

No. 24-6508

ORIGINAL

FILED

DEC 27 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Tyronne Lindsey — PETITIONER
(Your Name)

vs.

State of Louisiana RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Louisiana, State Supreme Court

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

PETITION FOR WRIT OF CERTIORARI

Tyronne Lindsey #99015
(Your Name)

(Address)

Mag-1

Louisiana State Prison
(City, State, Zip Code) Angola, La 70712

None

(Phone Number)

RECEIVED

JAN 10 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- 1) whether the state trial court lacked subject matter jurisdiction.
- 2) whether the grand jury indictment for first degree murder should have been quashed when the state trial court allowed the prosecution to re-prosecute petitioner and proceed to trial based on the same grand jury indictment that was secured with the same evidence that the U.S. Fifth Circuit Court of Appeal used to vacate the conviction.

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:

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE.....	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	Louisiana State Supreme Court
APPENDIX B	Louisiana Fifth Circuit Court of Appeal
APPENDIX C	Twenty Fourth Judicial District Court
APPENDIX D	Claim/Argument
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES	Lindsey v. King 769 F.2d 1034 5th Cir	PAGE NUMBER
1985; Brady v. Maryland	754 3rd Cir 1987;	
U.S. v. Martinez	825 F.2d 754 (ED Pa. 1990)	
U.S. v. Breslin	940 F.Supp. 458 (ED Pa. 1993)	
State v. Williams	412 So.2d 216 (1983)	
Campbell v. Louisiana	523 U.S. 392 (1992)	
Wood v. Georgia	370 U.S. 375 (1962)	010 02-26-82
<u>Boudreux v. State</u>	Defl. Trans. 10/1/01	
<u>and Development</u>	2001 132d fil. 7-8	

STATUTES AND RULES

TATUTES AND RULES
5TH & 16TH Amend. MEET U.S. CONSTITUTION
16 CONST. Art. 1 § 15 (2007)
42 U.S. SUP. 1 P. 832
16 AM. JUR. CONST. LAW 250 P. 724

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 A 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 *Fifth Circuit* court appears at Appendix B to the petition and is

- [] reported at _____; 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 10-08-2024.
A copy of that decision appears at Appendix A.

[] 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

DUE PROCESS CLAUSE OF THE 5TH
and 14TH AMENDMENT TO THE UNITED
STATES CONSTITUTION

Louisiana CONST. AMEND V and IV
La. C. Cr. P. ART 242
La C. E. P. ART 3

STATEMENT OF THE CASE

Petition for Writ of Certiorari to the
Hon. Court. On July 1, 1980 Lindsey
was indicted for First Degree Murder
by a Louisiana Jefferson Parish Grand
Jury. After trial by jury on July 10, 1980
Lindsey was found guilty of Capital
Murder. The jury unanimously
on the same date recommended the
recommendation of the trial court
sentencing of 720. On Sept. 8, 1980, the
Case No. 80-720, the Louisiana Supreme Court vacated this
Louisiana Supreme Court vacated this matter
death sentence and remanded a new jury
death sentence and remanded a new jury
to the trial court to determine his penalty
for a determination of his penalty
State v. Lindsey 404 So. 2d 1980
After remand, Lindsey was again
sentenced to death. On Feb. 23, 1983
the Louisiana Supreme Court vacated
the death sentence. State v. Lindsey 404 U.S.
the death sentence. State v. Lindsey 404 U.S.
So. 2d 470 (La. 1983) cert denied 464 U.S. 928
104 S. Ct. 261, 78 L. Ed. 2d 246 (1983)
908, 104 S. Ct. 261, 78 L. Ed. 2d 246 (1983)
Lindsey subsequently filed a petition
for habeas corpus with the U.S. Court
for the Eastern District of Louisiana
alleging that the prosecution had failed to
disclose exculpatory information.
Lindsey v. Koon 769 F. 2d 1034 (5th Cir.
1985). Lindsey v. Koon appealed to the U.S.
District Court, ruling denying habeas
corpus relief written in 1034 (5th Cir.
1985). Doing a Brady v. Maryland 373

U.S. §3, §3 S.C. 1194, 10 L.Ed. 2d
§14 (1963) violations had occurred
in that the state failed to disclose
the identification of a witness
reversed Lindsey's conviction
and granted his appeal. STATE

reversed Lindsey's conviction. ~~STATE~~
In Lindsey's third appeal, ~~STATE~~
Lindsey's 54th SO-28 886 (La. 1989)
Supreme Court affirmed
the Louisiana death sentence
the conviction and death row
and noted the following: Precedent
history after the reversal by the
Fifth Circuit:

TH CIRCOI^E:
In April 1981, defendant's
third trial was conducted
this time with the benefit
of the identical witness'
prior inconsistent statement.
At the conclusion of the guilt
phase of his bifurcated trial the
jury found defendant guilty of
first degree murder. Following
the sentencing phase of the
proceedings, the jury recom-
mended the death penalty finding
that numerous statutory
circumstances were applicable
to the homicide.

In Atkins, the U.S. Supreme Court held that the Eighth Amendment does not permit the execution of intellectually disabled defendants. La. C.C.P. art 930.2 states "the petitioner in an application for post conviction relief shall have the burden of proving that relief should be granted."

On April 5, 2004, on joint motion of the State and defense, the District Court set aside the death sentence and resentence Lindsey to life in prison pursuant to ATKINS v. VIRGINIA 536 U.S. 304, 122 S.Ct. 2242, 153 L.Ed. 2d 335 (2002).

On July 27, 2023, Lindsey filed an APCR with the 24th Judicial District Court raising three claims: 1) The trial court lacked "subject matter jurisdiction" to impose a life sentence; 2) The grand jury indictment was based on false testimony; and 3) La.'s Non-Versus-Moot Verdict Law for non-capital cases was unconstitutional. The claim was denied. On August 7, 2023, the district court denied relief, stating the strict requirements mandated by La. C.Cr.P. art. 930.8 are not met. And that Lindsey failed to meet his heavy burden of proof under La.C.Cr.P. art. 930.8.

On March 27, 2024, the Louisiana Fifth Circuit Court of Appeal denied writs under Case No. 24-1416.

Lindsey then filed an application for supervisory writs into the Louisiana Supreme Court.

On Oct. 8, 2024, that court denied relief under docket No. 2024-KH-00537.

Lindsey now respectfully seeks a writ of certiorari to issue out of this H.S. Court.

REASONS FOR GRANTING THE PETITION

This Petition should be granted for the following reasons:

1. The U.S. Fifth Circuit Court of Appeal reversed Lindsey's First Degree Murder conviction and vacated the death sentence because state witness Richard Alexander gave false perjured testimony at trial and Alexander's pre-trial statements where he said:

That he did not see the perpetrator's face and stated he saw only what he described as a silhouette of the perpetrator. Alexander concluded that viewing only photographic would be useless because he did not see the perpetrator's face.

However this statement was withheld from the defense. Alexander positively identified Lindsey as the perpetrator at trial. Lindsey discovered Alexander's pre-trial statement after conviction. See Lindsey v. King, 768 F.2d 1034 (5th Cir. 1985). The reversal was based on a violation of Brady v. Maryland.

Lindsey argued in the state courts that because the grand jury indictment was secured solely upon the same false/perjured testimony of Richard Alexander that he gave

doing the jury trial and because it was also serious as to resolve in the U.S. Fifth Circuit Court of Appeal to reverse the conviction and death sentence. The grand jury indictment must be quashed, Alexander told Lindsey's grand jury that he could positively identify Lindsey as the perpetrator. Alexander's grand jury substantially influenced the grand jury's decision to indict Lindsey for First Degree murder and because Alexander was the only person to identify Lindsey as the perpetrator. And because the U.S. Fifth Circuit Court of Appeals concluded in *Brady v. Maryland* no of Lindsey's First Degree murder conviction and death sentence.

The same is true for the First Degree murder indictment against Lindsey. See *United States v. Martinez*, 754 3rd Cir 1981, 825 F. 2d where the court said:

"Once the court determines that there has been prosecutorial misconduct in form of some abuse of the grand jury process, it must then determine whether any sanctions such as dismissal of the indictment and suppression of the evidence is appropriate,

Lindsey respectfully ask whether and considering the circumstances involved did the decision in Lindsey v. King 769 F.2d 1034 5th Cir. 1985 whereate the Quashing of Lindsey's indictment for First Degree Murder.

Did the Louisiana Trial Court have an obligation to quash Lindsey's indictment knowing it was secured solely upon the false signed testimony of Richard Alexander?

Did the state courts erroneously refuse to grant Lindsey post conviction relief?

Did the state courts erroneously refuse to even exert aid the merits of Lindsey's claim pertaining to Richard Alexander's false perjury and testimony? See Wood v. Georgia 378 U.S. 375, 390 (1962) Historically, the grand jury has been regarded as a primary security to the innocent against harsh, malicious and oppressive persecution. It serves the invaluable function in our society of standing between the accuser and the accused. To determine whether a charge is founded upon reason or was dictated by an intimidating power or malice and personal ill will.

The Due Process Clause of the 14th Amendment secured to Tyrone Lindsey the fundamental right to have a grand jury consider and return a finding concerning each and every element of the crime with which Lindsey was charged, prosecuted and potentially convicted.

There is an independent right to a grand jury indictment under Louisiana's Constitution, La. Const. Art. I (5) (2002):

"No person shall be held to answer for a capital crime or a crime punishable by life imprisonment except on indictment by a grand jury."

Because the indictment in Lindsey's case was obtained solely upon the false, perjured testimony before the grand jury by Richard Alexander and because Richard Alexander's false perjured testimony substantially influenced the grand jury's decision to indict Lindsey for first degree murder, and because the grand jury indictment should have been quashed with the decision in Lindsey v. King, supra, it can never be held to be too late. This Hon. Court should now quash the grand jury indictment and re-sentence Lindsey's conviction and life sentence.

CONCLUSION

The petition for a writ of certiorari should be granted. ~~Jury indictment should be quashed, the conviction and life sentence set aside.~~ The State Grand Jury indictment should be quashed, the conviction and life sentence set aside.

Respectfully submitted,

Tyron L. Lederer

Date: 12-26-24