

22-6678

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

JAN 11 2023

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Cortez Watts

(Your Name)

Pro Se

— PETITIONER

vs.

STATE OF MISSISSIPPI — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Mississippi Supreme Court

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

PETITION FOR WRIT OF CERTIORARI

Cortez Watts

(Your Name)

2999 U.S. Hwy 61 North

(Address)

Woodville, MS 3

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

- 1) Whether the trial Court Improperly applied the O'Dowd test of Jury-misconduct.
- 2) Whether the Supreme Court failed in affirming the trial Court decision that both Jurors lack Substantial Knowledge.
- 3) Whether both Jurors omission during ~~a~~ Evidentiary hearing had a prejudice affect, After failing to respond during voir dire examination.
- 4) Whether the defendant was denied the use of his preemptory challenges of both Jurors, under 6th Amendments U.S.C., M.S.L.A. 14th § 26

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

- ~~1) Watts v. State, 2017-0011, Judgement entered ^{April. 17, 2021} ~~Sept. 22, 2022~~~~
- ~~2) Watts v. State, 2021-KA-00873 SCT, Judgement entered -
Nov. 17, 2022~~
-

- 1) Watts v. State, 2017-0011, Judgement entered April. 17, 2021
- 2) Watts v. State, 2017-0011, Judgement entered Sept. 22, 2022
- 3) Watts v. State, 2021-KA-00873- SCT, Judgement entered -
Nov. 17, 2022

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	(3)
STATEMENT OF THE CASE	(4)(5)
REASONS FOR GRANTING THE WRIT	(6)(7)
CONCLUSION.....	8

INDEX TO APPENDICES

APPENDIX A	Decision of Mississippi Supreme Court denying rehearing
APPENDIX B	Decision of Mississippi Supreme Court trial state trial court
APPENDIX C	Decision of state supreme court trial court denying rehearing
APPENDIX D	Affidavit to accompany motion For Leave to Appeal In Forma Pauperis and pauper oath and Leave to appeal In forma pauperis
APPENDIX E	Direct Appeal brief from petitioner
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Burrough V. State, 767 So 2d 246, 2000 (Miss. App. Lewis 259)	(5) - (2)
Watts v. State Foster v. State, 639 So. 2d. 1263 (Miss. 1994)	(8)
Jasper V. State, (Miss. Ct. App. 2020) No. 2019-KA-00684-LOA	(5) (7)
Magee V. State, 124 So 3d. 64 (Miss. 2013)	(5)
Myers V. State, 565, So 2d. 554 (Miss. 1990)	(5) - (6)
ODonn V. State, 355 So 2d. 1381, 1383 (Miss. 1978)	(5)
Scar brough V. State, 204 Miss. 487, 37 So 2d. 748 (Miss 1948)	(7)

STATUTES AND RULES

Miss. Code. Ann. 13-5-67	(4), (5) - (6)
Miss. Code. Ann. 13-5-69	(4), (5) - (6)

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 _____ 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 2021- KA- 90873- SCT

- ☒ reported at Mississippi Supreme Court docket; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Tunica County Circuit court appears at Appendix C to the petition and is

- ☒ reported at Supreme Court docket of Mississippi; 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 _____.

☐ 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 ~~Sept 22, 2022~~ Nov 17, 2022. A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: Nov. 17, 2022, and a copy of the order denying rehearing appears at Appendix A.

☐ 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

- 1) U.S.C., 6th Amendments ————— (5)-(6)(7)
- 2) M.S.C., 3 ¹⁴/₁ 26th Amendments - Due process — (5)(6)(7)
- 3) Miss. Code. Ann. § 13-5-67
- 4) Miss. Code. Ann. § 13-5-69

STATEMENT OF THE CASE

This appeal proceeds from the Circuit Court of Tunica County Mississippi and Judgement of Conviction for one count of Conspiracy to commit armed robbery, attempted armed robbery, ~~robbery~~, Aggravated assault, Felony in Possession of a firearm. Watts second trial commenced on April 16, 2021. ON October 16, 2016 and into the morning of October 17, 2016, Watts and Tanyatta Kinney were at the casino in Tunica County, Derrick Phillips and Barry McCray also were at the Casino at Horseshoe playing craps, at some point Phillips states a man and woman were behind him at the blackjack table that night, and the man periodically asked him for a Cigarettes. The man walks away and the woman walks up in gives Phillips a napkin with her name and number on it. Phillips testified that he had known the woman previously but had not seen her in a while, but had not known the man. At 7:30 A.M Phillips and McCray left the casino. Phillips stated that the woman texted him to come to the apartment complex Kirby estate apartment and to bring her a Sprite. Once arriving at the apartment. Phillips states that the woman Asked him to get out in give him a hug. Phillips states that a man identified as Javonte appeared in front of his vehicle. Once Phillips got out the car Kinney began to run and another man ~~identified~~ identified as Watts approached him telling him to give him the money he won at the Casino. McCray heard a commotion while on the passenger side of the car. McCray looked around in seen Phillips with his hand in the air while a man was in front of him. McCray started running. After hearing a gun shot, McCray called Police. Fredrick Jackson, Watts half brother testified that Watts and Kinney had been in Watts room at Kirby estate that night around 2:00am and Javonte had been on the couch.

The Jury found Watts ~~guilty~~ guilty of Conspiracy to commit armed robbery, attempted armed robbery, aggravated assault, Felony in possession of a firearm. Watts was sentence to a total of 35 years. After Watts conviction, he filed a motion JNOV or for new trial and argued, inter alia, that he learned after trial that two jurors Vivian Smith and Nestassia Joyner had withheld important information during the Jury selection process, that they were related to a man name Kerris Black, an individual Watts brother plead guilty to killing in 2006.

The states agreed that a hearing should be held. After the hearing the trial judge denied watts motion for new trial. The state supreme court affirmed the trial court decision. During watts briefs, watts cited *ODow v. State*, 355 So. 2d. 1381, 1383 (Miss. 1978), *Myers v. State*, 565 So. 2d. 554 (Miss. 1990), *Magee v. State*, 124 So. 3d 64 (Miss. 2013) to substantiate his argument that both jurors failing to respond during voir dire had an prejudice affect on his trial following the guilty verdict. Watt's contends that had both jurors would have revealed their relationship he would have strike them, as far as being jurors in his case but, the supreme court affirmed the trial court decision to deny watts his use of an preemptory challenge under the U.S.C 6th Amendments? U.S.C. 3^{1/2} 26 and thus violates the statutory provision Miss. Code. Ann. 13-5-67- Miss. Code. Ann 13-5-69.. The petitioner pointed out during his appeal brief several omissions from both jurors testimony regarding their knowledge of the victim, and cited case law that would have disqualified them as jurors but the Mississippi Supreme court denied petitioner appeal, which conflicts with the earlier ruling in *ODow v. State*, 355 So. 2d. 1381, 1383 (Miss. 1978), (*Burroughs v. State*, 767 So. 2d 246, 2660 Miss. App. Lexis 259 (*Myers v. State*, 565, So. 2d. 554 (Miss. 1990)... (*Jasper v. State*, (Miss. Ct. App. 2020) No. 2019-KA-00684-COA)... The petitioner filed a rehearing that was denied after its filing. The petitioner now files to this Honorable U.S. Supreme Court upon a writ of certiorari.

REASONS FOR GRANTING THE PETITION

The reason for granting this petition is that "Simple," had both jurors would have responded during voir dire examination that they had a "love one" that was a victim of a crime of violence then the counsel for petitioner could have asked follow-up question to elicit the information that petitioner brother was convicted for the killing of both jurors second cousin, "their love one." By failing to respond clearly violates their jury oath in prejudice the petitioner a right that is guaranteed under the U.S.C. 6th Amendments and M.S.C. 3; ~~14~~ 26 to preemptory Challenge any juror for any reason other than race, Miss. Code. Ann 13-5-67; 13-5-69. Common sense suggests that the presence on the jury of a person who bore this relationships to the victim and who remained silent in the face of a direct question regarding whether there was any knowledge of the victim, presents a potential for prejudice to the right of the accused for a fair trial. Both jurors omissions during the evidentiary hearing that they knew ~~they~~ they had a "love-one" who fell victim to the hands of violence gives the appearance of intentional deceitfulness following their failure to respond during voir dire examination. The petitioner contends that had the material facts would have been developed then petitioner would have preemptory Challenged them as jurors in this case, which petitioner did have two preemptory Challenges left to use at the conclusion of Jury selection. Therefore the petitioner prays that this honorable court review ~~the~~ law and facts that conflicts with this court and other states and federal courts, ~~and~~ reverse and remand this case for a new trial. In all cases mention, in the petition, regarding Jury-misconduct, as in this case. The Supreme court of Mississippi, affirmed Myers conviction because the trial court properly excluded the juror in ~~that~~ case for failing to respond to the ~~question during voir dire examination~~ defense counsel question during voir dire examination, whether any prospective juror or any relative or members of juror's family has been involved in a criminal proceedings? Although while the juror sat silent after defense counsel asked on (3) three separate occasion; and she knew that her husband had suffer a liquor related conviction and was on probation from his sentence at the time of the trial. The decision in Myers case conflicts with the decision in this case, and/or The decision

In this case conflicts with Myers case. However, In Burroughs Case the trial court asked the juror: "Do you draw a distinction recognizing an individual and knowing an individual? After the juror recognized one of the ~~the~~ victims in the case that used to be employed at the juror dealership. The trial court reversed the defendant case for a new trial after developing the material facts, which is the same instance in petitioner case. In the case at bar, Both jurors omission during the evidentiary hearing "clearly" that they knew that they had a "love-one", who fell victim to the hands of violence ~~and~~ cast substantial doubt upon their candor, while sitting silent in the face of a direct question propounded on voir dire examination, Resulting in prejudice to the petitioner a fair and impartial trial under the U.S.C.A-14th- Due process and M.S.C.A-14-26

A juror is like a fine suit of clothes. A juror must be tailored to fit, and court and Counsel examine prospective juror under ~~the~~ settled rules tending toward that fit. When offering a challenge for cause and preemptory challenges, parties and their lawyer must rely on the objective candor and responsiveness of prospective jurors, and nothing turns on who asked the question, so long as it was clear worded. In Jasper case, The Miss. Ct. App reversed his conviction back to the trial court for an evidentiary hearing. Following the hearing the trial court granted the defendant a new trial, after finding that the juror was related to the victim through the victim father being the juror uncle and although while remaining silence during voir dire. The same ruling in Jasper case conflicts with the decision in this case, and/or the same ruling should be applied in this case. It's of greater importance to the public that the outcome of each jury verdict rest upon the U.S.C. with confidence that justice is served in its courts with fair and impartial jurors, and a right that shall remain inviolated. Where there is injustice anywhere, is justice nowhere. Had not the petitioner brother killed the juror's "love-one" then their silences would not have had any prejudice affect on jury selection, but since the petitioner brother was directly involved in the killing then both jurors silences was intentional deceitfulness and deceptual, which violates the petitioner's Due process right under the 6th Amendments U.S.C. and 14th § 26 M.S.C.A. It's easy to see through the lens of the constitutional state and federal that both jurors violated their oath by failing to respond to the question presented during voir dire, while having knowledge of the information sought to be elicited and denied the petitioner the use to effective preemptory challenge them as jurors in the case, by ~~the~~ bias intentions.

One accused of a crime is entitled to another trial, when his constitutional right to a fair and impartial trial has been violated, regardless of the fact that evidence on the first trial may have shown him to be guilty beyond every reasonable doubt and until he has had a fair and impartial ~~the~~ trial within the means of constitution, he is not to be deprived of his liberty by sentence in state penitentiary. Scarborough v. State, (Miss 1948) 264 Miss 487, 37 So 2d.

Finally, Caselaw provides in Foster v. State, 639 So 2d. 1263 (Miss. 1994)

Some acceptable race-neutral reasons for challenging a juror are (1) involvement in criminal activity, (2) unemployment [redacted]; (3) employment history; (4) relative involved in crime; (5) low income occupation; (6) juror wore gold chains, rings, and watch; and (7) dress and demeanor. The petitioner contends that even though weather or not both juror's knew [redacted] all the facts surrounding the death of their "love-one" and the petitioner brother. The petitioner was denied the [redacted] opportunity to (race-neutral) preemptory challenge both juror's by their failing to respond. The strike should have been allowed, During the evidentiary hearing.

CONCLUSION

The petitioner asks this honorable court to respectfully reverse and remand his case back to the trial court for a new trial and to be released ~~from~~ present custody immediately.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Cortez Watts - Pro se

Date: Jan 9th 2023