

22-7295

No. 22A729

ORIGINAL

Supreme Court, U.S.
FILED

MAR 09 2023

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

SALEEM D. WILLIAMS, Pro se — PETITIONER
(Your Name)

VS.

ANNETTIA TOBY, Warden, Et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
ELEVENTH CIRCUIT, UNITED STATES COURT OF APPEALS.

REFUSE TO RULE FOR LACK OF JURISDICTION
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SALEEM D. WILLIAMS
(Your Name)

P.O. BOX 339
(Address)

SPARTA, GEORGIA 31087
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Article I. of the United States Constitution holds in part that, "The privilege of the writ of habeas corpus shall not be suspended...." "No bill of attainder or ex post facto Law shall be passed." Article III. holds in part, "The Judicial power of the United States, shall be vested in one Supreme Court...."

Article IV. holds in part that, "Full faith and credit shall be given in each state." And, Article VI. in part holds, "This Constitution,..... shall be the Supreme Law of the Land, and the Judges in every state shall be bound thereby,"

The Question(s) I propose to this Honorable Court is :

1. Can the Eleventh Circuit docket a case without proper jurisdiction, rule on it, without jurisdiction, and allow that ruling to stand.
2. When a (Pro se) Petitioner request a full discovery, and all Jencks material, before, during, and after a trial or any proceeding and denied this request. Does Full faith extend to the denial of Petitioner's Substantial Rights, protected by the Constitution.
3. When establish Law holds a Pro se litigant to a less stringent standard and fraud requires specifics, in which Judges are bound to administer the law as a Jurist, and a De novo review bypasses Plain error. Does the bypassing, corroborate with the denial of Due process, when "Conspiracy against rights" under 18 U.S.C. § 241, is a crime stated by 18 U.S.C. § 242.

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:

- 1) Burleson, Hon. Alison T. - State Habeas Corpus Judge
- 2) Carr, Christopher M., Attorney General - Counsel for Respondent / Appellee
- 3) Crowder, Matthew B. - Counsel for Respondent / Appellee
- 4) Johnson, Mickey - State Appellate Counsel for Petitioner / Appellant, and State witness for Respondent / Appellee
- 5) Langstaff, Hon. Thomas Q. - United States Magistrate Judge
- 6) Lawson, Hon. Hugh - United States District Judge
- 7) Lyles, Don T. - State Trial Counsel for Petitioner / Appellant, and State witness for Respondent / Appellee
- 8) McDaniel, Hon. Brian A. - State Trial Judge
- 9) Miller, J. David, former District Attorney - State Prosecutor
- 10) Smith, Catherine - State Prosecutor
- 11) Toby, Annetia, Warden - Respondent / Appellee

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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 A,B,D to the petition and is

☐ reported at # 22-12680-J; 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 C,E,F to the petition and is

☐ reported at 7:21-CV-44; 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 (11/09/22), (09/20/22).

☐ 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 02/10/23 (date) on 03/09/23 (date) in Application No. 22 A 729.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

This Court has Jurisdiction to hear this case pursuant to 28 U.S.C. § 1254 (1).

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

CONSTITUTIONAL PROVISIONS:

- 1) Article One holds: "All legislative Powers herein granted shall be vested in a Congress of the United States", ("The .. Writ of Habeas Corpus shall not be suspended...")
- 2) Article Three holds: "The judicial Power... shall be vested in one supreme Court..."
- 3) Article Four holds: "Full Faith ... shall be given in each State to the public Acts, Records, and judicial Proceedings ..." "And the Congress by general Laws prescribe the Manner .. which such Acts, Records and Proceedings shall be proved ...")
- 4) Article Six holds: "This Constitution, ... shall be the supreme Law of the land; ... Judges in every State shall be bound thereby, ...")
- 5) Amendment One holds: "Congress shall make no law ... prohibiting ... people .. to petition the Government for a redress of grievances.")
- 6) Amendment Four holds: "The right of the people to be secure in their person, ... shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, ...")
- 7) Amendment Five holds: "No person shall be held to answer ... infamous crime, unless on a ... indictment of a Grand Jury, ...; Nor shall any ... be subject ... twice put in jeopardy of life or limb; nor shall be compelled in any criminal case ... be a witness against himself; nor ... deprived of life, ... without due process of law; ...")
- 8) Amendment Six holds: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury ... and to be informed of ... cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.")
- 9) Amendment Eighth holds: "... nor cruel and unusual punishment inflicted.")
- 10) Amendment Fourteenth holds: "... No State shall make or enforce any Law which shall abridge the privileges or immunities of citizens ...; nor shall any State deprive any person of life, liberty, ... without due process of law; nor deny ... equal protection of the laws.")

STATUTORY PROVISIONS (continued)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Continuation of STATUTORY PROVISIONS:

- 1) GEORGIA Constitution, Article I, Section I, Paragraph II, holds:
"Life, liberty, and property. No person shall be deprived of life, liberty, or property except by due process of law.")
- 2) 28 U.S.C. § 1254(1): "Gives this Court Jurisdiction".)
- 3) 28 U.S.C. § 2254: "Writ of Habeas Corpus)
- 4) 28 U.S.C. § 2253: "Appeal by 'Certificate of Appealability' (COA)"
- 5) 18 U.S.C. § 241: "Conspiracy against rights")
- 6) 18 U.S.C. § 242: "... criminal to act willfully and under color of law to deprive a person of rights protected by the Constitution or laws of the United States.")
- 7) 28 U.S.C. § 1927: "Counsel's liability for excessive cost"
- 8) 18 U.S.C. § 1001: "Statement or entries generally"
- 9) 18 U.S.C. § 2076: "Clerk's Neglect of duty"
- 10) 28 U.S.C. § 636: "Authorized Power of a Magistrate Judge")
- 11) 28 U.S.C. § 455: "Judges must be fair is axiomatic"

STATEMENT OF THE CASE

Without Due process, forced medicate, and with actual fraud, egregiously shielded by procedural default of O.C.G.A. § 9-14-48, and § 9-14-51.

Without Due process, and with fraud, its alleged Petitioner being indicted by a Thomas County grand jury on August 8, 2013, for two counts of Kidnapping, two counts of rape, aggravated sodomy, false imprisonment, burglary-1st degree, theft by taking, battery, cruelty to children-3rd degree, and interstate interference with custody. (See Resp. Ex. 10)

Without Due process, and with actual fraud, At an October 2015 jury trial, petitioner was found guilty under O.C.G.A. § 2: one count § 16-5-40, one count § 16-6-1, § 16-5-41, § 16-8-2, § 16-5-7(d), and § 16-5-45 (b)(2)(c). (See Resp. Ex. 10)

Without Due process, and with actual fraud, Petitioner was represented at trial by Don Lyles and on direct appeal by Mickey Johnson. (See Resp. Ex. 11; Ex 10).

Without Due process, and with actual fraud, The court of Appeals of Georgia affirmed Petitioner's convictions. Williams v. State, No. A17A1895 (Ga. App. Dec. 20, 2017) (unpublished). (Resp. Ex. 10)

Petitioner filed a pro se state habeas corpus petition in the superior court of Hancock County on November 6, 2018, and without Due process, but with actual fraud, habeas petition was denied. (See. Resp. Ex. 4).

The Supreme Court of Georgia, denied Petitioner's application for a Certificate of probable cause to appeal. (Resp. Ex. 5, 6), and the motion for reconsideration. (See Resp. Ex. 7, 8). In which the remittitur issued from the Supreme court of Georgia was May 17, 2021. (Resp. Ex. 9)

Petitioner on April 21, 2021, filed a federal habeas petition. (Doc. 1, 10) (Action No. 7:21-cv-44-HL-TQL), and on 04/26/22, (Doc. 16), the Magistrate Judge, without Due process, and with fraud, recommended denying, and against objection (Doc. 19), District Judge, adopted on 07/01/22, and on 07/05/22, gave final judgment. (See Doc. 20, 21), and Petitioner Appealed. (Doc. 22).

On 09/14/22 (Doc. 27), District Judge gave another order. The Eleventh Circuit on 9/20/22, dismissed Petitioner's appeal, sua sponte, for lack of Jurisdiction, and as untimely. (See. Case: 22-12680-J). Reconsideration was dismiss on 11/09/22, also for lack of Jurisdiction.

REASONS FOR GRANTING THE PETITION

"The maxim of Law is Fraud vitiates any proceedings"

In, "The Queen v. Dyer, (1703) 6 Mod. 41", It was stated: "It is abominable to convict a man behind his back"

Granting this Certiorari will insure to the nation, that under the United States Flag, Fraud will not be tolerated. Be it from the President, Congress, or citizens of the United States.

Marbury v. Madison, 5 U.S. 137, 2 L. Ed 60, 1803 U.S. LEXIS 352, 1 Cranch 137, "It was stated that where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded".

As most Prose litigants, who are paupers, The invasion of their Constitutional rights are not discovered until years of incarceration, a dying declaration from the accuser, or a whistle blower who's faced with similar facts, reveals the fraudulent acts of co-workers.

The "Bill of Rights", of the U.S. Constitution, consist of the 1st, 4th, 5th, 6th, and 8th Amendment, which is guaranteed to state defendants by the 14th Amendment. Provides two form of protection. 1) Rights that a defendant can exercise, and, 2) prohibitions and requirements of the government toward the defendant.

Granting this certiorari for question one, holds that bill of rights is still active! As the record and evidence shows that, not only has the (11th Cir.) entered a decision that conflicts with other U.S. Appeals Courts, but has so far departed from the accepted and usual course of judicial proceeding, Justice requires it!

Question One: Can the 11th Cir. docket a case without proper jurisdiction, rule on it without jurisdiction, and allow that ruling to stand?

Contrary to 28 U.S.C. § 2253 (c)(2); Slack v. McDaniel, 529 U.S. 473 (2000)
(See Appendix D, C, B)

(Continue)

Jurisdiction, is a term of comprehensive import embracing every kind of judicial action. Petition should be granted due to the facts of (Appendix D), "As any false or misleading testimony may corrupt the truth finding process". Napue v. Illinois, 360 U.S. 264, 265 (1959).

Henderson v. Morgan, 426 U.S. 637 (1976). "In this case, "a plea was invalid if defendant did not have adequate notice of the charge against him, or did not in fact understand the charge".

"In Georgia, a Pro se litigant that's incarcerated in the department of correction. Is only allowed one hour per week in the law reference library".

"In the Rules, (FRAP) of the U.S. Court of Appeal for the Eleventh Circuit."

Nine active circuit judges, one active judge from each of the nine district court, and the circuit chief judge, All AGREE! "To properly proceed in this court (the 11th Cir), counsel should read and follow FRAP, these rules, and the court's Internal Operating Procedures (IOP) which describe the internal working of the clerk's office and the Court".

"A pauper Pro se litigant that's a layman incarcerated, and forced with the onus to learn 48 Rules and apply them within (14) days, showing not only Substantial denial of his Constitutional rights, but doing so without a complete record. Is repugnant towards the Equal protection clause of the 14th amendment, and violates the 8th amendment of the U.S. Constitution.

The (11th Cir.) having jurisdiction, and misleading Petitioner otherwise was cruel, and having the authority sua sponte grant Petitioners' (COA) under (FRAP) 4(a)(5)(A), after clear excusable neglect was shown, is reason to grant Petition.

Townsend v. Sain, 372 U.S. 293 (1963); Keeney v. Tamayo-Reyes, 504 U.S. 1 (1993)

Question Two: "When a (Prose) Petitioner request a full discovery, and all Jencks material, before, during, and after a trial or any proceeding, and denied this request. Does full faith extend to the denial of Petitioner's substantial Rights, protected by the Constitution?"

In most Prose litigants cases, who are layman trying to understand Article: IV, VI, of the U.S. Constitution, Which makes the Constitution the Supreme Law, and every Judge are Bound thereby...

In any case, having Full faith is Confidence, Due Process was established, Belief, that each Person "under color of law" did not abridge any rights, and Purpose, without doubt justice was affirm by the facts!

In Appendix G, the facts in the evidence shows Petitioner's substantial rights being denied, not only by the state habeas court failure to give a adequate hearing on each raised ground, but also for the magistrate judges' failure to perform his duty prescribe under 28 U.S.C § 636 (b)(1)(C).

Which states: "the magistrate shall file his proposed findings and recommendations ... with the court and a copy shall forthwith be mail to all parties."

Appendix G, only shows the magistrate's recommendation, and the Clerk docket shows a filing of the Report and Recommendation.

"FRAUD is a fact of misleading".

"With fraud, by the (11th Cir.), denying Jurisdiction. The District court accepting only the Recommendation without the Report is a substantial denial of Due Process, and fraud. The magistrate's recommendation given the state habeas court comity was Clearly erroneous.

As the report without doubt would have revealed the presumption of prejudice on each (5) grounds raised by the Petitioner.

Pursuant to 28 U.S.C § 2254 (d)(1), a federal court may grant habeas relief on "adjudication" that "resulted in a decision that was contrary to, or

involved an unreasonable application of clearly established Federal Law, as determined by the Supreme Court of the United States."

Williams v. Taylor, 529 U.S. 362, 405 (2000)

Magistrate's discussion of Ground 1, and 4, mandated relief under the presumption of prejudice. The facts that the appeals court of Georgia, noted that counsel Abandon issues of the investigation, which would have shown Plain Error. On matters of jurisdiction, evidence, speedy trial violation, fraud on the court, Ineffectiveness of counsel, and cruel punishment inflicted on Petitioner, and more. Which is a complete denial of Due Process, 100% substantial!

The abandonment by counsel (both) was in fact intentional. The intention was fraud, completed. Which caused the Procedural bar under o.c.g.a. § 9-14-48(d). With evidence in which was requested at the hearing, but denied. Assumption doesn't amount to actual prejudice, and a judgment also under o.c.g.a. § 9-14-51.

The Supreme Court has stated in multiple cases that, "of all rights that an accused has, the right to be represented by Counsel is by far the most pervasive for it affects his ability to assert any other right he may have".

United States v. Cronin, 466 U.S. 648, (1984). Under Cronin, presumption of prejudice standard is reserved for situations in which counsel has entirely failed to function as the clients advocate. Strickland doesn't apply where the accused is denied counsel at critical stage of trial or counsel entirely fails to subject the prosecution's case to meaningful adversarial testing. Darden v. United States, 708 F.3d 1225 (11th Cir. 2013).

Williams v. Tugpin, 87 F.3d 1204 (11th Cir. 1996); Pate v. Robinson, 383 U.S. 375, 385 (1966); Dusky v. United States, 362 U.S. 402 (1960)

Certiorari must be granted on this question, as not granting it allows actual fraud to become the new wave of corruption, that will eventually plague this Nation.

Question Three :

"When establish law holds a pro se litigant to a less ~~strong~~ stringent standard and fraud requires specifics, in which Judges are bound to administer the law as a Jurist, and a De novo review bypasses Plain error. Does the bypassing, corroborate with the denial of Due process, when "conspiracy against rights" under 18 U.S.C. § 241, is a crime stated by 18 U.S.C. § 242

By the facts of the United States (Const.), under Article I, stating the writ of habeas corpus shall not be suspended, Article III, holding the facts of Judicial power, Article IV, giving Full faith, and, Article VI, Binding Judges, to the Bill of Rights. Which is also stated in the Georgia (Const.), Article I, Section I, Paragraph I, "No person shall be deprived of life, liberty, or property except by due process of law".

Under Georgia law, and Constitution, which is stated in U.S. Constitution. "The right to a speedy trial is fundamental and is guaranteed".

Petitioner was and is entitled to discharge and acquittal where after the end of the 28th day of October, 2013. (See Appendix H, I).

Fraud on the court stands, as nothing is reported requesting a continuance before the expiration of the 28th day of October, 2013.

Jurisdiction lies with this Court, to correct this "Miscarriage of Justice". Due to the fact that Petitioner is being held captive against his will, in violation of the United States CONSTITUTION!

The facts that the defendant maintains and corroborates denying his immediate release, is Breaking the law!

Reason to grant certiorari on this question, is simply put:

"It's The Law!"

United States v. Farragut, 89 U.S. 406 (1874)

Williamson v. Berry, 8 How. 945, 540 12 L. Ed. 1170, 1189 (1850)

OLD WAYNE MUT. L. ASSOC. v. McDonough, 204 U.S. 8, 27 S.Ct 236 (1907)

"A void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment"

Valley v. Northern Fire & Marine Ins Co, 254 U.S. 348, 41 S.Ct 116 (1920)

"A void judgment does not create any binding obligation."

Ex parte Rowland, (1882) 104 U.S. 604, 26 L. Ed 861

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Saleem D. Williams, Pro se

Date: March 8, 2023

Certificate of Service

Pursuant to 28 U.S.C. § 1746, I, Pro se litigant, Saleem D. Williams, on this date, have placed a true copy of writ of certiorari, application No. 22A729, within the prison mail box at Hancock State Prison, Sparta Ga. 31087, to be serve upon the listed below having adequate postage, and properly addressed, as the listed are:

① Supreme Court of The United States
Office of the Clerk
Washington, DC 20543-0001

② PAULA K. SMITH / MATTHEW B. CROWDER
DEPARTMENT OF LAW 03
40 CAPITOL SQUARE S.W
ATLANTA, GA 30334

Respectfully submitted,

This 8th day of March, 2023.

Saleem D. Williams,
(Pro se litigant)
SALEEM D. WILLIAMS

835744

Hancock State Prison

~~Box~~ P.O. Box 339

Sparta, Ga. 31087