

24-6808

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

AUG 16 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUOVADUS MAHOMES — PETITIONER
(Your Name)

VS.

PEOPLE OF THE STATE OF ILLINOIS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

QUOVADUS MAHOMES, ID # Y18973
(Your Name)

PO BOX 1000
(Address)

MENARD, IL. 62259
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1) IN A CASE OF IMPERFECT SELF-DEFENSE, WHERE TWO
(2) COLLATERAL WITNESSES WERE PREPARED TO TESTIFY THAT
DEFENDANT'S LIFE WAS VERBALLY AND PHYSICALLY THREATENED
BY TWO (2) RIVAL GANG MEMBERS AT GUNPOINT, JUST DAYS
PRIOR TO THE FATAL SHOOTING OF ONE OF THE THREATENING
RIVAL GANG MEMBERS, DID COUNSEL'S FAILURE TO CALL
THESE WITNESSES TO ESTABLISH, AND CORROBORATE, THE
VERACITY OF THE PRIOR THREATS TO WHICH DEFENDANT
TESTIFIED, AMOUNT TO INEFFECTIVE ASSISTANCE OF
COUNSEL UNDER THE SIXTH AMENDMENT AND
STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984)?

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:

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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☐ is unpublished.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☐ is unpublished.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 PEOPLE V. MAHOMES, 2024 IL APP (1ST) 230324-U; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ 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.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>STRICK LAND V. WASHINGTON, 466 U.S. 668 (1984)</u>	P. 10
<u>PEOPLE V. UPSHAW, 2017 IL. APP. (1ST) 151405,</u>	P. 10
<u>PEOPLE V. SIMS, 322 ILL. APP. 3d 397 (2001)</u>	P. 11

STATUTES AND RULES

THE SIXTH AMENDMENT OF THE U.S. CONSTITUTION

OTHER

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 7-3-2024.
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

STATEMENT OF THE CASE

PETITIONER WAS CONVICTED OF FIRST DEGREE MURDER IN THE SHOOTING DEATH OF DEVIN COMMON.

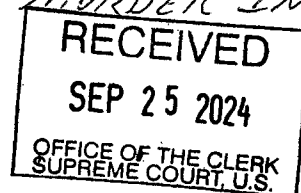
AT TRIAL, PETITIONER TESTIFIED THAT HE WAS 17 YEARS OF AGE, WALKING ALONE IN AN UNFAMILIAR NEIGHBORHOOD, WHEN HE FOUND HIMSELF BEING FOLLOWED BY 3 MEN, 2 OF WHICH HE PERSONALLY KNEW TO BE RIVAL GANG MEMBERS. WHEN A FOURTH MAN JOINED THE GROUP OF 3 MEN, PETITIONER TESTIFIED HE FEARED FOR HIS LIFE, PULLED A HANDGUN FROM HIS WAISTBAND AND FIRED MULTIPLE SHOTS AT THE GROUP OF 4 MEN.

PETITIONER ALSO TESTIFIED THAT A FEW DAYS PRIOR TO THIS INCIDENT HE HAD BEEN THREATENED AT GUN POINT BY MR. DURHAM — ONE OF THE 3 MEN FOLLOWING HIM — AND SEVERAL OTHER GANG MEMBERS. COUNSEL ARGUED THAT THIS PREVIOUS AND RECENT THREAT WAS THE BASIS FOR DEFENDANT'S BELIEF THAT HE NEEDED TO ACT WITH DEADLY FORCE. THIS WAS NOT ONLY CONSISTANT WITH PETITIONER'S OWN TESTIMONY, BUT WAS THE ENTIRE BASIS OF THE DEFENSE STRATEGY.

LONG BEFORE TRIAL, 2 COLLATERAL WITNESSES CAME FORWARD AND STATED THEY HAD BOTH WITNESSED MR. DURHAM AND SEVERAL OTHERS THREATENED PETITIONER AT GUN POINT. COLLECTIVELY, THESE WITNESSES PROVIDED STATEMENTS TO DEFENSE COUNSEL THAT DAYS PRIOR TO THE FATAL SHOOTING DURHAM AND 3 OTHERS PULLED UP IN A CAR WITHIN A FEW FEET OF PETITIONER, AIMED 2 GUNS AT HIS HEAD AND TOLD HIM HE WAS GETTING A 'FREE PASS' BECAUSE HE WAS ON CRUTCHES AT THE TIME AND THAT THE NEXT TIME THEY SAW HIM, HE WOULD DIE. IT IS WORTH NOTING THAT ON THE DAY OF THE FATAL SHOOTING, PETITIONER WAS NO LONGER ON CRUTCHES.

DEFENSE COUNSEL WAS WELL AWARE OF THESE 2 WILLING WITNESSES, MANY WEEKS BEFORE TRIAL, YET FAILED TO CALL EITHER WITNESS TO TESTIFY AT TRIAL.

PETITIONER ASSERTED SELF-DEFENSE, ADMITTED TO PERFORMING THE SHOOTING, BUT THAT HE DID SO UNDER THE BELIEF - UNREASONABLE AS IT WAS - THAT FORCE WAS REQUIRED TO SAVE HIS LIFE, THUS CONSTITUTING IMPERFECT SELF-DEFENSE, KNOWN AS SECOND DEGREE MURDER IN THE STATE OF ILLINOIS.



REASONS FOR GRANTING THE PETITION

FAILURE TO CALL A WITNESS WHOSE TESTIMONY WOULD HAVE BEEN EXCULPATORY IN NATURE HAS LONG BEEN HELD TO CONSTITUTE INEFFECTIVE ASSISTANCE OF COUNSEL UNDER THE SIXTH AMENDMENT AND TO SATISFY BOTH PRONGS OF STRICKLAND V. WASHINGTON, 486 U.S. 668 (1984)

"COUNSEL MAY BE DEEMED INEFFECTIVE FOR FAILURE TO PRESENT EXCULPATORY EVIDENCE OF WHICH HE IS AWARE, INCLUDING FAILURE TO CALL WITNESS WHOSE TESTIMONY WOULD SUPPORT AN OTHERWISE UNCORROBORATED DEFENSE."
PEOPLE V. UPSHAW, 2017 IL APP. (1ST) 151405, PARA 39.

IN THE INSTANT CASE, PETITIONER'S UNREASONABLE, BUT REAL, BELIEF IN THE NEED TO USE DEADLY FORCE AGAINST RIVAL GANG MEMBERS WAS BASED ENTIRELY ON THE VERACITY OF HIS ACCOUNT OF A PRIOR INCIDENT WHERE DURHAM THREATENED TO KILL THE PETITIONER THE NEXT TIME DURHAM SAW HIM, ALL OF WHICH HAPPENED WHILE 2 GUNS WERE POINTED AT DEFENDANT'S HEAD.

THIS ESSENTIAL COMPONENT OF THE DEFENSE WAS LEFT COMPLETELY UNCORROBORATED DUE SOLELY TO COUNSEL'S FAILURE TO CALL THESE 2 WITNESSES.

DEFICIENT PERFORMANCE

PETITIONER CONTENDS THAT COUNSEL'S DECISION NOT TO CALL THESE KNOWN WITNESSES WAS CLEARLY FAILS TO MEET THE OBJECTIVE REASONABLE STANDARD OF PERFORMANCE UNDER STRECKLAND V. WASHINGTON AND CANNOT BE DEEMED AS TRIAL STRATEGY. WHERE PETITIONER HAD ALREADY TESTIFIED TO BEING A GANG MEMBER WHOSE GANG WAS ACTIVELY IN EXTREMELY HIGH LEVELS OF CONFLICT WITH DURHAM'S RIVAL GANG, THERE COULD BE NO STRATEGIC ADVANTAGE TO NOT CALLING TWO WITNESSES WHO WOULD HAVE CORROBORATED THE BASIS OF THE DEFENSE OF IMPERFECT SELF-DEFENSE.

"TRIAL STRATEGY IS UNSOUND ONLY WHEN NO REASONABLE EFFECTIVE CRIMINAL DEFENSE ATTORNEY FACING SIMILAR CIRCUMSTANCES WOULD PURSUE THEM,"
PEOPLE V. SIMS, 322 ILL. APP. 3d 397 (2001) AT 397

PREJUDICE

PREJUDICE IS CLEARLY ESTABLISHED BY THE TRIAL JUDGE'S OWN WORDS IN EXPLAINING THE REASONING BEHIND HIS FINDING PETITIONER GUILTY.

TWO COMMENTS IN PARTICULAR ARE SALIENT ON THE ISSUE OF PREJUDICE.

" I DON'T BELIEVE THERE WAS ANY PRIOR INCIDENT THAT WAS DESCRIBED BY MR. MAHOMES THAT EVER TOOK PLACE. " R. 443 SEE APPENDIX D

" HE [DEFENDANT] MADE ASSUMPTIONS ABOUT MR. DURHAM, MR. BLANDON, MR. HARRIS. I BELIEVE HIS ASSUMPTIONS [ABOUT GANG AFFILIATION] WERE DEAD BANG WRONG. HE JUST WENT AFTER THESE PEOPLE BECAUSE THEY WERE THERE. HE WAS BRAZENLY WITHOUT ANY JUSTIFICATION... " R. 443-444 SEE APPENDIX D

COUNSEL'S FAILURE TO CALL 2 WITNESSES WHOM WOULD CORROBORATE THE PRIOR THREAT, AT GUN POINT, WAS PARTICULARLY PREJUDICIAL IN LIGHT OF THE ONLY QUESTION AT ISSUE IN TRIAL.

" THE QUESTION BECOMES WHAT WAS MR. MAHOMES' MENTAL STATE, WHETHER HE HAD ANY JUSTIFICATION UNDER THE LAW... " R. 442 SEE APPENDIX D

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

QUOVADUS MAHOMES — PETITIONER
(Your Name)

VS.

PEOPLE OF THE STATE OF ILLINOIS — RESPONDENT(S)

PROOF OF SERVICE

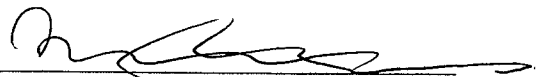
I, QUOVADUS MAHOMES, do swear or declare that on this date, August 16, 2024, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

KWAME RAOUL, ATTORNEY GENERAL, 100 W. RANDOLPH, SUITE 1200
CHICAGO IL. 60601 AND CLERK OF THE U. S. SUPREME
COURT, SUPREME COURT BUILDING, WASHINGTON D.C. 20543

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

Executed on August 16, 2024


(Signature)

IN LIGHT OF A DEFENSE OF IMPERFECT
SELF-DEFENSE BASED ON THE PRIOR THREAT,
COUNSEL'S FAILURE WAS THE VERY LINCHPIN IN THE
DEFENDANT'S CONVICTION. FOR THIS REASON, THE
COURT SHOULD GRANT THIS PETITION.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 8-16-24