

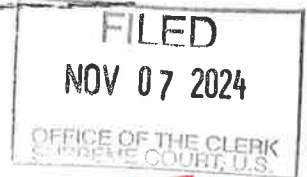
NO. 24-5613

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

In Re LYNDON C. DAVIS

Petitioner



PETITION FOR REHEARING

Justice

Ketanji Brown Jackson

Lyndon C. Davis

Pro-se, petitioner

Doc# 232171

Pendleton Correctional Facility

4490 West Reformatory Road

Pendleton, Indiana 46064-9001

Dated: November 6, 2024

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PREAMBLE

Pursuant to Rule 44.2 of the United States Supreme Court, the Petitioner, Lyndon C. Davis, is respectfully Petitioning to this Court, and to Justice Ketanji Brown Jackson for a rehearing (or to the reconsideration) of the denial of his Writ of habeas Corpus petition (extraordinary Writ) Challenging the Unlawfulness of his Conviction, and deprivation of his Liberty due to his Unlawful Conviction.

The preamble of Rule 44.2, indicates that the petitioner's grounds shall be limited to intervening circumstances of a substantial or controlling effect, or to other substantial grounds not previously presented, when filing any Petition for the rehearing of an order denying a petition for a Writ of certiorari or extraordinary Writ.

PETITION FOR REHEARING

Question:

Whether there is any reasonable Likelihood of this Court changing its position and reversing its decision to deny the petitioner's petition for habeas Corpus relief?

The petitioner, Lyndon C. Davis (Mr. Davis, here in) filed his petition for habeas Corpus relief to this Court praying that he could convince this Court to review his claims within his petition, and to determine if his conviction was Constitutionally valid, and if he was being deprived of his Liberty due to his conviction? Mr. Davis have exhausted all of his Court remedies and do not have any other options for to seek the relief that he is sure that he is entitled due to the strict default, and time barred rules placed onto the Lower Courts.

Mr. Davis, presented three questions to this Court within his habeas Corpus petition Seeking relief:

- 1) Whether on these facts, the prosecution at the petitioner's trial, during Closing argument, Misrepresentation of the testimony of a State's eyewitness denied him due process of the Law in Violation of the fourteenth amendmend to the United States Constitution?

- 2) Whether on these facts, the Petitioner had received both ineffective assistance of trial, and of appellate Counsel, in violation of the right to effective assistance of Counsel of the Sixth amendment to the United States Constitution?
- 3) Whether the trial that Led to the Petitioner's Conviction was Constitutionally Valid?

Mr. Davis, explained within his petition that he was entitled to relief, because the prosecution at his trial, during closing argument, deliberately misrepresented the truth to the Jurors about the trial testimony of the Victim's eleven Year old daughter (without any objections from the defense Counsel) for to convince the Jurors to find him guilty of Murder as an accomplice.

Without any physical evidence to present at Mr. Davis's trial, the State of Indiana presented three eyewitnesses who all testified to have seen the crime take place, or to have seen the person(s) who had committed the crime. Not one of the State's eyewitnesses were able to identify Mr. Davis (before, or during the trial) as anyone who they had seen that day. During the State's closing argument, without any objections from Mr. Davis's trial Counsel, the prosecution falsely told the Jurors that the Victim's eleven Year old daughter had indeed testified that she had seen Mr. Davis at the crime scene talking to the

Victim Just Seconds before Mr. Davis's Uncle (Robert Davis) shot and Killed the Victim. That after the Victim was shot, the Victim's daughter also Saw Mr. Davis drive his Uncle away from the crime Scene. Mr. Davis Was Convicted as an accomplice to Murder due to the Prosecution's Comments about the Victim's daughter's trial testimony and his Conviction Was affirmed on direct appeal by the Indiana Court of Appeals repeating the Prosecution's False Comments about the Victim's daughter's trial testimony explaining that the Little girl had actually testified to Seeing Mr. Davis at the Crime Scene, and to have Seen him participate With the crime (see direct appeal Memorandum decision from the Indiana Court of Appeals attached to the habeas Corpus petition).

After Mr. Davis was Convicted, and his Conviction was Completely affirmed on direct appeal, he challenged his Conviction in Several Lower Courts Seeking relief. Mr. Davis Presented a Strong ineffective assistance of Counsel claim stating that his trial Counsel had failed to Impeach the Victim's daughter's trial testimony with her inconsistent, prior to trial, statements. The Lower Courts all have denied relief now stating that Mr. Davis's trial Counsel did not have to impeach the Victim's daughter's trial testimony, because the Little girl had never Stated that She had either Saw Mr. Davis

at the Crime Scene, or Saw Mr. Davis Commit or participate in this crime. That Mr. Davis was not the people whom she had described (See the Lower Courts' decisions within the attachments of the habeas Corpus petition).

Mr. Davis is now Seeking relief again to the Federal court, and the highest Court, because the Lower Courts newly statements about the Victim's daughter's trial testimony have not only changed the facts presented by the State of Indiana of Why Mr. Davis was convicted at his trial, but they have also shown that Mr. Davis did not receive a fair trial due to prosecutorial Misconduct in Violation of the Fourteenth amendment's due process clause of the United States Constitution. The Prosecution disregarded, and Misrepresented the truth at Mr. Davis's trial in Violation of clearly established Federal Law Under *Miller V. Pate*, 386 U.S. 1, 87 S.Ct. 785, 17 L. Ed. 2d 690 (1967), also See *Mooney V. Holohan*, 294 U.S. 103, 55 S.Ct. 340, 79 L. Ed. 791 (1935)

Mr. Davis have exhausted all of his State Court remedies and Currently have no other Court to file his Constitutional claim With. The reason Why Mr. Davis had not presented this claim to the State Courts is, because the statements by the Courts were newly developed at each level as he was fighting his Conviction due to the impeachment claim he presented.

REASON FOR REHEARING

First:

The petitioner, Mr. Davis, is asking this Court for to reconsider, or to rehear Considering to hear his petition for habeas Corpus relief based on the clearly established Federal Law Under Miller V. Pate, Supra, and based on the due process; and equal protection of the Law clauses of the United States Constitution, Under the Fourteenth amendment.

Under Miller V. Pate, this Court have clearly stated that the disregard, or the deliberate Misrepresentation of the truth about the evidence presented at a trial, is equal to presenting false evidence at a trial, and Violates the Fourteenth amendment of the United States Constitution. That the Fourteenth amendment Cannot tolerate a state criminal Conviction obtained by the knowing use of false evidence.

Under the fourteenth amendment of the United States Constitution, Section 1, it states that:

" 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."

Mr. Davis Conveys that if this Court refuses to hear his Petition, it would not only be in total disregard of established Federal Law, but it would also be in a Contrary position with the Constitution of the United States. Mr. Davis is entitled to the same protections of the law as it have been given to others within prior Cases like Miller V. Pate, Supra. This Court not only heard the Case of Miller V. Pate, it also granted Miller the relief that was entitled to him due to the prosecution's Misrepresentation of the evidence at Miller's trial. Mr. Davis argues that this Court's denial of his petition for habeas corpus relief under the same question presented, and similar facts as Miller V. Pate, is a total violation of his equal protection rights. He argues that the evidence to support his claim is on the face of the Court's records, and that it

Should be easy for this Court to see the error. Mr. Davis is asking this Court for equal protection of the Law. He is asking for this Court to follow its ruling in *Miller V. Pate*, *Supra*, and grant him the relief he is entitled. The only way for to solve this deprivation of Liberty problem is for this Court to reconsider its decision to deny Mr. Davis's Petition for habeas Corpus relief, and for to grant the relief that Mr. Davis is entitled.

Second:

Mr. Davis will present several new grounds to this Court in a question formed to support why this Court must change its decision to deny Mr. Davis's petition for habeas Corpus relief:

- A) Whether this Court's denial of the petitioner's habeas Corpus petition Seeking relief is in Violation of the Petitioner's Equal protection of the Law rights Under the Fourteenth Amendment of the United States Constitution?
- B) Whether this Court's denial of the petitioner's habeas Corpus petition Seeking relief is in Contradiction to its prior decisions in *Miller V. Pate*, and *Mooney V. Holohan*?

C) Whether this court overlooked that the petitioner sufficiently charged a deprivation of rights that, if proven, would entitle him to release from his Present Custody?

D) Whether this Court overlooked that the petitioner is being deprived of his Liberty due to a clearly Unconstitutional Conviction?

Mr. Davis's four grounds above (A to D) are all questions that will give this Court a chance to clearly express why or why not, Mr. Davis's petition for habeas Corpus relief should be heard. Mr. Davis have been deprived of Liberty for the last thirteen years due to his arrest, and Unlawful Conviction by the State of Indiana. Mr. Davis is asking for this Court to reconsider its denial for to hear his petition, so that he can put this nightmare, and miscarriage of Justice behind him. Mr. Davis is innocent of this crime falsely placed on him by the State of Indiana. All Mr. Davis is asking for is the equal protection of the Law, so that he could have Liberty again. It would continue to be a miscarriage of Justice if this Court refuse to settle this matter by reviewing Mr. Davis's Petition, and granting him the relief he is entitled. Mr. Davis

did not received a fair trial due to the Prosecution's Conduct at his trial, and also due to ineffective assistance of Counsel at his trial for failure to object to the State's Misconduct. See *Strickland v. Washington*, 456 U.S. 668, 104 S.Ct. 2052, 80 L. Ed. 2d. 674 (1984). The evidence of the Prosecution's misconduct, and of the trial Counsel's below average performance is clear on the Court's records. All this Court have to do is review over the records for to see the Stated Court Statements itself for to help to Understand Mr. Davis's claims.

11.

CONCLUSION

For the reasons set forth in this petition, the Petitioner, Lyndon C. Davis respectfully ask this Court to grant this Petition (Motion) for a rehearing to determine that this Court would change its actions and decide to review his petition for habeas corpus relief. The denial of this petition (Motion) will result in a miscarriage of Justice, and a denial of the equal protection of the Law clause of the United States Constitution.

Respectfully Submitted
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CERTIFICATE OF COUNSEL

I, hereby Certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds that are specified in Supreme Court Rule 44.2.

Respectfully Submitted

Lyndon C. Davis

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PROOF OF SERVICE

I, the Undersigned, do Swear or declare that on this date of November 6, 2024, as is required by the Supreme Court rule 29, I have served the enclosed Petition for a rehearing (or reconsideration) for a Writ of habeas Corpus on each Party to the above Proceedings, or that party's counsel, and on every other Person required to be served by depositing an envelope containing the above document in the U.S. Mail properly addressed to each party and with sufficient first-class postage prepaid.

The names and addresses of those served are below as followed:

Theodore E. Bokita

Indiana Attorney General

Jesse R. Drum

Assistant Section chief, criminal Appeals

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