

No. 22-7019

ORIGINAL

Supreme Court, U.S.
FILED

JAN 30 2023

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

In Re James C. Winding — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

James C. Winding #K8115
(Your Name)

Unit 26 A, B-Zone, bed #90
(Address)

Parchman, ms 38738
(City, State, Zip Code)

(662)-745-6611
(Phone Number)

QUESTION(S) PRESENTED

Whether Petitioner INDICTMENT fail(s) to charge Kidnapping and Sexual Battery for which Petitioner WAS convicted, and Sexual Battery NOT existing ON N.C.I.C report because Petitioner was never legally process before being UNLAWFULLY INDICTED for Sexual Battery?

(END)

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

U.S. V. HENRY, April 10, 2002, 288 F.3d 657, 2002 WL 538778

U.S. V. MORECI, February 13, 2002, 283 F.3d 293, 2002 WL 226417

Mazzezz V. STATE, December 13, 2016, 230 So.3d 722, 2016 WL 7647178

U.S. V. Mendez-Carmelo, April 16, 2002, 196 F.Supp.2d 138, WL 628637

Hines V. STATE, June 05, 1985, 472 So.2d 386

Pachak V. Zinke, 138 S.Ct. 897 6922

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

U.S.V. Henry, April 10, 2002, 288 F.3d 657, 538778	(7)
U.S.V. Moreci, February 13, 2002, 283 F.3d 293, 226419	(7)
Mozzett V. State, December 13, 2016, 230 So.3d 722, 7647178	(7)
U.S. V. Mendez-Carreno, April 16, 2002, 196 F.Supp.2d 138	(7)
Hines V. State, June 05, 1985, 472 So.2d 386	(6), (7)
Pachak V. Zinke, 1385 Ct. 8978/922	(5)

STATUTES AND RULES

Fed. l. Crim. p. 12(b)(2)
 97-3-95 (1)(b)
 97-3-53
 Section 43-47-5
 MR.Cr.P.(14)

OTHER

Mississippi Law recognize only two such Jurisdictional defects to a conviction; Where the Indictment fails to charge a necessary element of Crime, or if there exists no subject matter Jurisdiction.

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ON July 29, 2022

APPENDIX B USCA No. #22-90065 Court order ON
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APPENDIX D USDC order Denying Copies

APPENDIX E Letter 11/14/22 MDOC Commissioner
Letter 12/30/22 Arp Department

APPENDIX F

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of mandamus issue.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A, B 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 "D" to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

"D"
Refused to
Give Copies

☐ 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Appendix "A", "B".

☐ 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).
Constitution for Release under the Title 28 U.S.C. § 224(a)(3) (2018)
... Challenges BASED on the failure to charge an offense may be made at any time....

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ 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).

P.J.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

..... Although Challenges based on the failure to charge an offense may be made at any Time, See Fed. R. Crim. P. 12(b) (2)

P. 3)

STATEMENT OF THE CASE
& RULE 20.4(A) STATEMENT

PART (1)

The UNITED STATES District Court denied Petitioner Writ of Habeas Corpus Year 2005 (see) USDC #5:05-CV-178. Petitioner has filed so many motion(s) to get some types of Relief. Petitioner has unable to get any Records from USDC, clerk (see) Appendix "D". Petitioner made a Attempt to Appeal and Voluntary dismissed the appeal of Warning for Severe Sanction(s) (see) Appendix "A".

Petitioner filed a Motion for permission to proceed After Sanction w/ Writ of Habeas Corpus, raising the same grounds within this petition, which was Denied (see) Appendix "B".

Petitioner filed a Motion to Re-open Appeal Feb. 03, 2023 raising the attached Grounds before this Court. Petitioner does not know the out come of this Motion. United States Court of Appeal Clerk has not Given me any Notice of Receivment or out-come (see) Fifth Circuit Clerk Records(s). Petitioner Winding has Done over 20 years on this "Bogus" Jurisdictional Defective Indictment., failure to charge a offense for which petitioner was convicted. (END)

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STATEMENT OF THE CASE
& RULE 20.4(A) STATEMENT

part(2)

The UNITED STATES Court of
Appeal (fifth Circuits) issue a
order BARRED petitioner Winding
from returning back to UNITED States
District Court on a Writ of Habeas
Corpus and Sanctions petitioner
\$ 500.00 ON January 10, 2023
(See) Appendix "B"

(END)

p. 4-2)

REASONS FOR GRANTING THE PETITION

part (1)

Although challenges based on the failure to charge an offense may be made at any time, (See) Fed. R. Crim. P. 12(b) (2)
If made for the first time on Habeas Corpus, a court should read the indictment with "maximum liberality" and find it sufficient "unless it is so defective that by any reasonable construction, it fails to charge the offense for which the defendant is convicted."
(See) Pachak v. Zinke, 138 S. Ct. 887 (2018)
* Constitution for Release under the Title 28 U.S.C. § 224(a)(3) (2018)

(See) Indictment
p. 5)

REASONS FOR GRANTING THE PETITION

part (2)

Petitioner Winding Indictment fail to prove
a continuous crime of events as to kidnapping
and Sexual Battery. Count (2) Sexual Battery
failure to specified Geographical Location. Ambiguous
As to Location (See) Hines v. State, June 05, 1985,
472 So. 2d 386.

Indictment does not states 97-3-95 (1)(b)
mentally challenge.

Indictment does not states for kidnapping Section
43-47-5 kidnap any vulnerable person.

Petitioner quotes the prosecution surprised him
during trial as the prosecution present allege
evidence that illegally amend the indictment
without present to Grand Jury (See) MRCP(14)

* Petitioner Winding was never legally process,
finger printed, nor booked for Sexual Battery.

As of 2/14/2023 Sexual Battery does not
exist on the N.C. I. C Report (See) Appendix "E"

P. (6) (See) Supporting Cases  next
Page

(See) U.S.V. Henry, April 10, 2002, 288 F.3d 657, 538 n.8
(See) U.S.V. Moreci, February 13, 2002, 283 F.3d 293, 226 n.17
(See) Mezzett v. State, Dec. 13, 2016, 230 So. 3d 722, 764 n.178
(See) U.S.V. Mendez-Carrero, April 16, 2002, 196 F. Supp.2d 138.
(28637)
(See) Hines v. State, June 05, 1985, 472 So.2d 386
(See) Pachek v. Zinke, 138 S.Ct. 897 892
(See) Fed. R. Crim. P. 12(b)(2)
(See) MRC.P.(14) (End)
CONCLUSION
The petition for a writ of habeas corpus should be granted.

Respectfully submitted,

James C. Winding
Date: 2/14/2023

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(End)