

No. **22-6805** ORIGINAL

In The

Supreme Court of The United States

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

Cornelius L. Jones,
Petitioner,

-VS-

People of the State of Illinois,
Respondent(s).

) The Circuit Court of the Sixth
) Judicial Circuit, Macon County, Ill.
) Case No. 08-CF-1053
) Appellate Court of Illinois,
) Fourth District No. 4-21-0459
) Supreme Court of Illinois
) Case No. 128803

On Petition For A WRIT OF CERTIORARI
to Appellate Court of Illinois, Fourth District
Petition For WRIT of CERTIORARI

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Question Presented

Whether A defendant's fundamental right to equal protection of the laws was infringed where the Fourth District Appellate Courts' construction of a statute contradicts that of section 3-9005(b) pursuant to People v. Ringland, 2015 IL App (3d) 130523; and, People v. Ringland, 2017 IL 119484.

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This Court should grant CERTIORARI to determine whether the 4th Dist. Appellate Court contradiction of a statute pursuant to People v. Ringland, 2015 IL App (3d) 130523; And, Ringland, 2017 IL 119484, ~~denied~~ denied defendants constitutional guarantee to equal protection of the laws.

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Appendix A: Appellate Court Order

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People v. Gutman, 2011 IL 110338, 12, 355 Ill. Dec.
207, 959 N.E. 2d 621 _____ 8.

STATUTES

55 ILCS 5/3-9005(b)(West 2012) _____ 8.

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☐ is unpublished.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☐ is unpublished.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 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☒ is unpublished.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 Fourth District Appellate court 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.

Jurisdiction

The judgment of the Appellate Court of Illinois was entered on June 23, 2022. (Appendix A).
Petition for Rehearing was filed on July 10, 2022.
Petition for Rehearing was denied on July 25, 2022. (Appendix B). A Petition for leave to Appeal to the Supreme Court of Illinois was denied on November 30, 2022. (Appendix D).

This petition is being filed within 90 days of the denial of the Petition for leave to Appeal.

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

Constitutional Provisions Involved

The Fourteenth Amendment to the Constitution of the United States, Section one, provides in pertinent part: "nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Article VI.

This Constitution, and the laws of the United States which shall be made in pursuance thereof; And all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; And the judges in every state shall be bound thereby, anything in the Constitution or laws of any state to the contrary notwithstanding.

Illinois Statutes Involved

55 ILCS 5/3-9005(b) (West 2012)

Section 3-9005(b) of the Counties Code provides, in pertinent part: "(b) The State's Attorney of each County shall have authority to appoint one or more special investigators to serve subpoenas, make return of process and conduct investigations which assist the State's Attorney in the performance of his duties.

A special investigator shall not carry firearms except with permission of the State's Attorney and only while carrying appropriate identification indicating his employment and in the performance of his assigned duties".

Statement Of the Case

This APPEAL ARISES FROM THE CIRCUIT COURT'S denial of Jones' motion for Leave to file successive Post-Conviction Petition. (APPendix C.(1)-(2)) Jones' petition Alleged that his first degree murder conviction should be VACATED pursuant to People v. Ringland, 2015 IL APP (3d) 130523; And People v. Ringland, 2017 IL 119484.

Jones ARGUED that his conviction should be VACATED because he WAS convicted on illegally obtained evidence that resulted from an unlawful stop and ARREST by A SPECIAL INVESTIGATOR with the Sangamon County State's Attorney's Office.

On July 23, 2021, the Macon County Circuit Court denied Jones' motion for Leave to file A successive Post-Conviction Petition.

Jones filed notice of APPEAL And the Office of the State Appellate Defender WAS APPOINTED to Represent him. The Office of the State Appellate Defender (OSAD) move to withdraw its representation of defendant, contending "An Appeal in this case would be without ARGUABLE MERIT".

The Appellate Court granted defendant leave to file a response to OSAD's motion.

Defendant filed a response, and the state filed a brief agreeing with OSAD's assessment of defendant's successive post-conviction petition.

The Appellate Court agreed with OSAD and the state that defendant's appeal does not present a potentially meritorious claim. (Appendix A (1)-(6))

Jones filed a petition for rehearing that was denied. (Appendix B)

Jones' Petition for Leave to Appeal was denied. (Appendix D)

Reason For Granting Certiorari

This Court should grant Certiorari to determine whether the Fourth District Appellate Courts' contradiction of a statute pursuant to *People v. Ringland*, 2015 IL App (3d) 130523; and, *People v. Ringland*, 2017 IL 119484, denied petitioner's constitutional guarantee to equal protections of the law.

Jones filed a motion for leave to file successive post-conviction petition arguing he was unlawfully stop and subsequently arrested by an Special Investigator with the Sangamon County States Attorney's office, that had "no statutory or common law authority" to take such an action. (Appendix F: *Ringland*, 2017 IL 119484, 21, 24-25, 33)

The 4th Dist. Appellate court dismissed Jones' Petition finding, inter alia, that Special Investigator "Gudges" actions were distinguishable from the Special Investigator in "Ringland" because the Special Investigator "Gudges" did not act independantly like the Special Investigator (SI) in Ringland. (Appendix A(5))

The 4th Dist. Appellate Court did not properly comprehend section 3-9005(b) pursuant to "Ringlands".

Resolution of this issue requires this Court to construe the relevant statutory language. Construction of a statute is a question of law for which the standard of review is de novo. (People v. Gutman, 2011 IL 110338, 12, 355 Ill. Dec. 207, 959 N.E.2d 621)

Section 3-9005(b) of the Counties Code provides, in pertinent part: The State's Attorney of each county shall have authority to appoint one or more special investigators to: 1. serve subpoenas, 2. make return of process and 3. conduct investigations which assist the State's Attorney in the performance of his duties". "A special investigator shall not carry firearms except with permission of the State's Attorney and only while carrying appropriate identification indicating his employment and in the performance of his "assigned duties". (Appendix E: Ringland, 2015 At 35; And, Ringland, 2017 At 14: Appendix F)

The statute is conspicuously devoid of any other function a special investigator may undertake. Thus the plain language of section 3-9005(b) demonstrates that the legislature intended the functions of special investigator to be limited to the 3 functions listed. (Appendix E At 37; ~~Appendix~~ Appendix F At 14)

Special investigator "Gudgel," After hearing a radio transmission of a crime and vehicle description, went directly to the highway to look for suspects without cooperation with or input from law enforcement. (Appendix G: (1)-(2); Special investigator's Report)

Conduct of which falls outside the duties contemplated by Section 3-9005(b) for special investigators. (Ringland, 2015 Ill App (3d) 46-47, 33 N.E. 3d At 1029)

Also holding that the actions of the special investigator were unauthorized under Illinois state law. (Id 48 N.E. 3d At 1029)

The State's Attorney's common law duty to investigate suspected illegal activity is limited to circumstances where other law enforcement agencies inadequately deal with such investigations or where a law enforcement agency asks the State's Attorney for assistance. (Appendix F At 25, 33, 35)

When Special investigator "Gudgel" conducted the traffic stop and arrest of Jones, he was not conducting an investigation that assisted the State's Attorney with his duties.

The investigations the special investigator may

Conduct under the statute ARE limited to those crimes that have already come to the attention of the State's Attorney. Such a reading would place the special investigator's traffic stop squarely outside the scope of section 3-9005(b). (APPENDIX E AT 38, 42)

Thus, to be valid, the instant traffic stop, by themselves, must constitute investigations that assists A State's Attorney in the performance of his or her duties. (APPENDIX F AT 15)

Special investigator "Gudgel" was not performing neither of the 3 functions established by section 3-9005(b) when he conducted the traffic stop and arrest of Jones.

The 4th Dist. suggest that "Gudgel" acted on a general request for assistance by a law enforcement agency, which rendered his conduct within his common-law duty to investigate suspected criminal activity. (APPENDIX A (6))

"Gudgel" cannot act on a general request for assistance by a law enforcement agency, because "Ringlands" established that special investigator's aren't police. (APPENDIX E AT 42; APPENDIX F AT 32)

The State's Attorney's common-law duty to investigate suspected illegal activity is limited to

Circumstances where other law enforcement agencies inadequately deal with such investigations or where a law enforcement agency asks the State's Attorney for Assistance.

Ringland held that State's Attorney's common-law duty to investigate suspected illegal activity did not cover the situation before us and, absent this duty, the conduct of the special investigator fell outside of the scope of section 3-9005(b). (Appendix F at 35)

The 4th Dist. did not comprehend section 3-9005(b) pursuant to "Ringlands".

The ultimate issue before the 4th Dist. was: Whether the special investigator exceeded the scope of section 3-9005(b), and/or whether the special investigator's actions were statutorily permitted?

The 4th Dist. failure to properly comprehend section 3-9005(b) pursuant to Ringland denied Jones the relief that Ringland et al received.

The 4th Dist. failure to properly comprehend section 3-9005(b) pursuant to Ringland not only infringed Jones' equal protection of the law, but also his

Constitutional Rights to "life, liberty and limb", Also Jones' 6th Amend. Const. Right to counsel.

The 4th Dist. minimizes the importance of Jones' Constitutional Right to equal protection of the laws by miscomprehending section 3-9005(b) pursuant to Ringlands.

The 4th Dist. decision infringed Jones' constitutional guarantee to the equal protection of the laws and conflicts with the legislature's intent of a statute in a majority of jurisdictions in this country.

Jones Requests certiorari because the 4th Dist. did not comprehend section 3-9005(b) according to the legislature's intent and/or pursuant to "Ringlands", denying Jones of his Due Process, as required by the 14th Amendment, which is why the United States Supreme Court should grant certiorari.

CONCLUSION

This Court should grant this Petition to consider whether Jones' constitutional right to equal protection of the laws was infringed when the Fourth District Appellate Court denied Jones' Petition by miscomprehending Section 3-9005(b) pursuant to Ringland, 2017 IL 119484; And People v. Ringland, 2015 IL App (3d) 130523.

Date: 2-6-23

Respectfully Submitted,

/s/ Cornelius L. Jones

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