

ORIGINAL

No.

22-7027

IN THE

SUPREME COURT OF THE UNITED STATES

WASHINGTON D.C.

Supreme Court, U.S.
FILED

MAR - 6 2023

OFFICE OF THE CLERK

Lester BARNETT — PETITIONER
(Your Name)

vs.

State of N.C. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of North Carolina
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lester BARNETT
(Your Name)

P.O. Box 220
(Address)

New Port N.C. 28570
(City, State, Zip Code)

N/A
(Phone Number)

RECEIVED
MAR 15 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- (i) Was it unconstitutional for them to convict petitioner for a safecracking that happen while petitioner was confined at Mecklenburg County Jail on the day the offense was committed on November 5, 1980. In violation of Due Process of Law of the 5, 6, 14 Amendment of the United States Constitution.
- (ii) Was it unconstitutional for the City of Gastonia not to disclose evidence favorable to him in violation United States Constitutional Amendment 5, 6, 14 Also N.C. Constitutional Art I, Section 18, 19, 23.
- (iii) Was it unconstitutional for them to impose a Life Sentence for Attempt robbery, AND Safecracking on a Committed Youthful Offender When N.C. Gen Stat. Section 148-49.8(b) Provides: "A committed Youthful offender shall be released conditionally under supervision and or before the expiration of four years from the date of his commitment.
- (iv) Was it unconstitutional for the state of North Carolina to remove the statute Number for a committed Youthful Offender 14-87(d) and replaced it with 14-87 in violation United States Constitutional Amendment 5, 6, 14 Also N.C. Constitution Art I, section 18, 19, 23.

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:

Lester BARNETT

✓

State of North Carolina

RELATED CASES

State v. Dickens, 299 N.C. 76, 261 S.E.2d 183 (1980).

West v. Atkins, 487 U.S. at 50.

Monroe v. Pape, 365 U.S. 167, 184, 81 S.Ct 473, 5 L.Ed.2d 492 (1961)

U.S. v. Adams 448 F.3d 492, 502 2nd Cir (2006)

Bett v. Brady 316 U.S. 455, 62 S.Ct 1252 86 L.Ed. 1595 (1942)

State v. Frogge, 359 N.C. 228, 240, 607 S.E.2d 627, 634 (2005).

State v. Stevens 305 N.C. 712, 720, 291 S.E.2d 585, 591 (1982)

U.S. v. Gallop, 838 F.2d 105, 109 (1988).

State v. Kuplen, 316 N.C. 387, 399, 343 S.E.2d 793, 800 (1986)

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	Order : Honorable: Jesse B. Caldwell April 25, 2019.
	Order: Honorable: David A. Phillips July 15, 2022.
APPENDIX B	Order: North Carolina ^{LB} Court of Appeals June 15, 2022
	Order: North Carolina court of Appeals June 27, 2022
APPENDIX C	Indictment/ Judgment And committment/Sentencing guideline of CYO Sentencing.
APPENDIX D	Petition For Writ Of Certiorari Filed August 10, 2022.
APPENDIX E	Petition for Writ Of MANDAMUS. March 27, 2022
APPENDIX F	Motion Dismissed by Order: s/Berger, J. December 13, 2022

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 _____ 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 _____.

[] 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_____.
S

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 December 13, 2022. A copy of that decision appears at Appendix F.

[] 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_____.
S

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

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

CASES	PAGE NUMBER
MENNA V. New York 423 U.S. 61 (1975).	
Brady V. Maryland 373 U.S. 83 (1963).	
CARNEY V. COCHRAN 369 U.S. 506, 516, 82 S.Ct 884, 890, 8 L. 2d. (1962)	
Apprendi V N.J. 520 U.S. 466, 488-92 (2000).	
U.S. V. BONOLA 287 F.3d 699, 701 (2002).	
Bett V. Brady 316 U.S. 455, 62 S.Ct 1252 86 L. Ed 1595 (1942).	
U.S. V. Gallop 838 F.2d 105 (1988)	
STATE V. HENNIS 323 N.C. 279, 285, 372, S.E. 2d 523, 527 (1988).	
STATE V. JOHNSON 253 N.C. App 337, 801 S.E. d 123 (2017).	

STATUTES AND RULES

11(g) Federal Rule should produce complete record
U.S. Constitution Amendment 5, 6, 14 N.C. Constitution Art I Sec 18, 19, 21/23
right to appeal.
U.S. Constitution Eighth Amendment cruel and unusual punishment
N.C.G.S 15A-1415(b)(3) illegal conviction
14-87 (d) was for committed youthful offenders

OTHER

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitutional Amendment 5,6,14 AND North Carolina Constitution Art,1 Section 18,19,23 require due process of LAW.

Rule 11(g) hearing should produce complete record of factors relevant to determining "consequences of plea" and to eliminate any need to resort to later fact finding Proceeding.

N.C.G.S 15A-1026 require that a verbatim record of such proceeding be maintained and preserved these statutes plainly establish a legislative policy in favor of allowing review of the record to ensure compliance with the various statutory and constitutional mandates. The legislative could not have intended that a verbatim record be preserved only for it to remain UNAVAILABLE for inspection. It states under G.S. 14-87(d) C.Y.O Sentencing 14-87(d) Notwithstanding any other provision of law, with the exception of persons sentenced as committed youthful offenders, a person convicted of robbery with firearm or other dangerous weapon shall serve a term of not less than seven years in prison, excluding gain time granted under G.S. 148-13. A person convicted of robbery with firearm or other dangerous weapons shall receive a sentence of at least 14 years in the state prison and shall be entitled to credit for good behavior under G.S. 15A-1340.7.

STATEMENT OF THE CASE

In the present case, ON April 25, 2019 The Honorable: Jesse B. Caldwell ruled in his Order: That the defendant WAS confine At the Mecklenburg county Jail on November 5, 1980, And had been there four months And could not have committed the November 5, 1980 Safecracking See: paragraph 16, And 18 of Jesse B. Caldwell April 25, 2019 order: The Judge defer for later consideration, All charges was consolidated for one Judgement on February 9, 1981. On December 4, 2019 The petitioner filed And Amended motion for Appropriate Relief to have the Committed Youthful Offender Sentence corrected by inclosing the Sentencing guideline for CYO sentencing which clearly show that the maximum sentence that I could recieve for Attempt robbery as a committed youthful Offender is 14 years. Sentence guideline enclosed with this petition Article 17. G.S. 14-87(d) G.S. § 148-33.2, 57.1 was NOT included for the CYO Sentence as a CYO but modified to Just 14-87 the proper statue for CYO Sentence is 14-87(d) This statue was removed and changed from 14-87(d) to Just 14-87 which is Arm Robbery. My conviction on February 9, 1981 was Attempt robbery, Safecracking I was sentence under committed youthful Offender Statute G.S. 148-33.2, 57.1 See: Judgement and committment that is attach to this petition. On the D.P.S web site they changed my attempt robbery conviction to Arm Robbery, And the November 5, 1980 Safecracking they removed the file Number and date of the crime and replaced it with File Number 0000000.

REASONS FOR GRANTING THE PETITION

A state court AN Court of Appeals has decided AN important Federal question in A WAY that conflict with relevant decisions of this court.

This court decided in Brady V. Maryland 373 U.S. 8 (1963).

"The verbatim record is Appropriate AND Necess Any."

The verbatim record is Needed to Access the content of A plea, Federal Rule 11(g) should produce the complete record of factor relevant to determining consequences of plea.

The petitioner present issue general legal Signifisence involved are questions of law or legal reference the petitioner respectfully Petition this court to exercise this court discretion AND bring the entire record here to this court by Certiorari on the sound discretion of the Supreme Court As Authorized by 28 U.S.C. § 1651 (A).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lester Barnett

Date: 3 - 7 - 23