

22-7767

No. _____

FILED

MAY 31 2023

OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Wesley S. Hicks

— PETITIONER

(Your Name)

vs.

STATE OF LOUISIANA

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals of Louisiana Second Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Wesley Sinclair Hicks

(Your Name)

17544 Tunica Trace

(Address)

Angola, Louisiana 70712

(City, State, Zip Code)

318 351 0227

(Phone Number)

QUESTION(S) PRESENTED

1. WHETHER LOUISIANA REVISED STATUTES 14:42(A)(4)(D)(2)(a) FIRST DEGREE RAPE IS A CAPITAL OFFENSE?

2. DO THE BILL OF INDICTMENT CONTAINS MISJOINDER OF OFFENSES; LOUISIANA REVISED STATUTES 14:42(A)(4)(D)(2)(a) AND LOUISIANA REVISED STATUTES 14:93(A)(1)(D)(1)?

3. DO PETITIONER HAS THE RIGHT TO HAVE THE BILL OF INDICTMENT QUASHED FOR MISJOINDER OF OFFENSES?

4. DID PETITIONER RECEIVED A FAIR AND IMPARTIAL TRIAL?

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

STATE V. RICKS, NO. 12-1299, FOURTH JUDICIAL DISTRICT COURT
MOREHOUSE PARISH, STATE OF LOUISIANA JUDGMENT ENTERED
~~DEC. 12, 2013.~~ JAN. 24, 2013

STATE V. RICKS, NO. 49,609, COURT OF APPEAL OF LOUISIANA,
SECOND CIRCUIT, JUDGMENT ENTERED JAN. 14, 2015.

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TABLE OF AUTHORITIES CITED

CASES

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KENNEDY V. LOUISIANA, No. 07-343, Supreme Court of THE UNITED STATES, JUDGMENT ENTERED JUN. 25, 2008.

STATE V. McZEAL, No. 59072, Supreme Court of Louisiana, JUDGMENT ENTERED MAY 16, 1977

STATE V. JONES, No. 37976, Supreme Court of Louisiana, JUDGMENT ENTERED DEC. 31, 1945

STATUTES AND RULES

LOUISIANA REVISED STATUTES 14:42(A)(4)(D)(2)(a) FIRST DEGREE RAPE
LOUISIANA REVISED STATUTES 14:93(A)(1)(D)(i) CRUELTY TO JUVENILES
LOUISIANA REVISED STATUTES 14:42(A)(2)(D)(i) FIRST DEGREE RAPE
LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE 493, JOINDER OF OFFENSES
LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE 493.2, JOINDER OF FELONIES;
LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE 495, OBJECTIONS TO MISJOINDER
FEDERAL RULES OF CRIMINAL PROCEDURE RULE 8. (a) JOINDER OF OFFENSES

OTHER

LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE 532(3)
LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE 485
LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE 382

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 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 A to the petition and is

- ☒ reported at STATE V. RICKS, 49,609, LA. APP 2 CIR, 1-14-15; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the PARISH OF MOREHOUSE, 4TH JUDICIAL DISTRICT court appears at Appendix B to the petition and is

- ☒ reported at STATE V. RICKS, 02-1299; 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 MAY 3, 2023.

☐ 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: MAY 25, 2023, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was JANUARY 14, 2015.
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

LOUISIANA CONSTITUTION ARTICLE I, SECTION 17 OF 1974

A CASE IN WHICH PUNISHMENT MAY BE CAPITAL SHALL BE TRIED BY A JURY OF TWELVE JURORS, ALL OF WHOM MUST CONCUR TO RENDER A VERDICT. A CASE IN WHICH THE PUNISHMENT MAY BE CONFINEMENT AT HARD LABOR SHALL BE TRIED BY A JURY COMPOSED OF SIX JURORS, ALL OF WHOM MUST CONCUR TO RENDER A VERDICT.

LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE 493

TWO OR MORE OFFENSES MAY BE CHARGED IN THE SAME INDICTMENT OR INFORMATION IN A SEPARATE COUNT FOR EACH OFFENSE; PROVIDED THAT THE OFFENSES JOINED MUST BE TRIABLE BY THE SAME MODE OF TRIAL.

LOUISIANA CODE OF CRIMINAL PROCEDURE ARTICLE 493.2.

NOTWITHSTANDING THE PROVISIONS OF ARTICLE 493, OFFENSES IN WHICH PUNISHMENT IS NECESSARILY CONFINEMENT AT HARD LABOR MAY BE CHARGED IN THE SAME INDICTMENT OR INFORMATION WITH OFFENSES IN WHICH THE PUNISHMENT MAY BE CONFINEMENT AT HARD LABOR. CASES SO JOINED SHALL BE TRIED BY A JURY COMPOSED OF TWELVE JURORS, TEN OF WHOM MUST CONCUR TO RENDER A VERDICT.

STATEMENT OF THE CASE

ON JANUARY 24, 2013, THE PETITIONER, WESLEY S. RICKS WAS INDICTED IN THE 4TH JUDICIAL DISTRICT COURT, PARISH OF MOREHOUSE, STATE OF LOUISIANA, NO. 12-1299, OF FIVE COUNTS OF FIRST DEGREE RAPE AND ~~CRUELTY TO JUVENILES~~ FOUR COUNTS OF CRUELTY TO JUVENILES AND THE STATE FILED THE GRAND JURY INDICTMENT AGAINST WESLEY S. RICKS.

ON AUGUST 26, 2013, THIS PETITIONER FILED HIS WRITTEN MOTION TO QUASH THE GRAND JURY INDICTMENT FOR THE MISJOINDER OF OFFENSES AND ON DECEMBER 12, 2013 PETITIONER WRITTEN MOTION TO QUASH WAS DENIED BY THE STATE OF LOUISIANA.

A PETITION FOR WRIT OF REVIEW WAS MADE TO THE COURT OF APPEAL OF LOUISIANA, SECOND CIRCUIT; SUPREME COURT OF LOUISIANA; UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF LOUISIANA; UNITED STATES COURT OF APPEALS FIFTH CIRCUIT; AND EACH REFUSED TO REVIEW PETITIONER'S OBJECTIONS TO MISJOINDER. PETITIONER NOW MAKES A PETITION FOR WRIT OF CERTIORARI TO THIS SUPREME COURT OF THE UNITED STATES FOR RELIEF IN THE INTEREST OF EQUAL JUSTICE UNDER THE LAW.

PETITIONER SUBMITS A COPY OF THE BILL OF INDICTMENT, AND BILL OF PARTICULARS TO PROVE A MISJOINDER OF OFFENSES AND TO SHOW THAT PETITIONER HAS THE RIGHT TO HAVE THE BILL OF INDICTMENT QUASHED IN THIS MATTER.

REASONS FOR GRANTING THE PETITION

FREDDIE J. McZEAL, AFRICAN AMERICAN MALE, DATE OF BIRTH: MAY 28, 1950 AND WESLEY S. RICKS, AFRICAN AMERICAN MALE, DATE OF BIRTH: FEBRUARY 28, 1984 ARE SIMILARLY SITUATED.

A CAPITAL OFFENSE AND NONCAPITAL FELONY WERE JOINED IN THE SAME BILL OF INDICTMENT AGAINST FREDDIE McZEAL AND HE FILED A MOTION TO QUASH AND THE SUPREME COURT OF LOUISIANA GRANTED FREDDIE McZEAL'S MOTION TO QUASH.

A CAPITAL OFFENSE AND NONCAPITAL FELONY WERE JOINED IN THE SAME BILL OF INDICTMENT AGAINST WESLEY RICKS AND HE FILED A MOTION TO QUASH AND THE SUPREME COURT OF LOUISIANA DENIED WESLEY RICKS' MOTION TO QUASH.

THE CONVICTIONS AND SENTENCES OF FREDDIE J. McZEAL WAS REVERSED AND THE CASES WERE REMANDED FOR SEPARATE TRIALS. THEREFORE, THE CONVICTIONS AND SENTENCES OF WESLEY S. RICKS SHOULD BE REVERSED AND THE CASES SHOULD BE REMANDED FOR SEPARATE TRIALS PURSUANT TO THE EQUAL PROTECTION OF THE LAWS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Wesley Sinclair Ricks

Date: JUNE 1, 2023