

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

VERNON TOLBERT — PETITIONER
(Your Name)

vs.
HON ARTHUR F. HILL JR.,
DONALD BROWN, — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Illinois Supreme Court Case No MD 13985
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

VERNON TOLBERT #B56814
(Your Name)

PO BOX 1000
(Address)

Menard, IL 62259
(City, State, Zip Code)

0NA
(Phone Number)

Questions presented

Whether the petitioner was denied his first, sixth and Fourteenth Amendment constitutional rights under the united states constitution to Due Process of Law and Equal Protection of the Law to Access of the trial court that was violated by respondents when the clerk of the trial court failed to docket petitioner's pro se pleadings initially and the trial court allowed appointed counsel to withdraw from petitioner's criminal case without appointment of new counsel, then the trial court withdraw all of petitioner's pro se pleadings without petitioner's prior knowledge or consent to do so, then took the case off call denying petitioner meaningful access to the trial court?

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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TABLE OF AUTHORITIES CITED

CASES

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Gilmore v. Lynch, 319 F. Supp. 105 111 (N.D. Cal. 1970)
Younger v. Gilmore, 404 U.S. 15 (1971)
Bounds v. Smith, 430 U.S. 817, 823, 97 S. Ct 1491, 1459, 32 L.Ed 2d 72, 80 (1977)
Tedder v. Fairman, 92 Ill. 2d 216, 225, 65 Ill. Dec. 398, 441 N.E.2d 311 (1982)
Knop v. Johnson, 977 F.2d 996, 1000 (6th Cir. 1992)

STATUTES AND RULES

DNA

OTHER

DNA

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 N/A to the petition and is

- ☐ reported at N/A; 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☐ is unpublished.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 N/A to the petition and is

- ☐ reported at NA; 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 Tolbert v. Hill, M 13985; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Illinois Supreme court appears at Appendix A to the petition and is

- ☐ reported at Tolbert v. Hill M 13985; 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 N/A.

☐ 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. N/A A N/A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

N/A

☐ For cases from state courts:

The date on which the highest state court decided my case was 11-21-2017
11-16-2016.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: 1-16-2018
11-30-2017, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1st, 6th, and 14th Amendments of the United States
Constitution

Statement of the case

In September of 2012, petitioner filed a prose motion for forensic testing pursuant to 725 ILCS 5/116-3 in November of 2012, the trial court appointed the Cook County public Defender's office to represent petitioner on his § 116-3 motion, the state agreed to a fingerprint comparison test on a 12oz glass Corona Beer bottle and in April of 2016, the trial court granted the § 116-3 motion for a fingerprint comparison test on the Corona Beer bottle and in October of 2016, the trial court, state and petitioner received the fingerprint comparison test results, See Petitioner's Exhibits "A" hereto attached, And in February of 2017, petitioner and the assistant public defender Ingrid Gill, disagreed on how to present the newly discovered fingerprint evidence to the trial court, the assistant public defender drafted a successive postconviction petition raising a claim of actual innocence on petitioner's behalf only showing how the newly discovered evidence only contradict one of the States four eyewitnesses trial testimony See Petitioner's Exhibits "B" hereto attached, Appointed counsel's drafted petition. The assistant public defender asked petitioner to sign and notarize the petition so she could file it in court on petitioner's behalf, Petitioner refused to sign and get the petition notarized because he wanted appointed counsel to show how the evidence was newly discovered, contradict and impeach the state's theory and all of its eyewitnesses identifications of him, and how the newly discovered evidence entitled him to an outright reversal of his conviction where the newly discovered evidence show that the state could not have proved him guilty of first degree murder beyond a reasonable doubt pursuant to 720 ILCS 5/9-1(c)(1) where the states theory and eyewitnesses testified at trial that petitioner was the shooter and he pulled up a gun from his waste area with his right hand shot and killed Jesse Montgomery and he had no beer bottle in either hand before, during and after the shooting. However the

Newly discovered fingerprint evidence on the Corona Beer bottle shows that petitioner held the Corona Beer bottle in his right hand before, during and after the shooting preventing him from been the shooter because trial and forensics evidence prove the shooter used their right hand during the shooting and there is a big difference between a Corona Beer bottle and a Budweiser Beer bottle, the Corona Beer bottle is clear in color, and the Budweiser Beer bottle is dark in color, kinda like day and night to each other and the newly discovered evidence on the Corona Beer bottle contradict eyewitness Tracey Foreman's trial testimony on cross examination that petitioner was holding a Budweiser beer bottle in his left hand during the shooting and not a Corona beer bottle in his right hand during the shooting. And appointed counsel refused to adopt petitioner's point of view, so petitioner filed in the trial court a motion to have the assistant public defender withdrawn or replaced or to proceed pro se by filing his own petitions claiming his actual innocence base on the newly discovered evidence among other issues, and on April, 24, 2017, Respondent Judge Hill allowed the public defender to withdraw as counsel of record, see petitioner's exhibit "C" hereto attached letter from Assistant public defender Ingrid Gill, dated April 24, 2017.

Then on July 18, 2017, the trial court on its own motion withdrew all of petitioner's pro se pleadings, then took the case off call see petitioner's exhibit "D" hereto attached court order.

The trial court then instructed the clerk of the court not to accept or file any documents from defendant and return them to him unfiled. Petitioner then filed a motion for leave to file a petition for a writ of mandamus and petition for a writ of mandamus in the Illinois Supreme Court see *Tolbert v. Hill*, MD13985, and the Illinois Supreme Court order respondents to file a response to the ~~respondent's~~ Motion for leave to file a petition for a writ of mandamus, in respondents response on page 2 Respondent swear it was the assistant public defender who withdrew all of defendant's pro se pleadings in the trial court and not Judge Hill. See respondent's response, petitioner filed a reply but the clerk returned it to him unfiled, and the Illinois Supreme denied him leave on 11-21-2017, and his petition for rehearing was denied on 1-16-2018, see Appendix "A" This appeal follows.

Argument I

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REASONS FOR GRANTING THE PETITION

Because the trial court violated petitioner's 1st, 6th, and 14th Amendment constitutional rights under the United States Constitution to due process of law and equal protection of the law to access of the trial court when the trial court allowed the assistant public defender to withdraw from petitioner's criminal case, then the trial court withdrew all of petitioner's pro se pleadings and took the case off call and instructed the clerk of the trial court not to file any documents with the court filed by petitioner and to return the documents to him unfiled, violating the law established in *Gilmore v. Lynch*, 369 F. Supp. 105 111 (N.D. Cal. 1970); *Younger v. Gilmore*, 404 U.S. 15 (1971); *Bouds v. Smith*, 430 U.S. 817, 823, 97 S.Ct. 1491, 1459, 52 L.Ed. 2d 72, 80 (1977); *Knop v. Johnson*, 977 F.2d 996, 1000 (6th Cir. 1992); *Tedder v. Fairman*, 92 Ill.2d 216, 225, 65 Ill. Dec. 398, 441 N.E.2d 311 (1982).

CONCLUSION

The petition for a writ of certiorari should be granted. by ordering the trial court to appoint new counsel or allow petitioner to proceed pro se then rule on the merits of his pro se pleadings, or grant him whatever relief he is entitled to

Respectfully submitted,

Vernon Salant

Date: 1-22-2018