

22-7178

Supreme Court, U.S.
FILED

DEC 09 2022

OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

DAVID FRAZIER,

Petitioner,

vs.

STATE OF TENNESSEE,

Respondent,

Case No. 10-06373

PETITION FOR A WRIT OF CERTIORARI

On Petition for a Writ of Certiorari to the Supreme Court of Tennessee

1. Full Name: David Wayne Frazier, Sr.
2. Address: South Central Correctional Facility
P.O. Box 279
555 Forrest Ave
Clifton, Tennessee 38425-0279
3. Telephone Number: Not Applicable
4. Date of Birth: 12-30-1973
5. Tennessee Dept. Of Correction Inmate Number: 00212248

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SUPREME COURT, U.S.

QUESTIONS PRESENTED

Whether Supreme Court for Tennessee ignored facts and procedure for correction of illegal sentence.

Whether Criminal Appeals Court for Tennessee also ignored essential facts in the case of an illegally imposed sentence.

LIST OF PARTIES

- ☒ [X] 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:

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Tennessee Code Annotated § 39-13-522, Rape of a Child

IN THE SUPREME COURT OF THE UNITED STATES
PETITION FOR WIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from State Courts:

The opinion of the highest State Court to review the merits appear at Appendix A to the petition and:

[] is reported at _____; or,

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

[X] is unpublished.

The opinion of the Court of Criminal Appeals for the State of Tennessee appears at Appendix B to the petition and:

[] is reported at _____; or,

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

[X] is unpublished.

JURISDICTION

[X] For cases from State Courts:

The date on which the highest state Court decided my case was September 29, 2022.

A copy of that decision appears at Appendix A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution, 8th Amendment.

United States Constitution, 14th Amendment.

Tennessee Code Annotated § 39-13-504, Aggravated Sexual Battery

Tennessee Code Annotated § 39-13-522, Rape of a Child

STATEMENT OF THE CASE

The Shelby County Court at Memphis TN erred in sentencing me to a 20-year sentence under TCA § 39-13-522 that was reduced to an 8-to-12 year sentence under TCA § 39-13-504. My public defender did not correct this, so I would like the Supreme Court to look into this matter. I feel that I am being discriminated against in this case, as my public defender is using my being a slow learner against me. I feel that the Shelby County Court has failed me and violated my constitutional rights under the 8th and 14th amendments to the US Constitution. At this time I am asking for immediate release, because I have been incarcerated from November 4, 2010 until the present time. That is twelve years, which should be my maximum sentence because I was convicted of a lesser included charge of Aggravated Sexual Battery which is a Range I Class B felony and carries only an 8-to-12 year sentence. I was originally indicted on Rape of a Child, which is a Class A felony. My public defender, Mr. Shae Atkinson, was appointed to me when my case was reopened; he did not argue these facts, and that's proof that he is working with the Shelby County Court and their error, so I am asking the Supreme Court to look into this matter.

CONCLUSION

The Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, reading "David W. Frazier". The signature is written in dark ink and is positioned above a horizontal line.

David W. Frazier, *pro-se*

REASONS FOR GRANTING THE PETITION

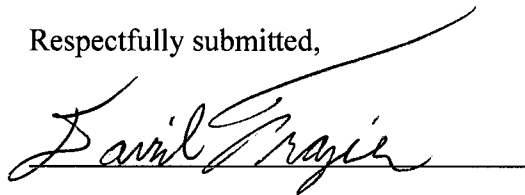
Pursuant to Rule 36 of the Federal Rules of Criminal Procedure, "After giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission."

The clerical error in Petitioner's original case in Shelby County was not corrected by the State of Tennessee Court of Appeals.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 2/20/23