

JUN 20 2023

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No.

23-6270

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Pro-se Tony French — PETITIONER
(Your Name)

vs.

STATE OF WASHINGTON — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Washington
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Tony French DOC#428441
(Your Name)

1830 Eagle Crest Way
(Address)

Clallam Bay, WA 98326
(City, State, Zip Code)

360-203-1560
(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Were Petitioner's due process rights violated when the Pierce County Sheriff's Department caused the loss and destruction of the material evidence of the vehicle Petitioner was driving at the time of the shooting incident, which had visible bullet holes in the in the drivers side door frame and therefore clearly possessed materially exculpatory evidence that supported Petitioner's self-defense claim?
2. Did the Pierce County Sheriff's Department act in bad faith when it caused the loss and destruction of the vehicle Petitioner was driving at the time of the shooting incident, which had visible bullet holes in the driver's side door frame and therefore clearly possessed potentially useful evidence that could have supported Petitioner's self-defense claim and Attempted Murder in First degree?
3. Is Petitioner's 2000 North Carolina conviction for assault with a deadly weapon factually comparable to Washington's crime of assault in the second degree?
4. Did the Supreme Court of Washington Appeal courts error, when the Supreme Court decided not to accept review of French case, when it was apparent that Pierce County Sheriff's Department didn't act in good faith with their policy on the loss and destruction of the vehicle Petitioner was driving at the time of the shooting incident, when it was apparent to Pierce County Sheriff's Department that it was a Attempted Murder in First degree, and factually comparable.

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

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Brady v. Maryland 488 U.S. 51, 109 S. Ct. 333, 102 L.Ed. 2d 281 (1988)	5
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State v. Burden 104 Wn. App. 507, 17 P.3d 1211 (2001)	5

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 _____; 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 10 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 Lower Court of Appeals of The State Washington 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 April 5, 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

1. The Fourteenth Amendment [to the United States Constitutional] requires that criminal prosecutions conform with prevailing notions of fundamental fairness, and that criminal defendants be given a meaningful opportunity to present a complete defense.

2. Washington law employs a two-part test to determine the comparability of a foreign offense. Prong two factually comparable is whether the conduct underlying the foreign offense would have violated the comparable Washington statute.

3. Washington's criminal attempt statute, Wash. Rev. Code § 9A.28.020(1), specifies that a person is guilty of an attempt to commit a crime if, with intent to commit a specific crime, he or she does any act which is a substantial step toward the commission of that crime. Thus, attempted murder occurs when a person takes a substantial step in causing another person's death with the intent to cause that person's death.

4. Second Degree Assault with a deadly weapon in Washington's statute is a specific intent crime.

STATEMENT OF THE CASE

1. French appeals his convictions and sentence for 11 crimes, including attempted first degree murder, first degree assault, two counts of second degree assault, first degree burglary, and unlawful possession of a firearm. French attempted first degree murder and first degree assault was merged.

2. The Toyota driven by French during the shooting was found on September 16. Several day later, Detective Byron Brockway, Detective Richard Floben, and Forensic Investigator Tiffani Arcudia processed the Toyota. At some point, the law enforcement agency released the Toyota to the insurance company, and it was sold at auction.

3. French March 21, 2000 N.C assault with a deadly weapon conviction, trial court found it factually comparable to Washington law second degree assault.

REASONS FOR GRANTING THE PETITION

- 1 The State violated French right to due process by failing to preserve material, material exculpatory, and potentially useful evidence of the Toyota that was material and the state had control over. Just like State v. Burden, 104 Wn. App 507, 17 P.3d 1211 (2001) and United State v. Cooper 983 F.2d 929 (9th Cir. 1993) their was not suffic request to preserve the evidence that was material in Burden and Cooper cases.
2. The state violated their own established policy ~~See~~ Appendix B in Badfaith for not preserve the Toyota for the defense, which they had control over in a investigation for attempted ~~homicide~~ homicide.
3. French 2000 North Carolina for assault with a deadly weapon, plea is a contract for general intent. the "willfully" part only me general intent, in North Carolina.

CONCLUSION

This Court should accept review and reverse the convictions related to the shooting incidents or, alternatively, remand for resentencing. The petition for a writ of certiorari should be granted.

Respectfully submitted,

 pro-se
Tony French

Date: 6-18-2023

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