

23-5054 ORIGINAL
No. _____

FILED
JUN 08 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

VITALY KOLOSHA — PETITIONER
(Your Name)

vs.

COURT OF CRIMINAL APPEALS RESPONDENT(S)
STATE OF OKLAHOMA

ON PETITION FOR A WRIT OF CERTIORARI TO

NO COURT HAS EVER RULED ON THE MERITS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

VITALY KOLOSHA, #603030
(Your Name)

JOSEPH HARL CORRECTIONAL CENTER
(Address)

P. O. BOX 548, LEXINGTON, OK 73051
(City, State, Zip Code)

—
(Phone Number)

QUESTION(S) PRESENTED

1. WHAT IS PROPER REMEDY WHEN STATE COVERS REFUSING TO HEAR CASE WHERE A MULTI COUNTY GRAND JURY REFUSED TO INDICT PETITIONER AND ONE YEAR LATER THE DISTRICT ATTORNEY PROSECUTED HIM ANYWAY, ON THE SAME EVIDENCE, FOR SAME ACT? DOES THE OKLAHOMA STATE HAS JURISDICTION TO PROSECUTE ANYWAY?
2. IS THE SUPPRESSION BY THE STATE PROSECUTION OF EXONERATORY EVIDENCE, FAVORABLE TO AN ACCUSED A VIOLATION OF THE DUE PROCESS AND U.S.C.A. CONSTITUTION AMENDMENT 14?
(INFORMATION ABOUT EXISTENCE OF GRAND JURY AND ITS REFUSAL TO INDICT THE ACCUSED WAS HIDDEN BY THE STATE PROSECUTION FROM DEFENSE, DEFENDANT AND TRIAL JURY).
3. WHEN ONE ACT IS BROKEN DOWN INTO MANY COUNTS IN ONE TRIAL, SAME EVIDENCE, SAME VICTIM, CAN OKLAHOMA STACK SENTENCES SO THAT TOGETHER IT EXCEEDED MAXIMUM PUNISHMENT DETERMINED BY THE STATUTE FOR PARTICULAR CRIME, SO IT CONSTITUTES DEATH BY INCARCERATION?
4. WHEN A PERSON IS DETAINED IN A STATE PRISON WITHOUT A VALID ORDER OF COMMITMENT FROM A LAWFUL COURT HAVING JURISDICTION TO DETAIN HIM, IS IT A 2241 OR 2254 MATTER?

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

BRADY V. MARYLAND, 373 U.S. 83 (1963)

SKINNER V. SWITZER, 562 U.S. 521 | 131 S.Ct. 1289 (2011)

FONTEENOT V. CROW, 4 F. 4~~1~~ 982 | (10th Cir., 2021)

SCOTT V. MULLIN, 303 F.3d 1222 | 2002 WL 1965329 (10th Cir.)

PYLE V. KANSAS, 195 F.2d AT 820

KYLES V. WHITLEY, 514 U.S. 419 | 115 S.Ct. 1555

McCORMICK V. PARKER, 821 F.3d 1240 | (10th Cir., 2016)

U.S. V. GAINER, 89 F.3d 851 (1996)

SEABOLT V. CITY OF MUSKOGEE, 2008 WL 4693127

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
BRADY V. MARYLAND, 373 U.S. 83	
FONTENOT V. CROW, 4 F.4 TH 982 (10 TH Cir) (2021)	
PEOPLE V. SINGER, 194 N.E. 3d 890, 903+ (2021)	
HARMON V. MARSHALL, 57 F.3d 763 (9 TH Cir) (1995)	
SULLIVAN V. LOUISIANA, 113 S.Ct. 2078 (1993)	
U.S. V. HUDSON, 92 F.3d 1026 (10 TH Cir) (1996)	

STATUTES AND RULES

U.S.C.A. CONST. AMEND; 1ST, 4TH, 5TH, 6TH, 8TH, 9TH, 14TH
U.S.C.G. § 5G1.2 (c)(d)
28 U.S.C.A. § 2255 (a)
20 OKL. ST. ANN. § 3001.1

OTHER

OKLAHOMA PROSECUTION VIOLATED 1ST, 4TH, 5TH, 6TH, 8TH, 9TH
AND 14TH CONST. AMEND., ADA, AND DOES NOT FOLLOW DUE
PROCESS, RULES, REGULATIONS AND POLICIES. ITS PRACTICES
ARE UNCONSTITUTIONAL AND OBSTRUCTING JUSTICE.

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 A to the petition and is

reported at N/A; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the TULSA COUNTY DISTRICT court appears at Appendix B to the petition and is

reported at N/A; 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 _____.

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 4-4-23. A copy of that decision appears at Appendix A.

[] 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

1ST, 4TH, 5TH, 6TH, 8TH, 9TH AND 14TH CONST. AMEND.
28 U.S.C. § 2241

28 U.S.C.A. § 2254

20 OKL. ST. ANN. § 3001

U.S.C.G. § 5G1.2 (c)(d)

STATEMENT OF THE CASE

THE RECORD SHOWS THAT IN 2006, THREE COUNTIES IN THE STATE OF OKLAHOMA HAD RAISED AN INVESTIGATION AGAINST THE PETITIONER. THE MULTI-COUNTY GRAND JURY WAS ASSEMBLED AND DISMISSED WITH NO INDICTMENT. TWO OF THREE COUNTIES HAD DROPPED THE INVESTIGATION.

BUT IN 2007, THE TULSA COUNTY RAISED UP PROSECUTION ON THE VERY SAME CHARGES. THEY HAD FALSIFIED THE OLD PROBABLE CAUSE AFFIDAVIT BY CHANGING CASE NUMBER, YEAR AND ADDING ADDITIONAL ACCUSATIONS WITHOUT A JUDGE SIGNATURE, AND AFTER THE NOTARY COMMISSION HAD BEEN EXPIRED, TO OBTAIN AN ARREST WARRANT.

THEY SEARCHED THE HOUSE OF THE PETITIONER AND SEIZED SOME ITEMS WITHOUT ANY SEARCH WARRANT, WHICH NEVER WAS BEEN RETURNED (OKLA. S. CT. 115,302). ALSO THEY WENT ON THE "PHISHING TRIP" IN THE COMPUTER FILES WITHOUT A SPECIFIC SEARCH WARRANT, AND AFTER 2+ YEARS OF DELAY, IN 2009, THEY PLACED THE PETITIONER IN PRISON.

ACCORDING TO THE U.S. CONSTITUTION, THE STATE OF OKLAHOMA VIOLATED THE DUE PROCESS, 1ST, 4TH, 5TH, 6TH, 8TH, 9TH AND 14TH CONSTITUTION AMEND. THEIR ACTIONS CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT, CREATED AT LEAST TWO DOUBLE JEOPARDY CLAUSES AND VIOLATED THE SPEEDY TRIAL

STATEMENT OF THE CASE

PROCESS.

THE PROSECUTION INTENTIONALLY SUPPRESSED THE FAVORABLE TO AN ACCUSED EXONERATORY BRADY MATERIAL FACT EVIDENCE FROM THE DEFENSE (?), DEFENDANT, AND MISLED THE TRIAL JURY.

JUST IN 2022, WITH ALL DUE DILIGENCE, THROUGH THESE YEARS, THE PETITIONER WAS ABLE TO DISCOVER THE ABOVE WRITTEN FACTS FROM THE RECORDS (THE DOCUMENTS, SUPPORTING WHAT IS BEING SAID ABOVE, ARE AVAILABLE).

LANGUAGE AND DEFINITION DISABILITIES HAMPERED PETITIONERS ABILITY TO UNDERSTAND AND DISCOVER THE EVIDENCE AND FACTS AS NO ONE WOULD HELP HIM.

THE PETITIONER HAS BEEN SENTENCED ILLEGALLY.

REASONS FOR GRANTING THE PETITION

IN THIS CASE THE EVIDENCE OF ACTUAL INNOCENCE SO STRONG THAT COURT CANNOT HAVE CONFIDENCE IN OUTCOME OF JUSTICE AND CANNOT SAY THAT PROSECUTION WAS FREE OF NONHARMLESS CONSTITUTIONAL ERRORS.

REVIEWING THE CASE WOULD HELP TO MAINTAIN PUBLIC TRUST IN AMERICAN JUSTICE SYSTEM AND LAW.

MAY V. STATE, 1976 OK CR 328 HELD THAT WHEN THERE EXIST EVIDENCE OF MATERIAL FACT NOT PREVIOUSLY PRESENTED AND HEARD, VACATION OF THE CONVICTION OR SENTENCE MAY BE REQUIRED IN THE INTEREST OF JUSTICE.

THE PROSECUTOR VIOLATED HIS DUTY TO DISCLOSE EXONERATORY EVIDENCE IN HIS POSSESSION OR CONTROL.

DUE PROCESS IS VIOLATED BY THE STATE, AS ITS OWN CONST., NO STATE COURT HAD JURISDICTION, STATE GRAND JURY REFUSED TO INDICT, YEAR LATER STATE COURT ORDERED DETENTION WITHOUT AUTHORITY TO DO SO.

IN THE LIGHT OF CLEAR AND CONVINCING NEW EVIDENCE ITS MORE LIKELY THAN NOT THAT NO REASONABLE JUROR WOULD HAVE CONVICTED OR HAVE FOUND PETITIONER GUILTY BEYOND REASONABLE DOUBT.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Wally Koloh

Date: 4-7-23