

23-6885

FILED
JAN 05 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Joseph Rendon — PETITIONER
(Your Name)

vs.

Beth Skinner, Director — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. District Court for the Southern District of Iowa, Central Division

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joseph Rendon

(Your Name)

Newton Correctional Facility, P.O. Box 218

(Address)

Newton, IA. 50208-0218

(City, State, Zip Code)

Not Applicable—Prisoner

(Phone Number)

QUESTION(S) PRESENTED

**WHETHER THE SIXTH CIRCUIT OR THE EIGHTH CIRCUIT
MADE THE CORRECT RULING REGARDING DENIAL OF
DUE PROCESS AND FAIR TRIAL CONCERNING THE USE
OF A POLICE OFFICERS AS EXPERTS OUTSIDE OF THEIR
EXPERTISE AS LAW ENFORCEMENT?**

**WHETHER THE PETITIONER WAS DENIED DUE PROCESS
WHEN HE WAS DENIED A CERTIFICATE OF
APPEALIBILITY REGARDING THE POLICE EXPERT ISSUE
AND HIS OTHER ISSUES AS A *PRO SE* PETITIONER?**

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:

RELATED CASES

Rendon v. Skinner, No. **4:22-cvv-00093-JEG**, U.S. District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, judgment entered on May 16th, 2023

Rendon v. Skinner, No. **23-2415**, U.S. Court of Appeals for the Eighth Circuit, order entered on October 13th, 2023

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U.S. Court of Appeals for the 8th Circuit, Judgement of 10/13/2023

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U.S. District Court for the Southern District of Iowa, Judgment of 5/15/2023

APPENDIX C ●

**U.S. Court of Appeals for the 8th Circuit, Denial of Rehearing *En Banc* and
Denial of Rehearing by Panel 11/21/2023**

**APPENDIX D ●
State v. Rendon, 888 N.W.2d 902 (Iowa Ct. App. 2016), No. 15-1832,
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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 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 United States district 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.

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 October 13th, 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: November 21st, 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

United States Constitution, Fifth, Sixth, and Fourteenth Amendment rights to a Fair Trial, Due Process and Equal Protection of the Law regarding evidence that is *so unreliable* (i.e., use of bogus Police “expert” testimony) that it *denies due process*, as well as denial of the right to due process and protection of the statutory provisions for Writ of Habeas Corpus and the issuing of a Certificate of Appealability.

STATEMENT OF THE CASE

Prosecutors used Police as an “expert” outside of the field of law enforcement in this case. **This issue has been decided in conflict** between the U.S. Court of Appeals for the Eighth Circuit (where the Petitioner was tried) and the Sixth Circuit. **The Sixth Circuit says this violates the U.S. Constitution and the Eighth Circuit says it does not.** The Petitioner’s entire conviction and sentence rest on the testimony regarding cell phone use and location erroneously given at a jury trial by a Police Officer resulting in **75 years in prison with a 40-year mandatory-minimum. The Petitioner will die in prison.** This issue alone must be decided by this court to protect citizens from the erroneous use of Police testimony as bogus experts.

The Petitioner, Joseph Rendon (Mr. Rendon), petitions the Supreme Court of the United States to issue to U.S. Court of Appeals for the Eighth Circuit. Mr. Rendon was denied a Certificate of Appealability in the U.S. District Court for the Southern District of Iowa, Central Division which he appealed to the U.S. Court of Appeals for the Eighth Circuit.

On September 24th, 2014, an illegal poker game took place at an outbuilding of the home of Thomas Dean. 8 other people were present with Dean at the illegal poker game. Garvis Thompson (an employee of Mr. Rendon who had work phone), Arthur Benson, Jacari Benson, and David Moore entered the outbuilding and robbed the illegal poker game. Arthur Benson’s girlfriend, McKenzie McCracken, drove the get-away car. **Mr. Rendon was not present at the robbery.** Mr. Rendon’s name came up later during the investigation because he had attended one of the illegal Poker games and a suspect was trying to shine the light on someone else.

On September 8th, 2015, an Iowa District Court in Polk County, Des Moines, Iowa, found Mr. Rendon and his co-defendant, Arthur Benson, guilty of **nine** counts of 1st Degree Robbery and one count of 1st Degree Burglary. Both men were also co-applicants in a postconviction in state court. Mr. Benson's sentence was vacated, however, Mr. Rendon's was not. Mr. Rendon's co-defendant is now in the free world.

Mr. Rendon was known to the County Attorney's office for a previous case involving drugs that they had failed to tie him to. Prosecutors went out of their way to tie him to this case. They allowed all the robbers caught red-handed to testify against him in exchange for much reduced charges which would essentially allow them freedom. Arthur Benson refused to do this and was tried with Mr. Rendon while Arthur's brother, Jacari Benson, testified against his own brother to receive a lesser sentence.

The only evidence the prosecutors had tying Mr. Rendon to this case was the work phone in Garvis Thompson's possession. A Police officer was allowed to testify as an expert regarding all of the cell phone evidence in this case. The officer had some training regarding cell phones, however, it was obsolete. The Petitioner's attorney objected to the use of this testimony and Mr. Rendon brought it up in the Iowa Court of Appeals. Then it brought up again later in the Iowa courts, as well as the U.S. District Court of Appeals for the Eighth Circuit.

On May 16th, 2023, the U.S. District Court for the Southern District of Iowa, Central Division, Judge James E. Gritzner, denied both Writ of Habeas Corpus and Certificate of Appealability. When addressing the bogus Police/Expert issue, Judge Gritzner stated:

“The claim in Rendon’s petition is based solely on the grounds he was denied due process and a fair trial when the trial court allowed Tompkins [the bogus Police/expert] to testify as an expert in cell phone records...Rendon does not argue this testimony was so egregious that it made the entire proceeding fundamentally unfair.”

However, Mr. Rendon's bogus Police/expert issue was submitted on his *Pro Se* Petition for Writ of Habeas Corpus which the court is required to construe liberally.

On October 13th, 2023, the U.S. Court of Appeals for the Eighth Circuit denied Mr. Rendon's request for Certificate of Appealability. Mr. Rendon specifically claimed that he was "denied the 'liberal construction' that a pro se litigant is entitled to" when the court denied the bogus Police/expert issue and an issue regarding prior bad acts evidence involving the portrayal of him as a drug dealer to the jury.

On November 21st, 2023, Mr. Rendon was denied rehearing *en banc* and rehearing by the panel.

Mr. Rendon timely and respectfully prays for Petition for Writ of Certiorari to issue the U.S. Court of Appeals for the Eighth Circuit.

REASONS FOR GRANTING THE PETITION

The U.S. Supreme court is known for only granting Certiorari for “compelling reasons” and, especially, when “a United States Court of Appeals [herein the 8th Circuit] has **entered a decision in conflict** with the decision of another United States Court of Appeals [against the 6th Circuit] on the same important matter”. Rules of the Supreme Court of the United States, rule 10(a) (2023) (emphasis added). This case is just such a case.

Under 28 USCS §2253(c)(2) (2023), Mr. Rendon was only required to make a “substantial showing of the violation of a constitutional right”.

Certificate of Appealability must issue by establishing that an issue ruled on by the courts is may be “debatable or wrong”. *Tennard v. Dretke*, 542 U.S. 274, 282 (2004). The fact that the U.S. Court of Appeals for the Eighth Circuit issued this decision in conflict with the Sixth Circuit regarding bogus Police/expert testimony establishes this issue is “debatable [and] wrong”.

In his *Pro Se* Petition for Writ of Certiorari, Mr. Rendon claimed that he was “denied due process and a fair trial” guaranteed by the U.S. Constitution when the state court allowed the prosecution to submit bogus Police/expert testimony regarding cell phone records. The officer was not expert. In the Sixth Circuit, *Dickerson v. Boyd*, 2022 U.S. App. LEXIS 12515 (6th Cir., May 9th, 2022), the U.S. Court of Appeals ruled that this type of testimony violates the U.S. Constitution.

This case is a case wherein “the settlement of which is important to the public as distinguished from the parties”. *N.L.R.B. v. Pittsburgh S.S. Co.*, 95 U.S. 479, 502 (1951). Citizens lives are at risk based on bogus Police/expert testimony. Mr. Rendon was given 75 years, with a 40-year mandatory-minimum, for Robbery and Burglary when the state of Iowa never even submitted any evidence that he was there.

The state of Iowa does not argue with the fact that he was not even there for a Robbery or Burglary. No one was physically harmed in this case. Mr. Rendon has health issues and will most likely **die in prison** while the **real robbers have been let free**. Both state and federal courts have reasoned that a **death sentence chosen over life in prison is not an irrational choice**. *Smith v. State*, 686 N.E.2d 1264, 1273 (Ind. 1997) (With cases and reasoning); and *Autry v. McKaskle*, 727 F.2d 358, 363 (5th Cir. 1984) (Also with reasoning regarding life in prison more onerous than death penalty).

As a *Pro Se* petitioner, Mr. Rendon was also held to a higher standard when the court failed to give his *Pro Se* petition the “liberal construction” required. *Erickson v. Pardus*, 551 U.S. 89, 94 (2207) (Habeas Corpus and other civil petitions required the “liberal construction”). Mr. Rendon submitted this issue as a due process and fair trial denial, however, the court stated that he did “not argue this testimony was so egregious that it made the entire proceeding fundamentally unfair” (Herein Appendix “B”, pgs. 7-8).

The U.S. Supreme Court has ruled that bogus evidence, such as bogus Police/expert evidence, can be “so unreliable that its admission violates due process”. *Foster v. California*, 304 U.S. 440, 449 (1969). Mr. Rendon’s *Pro Se* petition for Writ of Habeas Corpus claiming denial of due process was enough to alert the court of the claim that this evidence was “egregiously at odds with the standards of due process propounded by the Supreme Court” and that it also fit within the “unreasonable application” clause. *Woodford v. Visciotti*, 537 U.S. 19, 24-5 (2002).

CONCLUSION

For the aforementioned reasons, petition for writ of certiorari should be granted.

Respectfully Submitted,

Joseph Rendon

Date 12/28/2023