

23-7120

No. _____

FILED

MAR 07 2024

OFFICE OF THE CLERK
U.S. SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

CHAVIZ WOFFORD — PETITIONER
(Your Name)

vs.

PEOPLE OF THE STATE OF ILLINOIS RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

CHAVIZ WOFFORD
(Your Name)

4017 E. 2603 ROAD
(Address)

SHERIDAN, IL 60551
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. WAS DEFENDANT PREJUDICE BY COUNSEL'S DEFICIENT PERFORMANCE OF OFFERING NO ADVICE ON THE DIRECT CONSEQUENCES OF ACCEPTING OR REJECTING THIS PLEA OFFER, BUT ONLY RELAYING TO DEFENDANT STATING "THE STATE HAS OFFERED YOU A PLEA DEAL OF 30 YEARS BUT YOU HAVE TO TAKE THE 30 YEARS RIGHT NOW OR GO FORWARD WITH THE TRIAL TODAY"?
2. DID DEFENDANT PROVIDE AN INDEPENDENT OBJECTIVE CONFIRMATION THAT IT'S A REASONABLE PROBABILITY HE WOULD HAVE ACCEPTED THE STATE ONLY PLEA OFFER DESPITE IT NOT BEING A 20 YEAR PLEA OFFER HE ASKED HIS COUNSEL TO PURSUE THROUGH PLEA BARGAINING ON 3/2/06 (11 MONTHS PRIOR TO PLEA OFFER ON 2-5-07)?
3. IS IT A SUBJECTIVE SELF-SERVING STATEMENT IF DEFENDANT IS ASKING HIS COUNSEL TO PURSUE A PLEA DEAL FOR LEAST SENTENCE POSSIBLE?
4. IS COUNSEL LEGALLY NOT OBLIGATED TO INFORM HIS CLIENT DURING THIS ONLY PLEA OFFER, THE POTENTIAL SENTENCING RANGES HE FACED IF FOUND GUILTY AT TRIAL?

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

1. LAFLEW V. COOPER, 526 U.S. 156, 123-64 (2012)
2. PEOPLE V. CURRY, 178 ILL. 2D 509, 528 (1997)
3. TURNER V. TENNESSEE, 858 F. 2D, 1201, 1206 (6TH CIR. 1988)
4. PEOPLE V. HALE, 2013 IL 113140, ¶ 18-19.

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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☐ is unpublished.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 C 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 APPELLATE COURT OF ILLINOIS court appears at Appendix A to the petition and is

- ☒ reported at 2023 IL APP (1ST) 220421-U; 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 JANUARY 24, 2024
A copy of that decision appears at Appendix C.

☐ 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 U.S. CONSTITUTION, VI AMENDMENT ;
IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY TRIAL AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM; TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENSE.

2 U.S. CONSTITUTION, XIV AMENDMENT, SECTION 1 ;
ALL PERSONS BORN OR NATURALIZED 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.

STATEMENT OF THE CASE

ON FEBRUARY 5, 2007, THE DAY MY BENCH TRIAL BEGAN, THE DAY I PUT THIS TRIAL COUNSEL BACK ON MY CASE FOR THE THIRD TIME (10-02-05, 3-2-06, 1-24-07), COUNSEL INFORMED ME OF THE STATE PLEA OFFER STATING "THE STATE HAS OFFERED YOU A PLEA DEAL OF 30 YEARS, BUT YOU HAVE TO TAKE THE 30 YEARS RIGHT NOW OR GO FORWARD WITH THE TRIAL TODAY." I REJECTED THE PLEA OFFER AND THAT WAS THE END OF THE CONVERSATION ABOUT THE PLEA OFFER. SEE APPENDIX A, PAGES 12-13.

ON NOVEMBER 29, 2005, THE STATE LAID PETITIONER A SENTENCE MEMORANDUM OF POTENTIAL SENTENCING RANGES FOR EACH COUNT OF THE INDICTMENT. SEE APPENDIX A, PAGE 2.

ON DECEMBER 16, 2005, THE TRIAL COURT READ THIS SENTENCE MEMORANDUM TO PETITIONER WHO WENT PRO-SE ON OCTOBER 2, 2005. SEE APPENDIX A, PAGES 2-3.

ON MARCH 2, 2006, PETITIONER FILED A PRO-SE MOTION FOR APPOINTMENT OF ANOTHER COUNSEL, AND ATTACHED A COPY OF A LETTER HE PREVIOUSLY SENT TO COUNSEL STATING "THE OFFICE OF PUBLIC DEFENDER HAS AN OBLIGATION WHICH REQUIRES PUBLIC DEFENDERS AS FIRST ORDER OF BUSINESS TO EFFECT THE LEAST POSSIBLE SENTENCE POSSIBLE THROUGH PLEA BARGAINING. SEE APPENDIX A, PAGE 3.

ON JANUARY 24, 2007, PETITIONER FILED A PRO-SE MOTION FOR

APPOINTMENT OF ANOTHER COUNSEL, AFTER COUNSEL ENTERED SELF-DEFENSE IN ANSWER TO PRETRIAL DISCOVERY ON JANUARY 5, 2007 BECAUSE IT WAS AN CONFLICT OF INTEREST ABOUT THIS DEFENSE. CAUSE VICTIM GOT SHOT IN THE BACK, PETITIONER WAS THE ONLY PERSON INVOLVED WHO WAS ARMED. SEE APPENDIX A, PAGES 3-4, 7, 8-11, 13, 17.

ON MARCH 29, 2007, PETITIONER FILED A PRO-SE MOTION FOR A NEW TRIAL. IN THAT WRITTEN MOTION PETITIONER STATED "HE TOLD COUNSEL TO NEGOTIATE A PLEA BARGAIN WITH VICTIM'S FAMILY TO AVOID TRIAL." SEE APPENDIX A, PAGES 8-10.

ON FEBRUARY 25, 2022, THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS DISMISSED PETITIONER POST-CONVICTION PETITION FOR FAILING TO STATE AN ARGUABLE CLAIM IN EITHER LAW OR FACT THAT I WAS PREJUDICE FROM COUNSEL'S DEFICIENT PERFORMANCE WHEN I REJECTED THE PLEA OFFER ON FEBRUARY 5, 2007.

ON OCTOBER 27, 2023, THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT CONCURRED WITH THE CIRCUIT COURT, CITING TO PROVE PREJUDICE THERE MUST BE OBJECTIVE CONFIRMATION THAT THE DEFENDANT'S REJECTION OF THE PLEA OFFER WAS BASED ON COUNSEL'S ERRONEOUS ADVICE, AND NOT ON OTHER CONSIDERATIONS.

"A PETITIONER'S PROOF THAT THEY WOULD HAVE ACCEPTED A PLEA OFFER ABSENT COUNSEL'S DEFICIENT PERFORMANCE

MUST ENCOMPASS MORE THAN THEIR OWN SUBJECTIVE, SELF-SERVING STATEMENT. "PEOPLE V. HALE 2013 IL 113140 ¶18 (CITING PEOPLE V. CURRY 178 ILL. 2D 509, 528 (1997); QUOTING TURNER V. TENNESSEE, 858 F.2D 1201, 1206 (6TH CIR. 1988)). THERE MUST BE INDEPENDENT, OBJECTIVE CONFIRMATION THAT DEFENDANT'S REJECTION OF THE PROFFERED PLEA WAS BASED UPON COUNSEL'S ERRONEOUS ADVICE, AND NOT ON OTHER CONSIDERATIONS." PEOPLE V. HALE 2013 IL 113140 ¶18 QUOTING CURRY AT 529-30, 532.

PETITIONER STATES AS INDEPENDENT, OBJECTIVE, CONFIRMATION OR CORROBORATING EVIDENCE HE PRESENTED (1) ON MARCH 2, 2006 HE WANTED TO PLEA BARGAIN; (2) ON MARCH 29, 2007 HE WANTED TO PLEA BARGAIN; (3) ON JANUARY 24, 2007 HE DID NOT WANT TO PURSUE SELF-DEFENSE AS HE KNEW IT WAS NOT A STRONG DEFENSE; AND (4) HE WAS FACING, AT MINIMUM, 45 YEARS IN PRISON IF FOUND GUILTY AT TRIAL. ALL 4 OF THESE INDEPENDENT, OBJECTIVE CONFIRMATION FROM THE RECORDS SUPPORTS DEFENDANT ASSERTION THERE'S A REASONABLE PROBABILITY HE WOULD'VE ACCEPTED THE 30 YEAR PLEA OFFER HAD HE BEEN PROPERLY ADVISED. SEE APPENDIX A, PAGES 14-15.

THE LOWER COURTS SAYS THE RECORD REFLECTS THAT I REJECTED THE 30 YEAR PLEA OFFER BECAUSE IT WAS NOT A 20 YEAR PLEA OFFER. PETITIONER DID NOT SAY ON RECORD HE WAS ONLY WILLING TO ENTER A 20 YEAR PLEA OFFER, BUT SAID HE WAS HOPING TO GET A 20 YEAR OFFER. SEE APPENDIX A, PAGE 17.

THE LOWER COURTS SAYS I REJECTED THE 30 YEAR PLEA OFFER BECAUSE I WANTED TO PURSUE SELF-DEFENSE AT TRIAL. ON JANUARY 24, 2007 I FIRED COUNSEL FOR THE THIRD TIME BECAUSE I DID NOT WANT TO PURSUE SELF-DEFENSE. I PUT COUNSEL BACK ON MY CASE FOR THE THIRD TIME CAUSE I WAS INFORMED BY TRIAL COURT ON THE FIRST 2 TIMES I WAS NOT LETTING ANOTHER LAWYER AND I WAS NOT GOING TO TRIAL PRO-SE WITH NO LEGAL OR TRIAL EXPERIENCE. SEE APPENDIX A, PAGES 17-18

"TO SHOW PREJUDICE IN THE PLEA BARBRAIN CONTEXT, A DEFENDANT MUST SHOW A REASONABLE PROBABILITY: (1) THAT, BUT FOR HIS COUNSEL'S DEFICIENT ADVICE, HE WOULD HAVE ACCEPTED THE PLEA OFFER; (2) THAT THE PLEA WOULD HAVE BEEN ENTERED WITHOUT THE PROSECUTION CANCELLING IT; (3) THAT THE TRIAL COURT WOULD HAVE ACCEPTED IT; AND (4) THAT THE END RESULT OF THE CRIMINAL PROCESS WOULD HAVE BEEN MORE FAVORABLE BY REASON OF THE PLEA.

LAFLEER V. COOPER U.S. 156, 1163-1164 (2012).

PETITIONER SHOWED FROM THE RECORD IN HIS POST-CONVICTION PETITION THE STATE AND TRIAL COURT WOULD HAVE ACCEPTED THE PLEA OFFER.

SEE POST-CONVICTION PETITION, PAGE 9 AND EXHIBIT 8A-8B.

THE LOWER COURTS SAID I DID NOT SHOW THAT THE STATE AND TRIAL COURT WOULD HAVE ACCEPTED THE PLEA.

SEE APPENDIX A, PAGE 19. ALSO APPENDIX D.

PETITIONER STATES WHY HE KEPT PUTTING TRIAL COUNSEL BACK ON HIS CASE. SEE APPENDIX A, PAGES 3, 17. ALSO APPENDIX E PAGES 5-6 AND EXHIBITS 6A-6B

THE LOWER COURT SAID THE RECORD CLEARLY INDICATES PETITIONER INTENDED TO GO TO TRIAL, BECAUSE I PUT COUNSEL BACK ON MY CASE AND PROCEEDED TO TRIAL. ALSO SAID A LETTER DATED APRIL 24, 2006 FROM DEFENDANT TO MARQUITA BROWN WHERE HE WROTE THAT HE WAS DEFENDING HIMSELF AND I AM GOING TO CALL YOU AS A WITNESS. SEE APPENDIX F, PAGES 17-18

THE ASSERTION THAT PETITIONER WAS WILLING TO ENTER A 20 YEAR PLED OFFER CANNOT BE RECONCILED WITH ITS ARGUMENT THAT PETITIONER WAS ADAMANT ABOUT GOING TO TRIAL. SEE APPENDIX F, PAGES 5-7.

ON JANUARY 24, 2024, THE ILLINOIS SUPREME COURT DENIED REVIEW.

REASONS FOR GRANTING THE PETITION

THIS CASE HAS NATIONAL IMPORTANCE BECAUSE THIS U.S. SUPREME COURT HAS RULED "ERRONEOUS ADVICE" IS PREJUDICIAL TO CRIMINAL DEFENDANTS IN THE CONTEXT OF PLEA BARGAINING, IT ALSO RULED "NOT INFORMING CRIMINAL DEFENDANTS OF PLEA OFFER" IS PREJUDICIAL TO CRIMINAL DEFENDANTS, BUT IT HAS NOT RULED ON IS IT PREJUDICIAL TO CRIMINAL DEFENDANTS FOR HIS COUNSEL TO OFFER "NO ADVICE" DURING PLEA OFFERS WHEN CRIMINAL DEFENDANTS EXPRESSED A WILLINGNESS TO ENTER INTO A PLEA BARGAIN, HAD OVERWHELMING EVIDENCE AGAINST THEM, AND FACING A 45 YEAR PRISON SENTENCE, AT MINIMUM.

THE DECISION OF THE LOWER COURT WAS ERRONEOUS WHEN IT SAID I WAS NOT ARGUABLY PREJUDICED BY TRIAL COUNSEL DEFICIENT PERFORMANCE OF OFFERING "NO ADVICE" DURING THE PLEA OFFER ON FEBRUARY 5, 2007, BECAUSE I WAS INFORMED BY THE STATE AND TRIAL COURT OF THE POTENTIAL SENTENCING RANGES FOR EACH COUNT OF THE INDICTMENT IN NOVEMBER AND DECEMBER 2005 IN THE CONTEXT OF GOING PRO-SE. THE TRIAL COURT INTERFERED BECAUSE OF THIS, TRIAL COUNSEL, COULD VIOLATE HIS CONSTITUTIONAL DUTIES OF BEING AN EFFECTIVE ASSISTANCE OF COUNSEL UNDER THE SIXTH AMENDMENT OF THE U.S. CONSTITUTION DURING PLEA OFFERS.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Charvy Wofford

Date: MARCH 6, 2024