

No. 24-5927

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM DALE WATSON,

Petitioner,

v.

WILLIAM STREETER, WARDEN, et al.

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO  
THE ELEVENTH CIRCUIT COURT OF APPEALS

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PETITION FOR REHEARING

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PETITION FOR REHEARING AND INSTRUCTIONS IN SUPPORT

COMES NOW Petitioner, William Watson, Pro Se, and prays this Court to grant rehearing pursuant to Rule 44, and thereafter, grant him a Writ of Certiorari to review the opinion of the Eleventh Circuit of Appeals. In support of petition, Mr. Watson states the following.

**STATEMENT OF FACTS**

At trial William Watson was convicted by a jury on four counts of sexual abuse of a child under the age of twelve (E.B.), two counts of sexual abuse of a child under the age of twelve (Z.W.) and four counts of second degree child abuse (H.D.), and sentenced to 35 years without the possibility of probation or parole.

According to the State's victims, William Watson had committed the abuse over a period of time while they were living with Mr. Watson at his residence. The evidence the State used during trial was nothing but "she said ,he said" evidence, with no physical evidence and the State ignored Mr. Watson's statements of innocence. There was never any "solid" or physical evidence presented to the jury that showed Mr. Watson had committed any abuse.

Later, during trial, the State presented to the jury, evidence that had nothing to do with in regards to Mr. Watson's case. The evidence was of an incident and statement that occurred after alleged victim (E.B.) was 12 years of age. The incident and statement had already been presented to the Court earlier. The court had stated the evidence was inadmissible because the Court had stated "anything that occurred after (E.B.) was over the age of 12 was inadmissible", and had nothing to do with the ~~the~~ charges in Watson's case. The State itself had Stated the evidence took place after (E.B.) had

already turned 12 yrs. old and wanted to present it to the jury to show continued abuse. The State deliberately disregarded the court's instructions and entered the evidence later on during trial. The State then presented the inadmissible evidence to the jury. At no time was the jury ever advised the evidence presented was deemed inadmissible by the court and had nothing to do with Watson's charges. The State used false information to get a conviction. Watson's counsel should of objected to the evidence, as he had earlier, but he said nothing.

At one point in trial, the State had a problem with the questioning from Watson counsel. The State requested a conference with the Court outside the ears of the jury. The jury was dismissed and the State presented its problem. During pretrial phase the State had requested an "Emergency Hearing" with the Court regarding several of the alleged victims visiting Mr. Watson after he was released on bond. The State was concerned that since Watson's Bond had no restrictions in regards to the alleged victims, the State was wondering how to handle the Emergency Hearing, since the alleged victims were visiting with Watson after his arrest. The State and Watson's had discussed the problem and both decided that Watson was to be advised to stay away from the victims. The Court was not sure how to address this issue without actually having both parties take the stand and the Court said that would not be allowed. The Court allowed both parties to fix this issue on thier own. Neither the State or Watson's counsel pursued this issue. By not pursuing the issue, it prevented the jury from hearing evidence which would of proven to the jury that the alleged victims were not being truthful in their testimony when they had continued to ~~state~~ to the jury

that they had not been around Mr. Watson after his arrest. This also shows the State was aware the alleged victims were untruthful in their testimony to the jury and did nothing about it.

Then, during jury deliberation both the Court and State erred in responding to the jury's question as to which charge went with each count of the indictment. Neither the Court or the State could answer the jury's question. At that point, the Court should of demanded an "Election" from the State but that did not happen. The Court and the State discussed the matter, without input from Watson's counsel. The State there would only be a problem if the jury did not find Watson guilty on all charges, which the jury did not. The court went on to ask the State, how does the jury know what charge goes with each count. After several more minutes of discussing the issue, still not knowing what charge went with each count, The Court decided to give the jury new instructions again, the instructions were improper. The Court stated if the jury believes two out of five incidents occurred and not five of five incidents occurred, to reflect so in their verdict. The Court never advised the jury which charge went with each count. The jury returned their verdict finding Watson guilty on some of the charges and not guilty on others, but the jury can not tell the Court which counts they found Mr. Watson guilty of because they have no idea which charge went with each count.

#### REASONS MERITING REHEARING

1. The Eleventh Circuit Court's decision is clearly in conflict with Federal Rules of Criminal Procedure Rule 52(b) Plain Error. Rule 52(b) states "Plain Error" is "Error so obvious that the failure to notice would seriously affect the fairness or integrity

of judicial proceedings". Plain Error can be considered even though it was not brought up to the Court's attention. The Court of Appeals under the Plain Error Rule could review a basic constitutional question despite the fact that it had not been raised by the defendant if substantial rights were affected.

**Sykes v. United States**, 373 F. 2d 607 (5th Cir. 1966), cert. denied, 386 U.S. 977, 87 S. Ct. 1172, 18 L. 2d 1967 U.S. Lexis 2020 (1967). To meet the Plain Error standard, the error must (1) be actual error that was forfeited, (2) be plain and obvious, (3) affect substantial right and (4) seriously affected fairness, integrity or public reputation of judicial proceedings. **U.S. v. Edeza**, 359 F. 3d 1246, 2004 U.S. App. LEXIS 3921 (10th Cir.), cert. denied, 541 U.S. 1082, 124 S. Ct. 2436, 158 L. 2d 988, 2004 U.S. LEXIS 3991 (2004). **U.S. v. Babiar**, 410 F. 3d 432, 2005 U.S. App. LEXIS 10142 (8th Cir.), cert. denied, 546 U.S. 908, 126 S.Ct. 262, 163 L. Ed. 2d 237 (2005), U.S. LEXIS 6676 (2005).

Plain Error occurred when the State entered Mr. Watson's statement that had been given to Det. Ramsey while he was in the hospital. The statement referred to an incident that occurred after (E.B.) was 12 yrs. old. This statement had already been addressed by the Court earlier, when the State confirmed the statement and specifically the lotion incident occurred after E.B. was 12 years old. The Court stated to the State, that Because Mr. Watson had not been charged with anything that occurred after E.B.'s 12th birthday, that it was inadmissible and not to be brought up again. The State deliberately disregarded the Court's instruction, when the State entered the inadmissible evidence, later in trial. The Court and the State already aware the evidence was inadmissible, never said

anything about it and allowed it to be entered. The Court errored in allowing the evidence to be entered after knowing the evidence was inadmissible. The State then allowed the jury to hear the statement and never advised them the evidence had been deemed inadmissible by the Court and had nothing to do with Watson's charges. This "Plain Error" meets the four prong standards of **U.S. v. EDEZA**.

The Eleventh Circuit ignored this evidence and the facts, which caused substantial prejudice to Watson and if the jury had been presented with the evidence and facts, there would of been a different outcome to Watson's case.

The Court also ignored facts that the State was giving false information to the jury and was withholding evidence that could have changed the outcome of the jury's verdict. The State actually misled the jury when it questioned Theresa Kelly, a witness for Watson, about an incident that involved Watson putting lotion on E.B.'s back when she was 11 yrs. old. The State was already aware of the lotion incident and was also aware the incident took place after E.B. was 12 yrs old and not 11 yrs. old. By asking Kelly about the lotion incident, the State was again disregarding the Court's instructions in regards to E.B.'s age. The State was attempting to coerce the jury with false information.

The State also did not allow the jury to hear a discussion the State had requested with the Court. The request was for an Emergency Hearing in regards to several alleged victims being seen visiting Watson. The hearing was to prevent Mr. Watson from being around the victims. The emergency hearing was requested in July 2014. This confirms the State was aware the victims had been around Watson that time. The State confirming this, it was

aware the victims were untruthful in their testimony when they were saying they have not been around Watson since he was arrested in Aug. 2012, the State should have corrected this, but nothing was done. By allowing this evidence to go uncorrected, the jury was not presented the proper evidence or facts, severely prejudiced Watson. Along with these same victims being ~~impeached~~ for recanting their testimony from earlier and their lying about not being around Watson after 2012, would have given the jury reasonable doubt, which would have changed the outcome.

Again the Eleventh Circuit ignored "Plain Error" when it was presented to the Court. The error occurred when the jury was in deliberation. The jury had asked the Court, "**What charge went with each count?**" Neither the Court or State could answer the question. Mr. Watson's indictment was written with the exact same charge, only the names were changed for each victim. The Court was confused with the way the State presented this to the jury. At that point, the Court errored when it did not demand the State to Elect which charge went with each count. After some discussion, without the jury's question being answered, The State requested the Court to give new instructions to the jury. The only instructions given to the jury were, "If you find two counts out of five counts occurred and not five out of five, to reflect so. The Court **never** informed the jury as to which charge went with each count. The jury returned a guilty verdict on some counts and not guilty on the others, but the jury can not say which counts Watson was found guilty on, because the jury was never informed as to which charge went with each count.

An example: Watson was charged with four counts pertaining to (z.w.) on the indictment, all four counts were exactly the same charge. The jury found Watson guilty of only two counts. The jury has no idea which two counts he was convicted of because they were never advised as to which charge went with the counts. Without the proper instructions from the Court, how can the Court say the jury was unanimous to the charges. The jury can not. There is NO court in this country who would be able to say which two counts Watson was found guilty of.

This Plain Error substantially prejudiced Mr. Watson by ignoring the proven facts. How can the Courts allow Watson to be convicted and sentenced without knowing what he was convicted with.

2. The Eleventh Circuit's decision is clearly in direct conflict with Federal Rules of Criminal Procedure Rule 52(b), Plain Error. This Court MUST grant rehearing and issue a Writ of Certiorari because a failure to do so would allow the Eleventh Circuit to continue to apply the wrong standard in deciding the Plain Error, four prong standard, and deny Justice to those it is entitled to.

3. This Court has an ethical duty by the United States Constitution to establish the law of the land and to assure the citizens of the United States of America that the lower Courts apply the law. When they do not, **it is this Court's obligation to HOLD THAT COURT ACCOUNTABLE AND see to it that justice is administrated fairly.** This Court MUST hear this case and hold the Eleventh Circuit accountable for failing to properly apply the law of this Court and relief where relief is due.

#### SUGGESTIONS IN SUPPORT OF REHEARING

The Alabama Court of Appeals were in error when the Court failed

to correct the Circuit Courts decision concerning an Election. The Court of Appeals relied on the lower Court's decision and did not examine both the trial evidence and post-conviction evidence to determine whether, had the omitted instructions or an "Election" been presented, there is a reasonable probability of a different outcome. Instead, the Court relied on the State's facts in the light most favorable to the jury's verdict and all contrary evidence ignored. If the Circuit Court would of demanded an "election", which should of happened, because of the multiple charges that were the same, it would of required the State to elect which count a conviction was sought. When the Court of Appeals ignored this ruling and affirmed the Circuit Court's decision it was contrary to their other rulings in regards to "Election". In **McMahan v. State**, 607 So. 2d 1288 (Al. Crim. App. 1992), McMahan's case was reversed and remanded by the Court. The Court held the trial Court errored by not requiring the State to elect as to which alleged occurrence a conviction was sought. Also see **Reed v. State**, 512 So. 2d 804 (Al. Crim. App. 1987), where the Court addresses thi issue of election, reversing Reed's conviction. The Court held that , "The State was in the case at bar, clearly attempting to submit several different incidents to the jury without specifying which incident a conviction was sought. The record reveals that the jury was never instructed as to exactly which act or incident was to be considered in their determination of guilt. There is no guidance or explanation whatsoever, to the jury regarding the purpose of the admission of these five incidents, and it was unclear upon which incident their conviction was based on." REED, 512 So. 2d at 809 (emphasis in original). In **McMahan**, the alleged victim, D.M. testified that

the appellant "Touched her" on more than five separate and distinct occasions. As in *Reed*, the jury received no instruction concerning which incident was to be considered in their deliberation, likewise, the record in this case is exceedingly unclear as to which of the alleged events precipitated the appellant's conviction. Therefore, based on the aforementioned authorities, we find that the trial Court erred by not requiring the State to elect as to which alleged occurrence a conviction was sought. The case was reversed and remanded.

The facts in the above cases are the same as in Watson's case, the jury was never instructed as to which charge went with each count, resulting in the jury not knowing what charges the State was seeking a conviction. This error on the Court for not requiring the State to elect, prejudiced Watson substantial and affected his rights to a fair trial afforded to him by the U.S. Constitution, Amend VI and XIV. This is Plain Error as outlined in *Edeza*, and a rehearing must be granted and a Writ of Certiorari given to correct the error by the Court.

In *United States v. Geston*, 299 F. 3d 1130, 1136 (9th Cir. 2002):

"A prosecutor's improper questioning is not in and itself sufficient to warrant reversal, the Court must assess the prosecutorial misconduct (2011 U.S. Dist. LEXIS 11) in the context of the entire trial and determine whether the prosecutor's action seriously affected the fairness, integrity and public reputation of judicial proceedings, or where failing to reverse a conviction would result in a miscarriage of justice". *Geston*, 299 F. 3d at 1136.

The State's actions were proved multiple times during Watson's trial. Once, when the State was questioning Theresa Kelly about an incident in which E.B. was 11 yrs. old, when it knew E.B. was actually already 12 yrs. old. The prosecutor violated the Court's

in limine in regards to the incident, because of E.B.'s age. The prosecutor was attempting to mislead the jury with the improper age. Another incident occurred when the prosecutor Deliberately Disregarded the Court's instructions when the Court stated, "Anything that happened to E.B. after she was 12 yrs. old was inadmissible and had nothing to do with Watson's charges. The prosecutor still entered the evidence and it was not objected to. The inadmissible evidence was heard by the jury, who had no knowledge that what they heard was deemed inadmissible by the Court. Here again the Court was aware of the inadmissible evidence and ignored it, allowing the State to use evidence that was not related to Watson's case.

During pre-trial phase, the prosecutor requested an "Emergency Hearing" because Watson was seen around several of the alleged victims. The prosecutor knew from his request that the alleged victims were around Watson, and never said anything when the alleged victims testified to the jury, saying they were never around Watson after the allegations. Not allowing the jury to hear about the emergency hearing, prevented the jury from hearing facts which could of caused a different outcome. That and the impeachment of the same alleged victims for recanting their statements to Watson's counsel, saying Watson had never touched them inappropriately, could have proven to the jury that their testimony's were untruthful, resulting in a different outcome of Watson's case.

All of Mr. Watson's claims to Rule 52(b) Plain Error are facts that have been proven by the evidence presented to this Court as well as the lower Courts. If the lower Courts would of addressed these claims instead of ignoring them, Watson would of been ~~exonerated~~

guaranteed a different outcome of his case. By ignoring the merits of his "Plain Error" claims, his constitutional rights would not of been violated. When the law of the land has been ignored by the lower Courts, it is the responsibility of this Court to correct their errors and hold them accountable.

CONCLUSION

For the reasons stated, this Court MUST grant rehearing of it's judgement entered on January 13, 2025, and issue a Writ of Certiorari to hold the Eleventh Circuit accountable for failing to properly apply the law of this Court and grant Mr. Watson relief.

Respectfully submitted,

William Dale Watson

WILLIAM DALE WATSON

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Limestone Correctional Facility

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c

Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was mailed, postage prepaid and placed in E-Dorm U.S. Postal box on this - 3<sup>rd</sup>, day of February, 2025, to the below listed address.

The Office of the Clerk  
Supreme Court of the United States  
Washington, DC 20543

William Dale Watson  
Petitioner

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM DALE WATSON,

Petitioner,

v.

WILLIAM STREETER, Warden, et al.

Respondent.

CERTIFICATE OF GOOD FAITH

COMES NOW Petitioner William Watson, and makes certification that his petition for rehearing is presented to this Court in good faith pursuant to Rule 44. Mr. Watson further states the following:

1. This Court entered its judgement denying petitioner a Writ of Certiorari on January 13, 2025. Petitioner believes that he presents this Court with adequate grounds to justify the granting of rehearing in this case and said petition is brought in good faith and not for delay.

Furthermore, petitioner believes that based upon the law of this Court and facts of this case, Watson is entitled to relief which has been unjustly denied him. He further believes that if the Eleventh Circuit Court of Appeals are continually allowed to ignore or overlook "Plain Error" standard improperly, a number of people will be denied their constitutional right to Due Process as well as a fair trial.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on this 3<sup>rd</sup> day of February, 2025.

William Dale Watson

Petitioner