUE TO INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL, WHICH IS IN DIRECT CONFLICT WITH THE INSTANT CASE OF WADE V. STATE, 265 So.3d 644 (FLIA, 1ST DCA 2019).

STATE V. ALEXIS, 180 So.3d 929, 936 (FLIA, 2015) MULTIPLE REPRESENTATION ALONE DOES NOT VIOLATE THE SIXTH AMENDMENT, AND IN THE ABSENCE OF AN OBJECTION, A COURT CAN PRESUME NO CONFLICT OF INTEREST.

STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984)

UNITED STATES V. GARCIA, 514 F.2d 272 (5TH CIR. 1975).

STATEMENT OF THE CASE

ON Feb 23, 2017 A JURY CONVICTED THE PETITIONER OF SEXUAL BATTERY WITH A DEADLY WEAPON AND SENTENCED HIM TO LIFE IN PRISON.

ON DIRECT APPEAL PETITIONER ASSERTED THAT HE WAS DENIED HIS SIXTH (6TH) AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF CONFLICT-FREE COUNSEL THATS GUARANTEED BY BOTH THE U.S. AND FLA. CONSTITUTIONS. DURING TRIAL PETITIONER'S COURT APPOINTED TRIAL COUNSEL WHO WORKED WITH THE OFFICE OF CRIMINAL-CONFLICT AND CIVIL REGIONAL COUNSEL (OCCRC) DISCOVERED THAT ANOTHER OCCRC ATTORNEY WAS REPRESENTING THE ALLEGED VICTIM IN AN UNRELATED DEPENDENCY PROCEEDING. PETITIONER'S TRIAL COUNSEL INSISTED THAT SHE WAS UNAWARE OF THE OTHER REPRESENTATION AND KNEW NOTHING OF THE DEPENDENCY CASE OR THAT IT AFFECTED HER REPRESENTATION OF THE PETITIONER. APPENDIX (A)

HOWEVER, AFTER THE TRIAL COURT LEARNED THAT THE SAME OFFICE REPRESENTED THE PETITIONER AND THE ALLEGED VICTIM, THE TRIAL COURT JUDGE PUT PETITIONER UNDER OATH AND ASKED WHETHER HE WISH TO WAIVE ANY POSSIBLE CONFLICT. PETITIONER SAID THAT HE DID. THE TRIAL COURT OPINIONED THAT AN ACTUAL CONFLICT HAD NOT REALLY SURFACED. NONETHELESS, THE COURT FOUND THAT PETITIONER HAD FREELY, VOLUNTARILY, AND KNOWINGLY WAIVED ANY THEORETICAL CONFLICT. APPENDIX (C).

THE FIRST DISTRICT COURT OF APPEAL AFFIRMED PETITIONER'S CONVICTION FOR SEXUAL BATTERY WITH A DEADLY WEAPON WITH A WRITTEN OPINION ON TWO (2) ISSUES AS TO PETITIONER WAS DENIED HIS RIGHT TO CONFLICT-FREE COUNSEL AND WHETHER THE TRIAL COURT ERRED IN ADMITTING COLLATERAL CRIME EVIDENCE. APPENDIX (B).

PETITIONER DESIRED TO SEEK DISCRETIONARY REVIEW AND INFORMED HIS APPELLATE COUNSEL OF SUCH. APPELLATE COUNSEL INFORMED PETITIONER THAT SHE WOULD SEEK DISCRETIONARY REVIEW OF THE FLORIDA SUPREME COURT. HOWEVER, PETITIONER'S APPELLATE COUNSEL MS. KATHLEEN STOVER SWORE UNDER OATH IN HER PETITION TO THE FLORIDA SUPREME COURT FOR A RELATED DISCRETIONARY REVIEW THAT THE NOTICE TO INVOKE DISCRETIONARY REVIEW WAS INADVERTENTLY MISCALENDARDED BY HER ASSISTANT. THE ERROR WAS DISCOVERED ONLY AFTER THE DUE DATE HAD PASSED AND THAT SHE WAS RESPONSIBLE, THAT HER DEFICIENT PERFORMANCE WHICH HAS UNDERMINED CONFIDENCE IN THE OUTCOME OF PETITIONER'S APPEAL AND WAS THEREFORE DEPRIVED OF EFFECTIVE ASSISTANCE OF COUNSEL IN HIS DIRECT APPEAL. APPENDIX (D).

ON AUGUST 4, 2022, PETITIONER SOUGHT REINSTATEMENT OF DISCRETIONARY REVIEW THROUGH AN ALL WRIT TO THE FLORIDA SUPREME COURT WHICH DENIED THE PETITION WITH A WRITTEN OPINION. APPENDIX (A).

THE PETITIONER HEREBY SEEKS DISCRETIONARY REVIEW OF ITS DENIAL OF INTER/DIRECT CONFLICT OF ITS PREVIOUS DECISION OF REINSTATEMENT FOR AN INDENTICAL ISSUE/CLAIM.

REASONS FOR GRANTING THE PETITION

- 1) THERE'S A DIRECT CONFLICT IN THE INSTANT CASE AND THE FLORIDA SUPREME COURT'S DECISION IN SIMS V. STATE, 998 So. 2d 494 (FLA. 2008) GRANTING SIMS AN WRIT FOR REINSTATEMENT OF NOTICE TO INVOKe DISCRETIONARY REVIEW.
- 2) PETITIONER WAS DENIED EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL IN HIS ONE AND ONLY APPEAL CONTRARY TO CLEARLY ESTABLISHED FEDERAL LAW AS DETERMINED BY THE SUPREME COURT OF THE UNITED STATES EVITTS V. LUCEY, 469 U.S. 384, 396, 105 S.Ct. 830, 83 L.Ed. 2d 821 (1985).
- 3) TO DENY PETITIONER'S PETITION WOULD BE A FUNDAMENTAL MISCARRIAGE OF JUSTICE WHERE HIS APPELLATE COUNSEL MS. KATHLEEN STOVER SWORE UNDER OATH THAT PETITIONER REQUESTED FOR HER TO SEEK DISCRETIONARY REVIEW AND SHE PROMISE THAT SHE WOULD BUT FAILED TO DO SO IN THE REQUESTED TIME. (APPENDIX C)
- 4) THE FLORIDA SUPREME COURT ERRED, ABUSED ITS DISCRETION AND DEPARTED FROM THE ESSENTIAL REQUIREMENTS OF CLEARLY ESTABLISHED FEDERAL LAW.
- 5) PETITIONER WAS DENIED EFFECTIVE WAIVER OF HIS RIGHTS TO CONFLICT FREE COUNSEL WHERE THE TRIAL COURT FAILED TO MAKE PETITIONER AWARE OF THE FOLLOWING THREE PRONGS:
 - 1) BE AWARE THAT A CONFLICT EXISTS
 - 2) REALIZE THE CONSEQUENCES TO HIS DEFENSE THAT CONTINUING WITH COUNSEL UNDER THE ONUS OF A CONFLICT COULD HAVE; AND
 - 3) BE AWARE OF HIS RIGHT TO OBTAIN OTHER COUNSEL.
- 6) PETITIONER'S TRIAL COUNSEL FAILED TO OBJECT TO THE CONFLICT REPRESENTATION ALLOW HIM TO INNOCENTIALLY WAIVE HIS RIGHTS TO OBTAIN OTHER COUNSEL A DENIAL OF HIS 6TH AMENDMENT RIGHT OF THE UNITED STATES CONSTITUTION TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL AND CONTRARY TO CLEARLY ESTABLISHED FEDERAL LAW STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984), AND THE WAIVER FAILED TO MEET THE REQUIREMENTS ARTICULATED IN UNITED STATES V. GARCIA, 514 F.2d. 272 (5TH CIR. 1975).

CONCLUSION

This Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

/s/ Christopher Wade

Date: 10-12-22

Christopher Wade P09443