

22-6612  
No. 22-1437

ORIGINAL

2:20-cv-12165

IN THE  
SUPREME COURT OF THE UNITED STATES

FILED  
JAN 11 2023  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Teri Bernard Johnson — PETITIONER  
(Your Name)

vs.

Randee Rewerts — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals SIXTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Teri Bernard Johnson  
(Your Name)

12F 2500 S. Shandon Rd.  
(Address)

Michigan Heights, MI 49444  
(City, State, Zip Code)

—  
(Phone Number)

QUESTION(S) PRESENTED

Did the trial Court violate Johnson's right to a public trial by removing spectators from the Courtroom?  
Petitioner "Yes"

If the State presents insufficient evidence of assault with intent to do great bodily harm less than murder does the lower Court (COA) have the duty to grant Defendant issue of appeal? Defendant "Yes"

Did the prosecutor knowingly introduce perjured testimony?  
Defendant "Yes"

Did the trial Court violate Johnson's right to be present on 2 occasions? Defendant "Yes"

Did the trial Court deny Johnson's right to present a defense by excluding the first written statement of a witness?  
Defendant "Yes"

Was Johnson denied a fair trial and impartial Jury by introducing evidence of his prior convictions? Defendant "Yes"

Did the trial Court abuse its discretion & deny Johnson a fair trial by making improper remarks and questioning key witnesses?  
Defendant "Yes"

Was Johnson's trial counsel ineffective for failure to raise an issue and did Defendants ineffective issue have merit?  
Defendant "Yes"

Did the lower Court Abuse its Discretion by denying defendants Amended claims (1-5) After the defendants 2254 petition was accepted as timely due to the prison mailbox rule?

Defendant "yes"

Did the lower Court Abuse its Discretion when it assumed that witnesses for the defense were let back into the courtroom which violated the defendants right to a public trial and was not partial due to this assumption?

Defendant "Yes"

## LIST OF PARTIES

[v] 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:

## 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

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
People vs. Muhammad 2015 Mich App	
People vs. Brown, NO 321734	
2016 WL 699194 at * 1-2 (Mich. Ct. App. Nov. 29, 2016)	
People vs. Anderson 532 N.W. 2d 918 (Mich. Ct. App. 1995)	
Slack vs. McDaniel, 529 U.S. 473, 484 (2000).	
Miller-EL v. Cockrell, 537 U.S. 322, 327	
Bennett Co. v. DeLasquale, 443 U.S. 388, 390 (1979)	
Waller v. Georgia, 467 U.S. 39, 45 (1984).	
Drummond v. Poutre, 797 F.3d 400, 402 (6th Cir. 2015)	
Mayle v. Felix 543 U.S. 644, 650 (2005).	
STATUTES AND RULES	
28 U.S.C. 2254	
Fed R. App P. 22(b)	
28 U.S.C. 2244(D)	
MCL 750.224F	

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 People v Brown No 327734 2016 WL 6992194; 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 No. 155168 and 155836; 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 11-2-2022

[ ] 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: 11-2-22, 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 10-11-18. A copy of that decision appears at Appendix D.

[ ] A timely petition for rehearing was thereafter denied on the following date: 12-1-2021, 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

U.S. Const. Amend 4, 5, 6, and 14  
MCL 763.2  
MCL 769.13(2)

#### STATEMENT OF THE CASE

On July 29, 2020 defendant Johnson moved the U.S. District Court to grant his motion for habeas review. The Warden Argued Johnson's petition violated the Statute of Limitations by four days. The District court ruled that due to the prison mailbox rule, Johnson's habeas petition was timely filed on the last day of the Statute of Limitations. On 12-1-2021, Johnson amended his petition adding what are now claims 2-5. The Warden argued that Johnson's new claims should be denied because they were filed after the Statute of Limitations had run and were not entitled to statutory or equitable tolling. After Johnson replied, the district court held claims 2-5 barred by the Statute of Limitations and that Jurists of reason would not debate the procedural ruling on the merits of the defendant's amended claims.

#### REASONS FOR GRANTING THE PETITION

On Appeal/review the court remanded the lower courts dismissal and gave the defendant an extension of time to Amend his petition and petitioners new claims should not have been denied as time barred.

The Felony information in this case includes the Habitual offender notice, due to the fact that Statutory notice provision of MCC 769.13(2) was violated by the prosecution, who failed to provide the petitioner with a 21 day notice of the Habitual Notice, petitioner was improperly sentenced as an habitual offender.

The Court of Appeals erroneously dismissed petitioners Amendment ~~claims~~ right to a public trial and Due Process of Law when it removed petitioners witnesses from the Court and assured that they had been allowed back into the court room making the closure in Johnsons trial Full. Please see Appendix B, where Johnsons witnesses provided affidavits that they were ~~removed~~ from the courtroom kicked out of the courtroom for unfounded reasons and were not let back in. In addition, the court also abused its discretion by stating on the record that "witness Demand Davis" informed the trial court that he felt intimidated by defendant's supporters among the courtroom spectators" and that "he was fearful because people he believed were associated with defendants were parking outside his house, calling him and following him". These statements were not made to the court by this witness, nor was there any evidence that Johnsons mother, brother or sister (who were all removed from trial) were harassing witness Demand Davis in any form.



The Appellate Court erroneously rules that defendant Johnson received notice that he was being charged as an habitual offender, when in fact the prosecutor failed to provide Johnson with a timely notice.

Please see People vs Mohammed 2015 Mich App where the prosecutor had conceded that it did not timely serve the habitual offender notice under MCL 769.13, and that this error is not harmless error. In the instant case the prosecutor stated on file that he served Johnson with a habitual offender notice on Dec 15, 2014, defendant Johnson was not arrested until December 31st of 2014, and arraigned on January 23rd of 2015, making it impossible for the prosecutor to have provided the defendant with an habitual offender notice before he was arrested, which mandates a dismissal of the habitual offender notice.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: \_\_\_\_\_