

23-6262
No. _____

FILED
OCT 31 2023

OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Raymond C. Robideau — PETITIONER
(Your Name)

vs.

State of Minnesota — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Minnesota Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Raymond C. Robideau
(Your Name)

7600 525th Street
(Address)

Rush City, MN 55069
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- I. Is a court required to obtain a renewed jury-trial waiver when the State amends it's Aggravating Factor[s] after remand from State's Highest Court, and after the defendant has made an initial jury-trial waiver.

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. Robideau, 796 N.W. 2d 147 (Minn. 2011).

State v. Robideau, 817 N.W. 2d 180 (Minn. Ct. App. 2012).

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STATUTES AND RULES

Minnesota Statute § 244.10, Subd. 7-Waiver of jury determination on Blakely issues.

Minnesota Rules of Criminal Procedure., Rule 26.01, Subd. 1(2)(b)-Waiver of jury on Aggravating Factors.

Minnesota Rules of Criminal Procedure., Rule 27.03, Subd. 9-Motions to correct sentences

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 _____; 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 is unpublished.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 _____; 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 is unpublished.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 is unpublished.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 Minnesota Court of Appeals 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

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 10/18/2023. A copy of that decision appears at Appendix ___ A _____.

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

I. U.S. Const. Art. III, § 2, cl 3.

II. U.S. Const. Amend. VI

III. U.S. Const. Amend. XIV

STATEMENT OF THE CASE

On or about, January 12, 2023, Mr. Robideau did file a Motion to correct an illegal sentence, under Minn.R.Crim.P., Rule 27.03 Subd. 9, in which the district court denied and in the ORDER the district court characterized Mr. Robideau's Motion as an un-timely Post-Conviction Petition. After some malfeasance by the district court Mr. Robideau was forced to seek an extraordinary Writ of Mandamus, to force the district to furnish him with a copy of the final order so he could file a timely appeal. The court of Appeals found that the district court erred in finding that the district court characterized the Motion to correct an illegal sentence, as a untimely post-conviction petition, but found the error harmless.

The Minnesota Court of Appeals found that Mr. Robideau had previously raised this issue on appeal and therefore could not re-litigate the issue as it had been decided already. Then Mr. Robideau sought further discretionary review, but the highest court of Minnesota denied the Petition.

REASONS FOR GRANTING THE PETITION

Mr. Robideau seeks a Writ of Certiorari to resolve the issue of whether the State of Minnesota is required to renew a jury-trial waiver, after the State's highest court has ruled that no existing Aggravating Factor is warranted in his case, and that there was no factual basis to find that his case was atypical, with "compelling" and "Substantial" circumstances to depart from the sentencing guidelines, and when the State amends the Waiver to include a new Aggravating Factor, after remand. The Question presented does constitute a justiciable issue that needs to be resolved by this court, as the this claim involves a claimant that is ACTUALLY INNOCENT of this excessive sentence.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Raymond Clyde Holidean

Date: 10-31-23