

23-6988
NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PRO SE
ANTHONY SHIEF - PETITIONER

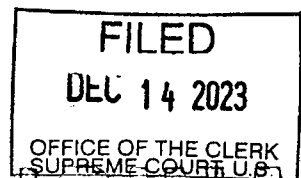
VS.

COOK COUNTY, ILLINOIS - RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
SUPREME COURT OF ILLINOIS

PETITION FOR WRIT OF CERTIORARI

ANTHONY SHIEF
5835 STATE ROUTE 154
PINCKNEYVILLE IL, 62274



ORIGINAL

QUESTION PRESENTED

TO RESOLVE A SPLIT OF AUTHORITY
IN THE ILLINOIS APPELLATE COURT REGARDING
WHETHER MILLER V. ALABAMA, 567 U.S. 460
(2012), PROVIDES CAUSE FOR PRESENTING IN A
SUCCESSIVE POST-CONVICTION A CLAIM THAT THE
PROPORTIONATE PENALTIES CLAUSE REQUIRES MILLER
PROTECTIONS FOR PARTICULAR DEFENDANTS WHO
WERE OVER THE AGE OF 17 OF THE TIME OF AN OFFENSE,

LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION OF THE
CASE ON THE COVER PAGE.

TABLE OF CONTENTS

page #

OPINIONS BELOW	1.
JURISDICTION	2.
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3.
STATEMENT OF THE CASE	4.
REASONS FOR GRANTING THE WRIT	
CONCLUSION	

INDEX TO APPENDICES

APPENDIX A. JUNE 15, 2022. APPELLATE
COURT OF ILLINOIS, DENIED LEAVE TO
FILE SUCCESSIVE POSTCONVICTION PETITION

APPENDIX B. AUGUST 14, 2020. CIRCUIT COURT
OF COOK COUNTY, DENIED LEAVE TO FILE
SUCCESSIVE POSTCONVICTION PETITION

APPENDIX C. SEPTEMBER 27, 2023. SUPREME
COURT OF ILLINOIS DENIED PETITION FOR
LEAVE TO APPEAL

Table of Authorities Cited

Cases

page

Miller v. Alabama, 567 U.S. 460, 132, 5 Ct. 2455, 183, -3, 4, 6, 7, 8, 9

people v. Dorsey, 2021 IL 123010 - 8,

Illinois proportionate penalties Clause - 4, 6,

people v. Horshaw, 2021 IL app (1st) 182047 - 8,

people v. Harris, 2016 IL app (1st) 141744 - 5,

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.

OPINION BELOW

THE OPINION OF THE HIGHEST STATE COURT TO
REVIEW THE MERIT APPEARS AT APPENDIX C. TO
THE PETITION AND IS UNPUBLISHED

THE OPINION OF THE APPELLATE COURT APPEARS
AT APPENDIX A. TO THE PETITION AND IS UNPUBLISHED

JURISDICTION

THE DATE ON WHICH THE HIGHEST STATE COURT
DECIDED MY CASE WAS SEPTEMBER 27, 2023
A COPY OF THAT DECISION APPEARS AT APPENDIX C.

THE JURISDICTION OF THIS COURT IS INVOKED
UNDER 28 U.S.C. § 1257 (a)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE UNITED STATES SUPREME COURT DECISION IN
MILLER V. ALABAMA, 367 U.S. 460, 132 S. CT. 2455,
183 L. Ed. 2d 407 (2012).

THE SUPREME COURT HELD THAT, BECAUSE
OF THE CHARACTERISTICS OF YOUTH, THE EIGHTH
AMENDMENT "FORBIDS A SENTENCING SCHEME THAT
MANDATES LIFE IN PRISON WITHOUT POSSIBILITY OF
PAROLE" FOR DEFENDANTS WHO WERE UNDER THE
AGE OF 18 AT THE TIME THE CRIMES WERE COMMITTED.
ID. AT 479, 132 S. CT. 2455. MILLER DID NOT
CATEGORICALLY PROHIBIT NATURAL LIFE SENTENCES
WITHOUT POSSIBILITY OF PAROLE FOR JUVENILE OFFENDERS.
RATHER, THE COURT HELD ONLY THAT THE EIGHTH
AMENDMENT REQUIRES THAT A SENTENCER FOLLOW A
CERTAIN PROCESS CONSIDERING AN OFFENDER'S YOUTH
AND ATTENDANT CHARACTERISTICS BEFORE IMPOSING
THAT PENALTY. ID AT 493, 132 S. CT. 2455.

~~PROHIBIT NATURAL LIFE SENTENCES~~

STATEMENT OF THE CASE

ON APRIL 9, 2020, MR. SHIEF FILED THE CURRENT SUCCESSIVE POST-CONVICTION PETITION.

AMONG OTHER THINGS, SHIEF CLAIMED THAT HIS 75 YEAR SENTENCE WAS IMPOSED IN VIOLATION OF THE CRUEL AND UNUSUAL PUNISHMENT CLAUSE OF THE UNITED STATES CONSTITUTION AND THE PROPORTIONATE PENALTIES CLAUSE OF THE ILLINOIS CONSTITUTION WHERE IT WAS IMPOSED WITHOUT THE SENTENCING PROCEDURES DESCRIBED IN MILLER V. ALABAMA, 567 U.S. 460 (2012), AND SUBSEQUENT CASES.

SHIEF NOTED THAT THE APPLICABLE SENTENCING STATUTE REQUIRED THE TRIAL COURT TO IMPOSE A SENTENCE OF AT LEAST 45 YEARS IN PRISON, A de facto LIFE SENTENCE.

MILLER-STYLE SENTENCING PROCEDURES ARE NOT CATEGORICALLY REQUIRED FOR DEFENDANTS OVER THE AGE OF 17, SHIEF ARGUED THAT THEY WERE NONETHELESS REQUIRED IN THE PARTICULAR CIRCUMSTANCES OF HIS CASE WHERE HE WAS BARELY 18 YEARS OLD AT THE TIME OF THE MURDER—

Page #

AND HAD ONLY ONE PRIOR ADULT CONVICTION.

SHIEF CITED PEOPLE V. HARRIS,
2016 IL APP (1st) 141744, REV'D, 2018 IL
121932, AND OTHER CASES TO SUPPORT THE
ARGUMENT THAT MILLER-STYLE PROTECTIONS
COULD BE REQUIRED FOR PARTICULAR DEFENDANTS
18 YEARS OLD OR OLDER AT THE TIME OF A CRIME.

SHIEF ATTACHED TO THE PETITION
SEVERAL DOCUMENTS DESCRIBING DEVELOPMENTAL
NEUROBIOLOGY AND THAT THE CRIME-PRODUCING
TRAITS ASSOCIATED WITH JUVENILE DEFENDANTS
IN MILLER CAN PERSIST INTO A PERSON'S EARLY
20S AS THE BRAIN CONTINUES DEVELOPING.

ON AUGUST 14, 2020, THE TRIAL COURT
DENIED MR. SHIEF LEAVE TO FILE THIS CLAIM
IN A SUCCESSIVE POST-CONVICTION PETITION.

THE COURT HELD THAT SHIEF DID NOT "PROVIDE
SUFFICIENT FACTS THAT CAN SUPPORT A CONSTITUTIONAL
CHALLENGE BASED ON MILLER AND ITS PROGENY."

AN UNTIMELY NOTICE OF APPEAL WAS FILED
ON NOVEMBER 24, 2020.

APPELLATE COURT ALLOWED A LATE NOTICE
OF APPEAL ON MARCH 23, 2021

REASON FOR GRANTING
THE
WRIT OF CERTIORARI

This Court should grant CERTIORARI in MR. SHIEF CASE to address whether MILLER V. ALABAMA, 567 U.S. 460 (2012), provides CAUSE for presenting in a successive post-conviction a claim that the proportionate penalties clause requires MILLER protections for particular defendants who were over the age of 17 of the time of an offense.

Until recently, Illinois Courts precedent was nearly unanimous that MILLER V. Alabama constituted CAUSE for such a claim,

A split in authority that our Supreme Court has yet to address is our Court's decisions have relied on a myriad of factors in determining whether defendants successfully established a prima facie showing of prejudice to allow his or her successive post-conviction petition to be filed.

In defendant 2020 successive post-conviction petition the Court's denied defendant petition for not establish ~~any~~ ~~prejudice~~ Cause or prejudice, in defendant 2023 appellate Court order the Court states they "agrees" that petitioner has established Cause,

See. app Court order. Appendix A. pgs. also Appendix B.

Defendant initial post-Conviction petition was filed in 2013, defendant established cause for not bringing this claim in his initial petition, where Miller was made retroactively applicable to cases on Collateral review by Davis, 2014 and where our Supreme Court opened the door to extending Miller to young adults in Thompson in 2015, Miller was then extended to apply to discretionary de facto life sentences in Holman in 2017.

This lack of uniformity leaves trial courts in the unenviable position of having no clear guidance for determining whether or not to grant a defendant's motion for leave to file a successive petition. A clear and consistent rule of law is sorely needed to avoid what could possibly be viewed as an ad hoc body of case law dependent on the vagaries of a case-by-case approach.

The pleading requirements for successive post-conviction petition are higher than the pleading requirements for initial postconviction petition.

This higher standard operates in tandem with the well-settled rule that successive postconviction actions are disfavored by Illinois courts,

the critical facts needed to determine whether Miller v. Alabama, 567 U.S. at 483, 110, 132 S.Ct. 2455 applies to defendant as an adult.

Miller, 567 U.S. at 483, n.10, 132 S.Ct. 2455
decision applies to defendant's specific facts
and circumstances.

The trial court, in this case did not
have de facto life sentence imprisonment
without parole at its disposal

A defendant must use the pleading requirements
of the act to excuse a defendant seeking leave
to file a successive petition from making a
prima facie showing of prejudice, thereby
eviscerating the distinction between initial petitions
and successive petitions. Until our supreme court
explicitly hold this to be the case.

See, people v. Franklin, 2020 T1 app (1st) 171628,
a split has developed in the appellate court
concerning whether this court held to the
contrary in Dorsey, 2021 T1 123010, Compare
Haines, 2021 T1 app (4th) 190612, Dorsey holds
Miller does not constitute cause, Horshaw, 2021
app (1st) 182047, Dorsey, does not so hold.

The brief portion of this court's
Dorsey, opinion addressing cause for filing
a proportionate penalties clause claim is sharply
contrary to its prior ruling on the relationship
of the cruel and unusual punishment and
proportionate penalties clauses and not necessary
to the court's ultimate ruling, the split it has
created on this very common issue is likely
to persist pending explicit resolution by this
court.

The appellate Court and also
the Supreme Court in Mr. Chief Case
affirmed the denial of leave to file a Claim
for the extension of Miller V. Alabama,
under the proportionate penalties Clause solely
on the basis of a lack of Cause,

This Court can provide an ideal
Vehicle with which to resolve the Split
in Authority, and this Court should grant
Writ of Certiorari

U.S. Sup. Ct. Rule 10.28 U.S.C.A

Rule 10. Considerations Governing
Review on Certiorari

- (C). A state court or a united state court of appeals has decided an important question of federal law that has not been, but should be, settled by this court, or has decided an important federal question in a way that conflicts with relevant decisions of this court.

CONCLUSION

THE PETITION FOR A WRIT OF CERTIORARI
SHOULD BE GRANTED.

RESPECTFULLY SUBMITTED,

Anthony D. Shurf

DATE: 12/8/23