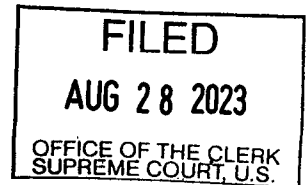


No. 23 - 5889



IN THE
SUPREME COURT OF THE UNITED STATES

christopher-michael:williams — PETITIONER
(Your Name)

vs.

WARDEN CHILlicothe CORRECTIONAL INSTITUTION — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE 6TH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

christopher-michael:williams c/o #723-739
(Your Name)

15802 State Route 104 North
(Address)

Chillicothe, Ohio 45601
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Does the 6th Cir. Court err when it determines that a defendant's 6th Amendment right is not violated when there was evidence that it was likely that someone other than the defendant committed the crime; yet further finds that it was reasonable trial strategy for the trial attorney to not call the alternative suspect to the stand even though that was the only evidence the defendant had; and it was the sole reason for the defendant to proceed to trial?
- 2.) Did the 6th Cir. Court err when it found that the defendant would not have taken the plea deal had his trial attorney been honest with him about not presenting the agreed alternative suspect defense, completely by calling the alternative suspect to the stand?
- 3.) In a case where the defendant is sentenced to double life in prison, does the 6th Cir. Court err when it deems a sentence to be legal when a defendant forgoes a plea deal based on a promise by a trial attorney that an alternative suspect who was present at the time of the accusation and has a history of committing the crime that the defendant is accused of; finding that even if the defendant was given honest disclosure that his trial attorney would not be calling the alternative suspect to the stand he has not convinced the court that he would have taken the plea deal?
- 4.) Did the 6th Cir. Court make an unripe adjudication of a Habeas Corpus petition when the petitioner submitted evidence that the state court was the one who procedurally defaulted and barred the petitioner from having a ripe claim before the Federal Court, when the state courts' actions denied the petitioner's right to appeal?
- 5.) Did the 6th Cir. Court err when it determined that a defendant's 6th Amendment and Fundamental Due process rights were not violated when it decided that the petitioner would not have taken a plea deal because the defendant was persistent about his innocence, and had not taken the plea deal because he believed that his trial attorney would present a complete alternative suspect defense by calling the alternative suspect to the stand?
- 6.) In a case where a defendant, charged with rape of two minors at 27, and has no history of such acts; upon investigation finds that an alternative suspect who looks almost exactly like him in all physical anatomy with a conviction for raping minors was present at the scene during the time frame of the accusation, is promised by his trial counsel that he would be called to the stand for an alternative suspect defense thereby causing the defendant to forgo the state and judge approved plea deal that was accepted on the record, does a district court err in determining that the defendant would not have accepted the plea deal had his attorney been honest about not presenting the complete agreed defense to properly raise reasonable doubt, and asserting that it was trial strategy for the attorney to not call the alternative suspect?
- 7.) Does a fundamental Due Process violation occur when a trial attorney decides to not call a key witness in the middle of trial; when that was the agreed defense, and the only evidence in the favor of the defendant that would raise reasonable doubt as to the guilt or innocence of the defendant in violation of the 5th and 6th Amendments to the U.S. Constitution?
- 8.) When a Court offered a defendant a plea deal, is the right to proceed to trial equal to the right to take the plea deal, if both the court and state approved?

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

State v. Williams Case No. 31501161 Common Pleas Court, Hamilton County Ohio
Judgment entered March 7th, 2015

State v. Williams 152 Ohio St. 3d 1440 Ohio Supreme Court Judgment entered
April 25th, 2018

State v. CHRIS WILLIAMS Case No. 18-1677 Appeal No. C-160336 App. R. 26(B)
Application to reopen appeal. Judgment Entered October 16th 2018.

CHRIS WILLIAMS V. WARDEN, Chillicothe Correctional Institution
Case No. 1:20-cv-99 Judgment Entered June 22nd, 2022.

CHRISTOPHER MICHAEL WILLIAMS V. TIM SHOOP, Case No. 22-3607 in the
United States Court of Appeals For the 6th Cir Judgment Entered May 30th,
2023.

CHRIS WILLIAMS V. STATE OF OHIO, Appeal No. C-230333, Pending Judgment.

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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 _____ to the petition and is

☒ reported at , 2023 U.S App. LEXIS 13285 _____; 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 , 2022 U.S. Dist. LEXIS 99068 _____; 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 , 154 Ohio St. 3d 1502 _____; 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 March 28th, 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: May 30th, 2023, 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

5th Amendment Right to Due process of Law, and 6th amendment Right to the **ASSISTANCE of counsel** for defense with the right to the compulsory process to obtain witnesses.

14th Amendment Equal protection of the law and Fundamental Due process rights.

STATEMENT OF THE CASE

On April 10th, 2015 a Hamilton County Jury Indicted Petitioner Chris Williams in Case No. B1501161 on 2 counts of rape of 2 minors under the age of 10 without any evidence, but that of testimony were one recanted on the stand. Then video tapes were played due to the non testimony of one of the victims.

During the pre trial phases Petitioner found out that the live in boyfriend of the victims mother was a convicted child rapist who had just been released from prison and looked identical to the petitioner. Petitioner had the Attorney investigate and he found that the information was true. Trial attorney promised to call the Live-in Boyfrind of the victims mother to the stand and sucessfully subpoenaed the live-in boyfriend 3 times, and had him present the day of trial.

On August 18th 2015 Petitioners trial attorney subbmited a "Response to Plaintiffs Request for Discovery" where prosecution found out that the live in boyfriend would be called to the stand; and when they found out the details they offered the Petitioner a deal for G.S.I. 3 years on each charge. The trial attorney informed the petitioner that the Prosecution was upset at the new information, and revealed that it was the reason for the plea deal.

On February 25th, 2016 Petitioner and Counsel proceeded to trial on the premises of presenting an alternative suspect defense, and calling the Live-in BOyfriend to the stand. In the middle of trial the counsel for petitioner told him that he was not calling the live-in Boyfriend to the stand. Petitioner was convicted and sentenced to 30-Life.

Petitioner appealed through counsel, yet counsel failed to raise the most pertinate issues that where discussed above, so petitioner filed a App.R. 26 (B) application that was denied because it raised issues not presented at trial. Petitioner appealed to the Ohio Supreme Court who declined Jurisdiction.

Petitioner then filed a timely 2254 Motion for Haebus Corpus in the District Court of the United States Southern District of Ohio. The District Court Disssmised the Habeas Petition with prejudice and denied the certificate of appealability. The Judge adopted the Magistrate Judges R&R asserting that Petitioner procedurally defaulted, because he did not submit evidence that the State of Ohio did not serve him with a copy of the Judgment from the

Post Conviction's he filed, one in 2017, and the second December 23, 2018.

Petitioner did not have the evidence that Ohio had procedurally defaulted until he submitted a "Writ of Procedendo" to the Ohio Supreme Court that revealed that Hamilton County Clerks infact did not send him his copy of Judgment as evidence by the Appearance docket, and evidence by the admission of the Hamilton County Prosecutor in her Response to the "Writ of Procedendo".

Petitioner filed a timely appeal to the United States Court of Appeal for the 6th Circuit, asserting that it was Ohio who had procedurally defaulted and that Petitioner has the right to present his claims to the Federal court for he had only a one year time frame to appeal to the Federal court for a timely Habeas Corpus. The Court of Appeals denied the Petitioner saying that his claims were procedurally defaulted, and the Court was not persuaded that petitioner would have taken the plea deal had his trial attorney told the truth about not calling the live-in boyfriend to the stand.

The Appeals Court failed to see that the only reason why Petitioner agreed to proceed to trial and call the live-in boyfriend to the stand is because the Petitioner and the live-in boyfriend look alike. The jury needed to see that the alternative suspect looks identical to the defendant. This changed the outcome of the trial. The jury had a right to see the alternative suspect so that the trier of fact could reason as to the plausibility that the alternative suspect could have been confused for the defendant, and raise reasonable doubt. This was intentional by the trial attorney and the prosecution to ensure a conviction since the petitioner did not take the plea deal.

Petitioner filed a timely motion to reconsider with evidence that the Ohio Courts procedurally defaulted, and that for the federal court to rule on the Habeas Corpus without allowing the petitioner to exhaust state remedy is unripe. The evidence submitted by the Petitioner was a response from the Hamilton County Prosecutor stating that the Hamilton County Clerk did not send the petitioner a copy of the judgment in the 2017 post conviction and that the Hamilton County Judge left the other post conviction unanswered for over 3 years. The failure of the court was so bad that the Hamilton County appeals court just reopened the appeal in the Ohio First District Court of appeals, where the Brief is due September 16th, 2023.

The Appeal Judge of the 6th Cir Appeals court erred when he asserted that reasonable jurists could not debate the District Courts rejection of the

ineffective-assistance claim, because it was not about whether or not to call a witness, it was about the alternative suspect being evidence because he looks identical to the petitioner. The Petitioners sole reason for going to trial was for the jury to "SEE" the alternative suspect, and how the victims could have confused the suspect with the petitioner. The petitioner and the live-in boyfriend look s lot alike as detailed in the post conviction that is now being appealed in the Hamilton County Appeals Court the First District of OHio.

Petitioner Chris Williams now seeks a timely Writ of Certiori to this most Honorable Court.

REASONS FOR GRANTING THE PETITION

This case is important to the validity of the adversary process and the proper functions regarding the necessity of a fair trial and pre-trial proceedings for the equipoise necessary for a defendants ability to fairly weigh decisions based on full disclosure of facts from his trial attorney. This case is also important to the citizens of our country who stand capable of being accused of a crime to know their full right as to the assistance of counsel to not be slightly assumed to be an all or nothing form and offer of assistance and that the base autonomy of ones right to present a defense not be watered down with an over use of vague "trial strategy" assertion when complete evidence of innocence or guilt and the ability of a defendant to raise reasonable doubt if a witness is evidence, especially when the Plaintiffs evidence is a witness.

In this case there was no evidence outside of testimony of a witness, and that standard of evidence is challenged by a defense that consisted of a witness who was subpoenaed 3 times by the trial attorney so the jury could see that the alternative suspect not only was a convicted sex offender with child victims, but that he looks like the petitioner. The only way for the jurors to see the alternative suspect was for the trial attorney to call him to the stand. Petitioner knew that he could properly defend himself by raising reasonable doubt due to the fact that the alternative suspect looks like the petitioner.

No reasonable jurist who was defending his own life; and having the same elements involved in a case as this, would have selected to not call the live-in Boyfriend to the stand. Had the jury seen the live-in Boyfriend and not merely just heard about him through the states witness, it would have changed the out come of the trial because they would have seen how anyone could get confused as to who was who, for the alternative suspect and the petitioner look almost exactly alike not only in facial features, but height, weight, and size.

Being that no reasonable jurist who was defending his own life would not have failed to call this witness to the stand; its clear to see that the petitioner would not have elected to proceed to trial and forgo the states plea deal of 6 years had he known the live-in boyfriend would not be seen by the jury. See *Lafler v. Cooper*, 566 U.S. 156, 164 (2012). Petitioner would

have accepted the plea deal of six years, had the attorney not mislead him with erroneous legal advice, as though there would be a complete defense which is the same defense revealed in the response to the states demand for discovery. Once the state knew about the live-in boyfriend they offered the plea deal of G.S.I. This is because the state knew the power of the evidence that the petitioner had uncovered. The response to the states request for discovery detailed in it that we planned to call the live-in boyfriend (Trent Elliot Tharps) to the stand. The discovery did not reveal that we planned to merely speak about him in the cross examination of the states witness.

To call the live-in boyfriend was not as simple as "just calling a certain witness", the live-in boyfriend looking identical enough to the petitioner was the evidence that made the state offer the 6 year plea deal, because the state does not have to offer a plea deal. The state wanted to ensure a conviction, for most men with these types of charges in the state of Ohio that the petitioner has their plea deal is 15-life. The live in boyfriend was evidence that the petitioner relied on in proceeding to trial thinking that the jury would be able to lay eyes on him. The petitioner was induced to believe that the trial attorney would use the physical appearance to raise reasonable doubt coupled with the fact that he was a convicted child molester. The petitioner was never a child molester as the live-in boyfriend was at the time of trial, and the jury did not know the live-in boyfriend looked like the petitioner.

To grant this writ of Certiorari would not create a windfall for inmates. The issue addressed on this petition is the fact that a witness can be the only evidence on behalf of a defendant, and not just mere contributory information, just as the plaintiffs evidence can merely be a witness. The right to proceed to trial or take a plea deal (once offered) are equal and can only be rightfully decided by a defendant when he is given full disclosure about how he would best defend himself if he proceeded to trial to knowingly willingly and intelligently agree to stand trial and forgo the state approved and court approved plea deal.

This court has already decided and established under **Strickland**, "to establish ineffective assistance of counsel, a defendant must show deficient performance and resulting prejudice. Trial counsels performance prior to trial fell below a reasonable standard, in light of the fact that no reasonable jurist would omit the strength of the defense and lie about it to his client. AND to complete the standard, had trial counsel been transparent

as to his inability or unwillingness to present the agreed defense the petitioner sought to best defend his life with, Petitioner would have been able to hire new counsel or take the states offer of a reasonable plea deal.

If the American Public can see that social injustice in the judicial machinery can and will be addressed by this honorable court, then the sought after social harmony and perspective can be ushered into the security of the upheld constitution as purely intended. Theres no way that what we grow to become is set in stone, for it is an infanately attainable hight to that which our children can only know if we stand on truth and transparency. Not settle with assumed outcomes, but put fundamental due process first so that no unjust act is allowed to prevail.

CONCLUSION

For the forgoing reasons above, Petitioner asserts that a Writ of Certiorari should be granted.

Respectfully Submitted,

Christopher-Michael Williams

Date:

8/28/2023