

No.

22-5694

IN THE

SUPREME COURT OF THE UNITED STATES

Orlando Peay
(Your Name)

— PETITIONER

VS.

Michael Burgess

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Michigan Supreme Court, No. 165148
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

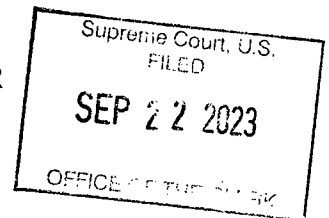
PETITION FOR WRIT OF CERTIORARI

Orlando Peay
(Your Name)

Alger Max Correctional Facility
(Address)

Ann Arbor, Michigan 48102
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

1. DID homicide detectives violate Circuit Court Judge Zilkowsky's order "immediate discharge from confinement in this case"?

Plaintiff says Yes.
Response NO.

2. DID the second arrest moments after a favorable termination 11-18-96, illegal?

Plaintiff says Yes.
Respondent says NO.

3. DID homicide detectives acting under the color of law commit common law crimes OBSTRUCTION of JUSTICE and MALFEASANCE OF OFFICE?

Plaintiff says Yes.
Respondent says NO.

4. DID favorable termination during preliminary exam for due process violation result in favorable of the accused?

Plaintiff says Yes.
Respondent NO.

5. DID Judge Hathaway, or Baltimore have authority or jurisdiction over this case?

Plaintiff Says NO.
Respondent says Yes.

6. DID Prosecutor O'Hair, stipulate courts jurisdiction, empower it to bear and determine and alleged cause of action that does not in fact exist?

Plaintiff says Yes.
Respondent says NO.

7. DID Prosecutor O'Hair, acquire proper subject matter jurisdiction by simply empowering the court of appeals although second and third arrest was illegal?

Plaintiff says NO.
Respondent says Yes.

8. DID Circuit Court Judge Ryan, declare a huge jury empower Judge Hathaway, with jurisdiction?

Plaintiff says NO.
Respondent says Yes.

9. DID Circuit Court Judge Hathaway, and Dist. Court Magistrate Baltimore, Know the courts lack subject matter jurisdiction?

Plaintiff says Yes.
Respondent says No.

10. DID Cir. Court Judge Zilkowsky, Hathaway, and Magistrate Waterstone, final ORDER, favorable for the

Plaintiff says Yes.
Respondent says NO.

11. DOES due process violations and inadmissible evidence bar prosecution for the same charge?

Plaintiff says Yes.
Respondent says NO.

12. DID municipalities such as homicide detectives violate constitutional rights, illegally arresting the accused, disobeying Dist. and Cir. Court ORDERS to release from confinement?

Plaintiff says Yes.
Respondent says NO.

13. HAVE Michigan Department of Justice DOJ, violate guaranteed constitutional rights of Due Process?

Plaintiff says Yes.
Respondent says NO.

14. DID the Fed. Dist. Judge Zatkoff, judgement on the merits, habeas corpus petition violate exhaustion of state prerequisite?

Petitioner says Yes.
Respondent says NO.

15. DID Judge Zatkoff, fail to consider the facts that prosecutor filed charges three times, prosecutors appeal and huge a jury?

Petitioner says Yes.
Respondent says NO.

16. DID petitioner raise issues in federal court for relief from judgement arguing "Lack Of Jurisdiction and Ineffective Assistance Of Counsel"?

Petitioner says Yes.
Respondent says NO.

17. DID Judge Zatkoff, adjudicate the merits because it is more efficient not to analyze "exhaustion or procedural default?

Petitioner says Yes.
Respondent says NO.

18. DID U.S. App. Sixth Cir. Order Jan 2015, No. 14-1881. Claim that Peay, "could have discovered prosecutors appeals through exercise of due diligence"?

Petitioner says Yes.
Respondent says NO.

19. DID failure to exhaust state remedies create procedural default?

Petitioner says Yes
Respondent says NO.

Petitioner says Yes.
Respondent says NO.

21. DID ineffective assistance of trial and appellate counsel violate constitutional rights?

Petitioner says Yes
Respondent says NO.

22. DID three ACQUITTAL/DISMISSAL, and one hung jury, require filing a motion for COLLATERAL ESTOPPEL, STARE DECISIS or RES JUDICATA

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TABLE OF AUTHORITIES CITED

CASES

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People v Perkins, 662, N.W. 727, 468 Mich. 448.
Green v United State, 355 United States, 355, U.S. 187, 187, 187-188 (1957).
Wade v Hunter, 336, U.S. 684, 688, (1949)
Deeg v Detroit, 345, Mich. 371 HW
Amrino v Brooks, 522, F. 3d. 823 (8th Cir. 2008)
Michigan Penal Code, MCLA 750.505

STATUTES AND RULES

- MCLA. Michigan Penal Code, 750.505, Common Law Offenses.
Michigan Court Rule, 7.315(A)(1)(2)(3), Order and Judgements

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 9 to the petition and is

☒ reported at January 21, 2018, No. 14-1881; 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 10 to the petition and is

☒ reported at July 28, 2008, No. 07-11003; 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 13 to the petition and is

☒ reported at June 17, 2003, No. 242443; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Nov 7, 2023, 19th Cir. County Of Maricopa court appears at Appendix 5 to the petition and is

☒ reported at Nov. 7, 2023, No. 22-17590-AH; 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 January 21, 2015.

☒ 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: N/A, 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 N/A (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 April 4, 2023.
A copy of that decision appears at Appendix 1.

☐ A timely petition for rehearing was thereafter denied on the following date: June 27, 2023, and a copy of the order denying rehearing appears at Appendix 2.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (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

14th Amendment. Due Process

STATEMENT OF THE CASE

Constitution guaranteed due process under the fifth and fourteenth amendment. Equal protection under the law include the accused to be free from multiple prosecution placed in jeopardy repeatedly.

Criminal Common Law violation are subject to five years in the state prison and or \$10,000 dollars fine. Obstruction of justice occurred when public trust is abused by public officials. The deliberate behavior of perversion an taint. To harass and prosecute one whom is actually innocent.

Wayne County Homicide Division arrested Mr. Peay, three times and summonsed back for prosecution after appellate courts pre curiam September 22, 1998.

Emergency service 911 call, dispatched Officer Zahrobky, response to 3638 Hancock, East side Detroit, January 11, 1996.

Officer Zahrobky, secured crime scene, waited for homicide officers before reporting his actions in writing.

Homicide Evidence Technician Louis Frances, arrived conducting his investigation including a sketch and one roll of color print film.

Malfeasance of office occurred when leading evidence technician HOMICIDE SCENE INVESTIGATION included description of the crime scene BLINDS: N/A, DRAPES: N/A, SHADES: N/A. That is a total contradiction of the physical evidence, photograph's taken by the reporter.

Technician report states; "There were no spent casings being the weapon was a double barrel shotgun". Fact supported by the photo of the shot gun found on the dinning room table at the crime scene.

Tamela, said "I ran out of the back door". There was a sketch but no back door. Tech Frances, testified under oath "I did not search upstairs, I assume it has a basement".

First rule, arrival to a crime scene, every one is a suspect. Forensic analysis of gun powder residue from the hands of the only two witnesses was not disclosed and remain exculpatory evidence.

Forensic analysis of the shot gun found on the dinning room table and any or all the evidence from upstairs and the basement remain exculpatory evidence.

Sec. 505. Any person who shall commit any indictable offense at the common law, for the punishment of which no provision is expressly made by any statute of this state. Shall be guilty of a felony, "punishable by imprisonment" in the state prison not more then 5 years or by fine of not more then \$10,000 cellars or both in the discretion of the court.

OBSTRUCTION OF JUSTICE

Misconduct in the office may be charged under statue that punishes as a felony. The commission of any offense indictable at common law for which no other statue expressly imposes punishment see People v Coutu, (1999) 599,N, W2d., 556, 235, Mich. App.. Officers and public employees, common - law. "Misconduct in office" is corrupt behavior by an officer in the exercise of the duties of his office or while acting under color of his office, is a violation of the law. See, People v Milton (2003), 668, N.W. 2d.

MISCONDUCT IN THE OFFICE - IN GENERAL

Malfeasance, committing "WRONGFUL ACTS". Performing a lawful act in a wrongful manner, or NONFEASANCE, failing to do an act required by the duties of the office.

CORRUPTION is an element of misconduct in office is used in the sense of depravity perversion or taint. A corrupt intent can be shown in prosecution for misconduct in office where there is "INTENTIONAL" or "PURPOSEFUL MISBEHAVIOR" or wrongful conduct pertaining to the requirement and duties of office by an officer, See, People v Perkins (2003) 662, N.W. 727, 468 Mich, 448.

Weaponique instruments using reissued warrants, magistrates and prosecutor's as dupes.

Circuit Court Judge Hathaway, States in her order, "I don't know why this case came to this court, but Judge Zilkowsky's decision must stand, INADMISSABLE EVIDENCE"

Judge Hathaway, discussed the manner in which Magistrate Baltimore expressed his discontent for overturning a circuit court judges ORDER. Weaponique DOJ persuasion once again.

With vast resource and Weaponique DOJ. Prosecutor O'Hair, filed appeal. Judge Hathaway, was clear on the fact jurisdiction remain in Circuit Court Judge Zilkowsky's court and his decision must stand.

(Ex. , July 18th trans)

Dismissal for "Inadmissible Evidence" require development of new and additional information. In this case prosecutor fail to bring forth any new information.

That did not stop the Weaponique DOJ from Stipulation - Courts Jurisdiction. "No party to a case cannot by stipulation empower a court to bear and determine an alleged cause of action that does in fact exist.

Prosecutor O'Hair, Weaponique DOJ appellate court Stipulation - Court Jurisdiction. Extensive effort and desperate actions are reflected literally.

court had lacked jurisdiction to try him and that he received ineffective assistance of counsel in the trial court and on appeal. October 20, 2005, the trial court denied Petitioner's motion because Petitioner had raised the same issues on appeal"

THIRD JUDICIAL CIRCUIT ORDER: CASE No. 97-00120

Oct 20, 2005:

Review of this document demonstrate tactics used by the courts to circumvent the jurisdictional issue, misinterpreting jurisdiction for assignment by lot, MCR 8.111.

Shocking the conscious of the judicial process. After mistrial by Judge Ryan, this case could not be given away or referred. There is no documents to substantiate such claim.

Review of the documents presented will prove that discretionary powers are necessary to uphold the constitution.

REASONS FOR GRANTING THE PETITION

Proper subject matter jurisdiction and ineffective assistance of counsel violates Constitutional rights.

Fed. Dist. ORDER and OPINION,

Dated: July 28, 2008

CASE No. 07-11003

page 4, π3.

(Ex. 10, ORDER and OPINION)

"Respondent argues that petitioner's claim lack merit and also are procedurally defaulted" "fail to exhaust remedies" "no longer has an available state remedy to exhaust" "it is more efficient to adjudicate the merits".

Procedural

Black's Law Dictionary, "~~procedural~~ default doctrine". If the petitioner fail to exhaust state remedies, "a federal court lacks jurisdiction to review the merits of a habeas corpus petition". "Procedural law" is clearly defined. "The rule that prescribe the steps for having a right or duty judicially enforced".

(Ex. 13, COA. #242443)

.That opinion was based on eight frivolous issues filed by previous defense attorney James Lawrence, in Michigan Appellate Court.

Federal Opinion Order, barred petitioner's right to address constitutional issues. Previous retained Attorney James Lawrence, sabotaged his claims appeal, by filing eight frivolous issues. Defendant filed a motion to STRIKE BRIEF, and FIRED James Lawrence.

(Ex. 15, COA. Clerk Hauser)

Court Of Appeals, letter dated June 17, 2003, from Clerk Kimberly Hauser. "James Lawrence, motion withdrew GRANTED." "representing yourself on appeal". "Prosecutor was asked to file proof of service indicating that the brief was served on you as opposed to your prior counsel". "Amended Issue of Jurisdiction" "has been placed in the file".

(Ex. 16, COA, Clerk Hauser)

Letter dated August 14, 2003. from Kimberly Hauser. "the appeal will be submitted on the brief that was filed by prior counsel, Mr. James Lawrence".

(Ex. 14, ORDER, Judge Talbot)

COA ORDER, dated March 24, 2004. "motion to strike appellant's brief is DENIED". Judge Michael J. Talbot.

(Ex. 10, ORDER) Fed. ORDER AND OPINION

Date entered: July 21, 2008

page 4, π2,

C. The Habeas Petition

" procedurally defaulted because Petitioner failed to exhaust state remedies for his claims and no longer has an available state remedy to exhaust".

Misrepresentation of four issues.

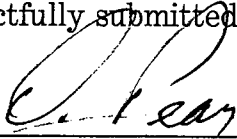
1. assignment of the case.
2. *multiple prosecution*
3. double jeopardy.
4. denied access to the state courts.

CONCLUSION

Petitioner pray for this thorough review do novo of documents presented. Grant petition for certiorari and order bail. Petitioner have been previously granted personal bond from the state courts, without problem.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: September 21, 2023