

No. **22-6376**

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
SEP 30 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

MARCUS A JOSEPH — PETITIONER
(Your Name)

vs.

STATE OF SOUTH CAROLINA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MARCUS A JOSEPH
(Your Name)

KIRKLAND CORRECTIONAL INST
(Address) 4344 BROAD RIVER RD
COLUMBIA SC 29210
UNIT P2 B 162
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- (1) WHETHER OR NOT THE RESPONDENT UNCONSTITUTIONALLY SUSPENDED THE WRIT OF HABEAS-CORPUS TO PETITIONER?
- (2) WHETHER TO COURT LACKED JURISDICTION TO ACCEPT GUILTY PLEA?
- (3) WAS PETITIONER TRIED WITHOUT AN INDICTMENT? AND THE STATUTE UNDER WHICH HE WAS ARRESTED AND CONVICTED IS CONSTITUTIONAL?
- (4) WAS PETITIONER CONVICTED IN VIOLATION OF THE DOUBLE JEOPARDY CLAUSE? AND IN VIOLATION OF THE EX-POST FACTO CLAUSE.
- (5) WAS PETITIONER CONVICTED OBTAINED BY THE USE OF PERJURAL TESTIMONY?
- (6) WAS THE JUDGMENT VOID? IN VIOLATION OF MARKEY V STATE 357 SC 666
- (7) WHETHER SUBJECT MATTER JURISDICTION WAS SATISFIED WITHIN THE MEANINGS OF DUDLEY AND CROOKER

C

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

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

US V COTTON	535 US 625	NOTES (3)(4)(5)
STATE V DUDLEY	354 SC 514, 581 SE2d 171	NOTE (6)
STATE V CRICKER	366 SC 394, 621 SE2d 890	NOTE (3)
RAINEY V HAILEY	404 SC 320, 745 SE2d 81	N' (3)
NAPUE V ILLINOIS	360 US 264, 79 S Ct 1173	NOTES (2) (3)
RIDDLE V ORZMANN	369 SC 39	NOTES (1)(2)(9)(10)(11)
KYLES V WITLEY	514 US 419, 115 S Ct 1555	NOTE (3)(5)(12)
BRADY V MARYLAND	373 US 83, 83 S Ct 1194	NOTE (3)
SLACK V STATE	311 SC 415, 429 SE2d 801	NOTES (1) (2)
MOONEY V HOLOHAN	294 US 103, 112, 55 S Ct 340	NOTES (1) (2)
WALKER V JOHNSON	312 US 275, 61 S Ct 574	85 LED 830
MACKEY V STATE	357 SC 666	
MONTGOMERY V LOUISIANA	377 US 190	NOTE 20, 21

STATUTES AND RULES

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17-19-40

17-17-190

RULE 104

RULE 901 A (7)

17-19-10

OTHER

SC Const Art 1 § 11, 1 § 8, 1 § 4
 SC Const Art 5 § 11
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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

☐ 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 _____ 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.

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JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ 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 Aug 23 2012.
A copy of that decision appears at Appendix 1.

☐ 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).

STATEMENT OF THE CASE

PETITIONER ATTEMPTED TO FILE A WRIT OF HABEAS-CORPUS IN THE LOWER COURT OR WITHIN THE ORIGINAL JURISDICTION OF THE SOUTH CAROLINA SUPREME CT WHO INFORM PETITIONER THAT HE COULD NOT FILE A WRIT OR P.R. UNLESS HE FIRST OBTAIN PERMISSION FROM THE SOUTH CAROLINA CT TO DO SO.

HOWEVER THE COURT RETURN MY \$5000. STATING THAT THEY MADE AN ERROR AND TOLD ME THAT THE AFFIDAVIT THAT I SUBMITTED TO DEMONSTRATE THAT THE CLAIMS WAS NOT FAULTLESS IS BEING TREATED AS A MOTION TO RECONSIDER A HEARING IN SHORT DISMISSING THE HABEAS-CORPUS WITHOUT A HEARING AND WITHOUT REQUIRING THE STATE TO RESPOND.

I RAISE THE ISSUE OF LACK OF SUBJECT MATTER JURISDICTION DUE TO LACK OF PILING CITED THE APPLICABLE LAW AS IT RELATES AND SUBMITTED THE UNRECORDED INDICTMENT EVIDENCING THAT SUCH WAS NEVER FILED AND THAT THERE WAS NO CHARGES PENDING AGAINST ME AT THE TIME OF MY PLEA.

I ALSO ARGUE THE LACK OF ORIGINAL AND EXCLUSIVE JURISDICTION WAS LACKING AND THAT A SEPARATION OF POWERS VIOLATION TOOK PLACE.

I ALSO RAISE THE GROUNDS THAT THE STATUTE THAT I WAS CHARGE WITH WAS FOUND ILLEGISLATIVE AND VOID PROSECUTORIAL MISCONDUCT VIOLATING THE HOLDING IN BRADY V MARYLAND.

I ALSO RAISE THE GROUND THAT CONVICTION WAS OBTAIN BY THE KNOWING USE OF FRAUD AND PERJURED TESTIFYING THE COURT DID NOT MAKE ANY FINDING OF FACTS OR CONCLUSIONS OF LAWS ON THE MERITS OF THE PETITION. AMOUNTING TO AN UNREASONABLE APPLICATION OF CLEARLY ESTABLISHED FEDERAL LAW AS DETERMINED BY THE SUPREME CT OF THE UNITED STATES IN LIGHT OF THE EVIDENCE PRESENTED.

REASONS FOR GRANTING THE PETITION

- (A) THERE would be a miscarriage of Justice if the Court do not grant this petition BECAUSE THE PETITIONER would BE Held To Answer To An OFFENSE without Any Formal CHARGE AGAINST Him.
- (B) THE SOUTH CAROLINAS Supreme Court Decision IN NOT ENTERTAINING THE writ OR Allowing PETITIONER TO file one in a lower Court WAS An Abuse of Discretion BECAUSE IT Unconstitutionally Suspended THE writ of HABEAS CORPUS AS IT Relates TO petition.
- (C) THE STATES Highest Court Decision WAS Certainly TO clearly ESTABLISH law AS MANDATED BY FEDERAL law And the Supreme Court of the UNITED STATES. BASED UPON THE EVIDENCE PRESENTED WHICH WENT TO THE JURISDICTION OF THE COURT OVER THIS CASE
- (D) A TOWSEND V SAIN violation took place
- (E) Petitioner is Actually Innocent WITHIN THE MEANING OF DAVIS V UNITED STATES AND MCGUIRE V PERKINS 389 US 383 note (2)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Monus a Joseph

Date: Nov 9th 2022