

No. 23-5416

Supreme Court, U.S.
FILED

JUL 18 2023

OFFICE OF THE CLERK

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Curtis Hollingsworth — PETITIONER
(Your Name)

vs.

Ryan Thornell et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Arizona Court of Appeals, District Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Curtis Hollingsworth
(Your Name)

Eyman South Unit P.O. Box 8400
(Address)

Florence Arizona 85132
(City, State, Zip Code)

NA
(Phone Number)

QUESTIONS PRESENTED

Does the federal courts have a moral, ethical and constitutional duty to insure States, and individuals acting in their official capacity under the authority of the states, do not violate individuals federal constitutional rights?

Does the Double Jeopardy clause of the United States Constitution barr the state from having a second trial, when as here, the first trial was declared a mistrial because of prosecutorial misconduct?

Should states and individuals acting in their official capacity under the authority of the state be held accountable for their illegal, immoral, unethical and unconstitutional actions?

Can individuals rely upon the federal courts to protect them from States, and individuals acting in their official capacity under the authority of the states, violating their federal constitutional rights?

Does the federal and state courts have a duty, to comply with the due process clause and fundamental fairness doctrine, to review a pro se petition liberally?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

The state of Arizona is the real party of interest in this case.

Ryan Thornell in his official capacity is the Director of The Arizona Department of Corrections. The Arizona Department of Corrections is a subdivision of the state of Arizona.

Kris Mayes in her official capacity is the attorney General for the state of Arizona. The Attorney General represents the state of Arizona. The Attorney General's office is a subdivision of the state of Arizona.

RELATED CASES

Hudson v Miller 503 U.S. 1, 15 (1992)

Swisher v Brady 438 U.S. 204, 98 S.Ct. 2699, 57 L.Ed.2d 705 (1998)

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	14
CONCLUSION.....	16

INDEX TO APPENDICES

APPENDIX A *Ninth Circuit decision*

District Courts decision

APPENDIX B

magistrate

APPENDIX C

Arizona Court of Appeals

APPENDIX D

Transcript of Double Jeopardy hearing

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Hudson v Miller 503 U.S. 1, 15 (1992)

11

Swisher v Brady 438 U.S. 204, 98 S.Ct. 2699, 57 L.Ed.2d 705 (1998)

11

STATUTES AND RULES

OTHER Fifth Amendment

4, 13, 14, 15, 17

Sixth Amendment

4, 13, 14, 15, 17

Ninth Amendment

4, 13, 14, 15, 17

Fourteenth Amendment

4, 13, 14, 15, 17

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 B 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 C 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 Arizona Court of Appeals court appears at Appendix C 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 June 16 23.

☒ 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 _____.
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

United States Constitution's Fifth, Sixth, Ninth, Fourteenth amendments.

Double Jeopardy Clause

Due Process clause

Privilege and immunity clause

STATEMENT OF THE CASE

DOUBLE JEOPARDY

Whether it be by hung jury or prosecutorial misconduct it is common practice for the Court to grant the state as many opportunities that are necessary to obtain its conviction. The Natural law that a man is presumed innocent until proven guilty is merely an illusion and has no place in the Arizona Court system. The Arizona Court informs the jury that their verdict must be unanimous to find the defendant guilty or innocent. Thereby, lowering the states burden of proof and placing a burden on the defendant to prove his innocence, which is condemned by the Constitution. If a defendant does not meet his burden and there is a hung jury, or because of prosecutorial misconduct a mistrial is declared the prosecutor gets another opportunity to try the defendant, thereby, putting him twice in jeopardy of life and limb, which is forbidden by the Constitution. USSA v. VI, IX, XIV

In this case, as in many other cases tried in Arizona, the state used unethically, immoral and illegal means to obtain my conviction. During her initial contact with the police the alleged victim stated that she could not identify her perpetrator. (During the investigation the police inadvertently or advertently informed the alleged victim of Mr. Hollingsworth's name).

Because the alleged victim stated she could not identify her assailant my Counsel prepared a defense based on that statement. However, before trial, the prosecutor shows the alleged victim a picture of Mr. Hollingsworth. The prosecutor did not disclose this information, thereby, this misconduct was not discovered until trial had already begun.

Once my Counsel found out what the prosecutor had done, he requested a mistrial. Because of the prosecutorial misconduct the Court granted a mistrial.

After my trial had ended in a mistrial my Counsel put in a motion to dismiss for Double Jeopardy, Prosecutorial misconduct and Due Process Violations.

During this hearing my Counsel questioned Ms. Anderson as follows:

Page 20 starting on line 21

21. Q. You were truthful with law enforcement officers that night?

A. Yes. I was.

Q. You were truthful when you told the police it was very dark that evening?

P.21

1. A. Yes.

Q. You were truthful when you told law enforcement you did not see the face of your alleged attacker that evening?

A. Correct.

6. Q. Let's go to June 28th, 2012; okay

17 Q. You testified you couldn't see your alleged attacker's face; is that correct

A. Correct

Q. So my question to you is: If you could not see your alleged attacker's face, how could you identify Curtis Hollingsworth?

A. Because the night that the officers came to my house, when I told them that his license plate number, over the walkie they said, "C Hollingsworth", and they said "Level 3 sex offender"; and the next day I Googled him, and he was, like, the third person on Google.

P 22

3. Q. But you couldn't see his face?

A. Correct.

Q. So you identified him from a picture you found on the internet?

A. And by the name that the officers said over the walkie.

Q. But you did not identify him by you seeing him?

A. No.

Q. You met with Mr. Young before this trial; correct?

13. A. Correct.

P 23

7. Q. What was your discussion with him?

A. We just talked about what I said and just, like--like, he had me identify, like, the roads I went on, and that's about it.

Q. And what do you mean, you just talked about what you said? What you said to the officers?

A. Yeah, we just went over that and then, like, that map.

Q. So Mr. Young knew that you couldn't see the face of your alleged attacker.

A. Yes.

Q. Did Mr. Young show you a picture of Mr. Hollingsworth?

A. Yes.

Q. What did he say when he showed you that picture?

A. Is this the shirt?

Q. He didn't say, Is this the face?

A. No.

P 24

1. Q. Did you ever say to him, I would never forget his face?

3. A. I don't remember.

Q. When did you tell Mr. Young that you saw Mr. Hollingsworth's face on the internet?

A. After the mistrial.

This is a clear indication that Mr. Young knew before he showed Sadie Mr. Hollingsworth's picture she could not identify him.

On cross examination Sadie (the alleged victim) testified

P 26

23. Q. Do you recall telling me, on June 21st, that you knew the defendant's face, and it was words to the effect that you wouldn't forget it?

P 27

1. A. I don't remember.

Q. Do you remember saying something about the pockmarks on his cheeks?

A. Yes.

Q. And you told me that prior to trial on June 21st.

A. Can explain what you're trying to ask?

Q. You told me that prior to the trial beginning.

A. Oh, yes.

Q. Which indicated to me that you knew who Mr. Hollingsworth was.

A. Yes.

The fact of this case is the prosecutor knew before he showed Sadie Mr. Hollingsworth's picture that Sadie could not identify him. Because that information was in the transcript of the police report that he gave her.
see page 25 starting on line 8

8. Q. If I tell you we met on June 12th, do you have any reason to

disagree with me?

10 A. No.

Q. Do you recall, when we met that first time on June 12th, that I gave you a transcript?

A. Yes.

Q. And I asked to you take that home and read through that transcript?

A. Yes.

Q. Do you recall if that was the transcript of your interview by the detective who was the second law enforcement who came to interview you?

A. I'm pretty sure it was him (pointing).

Q. If it was a transcript of your interview with Detective Surak, would that be accurate?

A. Yes.

It is also clear that no time before Mr. Young showed Sadie Mr. Hollingsworth's picture did she state that she could identify who her attacker was. And it was not until after Mr. Young showed Sadie a picture of Mr. Hollingsworth that she assumed he was her attacker.
See redirect starting on page 29.

A20

20. Q. So when you said, "He showed me a picture afterwards," did that confirm that Mr. Hollingsworth was your alleged attacker?

A. What do you mean?

Q. Did that confirm that Mr. Hollingsworth was your alleged attacker?

P.31

1. You couldn't see his face; correct?

A. Correct

Q. They showed you a picture of him; correct?

A. Correct

Q. Did that confirm to you that your alleged attacker was Mr. Hallingsworth?

A. I more than likely assumed, due to the fact that I knew the licence plate number and I Googled him, he was the only person in the vehicle with that shirt on. So that's what made me think it was him.

Q. When they showed you that picture, you assumed that made it him?

A. Yes.

Mr. Falick did make some admissions and excuses for his misconduct

see page 35 starting on line 15

15. Obviously, it was a mistake to show Ms. Anderson the photograph of the defendant. I did not indicate to her in any way, shape or form that this was the person who had grabbed her on December 4th, 2011; I simply showed her the photograph of the defendant wearing the shirt that she had described and asked her if she did, Judge, and then of course you have the transcript for what proceeded at trial.

P.37

2. By Mr. Falick:

18. Q. You know to read police reports before going to a trial, Mr. Young is that correct?

20 A. Absolutely, I always do.

Q. And you read the police reports in this case?

A. Yes.

Q. You knew the police reports had stated that Ms. Anderson could not see my client's face; correct?

A. Yes.

P 39

1. Q. You also listen to audiotapes before you go into a trial, Mr. Young?

A. Yes.

Q. And you knew from all the audio interviews, that Ms. Anderson had said that she could not see my client's face the night of the alleged incident; correct?

A. Yes. I know that those are were in the audio-tapes, or at least the audiotape of her interview with Detective Surak.

15 Q. So you knew that it was too dark for her to see her alleged attacker's face.

A. I knew at the time, after reading the police reports, that she made that statement, and I knew after reviewing the tape and the transcript you produced from her interview with Detective Surak that she made that statement; yes.

P 41

20 Q. Do you know the case State v. Dessureault?

A. Yes.

Q. Do you know what a Dessureault hearing is?

A. Yes.

24 Q. So you know that showing a picture, doing a one-photo show-up, could cause a Dessureault hearing?

Page 42

A. Yes.

Q. So you're aware of it.

A. Yes.

Q. And you didn't show any other photographs to Ms. Anderson.

A. I showed her several photographs. I showed her photographs of the vehicle--

Q. I'm sorry. You didn't show her any other photographs of Mr. Hollingsworth.

A. No. I showed her one photograph of Mr. Hollingsworth that I think was admitted at trial, and it showed him in a shirt that she had described to the other deputies.

Q. You didn't show any photographs of any other possible defendants?

A. There were no other possible defendants. This case comes down--

It's not whether it was Mr. Hollingsworth. This case comes down whether he did the conduct. There is absolutely no question, whatsoever, that the person in the vehicle was Curtis Hollingsworth.

The only issue for a jury to resolve was whether he engaged in the conduct as indicated by Ms. Anderson.

Q. But that wasn't my question.

A. I think that it was your question.

Q. When you showed her a picture of Mr. Hollingsworth on June 3rd, did you show a picture of anyone else? Did you do a photo lineup?

A-43

3 A. No, because there were no other possible or potential suspect to the conduct described by Ms. Anderson. Curtis Hollingsworth is the only one who

6. could have done this.

Note: There was male DNA recovered from Sadie's arm where she said the assailant grabbed her, however, it was not Mr. Hollingsworth's DNA and note.

By Mr. Young admitting he knew Sadie stated she could not identify her assailant before he showed her a picture of Mr. Hollingsworth, and by Sadie answering "Yes" when my counsel asked her:

When they showed you the picture, you assumed that made it him? And the male DNA found on Sadie's arm, where the assailant grabbed her, did not belong to Mr. Hollingsworth, is a clear indication that Mr. Young thought his case was weak and there was a reasonable probability that the jury would have a reasonable doubt as to whether Mr. Hollingsworth was the assailant.

There would have been no other reason for an experienced prosecutor to commit this type of misconduct.

The prosecutor condoned his erroneous misconduct by saying:

there were no other possible defendants. This case comes down to whether he did the conduct. There is absolutely no question whatsoever, that the person in the vehicle was Curtis Hollingsworth. The only issue for the jury to resolve was whether he engaged in the contact.

However, before Mr. Young showed Sadie Mr. Hollingsworth picture there was an additional question the jury had to answer, that the state had the burden to prove beyond a reasonable doubt, which was whether they could identify the assailant who committed the act. Because it was not me.

The Constitution demands that the question of guilt or innocence is for the jury to decide. It was a clear violation of Mr. Hollingsworth's constitutional right, to have the jury's determination of facts, as to whether the state met its burden of proof of identifying Mr. Hollingsworth as the assailant. If the jury determines the state met its burden, then the next question the jury had to answer is whether the state met its burden to prove Mr. Hollingsworth committed the conduct. USCA V, VI, IX, XIV

On page 53 starting on line 3 Mr. Young admits there was a discovery violation:

Mr. Falick correctly saw an issue; he made a motion; he asked for a mistrial; a hearing was held; and you remedied that issue. No further remedy is warranted. That's what the adversary process calls for; and it doesn't call for. The state makes a mistake; Defendant goes scot free. We remedy it we retry it. Retrial is not barred because he asked for the mistrial. Judge, Mr. Falick and the defense clearly has not met their burden on this motion. As far as the discovery violation is concerned you remedied that as well. You've precluded the identification made by the victim and you declared a mistrial.

When you have a prosecutor who has years of experience, and supervises other prosecutors in his office, clearly admit that he knew the alleged victim could not identify her attacker, he knew in this situation it was forbidden by law for him to show her a one photo line up of the defendant, he knew if he did so it could cause a mistrial, then he admits he did not disclose that information to the defense, proves erroneous prosecutorial misconduct. USCA V, VI, IX, XIV

REASON FOR GRANTING THE PETITION

The Constitution is the foundation of the principles this nation needs to establish free government and to protect the people against the government itself. The Constitution is a binding contract signed between the state to provide substance and guidance to the Rule of law, so every state will be protected against its sister state and every individual will be protected against the state and federal government.

For centuries individuals believed in the protections guaranteed by the constitution. They were willing to fight and die for those protections. They truly believed that our forefathers set up the constitution, including but not limited to the Fifth, Sixth, Ninth and Fourteenth amendments, to protect individuals vested fundamental rights.

We believe the main purpose for the federal writ of habeas corpus is to insure state courts do not violate individuals federal constitutional rights. The federal writ of habeas corpus is the only course of action a Criminal defendant may rely upon when the state, as here, violates their vested fundamental constitutional rights.

However, we have found that the federal courts no longer hold true to the protections guaranteed by the constitution. The federal courts no longer meets its duty to be fair and impartial. Even though it has been clearly established that the state of Arizona no longer provides us with the legal resources (case law) we need to present and establish our claims, the court no longer reviews an individuals proper petition liberally. Instead the court holds us to a higher standard than it holds an attorney.

No matter how clear the constitutional violation is the district court finds any reason to deny our petitions. The Courts action goes

against the foundation of justice and the Constitution itself.

For that reason, in the state of Arizona, it is common practice for the state to commit misconduct, violate an individuals constitutional rights then benefit from its misconduct.

The state relies upon the federal court turning a blind eye to its corruption. Thereby, instead of being our protection against the state, the federal courts become no more than a useful tool the state uses to commit violence against the constitution.

If the state courts were allowed to continue violating individuals state and federal constitutional rights then all those men and women, who willingly gave their lives to protect the constitution, died in vein. In addition, it would make the trial by jury and appeals process no more than a mockery of justice.

It is really absurd to think that this court will not allow individuals who swore an oath to protect the constitution, as well as those individuals the constitution was meant to protect, to rely upon the protections guaranteed by the constitution.

The sovereignty of the state was never meant to be used as a vehicle to violate individuals constitutional rights. As a matter of fact and law the constitution strickly forbids states from violating individuals constitutional rights. USCA amendments V, VI, IX, XIV.

CONCLUSION

In the present case the erroneous prosecutorial misconduct destroyed any chance Mr. Hollingsworth had to present a claim that Sadie could not identify her assailant so she could not be certain it was Mr. Hollingsworth who committed the act. This defense with the evidence that shows it was not Mr. Hollingsworth's DNA that was found on Sadie's arm, may have been enough to provide a reasonable doubt as to his guilt.

Here it is clear, by the prosecutors action, he knew even if his action caused a mistrial it was no big deal because no one would hold him accountable for his action. In addition, he knew once the mistrial was granted, because of his misconduct, he would benefit from his misconduct at the second trial. He would still bring in the improper evidence, that caused the mistrial, by other means and the defense would lose the opportunity to present a viable defense.

This and other type of misconduct is common practice for the prosecutors in the state of Arizona because they know there is no one who will hold them accountable for their illegal, immoral and unethical misconduct.

If this Court continues to deny review of these type of claims you will be reinforcing Arizona Judgment that it is okay to violate individuals state and Federal constitutional rights. In addition, you will strengthen the States Prosecutors office conclusion that the main purpose of its office is not to seek justice but to obtain a conviction by any means. Supervisors are not put in place to discourage individuals from committing misconduct and violating individuals rights, They are placed in that position to teach individuals how to get away with

and benefit from its misconduct once it has been committed.

In this case the misconduct was erroneous enough to bar a second trial under the double jeopardy clause of the United States Constitution.

USCA Amendment V, VI, IX, XIV.

RELIEF REQUESTED

I am respectfully requesting, in the interest of justice, for this Court to accept jurisdiction and hold the state of Arizona accountable for its illegal, immoral, unethical and unconstitutional conduct. One way to do this is to hold, because of the states erroneous misconduct Mr. Hollingsworth's second trial was barred by the Due Process Clause, privilege and immunity clause and/or the Double Jeopardy clause of the United States Constitution. Or any other relief this Court may consider is appropriate.

The Petition for a writ of certiorari should be granted.

I swear under oath and penalty of perjury everything in this writ is true to the best of my knowledge or belief.

x Curt Hollingsworth

Respectfully submitted this 1st day of August 2023

x Curt Hollingsworth

Curtis Hollingsworth.