

24-5710 ORIGINAL

No. _____

Supreme Court, U.S.
FILED

JUL 19 2024

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IN THE

SUPREME COURT OF THE UNITED STATES

David W. Buck Jr — PETITIONER
(Your Name)

vs.

The State of Illinois — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

David W. Buck Jr
(Your Name)

10930 Lawrence Rd
(Address)

Sumner, IL 62466
(City, State, Zip Code)

(Phone Number)

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Questions Presented

Petitioner was accused of first degree murder, unlawful possession of a stolen motor vehicle, possession of a stolen firearm, unlawful possession of a weapon by a felon, and aggravated unlawful restraint in Judge Joshua A. Meier's Court room in Macoupin County, Illinois. Then later appealed to the 4th district of appeals in the state of Illinois. Petitioner had never been to trial before so wasn't sure what a sidebar was. Which was unable to help pick his jury. Also told his trial counsel to ask questions which were not asked. Was also told not to take the stand when asked, because the state had the burden of proof and had to prove beyond a reasonable doubt a person was guilty, and that we were great. Then at trial was found guilty by a jury. Counsel ignored factual basis which showed ineffectiveness to help create a jury to find him guilty. U.S. Const. Amendment VI

Petitioner later finds out that his miranda Rights had been violated during the Illinois State police questioning. During 4th district of appeals Defense counsel argues under one act one clause one of the firearms charges should be vacated which does also showing counsel at trial was ineffective. U.S. Const. Amendment VI. Then appeals Counsel (Defense) goes on to argue that during questioning petitioner sets in a small room for hours and finally questioned for Miranda warnings and asked if he understood petitioner then says no. Illinois state police never explains but continues and ask petitioner what Miranda Warning two means and ~~two~~ petitioner then answer with an incorrect answer. State police then let him know he is wrong without explaining yet still continue with petitioner asking whats going on and being told to hold on were gonna get to that. without going and explaining anything when told he dont understand and giving the wrong answer as to what miranda warning two meant the state police continue to drive on him with the questions and ask if he understood in which finally just says yea still without understanding then eventually ask for counsel which gets used against him. U.S. Const. Amendment V, VI & XIV and miranda v Arizona 384 U.S. 436 (1966) were all violated here. Which also would show counsel was ineffective here.

U.S. Const. Amendment XIV the state must prove each element of each case beyond a reasonable doubt. Which the state dont have any physical evidence or DNA showing that petitioner committed any of the crimes above. In which the state and jury rely solely on a ~~person~~ person (RJ wheeler) that gives contradicting statements and has just much of a right to commit these offenses. Being the only person involved knowing the person disceased and saying the petitioner had a gun. The Macoupin Co. Dep. Roger Dively finds a firearm on the side of Rte 111 a well traveled highway after petitioner has been in jail for days with no prints or DNA. Showing anybody could have put it there. Then at trial forensic expert shows ballistics that dont exactly match which is not brought up on appeal due to ~~inadequate~~ ineffective counsel, but at trial during ~~inadequate~~ inadequate chain of custody during firearms identification defense counsel never objects. Which also would show ineffective counsel here. U.S. Const. Amend VI which the court of appeals sees counsel was effective and petitioner was proven ^{guilty} beyond a reasonable doubt and that his miranda Rights were not violated because he says he understood.

the following questions are presented

- 1) The courts use the contradicting statements as plain and simple error but still yet have anything to support any of his claims in which other witnesses contradict his claim also. So how or is it possible to find a person guilty beyond a reasonable doubt with a persons giving contradicting statements and there is nothing to support the claim. US Const. Amendment XIV
- 2) The courts claim no matter if a person says they dont understand or if they give a wrong answer of there Miranda warnings. Once they say they understand everything else goes out the door they are considered to have knowingly given a valid waiver. Wouldnt knowingly and intelligently giving a valid waiver of your Miranda Rights being knowing and understanding everything going on or being asked, in which regardless of saying I understand even a wrong answer was given and he said he didnt understand and nobody ever explained. So how could this be knowing and intelligently? *Miranda v Arizona* 384 US 436 (1966) *Miranda* 384 US at 479
Berghuis v Thompson 560 US 370, 382-83 (2010), *Miranda* 384 US at 475
Wouldnt this also show counsel was ineffective at trial for not arguing this at trial US Const Amendment VI
- 3) US Const. Amendment XIV says a person must be proven ^{guilty} beyond a reasonable doubt for each claim. Nobody ever sees petitioner with a firearm, witness goes in the house and brings petitioner something out after he claims petitioner shot his girl friend, witness across the street never sees petitioner with a gun nor sees any screaming or arguing. States witness gives contradicting statements (A) Wheeler) nothing supports any claim and the contradicting statements show that there is Doubt?
- 4) During questioning states witness (Ryan Lenington) says he never sees petitioner during the time his guns were stolen, but yet said somebody was working on his house while he was at work this person is never questioned and when Lenington gets off he is at home and the worker leaves. I ask attorneys to find out who it is so we can question or use as factual evidence this would be of importance since he said he never seen me during this period I would think which would show ineffective of counsel.
Lenington claims the firearm is his that was found days later on the side of the road, but yet gives a totally different discription of the ~~gun~~ empty clip found on petitioner states a different color and holds a different amount of rounds. again this would show doubt and violate XIV amendment and show ineffective wouldn't it?

TABLE OF CONTENTS

Questions presented Table of Authorities OPINIONS BELOW	ii and iii iv 1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT OF THE CASE	2, 3+4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A	Denial of leave of Appeal Illinois Supreme Court
APPENDIX B	
APPENDIX C	
APPENDIX D	
APPENDIX E	
APPENDIX F	

I. The state failed to prove Buck guilty beyond a reasonable doubt of all charges because Wheeler's testimony was contradicting and conflicting, he made inconsistent statements regarding critical facts and it was just as likely someone else including Wheeler considering his behavior, testimony, and inconsistencies committed the murder. ~~_____~~

U.S. Const. amend. XIV

Jackson v. Virginia, 443 U.S. 307 (1979)

In re Winship, 397 U.S. 358

Jackson, 443 U.S. at 316

II Trial counsel was ineffective in not moving to suppress Custer's and Koch's interrogation of Buck because Buck did not knowingly and intelligently waive his Miranda Rights prior to interrogation. Alternatively, reversible error occurred when the state used Buck's invocation of his right to counsel against him

U.S. const. amend. V

U.S. const. amend. VI

U.S. const. amend. XIV

Malloy v. Hogan 378 U.S. 1 (1964)

Miranda v. Arizona 384 U.S. 436 (1966)

Stansbury v. California 511 U.S. 318 (1994)

California v. Beheler, 463 U.S. 1121 (1983)

Rhode Island v. Innis 446 U.S. 291 (1980)

Berghuis v. Thompson, 560 U.S. 370 (2010)

Moran v. Burbine 475 U.S. 412 (1986)

Johnson v. Zerbst 304 U.S. 458 (1938)

Strickland v. Washington 466 U.S. 668 (1984)

Doyle v. Ohio 426 U.S. 610 (1976)

Griffin v. California 380 U.S. 609 1965

III Doolin's Testimony about firearms identification and her opinion that the firearm that she analyzed fired the bullet that killed Warren was inadmissible because the state laid insufficient foundation for her testimony about firearms identification by not establishing adequate chain of custody concerning the Ruger she analyzed

U.S. Const. amend. XIV

U.S. Const. amend. VI

Strickland v. Washington 466 U.S. 668 (1984)

I. Petition for Writ of Certiorari

David Buck Jr petitions the court for Writ of Certiorari to review the Judgment of the Illinois Court of appeals 4th Judicial district.

II Opinions Below

The Illinois Supreme Court sent a denial of appeal out on May 29, 2024 and was said to be issued to the Appellate court on July 3, 2024. Attached in Appendix I

III Jurisdiction

The Illinois Supreme Court issued this to the Illinois Appellate Court on July 3, 2024. See Appendix 1. this petition is would be timely filed to the Supreme court rule 13.1. This court has Jurisdiction under 28 U.S.C section 1257(3).

IV Constitutional and Statutory Provisions involved

This case involves U.S. Const. amend XIV The state must prove each element of the case beyond a reasonable doubt. and U.S Const. amend V A person has the const. right not to be compelled to give testimony against himself, and is also applied to the states through the XIV amendment. *Miranda v. Arizona*, 384 U.S. 436, 479-80
U.S Const. VI and *Strickland v. Washington* 466 U.S. 668, 685-86 1984
Strickland, 466 U.S at 688.

Statement of Case

On Feb 8, 2018 Allen J. Wheeler also called AJ Wheeler states he wakes up at his house in Milwood and goes to his long time friends house sex partner ect. he then states they go to Godfrey walmart to buy a counter top in ^{his} car they end up buying a few cleaning supplies and head back to chesterfield. Wheeler states they didnt find a counter top, but the godfrey walmart called and there is one in Missouri that they can go get. Wheeler states when ~~they~~ him and Warren come into chesterfield they see David W. Buck Jr walking which is an old friend of Wheelers so they pick him up and ask him if he wants to ride with them whether it was with them to Missouri to get a counter top or to Bucks dads and they went to where ~~the~~ AJ Wheeler calls his moms house. Then wheeler states they get into his truck and head to Warrens long story short says they go in then buck walks in standing in the door way wheeler states buck pulls a gun out and shoots Warren in the head. Wheeler then states buck demands him to the truck stating he aint gonna shoot him. Wheeler says they get into a wrestling match over the gun in the doorway where a pair of broken sunglasses are found and wheelers wallet. wheeler states they go outside he gets in the truck like buck demands him he says and buck gets in the passenger seat (U.S Const Amend VI Ineffective counsel) counsel never argues or ask why he aint running around the truck screaming and yelling or doing something with neighbors around in plane daylight.) Wheeler states they go out to this country where buck demands him ~~to~~ to dig a whole so they could barrie the gun, wheeler says buck has him at gun point, but across the field some guys are hunting and a gunshot goes off and buck and wheeler start wrestling for the gun until buck drops the gun over the fence wheeler then states buck pulls out another gun says he never shoots at him or nothing else then they get back into the truck and head back into town. Wheeler states they go to his moms house goes in gets some change comes back out while buck gets out of the passenger seat and goes to the drivers seat where they communicate and buck then pulls off and leaves. Wheeler then states he goes by his brothers house then goes to the sportsmans inn where he then tells ex police chief Ronnie Jo Reiker that Buck just shot Warren in the head and was headed down Rte 111 in wheelers truck so in between Summerville and Medora Macoupin Co-sheriff Quinn Reiker sees buck traveling southbound on 111 and spins around and turns his lights on up ahead is Jersey Co Sheriff Manns whom buck passes in which both say they never see anything thrown out of the truck. Buck continues to drive through medora at 20 mph it is said at the preliminary then out of town into the Jersey Co area, where buck then is arrested and taken to jail. During the arrest an empty 40 clip is found which at trial is stated to hold like 13 to 14 round which Ryan Lenington says his was a different color and only held 8 rounds at trial (U.S Const. Amend XIV The state must prove each element of each case beyond a reasonable doubt) Wheeler then takes Macoupin Co ~~Deputy~~ Deputy Roger Dively down the country rd to the ravine with his dog which the dog never hits on anything or smells anything of a human or a gun. the police continue to search the areas from 111 where Quinn Reiker got behind buck and went past sheriff Manns through medora into ~~the~~ Jersey Co. no gun is recovered. At the macoupin co Jail buck is stripped of his clothes and boots and put into a little room for approx 3hrs then finally Randal Custer and Ben Koch of the Illinois state police showed up and began to question buck. After setting there rocking for hours while he was setting there which was used against him at trial and letting his counsel know

and they did nothing about it for his defence at trial. (U.S. Const Amend. V & VI. Amend. V states A person has the const. right not to be compelled to give testimony against himself and is also applied to the states through the XIV amendment. Which would also show ineffective counsel and violate the VI Amendment.) Then they Custer and Koch began to question and ask Buck where he has been that day what was he doing ect. Buck ask them whats going on they say we will get to that and began to ask questions like where he stayed last night ect. Buck tells them and again ask whats going on, they eventually tell him somebody has been killed! He then lets them know why he didn't stop in the truck that he didn't have a drivers license and had a parole warrant out of Texas he came up here because his Dad was on oxygen and his uncle ~~was~~ was on a ventolater and was fixing to pass away and did 2 week after he ~~was~~ was locked up Buck then goes on to tell them that he stayed at his dads last night and went to chesterfield to borrow a vehicle from longtime friend and then left and all this happened with the police getting behind him. They asked if he seen Rachel Warren he said yea earlier not giving no time frame or anything then they tried saying Buck said Rachel daughter name and he didn't so then he ask for counsel. During the interview ~~they~~ they read his miranda warnings they ask him if he can read he states not very good or no then they start to read the Miranda warnings and ask him if he understands he states no then they continue to read them and ask what miranda warning 2 meant he then gives a wrong answer and neither Custer or Koch explain and continue to go on already frustrated then ask him if he understands he says yes ~~just~~ didn't understand and then gave the wrong answer at that point Custer or Koch should of done there job and abided by the law and not violated this mans constitutional Rights and explained them or what they were saying. At this point it shouldnt matter anything else said because you (Koch & Custer) have violated this mans Miranda Rights and Constitutional rights. (U.S Const Amend. V, VI and XIV. Counsel was ineffective at trial for not arguing this) ~~Some~~ Sometime during all this or a lil later but the someday. Hair follicles and swabs are taken, not even sure if hair follicle was tested for drugs or alcohol but no GSR was found on his (Buck) hands. later ~~counsel~~ counsel finds out when the close were tested there was a lil GSR on buck right jacket pocket in which at trial forensic expert says that could of been there or rubbed off another jacket ~~in~~ in the closet or even came from the cop car. If a person just fired a gun its gonna be all over a person sleeves clothes ect. But sleeves for sure! (U.S. Const. Amend XIV the state must prove every element of the case beyond a reasonable doubt) How could anyone say this man fired a gun with no GSR on his hands or sleeves! At trial the macoupin Co Deputy Roger Dively says he went out days later after Buck was in Jail and found a gun on the side of Rte 111 where Quinn Reiber now macoupin Co sheriff got behind Buck and in plain site sheriff mann is setting ahead and states at trial he never seen nothing thrown out. Yet here days later a gun was found and wasnt one found that day. This is a highway Rte 111 anyone could have put that there, Buck was in jail. (U.S. Const. Amend XIV) this aint doubt not sure what is. At trial Carol Rose states she never seen a gun when she seen Buck when she seen Wheeler go inside buck got out and walked around the truck. Wheeler came back outside to somebody that had him at gun point. He didnt call police lock himself inside go out the back door or anything. who does that After there friend, sex partner whatever was killed and you were at gun point. (U.S Const Amend XIV) Ryan Lenington testifies at trial that while he was at work somebody was working on his house and when he got off he came home but never sees Buck from Feb 5 - Feb 8 when the guns

were stolen. He also said the police never dusted for prints or anything. He said the 40 hand gun had 2 clips and he thought they were fully loaded and the clip at trial was a different color and held 8 rounds plus he also said Buck only knew about one of the guns and the house wasn't ransacked. He said he also knows AJ and all of our family's use to hang around and (the person working on his house knew all of us.) counsel was told this at trial and it was never brought up. (U.S Const. Amend VI ineffective counsel) With him being there wouldn't he be more of a suspect than Buck? If Buck wasn't around! U.S Const. Amend XIV & XV.

AJ states at trial he left his house in Philwood and went to Rachel Warren house where Ben Bell was and they were smokin weed, but in the police report Ben Bell states he came after Wheeler was there. Counsel never call him in defense for Buck! (ineffective counsel) US Const Amend VI. Carol Rose testifies AJ is who lives across the street from her not his mom that she knows of. While being questioned by police in the cop car Wheeler is texting his lawyer so that shows he had a phone the whole time, plus he didn't want to give his clothes up at first but eventually does. He also went to the restroom at the sportsman inn to use the restroom during questioning. A long story made short and the US Const. Rights (Amendments) violated! There was no physical evidence or prints no DNA ect. of Buck. Wheeler is the only one putting a gun in Buck's hand during all this and the only one that ~~says~~ ^{says} ~~was~~ ^{Buck} was there. So he has every reason to lie or to commit the crime himself.

Reasons for Granting The Petition

- 1) Counsel was shown to be ineffective on more than one issue and petitioners rights were violated and its very plain to see that his const. rights were violated and could reverse this case.
- 2) Its plain to see anybody could have committed anyone of these cases even HJ Wheeler so the burden of proof was never met and each element of the case was not proven beyond a reasonable doubt. There is or could be doubt every where in this case if given a honest look and opinion
- 3) If David Buck Jr cant get a complete reversal he should atleast get a new trial, but I think its plain and clear that a complete reversal should be givin' and all charges dismissed/aquited
- 4) To possibly help others in the future whether it be looking at cases more thoroughly or just something in this petition

With all the evidence shown I think it plain to see Bucks Miranda Rights were violated and his US Const. Amend were violated I don't see how counsel could of missed these issues at trial or changed there strategies to address these issue's. Then I don't understand how the appellate court could say counsel was effective and then say Buck gave a valid knowingly and intelligent waiver of his Miranda Rights. Plus not address other issues at hand. So if this court would please give the relief we are looking for we would be highly grateful in doing so. Thank you for taking the time to read this and address the issues at hand.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

David Buck

Date: 7-16-24