

ORIGINAL

22-7018

No.

Supreme Court, U.S.
FILED

FEB 09 2023

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL WRIGHT,
Petitioner-Appellant

, v.

CONTRA COSTA COUNTY, et al
Respondent-Appellee

On Petition for a Writ of Certiorari to the
United States court of Appeals for the Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

MICHAEL WRIGHT
In pro Se
San Quentin State Prison
San Quentin, ca94974
CDC # BE1099

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QUESTION PRESENTED

1. In applying Heck v. Humphrey, 512 U.S. 477 (1994), to a unlawful conviction in a Title 42 § 1983 civil action, can the federal court deny the suit when certain counts were invalidated by a state tribunal authorized to do so, even though a remainder of the judgment remain valid?

2. In applying Heck, can the federal court deny the suit claiming Petitioner's rights were not violated, even though the state court invalidated the conviction pursuant to the standard set forth in Jackson v. Virginia, 443 U.S. 307 (1979), which is an effect a denial of due process.

PARTIES TO THE PROCEEDING

Petitioner Michael Wright is a California state prisoner, who was sentenced to life following a jury trial in Contra Costa county.

Respondent is Contra Costa County.

PETITION FOR A WRIT OF CERTIORARI

Petitioner Michael Wright respectfully petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit, denying Petitioner's appeal from the denial of his suit in a Title 42 § 1983 action by the District Court for the Northern District of California.

OPINIONS BELOW

The decision of the United States Court of Appeals appears at Appendix A, and is unpublished.

The decision of the District Court appears at Appendix B, and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals decided the instant case was November 17, 2022. This petition is filed within 90 days this date.

Prior to the denial by the Court of Appeals, Petitioner filed a federal civil rights action in the United States District Court for the Northern District of California, which was denied.

The jurisdiction of this court is invoked under 28 U.S.C. § 1254.

CONSTITUTIONAL AND STATUTORY PROVISIONS

Heck v. Humphrey, 512 U.S. 477, 486-87 (1994), " in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus.

STATEMENT OF THE CASE

In the district court, the court denied Plaintiff's suit with comment that defendants did not violate Plaintiff's constitutional rights. However, the district court's opinion specifically recognized that certain counts were vacated on appeal as premised on insufficient evidence. Further, the district court reasoned that even though the state court found insufficient evidence which invalidated the conviction and sentence, the district court nonetheless determined that the state court still found sufficient evidence on the invalidated convictions. Ultimately, Petitioner was resentenced with two life sentences plus ten years, for a total of 40 yrs been invalidated.

The Ninth Circuit summarily denied.

REASON FOR GRANTING THE PETITION

The Ninth Circuit's order conflicts with this court's holding in *Heck v Humphery*, 512 U.S. 477, (1994), which established the principle that a plaintiff may seek damages for an unlawful conviction or sentence. Three of Petitioner's convictions were invalidated for the purpose of Heck.

The district court erred in concluding Petitioner's constitutional rights were not violated. The district court rightly opined that three counts were reversed on direct appeal premised on insufficient evidence; however, it also opined that the state court found sufficient evidence on the same counts that was reversed. This court has said an " appellate court's reversal for insufficiency of the evidence is in effect a determination that the government's case against the defendant was so lacking that the trial court should have entered a judgment of acquittal." *Lockhart v Nelson*, 488 U.S. 33, 39 (1988). And the Due Process Clause of the 14th Amendment protects a defendant in a criminal case against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged. *Jackson v Virginia*, 443 U.S. 307, 315 (1979). Thus, the Circuit's order is contrary to the Heck standard, here the state court invalidated three convictions which is a major factor in the suit proceeding under Heck.

CONCLUSION

Michael Wright on Febuary 7, 2023 submit this petition.

PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. § 1746)

I, MICHAEL WRIGHT, declare:

I am over 18 years of age and a party to this action. I am a resident of SAN QUENTIN STATE

PRISON Prison,

in the county of MARIN,

State of California. My prison address is: SAN QUENTIN STATE PRISON,
SAN QUENTIN, CA 94974.

On 2-7-2023 (DATE),

I served the attached: CONTRA COSTA COUNTY WITH THE PETITION FOR WRIT
OF CERTIORARI

(DESCRIBE DOCUMENT)

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named correctional institution in which I am presently confined. The envelope was addressed as follows:

County Administrator's office
1025 Escobar Street, 4th floor
Martinez, CA 94553

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 2-7-2023 (DATE)

(DECLARANT'S SIGNATURE)

M Wright