

23-5204

No. _____

ORIGINAL

FILED

JUL 10 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Larry David Davis — PETITIONER
(Your Name)

vs.

Cargile, Et, al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of APPEALS for The EIGHTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Larry David Davis
(Your Name)

880 East Gaines Street
(Address)

Permot, Arkansas 71638
(City, State, Zip Code)

71638
(Phone Number)

QUESTION(S) PRESENTED

1. Can the circuit trial court omit important parts of my trial transcript, that occurred during my trial that would have gotten my conviction reversed?
2. Can the Prosecutor tell the jury in the closing argument of my jury trial that I was in prison at the present time of my trial, then have it omitted from trial transcript?
3. Can the Prosecutor tell the jury in the closing arguments of my trial that they can infer my guilt from me not taking the stand, then have it omitted from my trial transcript?

QUESTIONS PRESENTED

4. Can where the three witnesses at my trial said on the stand that they can't identify me as the black man on the video, then the court have it omitted from my trial transcript that they mailed to me January of 2021?

5. Can the judge tell me at my omnibus hearing that the prosecutors in Arkansas don't present evidence until trial, then tell me that I am in Arkansas now and Arkansas don't do preliminary hearings and indictments by a Grand Jury, then have it (erased) omitted from my omnibus hearing transcript?

6. Can my attorney tell the jury and let the jury know that I have never been arrested, in the opening statements, then the trial court have it omitted from my trial transcript they sent me January of 2021?

QUESTIONS PRESENTED

7. Can the Prosecutor tell the Jury in the Sentencing phase of my trial that I am already serving a 30 thirty year sentence for Clark County and I will only do two years on thirty years, so be sure to give me the maximum sentence.

8. Can I have my incomplete trial transcript compared to my trial record, and court proceeding record, and my omnibus hearing proceedings?

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:

Beth C. Cremer

Prosecutor - Catherine Cargile

Terri Hollingsworth

Barry A. Sims

Reese Lancaster

Related cases

Davis V. Payne, no. 421-CV-00462-KGB
Arkansas January 26, 23

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STATUTES AND RULES

OTHER

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 1 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 2 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 May 10th, 2023.

☒ No petition for rehearing was timely filed in my case.

I sent my petition for rehearing to the District Court and the District Court sent it back 2 weeks later.

☐ 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 _____.
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

This certiorari involves The due process of the fourteenth Amendment to the United States constitution: no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any state deprive person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

This certiorari also involves The due process of Law of the fifth Amendment to the United States constitution.

STATEMENT OF THE CASE

I was illegally taken from prison without a warrant, and without probable cause for these charges, for court appearances, then on January of 2019 at omnibus hearing where the state Prosecutor in Arkansas courts present the evidence that they have to keep holding a person and prosecuting a person, so I asked the Judge was the prosecuting attorney going to present evidence, the Judge then told me that I am in Arkansas now, and Arkansas don't present evidence until trial, I next asked the Judge, or told the Judge that I didn't get a preliminary hearing, and that I did not get indicted by a grand jury, and the Judge told me that I was in Arkansas now, and Arkansas don't do preliminary hearings, and that I am in Arkansas now, and Arkansas don't do indictment by a grand jury, throughout the year of 2021 I was denied a copy of my trial transcript, then I was given an incomplete trial transcript with these things that the Judge told me at my omnibus hearing January 22, of 2019 deleted

Statement of the case

from my trial transcript that I was given January of 2021, this omnibus hearing held January 22nd of 2019 was included in my transcript, the denial of my preliminary hearing and indictment by a grand jury, and the statements that deprived me of the prosecutor presenting the evidence to continue bringing me and holding me in they jail and Prosecuting me. Then when I went to trial on this case in Little Rock, ARKANSAS on February 13, 2019 where the Lawyer told the jury in the opening statements of my trial is omitted from my transcript, and where the prosecutor told the jury that I was presently in prison at the present time of my trial, and where the prosecutor told the jury that I was, that they can infer my guilt from me not taking the stand, then when I finally got my trial transcript all these facts that occurred at my trial was omitted from my trial transcript. also omitted was where the prosecutors three witnesses said on the stand that they could not identify me as the black man on the video,

STATEMENT OF THE CASE

I have been denied due process of the fifth and fourteenth Amendments to the United States constitution to be heard on the facts that occurred at my trial in the appellate courts, I have not had a chance to be heard on appeal in a appellate court on the issues raised by these charges at my trial, by these omissions the circuit trial court has made sure that the facts that occurred at my trial do not be heard, by a appellate court, and it's depriving me of due process of the Fifth, and fourteenth Amendment to the United States constitution.

Benjamin Morgan, V. Alfred Curtin and John Griswold, 60 U.S. 8, 19 How. 8, 15 L. Ed. 576 (1856)

I have a incomplete transcript, on May 17, 2021 Filed this 1983 and mailed a copy of my incomplete transcript to the United States district court to be compared to the record by the Rookerfeldman doctrine, this 1983 case stayed in the district court from May 17, 2021 until January of 2023, for twenty months, Simes, V. Huckabee, 335 F.3d 823 citing Brown V. Breckinridge, 211 F.3d 194, 201 (4th Cir 2000) say that
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STATEMENT OF THE CASE

Rooker-Feldman does not bar a claim where a party lacked a reasonable opportunity to raise the issue in state court appellate proceedings. *Long v. Shorebank Dev. Corp.*, 182 F.3d 548, 558 (7th cir. 1999), an issue cannot be inextricably intertwined with a state court judgement if the plaintiff did not have a reasonable opportunity to raise the issue in state court proceedings) *Dale v. Moore*, 121 F.3d 624, 626 (11th cir. 1997). I could not raise these claims in state court because the state circuit trial court have deprived me of that right to secure my conviction unconstitutionally, where there was no evidence presented at my trial besides a thumbprint that that was taken in court a week before my trial without probable cause, and I have never been served a warrant, and the fingerprint Analyst said that the thumbprint belong to me and 12 other unknown individuals, *Lance v. Dennis*, 126 S.Ct 1198, L.Ed.2d 1059, 546 U.S. 459 (2006) I am not challenging my state court conviction, I am asking that my incomplete transcript be compared to the record by the Rooker Feldman doctrine *Wilkinson v. Dotson*, 544 U.S. 74, 125 S.Ct. 1242, 161 L.Ed.2d

STATEMENT OF THE CASE

253(2005) said at 82, 125 S.Ct. 1242 Justice Ginsburg said however suit may be brought under 1983. Adhering to our opinion in Dotson, 544 U.S. 74, 125 S.Ct. 1242, 161 L.Ed.2d 253, that a postconviction claim for DNA testing is properly pursued in a 1983 action. Success in the suit gains for the prisoner only access to the DNA evidence, which may prove exculpatory, inculpatory, or inconclusive. in no event will a judgment that simply orders DNA tests necessarily imply the unlawfulness of the states custody I.d. at 81, 125 S.Ct. 1242. I am not seeking immediate release or speedier release. The District court Judge erred in dismissing my complaint, now after my 1983 complaint stayed in the district court for twenty months without serving the defendants, and now I filed for a copy of the comparison and can't get a copy, because the Prosecutor placed a penalty on me not taking the stand by commenting on me not taking the stand, by telling the jury in the closing arguments the can infer my guilt from me not taking the stand, and that I was in prison at the present time of my trial.

Griffin V. California 380 U.S. 609, 85 S.Ct. 1229, 14 L.Ed.2d 106 (1965). I need my incomplete transcript compared.

REASONS FOR GRANTING THE PETITION

The reason that this petition should be granted is the decision of the Eastern District court of Arkansas that a court reporter gets immunity the same as judges is misplaced, be this court decided in *Antoine, v. Byers Anderson inc.*, 508 U.S. 429, 113 S.Ct. 2167, 124 L.Ed.2d 391 (1993)

Because court reporters job requires no discretionary judgment, court reporters are not entitled immunity as part of the judicial function. see *Imbler v. Pachtman*, 424 U.S. 409, 23, n. 20, 96 S.Ct. 984, 991, n. 20, 47 L.Ed.2d 128.

REASONS FOR GRANTING THE PETITION

2. The second reason that this petition should be granted is that it does not make sense for me or the defendants and citizens of ARKANSAS to go to trial, then the state prosecutor tell the jury that the person he take to trial is in Prison at the present time of his trial and that the Jury can infer the person guilty from him not taking the Stand and place a penalty on a person ~~Silence~~ of not taking the Stand which is in Violation of the Fifth Amendment to the United States Constitution, made applied to the State Courts by the Fourteenth Amendment, and where there is no evidence and the three witnesses say that they can not identify the person on trial, the the prosecution sway the jury to convict an innocent person, then order the court reporter to omit the prosecutorial misconduct from the transcript to reflect a stronger case for the prosecution and order to delete testimony favorable to the person on trial. And the Judge to deprive a person of a preliminary

REASONS FOR GRANTING THE PETITION

hearing, and deprive a person of the prosecutor presenting evidence in the omnibus hearing, and deprive a person of having any kind of probable cause determination, and fabricate the indictment by a grand jury determination by saying to a person in open court that Arkansas don do indictments by a grand jury, then order the court reporter to delete it from the person transcript twenty three months later.

I Pray that this Court grant me
certiorari, and reverse the decision of
the District Court of ARKANSAS, and the
Court of Appeals of the EIGHTH
Circuit, and review and compare the
record through the Rooker Feldman
doctrine.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Larry D. Davis

Date: 7-9-23