

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Luvell Dortch
Petitioner

vs.

Hon. KIM FOX
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI

(
(Name of the court last ruled on merits of case)

PETITION FOR WRIT OF CERTIORARI
SUPREME COURT OF ILLINOIS

MR. Luvell Dortch
P.O. Box 7711
Centralia, IL 62801

QUESTIONS PRESENTED FOR REVIEW

I.

Whether or not petitioner was entitled to reverse and immediate relief, because; the Circuit Court of Cook County, undertook to imposed in invitummm a second or additional sentence for ~~the~~ same offense or substitute one sentence for another. See appendix (c) Hon. Clayton j. Crane Order and also People v. Dortch, 2014 IL App (1st) 132144-U.

II.

Whether or not petitioner was entitled to reverse and immediate relief, because; Appellate Court decision AGREED Motion for Summmmary Disposition of the case violate the double jeopardy clause, requiring dismiss of the subquent indictment under due process of law. See appendix (B) Appellate 6ourt Order, and People v. Dortch, 2014 IL App (1st) 132144-U.

III.

Whether or not Fifth Amendment double jeopardy, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, apply to the petitioner's being punishment twice for the same offense. See Hon. Crane, mittimus as appendix (C).

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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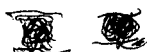
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conviction/Disposition 80-C4121.



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SUPREME Court of Illinois the state highest court Appendix
(A) Ordered of the court on the merits to proceed as a poor
person, and the denied of the said petition, which is also
attached and mark exhibit (A) of the appendix.

Appellate Court of Illinois the First District opinion mark
exhibit as appendix (B) to the petition is unpublished under
the rule 23.

Circuit Court of cook county, Judge Clayton j. Crane O rdered
under Double Jeopardy Clause, punishing the petitioner;s
twice for the same offense that occurred 38 yearsa ago.
See exhibit mark appendix (C) to the petition.

Appendix (D) Indictment/INFORMATION, Certified Statement of
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IN THE
SUPRME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from states courts:

The opinion of the highest state court to review the merits appears at Appendix (A) to the petition and is unpublished.

The opinoin of the Appellate Court appears at Appendix (B) to the petiton is unpublished.

JURISDICTION

On June 22, 2017, the Supreme court of Illinois, State highest court, entered ordered permitted the petitioner's to proceed as a poor person. See Appendix (A). On September 27, 2017, the Supreme court entered ordered denied consideration. See Appendix (A). No rehearing was file. The petitioner;s appeal is within (90) day's from date entered given this Honorable Court jurisdiction pursuant to 28 U.S.C (1257) (a).

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

Constitutional rights afforded by Fifth, Eighth and Fourteenth Amendment ; nor shall any person be punish twice for the same offense or put in jeopardy of life and limb.

Statutory provision courts may not impose more than one punishment for the same offense, and Cruel and unusual punishment.

STATEMENT OF THE CASE

On July 9, 1980, the Grand Jury 360 indicted petitioner's on four counts of first-degree murder (rather than two) and one count of attempted first-degree murder (count-9) trial record 42230) and indictment 80-C4121. On September 24, 1981, petitioner's was convicted and sentenced on all four count's of first-degree murder on count's one and two he was sentenced to two 80-years on count's three and four he was sentenced to two 80-years and 30-years for one attempted first-degree murder (count 9), these sentences run concurrently. (trial R-422-30 and T.R. ~~422~~ 412-13).

Petitioner's conviction and sentences were affirmed on direct appeal, case number 1-81-2451 (February 22, 1983). Petitioner then filed three post-conviction petitions and two other collaterall petitions that were dismissed and those dismissals were affirmed by Court, case no. 1-90-030 (May 28, 1991), 1-96- 1-95-1587 (April 13, 2000), 1-99-1562 (March 21, 2003) and 1-05-1090 (August 8, 2006). On July 23, 2008, petitioner filed a successive post-conviction petition, the Circuit Court granted the state's second stage motion to dismiss the petition on (May 23, 2013).

On January 9, 2015, the Appellate court issued a Summary Ordered pursuant to Illinois Supreme Court Rule 615(B), at the request of the petitioner's counsel to correct mittimus, he reflected two count's of first-degree murder and affirmed the judgment of the Circuit Court. People v. Dortch, 2014 Ill app (1st 1321144U.

On November 20, 2015, the Circuit Court of Cook County, Hon. Judge Clayton j. Crane, it is further ordered that Def is sentence to (Natural Life) on count 1 and 3 // on count 9 30-years. Petitioner's original sentence was 80-years.

On January 8, 2016, Department of Correction was requesting clarification, a different judge, Hon. Alfredo Maldonado recongnized that petitioner was sentenced to two 80-years for each count's of murder, not natural life and issued a new mittimus (R.M2), also added 3yrs M.S.R. which were not stated in the petitioner's originsl mittimus, snd he was placed in segregation as a result of Hon. Crane Ordered.

On January 20, 2016, the petitioner filed a notice of appeal (C.49), On February 5, 2016, state appellate defender was appointed to represent the petitioner.

REASON FOR GRANTING THE PETITION

I.

Whether or not the petitioner was entitled to reverse and immediate relief, because; the Circuit Court of Cook County, undertook to imposed in invitum a second or additional sentence for the same offense of substitute one sentence for another, Where the judge is forbidden to impose cumulative punishment for two crimes at the end of a single proceeding the Prosecutor is forbidden to strive for the same result in sucessive proceedings, unless each statute requires proof of an additional fact which the other does not. Morey v. Common Wealth, 108 Mass 433, 434 (1871), the double jeopardy clause prohibits successive prosecution as well as cumulative punishments.

2.

THE established test for determineing whether two offense are sufficiently distinguishable to permit the imposition of cumulative punishment was stated in Blockburger v. u.s., 284 U.S. 299, 305, 52 S.ct 180, 182, 76 L.ed 306 (1932). The applicable rule isthat where the same act or transaction constitutè a violation oftwo distinct statutory provisions, the test to be applied to determine where there are two offense or only one, is whether each provisoon requires proof of an additional fact which the other does not. . . The United States Supreme Court held, our double jeopardy cases applying Blockburger test have focused on the statutory element of the o offenses charged, not on the facts that must be proved under the particular indictment at issue—an indictment being the closest analogue to the Court order in this case.

The Fifth Amendment double jeopardy guarantee serves principally as a restraint on Courts and prosecution, courts may not impose more than one punishment for the same offense and prosecutors ordinarily may not attempt to secure that punishment in more than one trial. See Brown v. Ohio, 432 U.S. 161, 97, S.ct 2221, 53 L.ed 2d 187 (1977).

In the petitioner's case, where the APPELLate Court delete counts 2 and 4 of the subsequent indictment, prosecutors and courts was without legislative authorization to imposed cumulative punishment for two crimes at the single proceeding. Violate the double jeopardy clause should have dismiss the indictment on double jeopardy grounds, See U.S. v. Dixon, 509 U.S. 688 (1993). dismissed indictment based on violation of multiple punishment pring of double jeopardy clause.

The right not to be placed in jeopardy than once for the same offense is a vital safeguard in our society, one that was dearly won and one that should continue to be highly valued. See Rutledge v. U.S., 517 U.S. 292 (1996). In the petitioner's case the total punishment exceed that authorized by the legislative add punisment to punishment for the same statutory element (within Eighth and Fourteenth) amendment limits. See Medina v. California, 505 U.S. 437, 443, 112 S.ct 2572, 10 L.ed 2d 353 (1992).

On a literal reading of the constitutional provision, with an eye exclusively to the interet of the petitioner's, they had been once in jeopardy and were entitled to the benefit of a reversal of their conviction without the hazard of a new trial. See Murphy v. Com of Massachusetts, 177 U.S. 155 (1900).

Conclusion

The petitione for a writ of certiorari should be granted.

Respectfully Submitted,

/s/ Luvell Dorch
Luvell Dorch N-13252

Date: December 14, 2017

II.

Whether or not petitioner was entitled to reverse and immediate relief, because; the Appellate Court decision, agreed motion for summary disposition of the case violate the double jeopardy clause, require dismissal of the subsequent indictment under the due process of law. See appendix (B) the Appellate Court ordered.

In the petitioner's case the Appellate Court order overreaching the petitioner interest in finality overrode society interest in law enforcement, where court deleted count's two and four ~~and~~ of the indictment. See PEOPLE v. Dortch, 2014 IL App (1st) District 132144-U at 5, deprived him of liberty without due process of law. See North Carolina v. Pearce, 395 U.S. 711 (1969).

In Green v. U.S., 355 U.S. 184 (1957), the United States Supreme Court held, substantially the same view was taken by this Court in Ex parte Lange, 18 Wall, 163, at page 169, 21 L.ed 2d 872. The common law not only prohibits a second punishment for the same offence, but it went further and forbid second trial for the same offence, whether the accused had suffered punishment or not, and whether in the formal trial he had been acquitted or convicted.

The double jeopardy clause of the Fifth Amendment, applied to the states through the fourteenth AMENDMENT, requires the prosecution in one proceeding, all the charges against a petitioner that grow out of a single criminal act, occurrence episode, or transaction.

The motion for leave to proceed in forma pauperis should be grant, the petition for writ of certiorari should be granted, reversal and immediate relief.

Conclusion

The petition for a writ of certiorari should be grant.

Date: December 14, 2017

Respectfully Submitted
/s/ Luvell Dortch
Luvell Dortch N-13252

III.

Whether or not Fifth Amendment double jeopardy, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb, apply to the petitioner's being punishment twice for the same offense.

The petitioner's subsequent sentence substitute one sentence for another, put him twice in jeopardy and that such double jeopardy abridges his privileges and immunities as a citizen of the United States and deprives him of his liberty without due process of law. The United States v. Jackson, the court held, imposition of such a increased punishment those who choose to exercise there constitutional rights would be patently unconstitutional. And the very threat inherent in existence of such a punitive policy would, with respect to those still in prison of fear to exercise of basic constitutional rights. A court is without right to put a price on an appeal. The fear of vindictiveness may unconstitutional deter a defendant's exercise of the right to appeal or collaterally attack his conviction, due process of law requires a defendant be freed of apprehension of such retaliatory motivation on the part of the sentencing judge. 390 U.S. 570, 581, 88 S.Ct 1209, 1216, 20 L.ed 2d 138. See also Ex parte Lange, 85 U.S. 163 (1873). No man shall be twice sentenced by Civil justice for one and the same crime.

Conclusion

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

/s/ Luvell Dortch
Luvell Dortch N-13252

Date: December 14, 2017