

23-6067 ORIGINAL  
No. \_\_\_\_\_

FILED  
OCT 19 2023

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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL A. LAJEUNESSE — PETITIONER  
(Your Name)

VS.

KRIS KARBERG — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

MICHAEL ALEXANDER LAJEUNESSE  
(Your Name)

406 NORTH HIGH STREET

(Address)

ANAMOSA, IOWA 52205 - 0010

(City, State, Zip Code)

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(Phone Number)

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QUESTION(S) PRESENTED

I. IF LEGAL CLAIMS PRESERVED BY A STATE COURT DURING DIRECT REVIEW, SHARE THE SAME CONSTITUTIONAL PROTECTIONS AS THE RIGHT TO AN APPEAL FROM A FINAL JUDGMENT. GIDEON V. WAINRIGHT (1963).

II. AND, IF SO, WOULDN'T THAT ALSO EXTEND TO STATE "COLLATERAL ATTACK" AND FEDERAL HABEAS CORPUS PROCEEDINGS UNDER THE DOCTRINE OF RES JUDICATA (COLLATERAL ESTOPPEL & ISSUE PRECLUSION)?

## 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 Iowa  
The Fifth Judicial District  
The Iowa Court of Appeals  
The Southern District of Iowa  
The Attorney General of Iowa  
Attorney, Mr. Aaron Rogers (515) 281 - 5976@ag.iowa.gov

## RELATED CASES

1. **Lajeunesse v Iowa** (No. 18 - 5609).
2. 2018 US Dist. LEXIS 229187::Lajeunesse v Chambers et al. (Oct. 30th).
3. 2019 US Dist. LEXIS 247135::Lajeunesse v Sperflage (Sept. 27th).
4. 4:22-cv-00166-RWP, 8th Cir. No. 23 - 1629 (certiorari).
5. **State v Lajeunesse**, 913 NW2d 275; 924 NW2d 534 (Iowa App. 2018) (direct & restitution).
6. **Lajeunesse v State**, 975 NW2d 40; 979 NW2d 534 (Iowa App. (2022) (PCR I, & II).
7. **Lajeunesse v Iowa Bd. of Med.**, 974 NW2d 534 (Iowa App. Dec. 15th, 2021)(writ of mandamus).
8. " " 978 NW2d 104 (Iowa App. April 13th, 2022) (declaratory judgment).

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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 B 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 A 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 Aug. 31, 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: Aug. 31, 2023, and a copy of the order denying rehearing appears at Appendix C.

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

Iowa Acts, Ch. 140, § 3.0 (July 1<sup>st</sup>, 2019) was not in effect, nor was it the law in Iowa when Petitioner had perfected his appeal from a final judgment. *State v Treptow*, 960 N.W.2d 98 at 103 (Iowa '20), citing *Hrbek, Thompson, Boldon, Tucker, Draine*, and Petitioner is quoting, in part, *Macke, at 228 (Iowa 2019)*:

“SENATE FILE 589, THE OMNIBUS CRIME BILL,  
LACKS LANGUAGE INDICATING THE LEGISLATURE  
INTENDED THE AMENDMENTS TO IOWA CODE § 814.7<sup>1</sup>  
TO APPLY TO APPEALS FROM JUDGMENTS  
BEFORE ITS EFFECTIVE DATE”

(Emphasis added.).

Therefore—as a matter of law—Petitioner’s pro se claims raised during direct appeal in his Supplemental Brief became the “Law-of-the Case<sup>2</sup>”; subject to principles of Res Judicata and Offensive/Collateral Issue Preclusion in Federal Habeas Corpus review from that Opinion<sup>3</sup>.

*Hunter v City of Des Moines*, 300 N.W.2d 121 at 123 (Iowa '81), quoting *Goolsby v Derby*, 189 N.W.2d 909, 913 (Iowa '71), adopting *Parklane Hosiery Co., Inc. v Shore*, 439 U.S. 322, 326 (1979) (this doctrine can be used both as a ‘shield or sword’).

Iowa Acts, Ch. 140, § 35 (July 1<sup>st</sup> 2019), restricted Petitioner’s procedural right to file for a new trial in his State Postconviction Relief proceedings under **Iowa Code § 822.3A(1)**.<sup>4</sup>

*United States v Throckmorton*, 98 U.S. 61, 68, 25 L. Ed. 93 (1878) (extrinsic fraud). See *In re Marriage of Hutchinson*, 974 N.W.2d 466 at 476-77 (Iowa '22) (adopted in Iowa by *Maurer*, 257 N.W.2d 489, 494-96 (1998)).

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<sup>1</sup> IACounsel claims can only now be raised during subsequent collateral attack proceedings (state habeas).

<sup>2</sup> *Arizona v California*, 460 U.S. 605, 618,103 S. Ct. 1382 (1983) (law of the case doctrine).

<sup>3</sup> *State v Lajeunesse*, 913 N.W.2d 275; 924 N.W.2d 534 (Iowa App. 2018) (direct and restitution appeal).

<sup>4</sup> No person shall file anything in any Iowa court while represented by counsel (emphasis added).

## STATEMENT OF THE CASE

I was convicted of attempted murder and assault causing serious injury by a jury of my peers. The court had sentenced me to 25 years of restraint—then by statute required me to serve a mandatory sentence of 70% before being eligible for parole. Iowa Code §§ 707.11 and 708.4(1) (2018).

On direct appeal my appellate defender had raised two challenges to the sufficiency of the evidence, 1) whether my trial attorney was ineffective for failing to hire an expert in support of his Intoxication Defense, and 2) if the State had met its burden in relation to the trial testimony regarding strangulation? *Shinn v Ramirez*, 142 U.S. 1718 (May 23, 2022).

Alongside appellate counsel, Petitioner had filed a Pro Se Supplemental Brief raising multiple legal claims of 1) deceit and collusion, 2) prosecutorial misconduct, 3) inappropriately bringing the State medical examiner for Expert Opinion, 4) and IACounsel claims. *Reed Farley*, 512 U.S. 339, 340-41, 129 S. Ct. 277, 281 (1974) (habeas corpus § 17—collateral relief, federal & state prisoners).

In subsequent State and Federal collateral attack proceedings, Petitioner had complied with the Opinion of the Iowa Court of Appeals' by filing a State Postconviction Relief action. However, none of those claims were presented to the State of Federal court for an adjudication. *Wearry v Cain*, 577 U.S. 385 at 390-97 (2016) (per curiam) (collection of authority relevant to Lajeunesse's preserved claims). **See also** *United State v Young*, 927 F. Supp. 373, 44 Fed. R. Evid. Serv. (CBC) 1319 (D.S.D. 1996).

The Federal district denied Petitioner's request for an Evidentiary hearing and further ignored its statutory language defined by and including 28 U.S.C.S. §§ 2254(e)(1), 2254(f), thereby, challenging the Sufficiency of the Evidence—Petitioner must prove it.

## REASONS FOR GRANTING THE PETITION

This writ should be issued because it will ensure that the State courts and their appointed attorneys are held to the rule of law regarding defendant's Constitutional right to an appeal under Amendments 6 and 14. *United States v Chronic*, 466 U.S. 648, 104 S. Ct. 2039 (1984).

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



MICHAEL ALEXANDER LAJEUNESSE  
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PETITION FOR CERTIORARI

DATED: Oct. 19th 2023