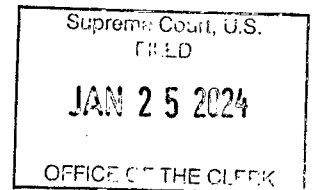


No.

23-6642

IN THE
SUPREME COURT OF THE UNITED STATES

DAVID W. POYDRAS — PETITIONER
(Your Name)



vs.

TIMOTHY HOOPER, Warden RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Louisiana Third Circuit, Court of Appeal
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DAVID W. POYDRAS, 115750
(Your Name)

T.U., LOWER-E-B
LOUISIANA STATE PENITENTIARY
(Address)

ANGOLA, LA. 70712
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

I.

Did La. Code Criminal Procedure, Article 926.3(B), allow the Court's in Louisiana to deny destitute inmate's the right to prove they are Factually Innocent? Where similar inmate's are granted hearings and new trials solely due to their ability to pay for their new evidence. USCA - Const. Amend. 14.

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:

Jeff Landry, Governor
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Baton Rouge, LA 70804

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
1.) <u>Brady v. Maryland</u> , 373 U.S. 83 (1963) — — 8	
2.) <u>California v. Trombetta</u> , 467 U.S. 479 (1984) — 8	
3.) <u>HERRERA v. Collins</u> , 506 U.S. 390 (1993) — — 8	
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6.) <u>MOONEY v. Holohan</u> , 294 U.S. 103 (1935) — — 8	
7.) <u>State ex rel. BERNARD v. Crim. Dist. Ct.</u> , (La. 4-28-1995), 653 So.2d 1174. — — — 7	
8.) <u>CARLIN v. Cain</u> , 706 So.2d 968 (La. 1998) — — 8	
9.) <u>State ex rel. CHERRY v. Cormier</u> , 281 So.2d 99 (La. 1973) — — — — — 8	
10.) <u>State ex rel. Tassin v. Whitley</u> , 602 So.2d 721 (La. 1992) — — — — — 8	
11.) <u>Jones v. State</u> , 348 So.3d 771 (La. App. 1 Cir. 8-24-2022) — — — — — 4, 8	
12.) <u>State v. Poydras</u> , 514 So.2d 516 (La. App 3 Cir. 1987) — — — — — 5, 6	
13.) <u>Louisiana Code Criminal Procedure (La.C.C.R.P.)</u> :	
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(B) Art. 922. — — — — — 5	
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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 _____ 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 A 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 Louisiana Supreme 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 12-19-2023.
A copy of that decision appears at Appendix B.

☐ 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

Constitution of the United States of America:

Amendment 14

"All persons born... in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Louisiana Constitution (1974), Article 1:

Section 2. (Due Process of Law)

"No person shall be deprived of life, liberty, or property, except by due process of law."

Section 3. (Right to Individual Dignity)

"No person shall be denied the equal protection of the laws. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations..."

STATEMENT OF THE CASE

In Louisiana, claim's of Actual Innocence that deal only with DNA evidence is found in Louisiana Code of Criminal Procedure (La.C.C.R.P.), Art. 926.1. Then in 2021 the Louisiana Legislature enacted La.C.C.R.P. Art. 926.2, and Art. 926.3, relative to Factual Innocence and a new procedure for inmate's to obtain new evidence and fact's respectfully; That do not deal with DNA. See, Jones v. State, 2021-LA-1205 (La. App. 1 Cir. 8-24-22), 348 So.3d 771. (Retroactive)

In about March 2022, Petitioner learned of these new laws and mailed his Post-Conviction Application in the district court before the December 31, 2022, dead-line. During this time several inmate's with money to pay for their new evidence was given hearing's and new trials.

Once Petitioner's Post-Conviction Application was filed in the district court. The Honorable Judge Kristian D. Earles ordered the State (Respondent) to file an answer/respond to the Application before June 12, 2022. See Appendix D.

About June 8, 2022, the State responded by objecting and not consenting to Petitioner getting the new evidence.

About June 13, 2022, Judge Earles accepted the objection of Respondent's NON-Consent and dismissed Petitioner's Post-Conviction Application. Petitioner received the ruling on July 13, 2022. See, Appendix D.

This is not true because when Petitioner filed his original direct appeal with this Appeal Court they used the wrong standard of review. Instead of reviewing the sufficiency of the evidence as outlined in Jackson v. Virginia, 443 U.S. 307, 314 (1979). The appeal court used a Louisiana common law contrary to this Court. See State v. Poydras, 514 So.2d 516 (La. App. 3 Cir. 1987), thus, Petitioner was not given a direct appeal as requested.

To add to this egregious error Petitioner did file a Post-conviction Application in September 1991, before the October 1, 1991, dead-line. And Petitioner had to file a Mandamus to the Third Circuit, Court of Appeal to Compel the district court to rule on it in 2012. See Appendix D. (That was over 21-years) And, to this day the Louisiana Court's have not ruled on a claim in this post-conviction.

Now that was cleared up, back to the present case. On Aug. 4, 2023, Petitioner's Supervisory And/or Remedial Writ was filed in the Louisiana Supreme Court. See Appendix C.

On December 19, 2023, the Louisiana Supreme Court Denied Petitioner's Application. Appendix B.

Petitioner is now timely before this Honorable Court requesting a grant of Certiorari to determine was the proceedings in the Court's in Louisiana held Constitutionally or not regarding the Question(s) Presented herein in violation of the Constitution's of the United States of America and the State of Louisiana. (Due Process and Equal Protection. USCA-Const. Amend. 14 and La. Const. (1974), Art. 1, Sections 2 and 3).

Thus, did La. Code Crim. P. arts. 926.2, and 926.3(B) instandum discriminate against him because he is destitute.

"Upon motion of the state or the petitioner, the district court may order the testing or examination of any evidence relevant to the offense of conviction in the custody and control of the clerk of court, the state, or the investigating law enforcement agency."

Compare, *California v. Trombetta*, 467 U.S. 479 (1984).

Petitioner now swear on his oath that he is innocent and a hearing with the new evidence he is requesting will prove that this is not false or baseless allegations. And he is being discriminated against because of his race and destitute status. Is the reason Respondent objected to him (Petitioner) not getting the withheld evidence. See *HERRERA v. COLLINS*, 506 U.S. 390 (1993), *Brady v. Maryland*, 373 U.S. 83 (1963), *Kyles v. Whitley*, 514 U.S. 419 (1995), *Mooney v. Holohan*, 294 U.S. 103 (1935).

The problem is the Louisiana Court's have failed to respect the Louisiana Legislature's intent to create a factual innocence law for people who don't have DNA evidence. And had the Louisiana Court's granted a hearing pursuant to La.C.Crim. P. arts. 926.2, and 926.3. See also, *State ex rel. Tassin v. Whitley*, 602 So.2d 721 (La. 1992); *State ex rel. Cherry v. Cormier*, 281 So.2d 99; *Carlin v. Cain*, 706 So.2d 968 (La. 1998).

Instead, La. Code Crim. P. art. 926.3(B), allowed the Respondent to not give consent by objecting, thus, ending any further investigation that could be used to explore whether Petitioner is innocent or not?

Petitioner now notes that his lawyers, plead him "Not guilty by reason of insanity" only to determine his competency when police took his confession. And not at the time of the crime. However, his trial lawyers conspired to rail-road him with the Judge and Prosecutor because he is black and on trial for the rape of two white women.

Their conspiracy also included telling the jury he was guilty without his consent, to violate Petitioner's rights found in the Constitution's of the United States of America and State of Louisiana and the laws therein.

All this time the real guilty person was a white man working for the Sheriff Department and had access to all the evidence in this case.

Petitioner became a suspect because he tried to get justice for his mother who was raped by a white man that made him watch (at about six years old). When Petitioner tried to get justice for her he then became a victim of the system.

Now that the law has changed Petitioner only want the opportunity to prove he is factually innocent La. C. (Crim. P., Arts. 926.2, and 926.3. However, the Respondent's objection is a non-consent to Petitioner getting the new evidence he needs solely due to his destitute status. And, African-Americans (FN.1, on page-12).

FN. 1. Claims raised in State Court are:

1.) CAN AN INCOMPETENT PERSON IN PRISON CLAIM THAT THEY ARE FACTUALLY INNOCENT WHEN THERE IS NO DETERMINATION OF THEIR COMPETENCY IN THE RECORD?

2.) CAN THE WITHHELD POLICE REPORTS IN THE RAPE CASE OF MELISSA ZEA PROVE MR. POYDRAS IS FACTUALLY INNOCENT?

3.) CAN A SCIENTIFIC, AND FORENSIC EXAMINATION OF MR. POYDRAS' CONFESSION PROVE HE IS FACTUALLY INNOCENT?

4.) CAN A NUNE PRO TUNE EXAMINATION OF THE JURY PROVE MR. POYDRAS IS FACTUALLY INNOCENT?

These questions was never resolved because petitioner is destitute, black and the Respondent's objection was a NON-CONSENT.