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No. 23 A 148

FILED

SEP 12 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

SPENCER WALLACE — PETITIONER
(Your Name)

VS.

SUPERINTENDENT SCI ROCKVIEW et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Spencer Wallace
(Your Name)

1000 Follies Rd.
(Address)

Dallas, PA, 18612
(City, State, Zip Code)

—
(Phone Number)

QUESTION(S) PRESENTED

DID THE LOWER COURT ERR WHEN IT HELD THAT THE TRIAL COURT INSTRUCTION DID NOT VIOLATE WALLACE'S CONSTITUTIONAL RIGHT TO DUE PROCESS?

DID THE LOWER COURT ERR WHEN IT FAILED TO APPLY THIS COURTS PRECEDENT IN FRANCIS V. FRANKLIN, 471 U.S. 307 (1985) BY FAILING TO COMPLY WITH THIS COURTS MANDATE TO EXPLAIN AWAY THE ERRONEOUS INSTRUCTION?

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:

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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 A to the petition and is

reported at 2023 U.S. App. Dist. LEXIS 13659; 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[] is unpublished.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 2022 U.S. Dist. LEXIS 51726; 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[] is unpublished.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[] is unpublished.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[] is unpublished.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 June 2, 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: _____, 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

STATEMENT OF THE CASE

Spencer Wallace was tried by a jury and convicted of first degree murder, VUFA, and PIC. He was sentenced to a mandatory term of life in prison without parole. At trial while instructing the jury on the murder offense, the trial court used the word "defendant," pronouncing Wallace to be the perpetrator of the crime committed.

REASONS FOR GRANTING THE PETITION

The judgement by the lower courts conflicts with the decision of Francis v. Franklin. In Wallace's case, although other portions of the trial courts charge were correct, and the jury was instructed to be the sole judges of the facts, the judge never disavowed the erroneous parts or even attempted to mitigate the defect. When a judge gives both a correct and incorrect statement of the law, and fails to correct the misstatements, there is no way for a reviewing court to know which instruction the jury applied. Francis v. Franklin, 471 U.S. 307, 315 (1985); Whitney v. Horn, 280 F.3d 240, 256 (3rd. Cir. 2002) (reversal still required where instruction contains a "constitutional flaw" despite presence of other correct statements of the law).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Spencer Wallace

Sign

Date: September 11th

↑
date