

In The
Supreme Court of the United States

No. 23-7025

Stevie Wyre

Petitioner - Appellant

v.

TEXAS

Respondent.

Requesting Petition for
Rehearing and Reconsideration
under Rule 24

To The Honorable Court said:
Comes Now, Stevie Wyre, Petitioner, Appellant, in
pro-Se, unrepresented by Counsel and present this
Request in good faith and not for delay, to move
this Court, in a Petition for Rehearing and Reconsideration
under Rule 24, due to the Courts, denied the Petition
for writ of certiorari, on May 20, 2024 in the
above Number.

I. Jurisdiction

- 1). This Court has jurisdiction over the parties and the subject of the matter, under the AEDPA, that states a Court shall entertain an application of habeas Corpus relief on behalf of a person in the State Custody "only on the ground that his Custody is in violation of the Constitution or law or treaties of the United States, invoked under 28 U.S.C. § 1254 (1) and 28 U.S.C. § 1257(A) and 28 U.S.C. § 2254 (d) (1-2).

II. Petitioner's Ground

- 2). Petitioner Wyre, was prejudiced by trial Counsel ineffectiveness "as Constructive Denial of Assistance", in the entire proceedings, where Due Process was violated, when the trial Court, abused its discretion by allowing the State's witness, to act as the victim, to introduce some UNSWORN victim impact statements, without an objection or cross-examination and then asked to be excused, and where a PSI report enter into evidence as part, prior to sentencing, due to a silent and insufficient record, that resulted at trial and on appeal.

III. History

- 3). Petitioner Wyre seeks review of the judgment of the 179th District Court of Harris County, Texas; Case No. 1364440 and the Affirming and Holding of the Court of Appeals, First District of Houston, Texas, No. 01-13-00414 CR; Reported at Wyre v. State, 2014, Tex. App. Lexis 9726 | 2014 WL 4345199 and the Texas Court of Criminal Appeals in its decision, No. WB-83,236-09 and Tr.Ct. No. 1364440-F (see Attached Exhibits). . . . Where Petitioner Wyre filed an Application for writ of Habeas Corpus, 11.07 § 4(A-c) with Memorandum of Law, Brief and Affidavit in Support on 8/25/2023.
- 4). The State Court filed an Answer on 9/14/2023 and then filed a Proposal Findings on 9/27/2023 stating Petitioner Wyre, Abusing Judicial Resources as Frivolous under Tex. Gov't Code § 498.0045 "without Answer the Claim Wyre Alleged", in the Application writ at p. 6
- 5). Petitioner Wyre filed an Objection to the State Court's Answer on 9/18/2023 stating: The Court of Criminal Appeals conclude that the legislature did not contemplate it use in the context and Holds that "Tex. Gov't Code § 498.0045" . . . does not Apply to 11.07 habeas Corpus proceedings" (see Ex parte Bieck 144 S.W.3d. 510 (4th HN7))

- 6). Then, Petitioner Wyre's Case was transferred to the Texas Court of Criminal Appeals on 10/19/2023 then on 11/22/2023; the Court, dismissed without written order. Wyre then, filed for Rehearing and Reconsideration, then on 12/15/2023 the Court, denied motion for Rehearing/Reconsideration. . . "by way of white card or post card," where the Highest State Court failure to hold an independent review of the record, in Wyre Case No. WR-83,236-09 and Tr.Ct. No. 1364440-F. . . Because the Standard of Review, De Novo Review of the Court, as stated it must conduct an independent review of the record, to determine, whether the State Court clearly erred in its application controlling federal law. (see Luna v. Cambra, 306 F.3d. 954 (9th Cir. 2002) (quoted) Delgado v. Lewis 223 F.3d. 976 (9th Cir. 2006))

VI. Due Process in State Proceedings

- 7). A procedural due process claim consists of two elements (i) deprivation by state action of a protected interest in life, liberty, or property, and (ii) inadequate state process. Importantly, the Supreme Court of United States has stated that a procedural Due Process Claim is not complete when the deprivation occurs, rather the claim is complete only when the state fails to provide Due Process (see Reed v. Goertz, 143 S.Ct. 955 (HN5); (see Zwerger v. Buech, 494 U.S. 113, 125, 110 S.Ct. 975, 108 L.Ed. 2d. 100 (1990)).

- 8). Petitioner Wyre contends, that the State's process was clearly erred in its application controlling federal law, where the State Court failed to answer Wyre's Claims or Allegation in his Application for writ of Habeas Corpus and failure to conduct an independent review of the Record, depriving Wyre of procedural Due Process, and as well, Due Course Law and Equal Protection of the Law.
- 9). Petitioner Wyre contends, his Application for writ of Habeas Corpus filed stated, where the State Court allowed testimony and the introducing of some unsworn statements by the State's witness. (C.R. II-5) and (C.R. II-10) that was inadmissible, under Tex. Code Crim. Proc. Ann. Art. 42.03 (1998) and Art. 37.07 (1991). Because it was before punishment assessed. (C.R. II-10). Because it did not qualify as statements, and did not authorize the testimony, because it was unsworn and could not be cross-examine. (C.R. II-5) (C.R. II-10) (see Related Case law) Gifford v. State, 980 S.W. 2d. 791 (1998) Reported Tex. App. Lexis 5861. and the PSI Report, that entered as part, into evidence (C.R. III-12) prior to sentencing. where the State Court used the same charge's Wyre was being charged and sentenced "as prior criminal history", within the PSI Report (at pages 7 and 8) of the PSI. and where the State Court violated Wyre's Constitutional Rights, because Wyre had no prior criminal history (C.R. II-4) and page 7 and 8 of the PSI Report and no opportunity to object to the content or to view the PSI Report in or out of Court with Counsel. see Related Case law) Anthony-Hernandez v. State, 2021, Tex. App. Lexis 6052 (at HN10). and also violation of Tex. Code Crim. Proc. Ann. Art 42.12 section 9(2013) and Art. 42A.253(A)(3)

- 10). Petitioner Wypre contends, Did the State Court procedant denied him Due Process through its Courts proceeding pursuing State post-conviction and state-provided litigation process.
- 11). Petitioner Wypre contends, for the above reasons, in paragraph 1 through 10 deserves the attention of the Court. Because Wypre has demonstrated, or established, that the State Court's; deprived and failed to provide, Due Process to Wypre's Allegation or Claim of issues in the proceedings that resulted in a contrary to, or involves an unreasonable determination, or was based on an unreasonable application under 28 U.S.C. § 2254(d)(1-2) and Tex. Code Crim. Proc. Art 11.07 § 4(a-c), by a preponderance of the evidence and United States Constitution and Texas Constitution.

Prayer for Relief

Wherefore Petitioner Wypre prays this Honorable Court Grant this Motion for Rehearing and Reconsideration and Reverse the judgment and Sentence of the State Court as vacate and release Petitioner Wypre in the Interest of Justice

Respectfully Submitted,
Stevie Wypre #1858012
pro-Se.