

No. 17-4412 USCA4

1:16-CR-00151-MR-DLH

IN THE
SUPREME COURT OF THE UNITED STATES

Ray Stumper III — PETITIONER
(Your Name)

VS.

U.S.A — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Appeals Courts of the 4th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ray Leonard Stumper III
(Your Name)

36 SAM George Jr Rd
(Address)

Cherokee NC, 28719
(City, State, Zip Code)

828-788-3623
(Phone Number)

QUESTION(S) PRESENTED

Why the Prosecution Authorities of WNC 1st District of Asheville were allowed to not follow the U.S. Court of Appeals Rule 5(a)(b) of the Certified Record of the Warrant of Asheville's Indictment which is illegal due to it being a Cherokee Tribal Court Warrant signed by a Tribal Court Judge.

That the Clerk of Court of Both WNC Asheville District Court and U.S. Appeals Court did not ELECTRONICALLY FILE the Defective Indictment, Improperly used Prejudicial Manner of Filing Post Speedy Trial Act 18 USC § 3161, and The Unconstitutional Manner In which this Defective Warrant and Indictment Information was withheld by U.S. Attorney's offices and Public Defenders officers and not allowed to be present in Court to defend PRO-SE Motions for evidence of Incompetency under 12.2 rules of Fed. Rules of Criminal Procedure or 1.03 B1-4 investigation and C 1) 2) 6) Pretrial Rules with holding Unreasonable Search and Seizure tactics of Defective Indictments and Medical Records that are Contrary to the Law and Why.

Why ARE THE U.S. Appeals Courts Allowing Clerk of Courts to Not Electronically File the Warrants or Indictment Defective under U.S. Appeals Court Rule 5, 9, 10, and 11 (a) and 11(b).

That U.S. Appeals Courts claimed Untimeliness of Notice and did not Electronically File the Defective Warrant of a Defective Indictment. That the Rule 4 claim is that I did not Timely Object when I filed they Filed Electronically the Objections and allowed the Pro-Se motions then those Objections Should have counted as timely Objections under the June 23-26, 2017 timely filed Appeals objections. I Also was present for Court In Asheville June 19, 2017 and objected attempted to formally withdraw a assistant Public Defender Fredlyn Sison and was not allow. I was Deprived of Objection by her Claiming Incompetency Findings without Test to Prove any Mental Illness and Mislead of Plea of Not Guilty Deprived of the Rights of the Accused I have proceeded Former-Papers/Writes of Certiorari 4th, 5th, 6th and 14th Section 1 deprivation of Assistance of Counsel for his Defense.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

Cherokee Tribal Courts of Eastern Band
of Cherokee Indians and Cherokee Indian
Police Department. Defective Warrant and
Indictment of Cherokee Magistrate's and
Tribal Court Judges of Eastern Band of Cherokee
Reservation in;

1. Federal Courts of district 1 Courts of
Western North Carolina: Asheville, under
U.S. Attorney's offices and Public Defenders.
2. Bureau of Prisons F.M.C (Fed. Med. Center)
Ayers, Massachusetts, and Butner, North Carolina.
3. U.S. Courts of Appeals for the 4th Circuit.
4. WNC PUBLIC DEFENDERS
Officers not allowing objections
Depriving of Assistance Counsel
for His Defense with holding
Evidence and witnesses of
Testing the cannot enforce under
U.S. Constitution without a Trial of
Proper Tests Reviewable under N.C. Mental Health Dept

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APPENDIX A	18 U.S.C. § 4241(d) (2012) and two tests of N.C. Mental Health department Reviewable to enforce.
APPENDIX B	US Appeals Court ruling of Untimeliness of Notice Rule 4, in illicit instead of plea 12.2 Fed. R. Crim. P. 1.
APPENDIX C	US Appeal Court ruling without observing Rule 5, 11(a), and 11(e).
APPENDIX D	Fed. Rules of Civil Procedure Vol 11 Rule 63 In Prejudice of Burden of Proof: Fed. Rules of Crim. P. 1.
APPENDIX E	Fed. R. Crim. P. 59(a) and (b) which was not observed of Electronic Filings of Appeal in Ashville district court
APPENDIX F	Annotation 16 Amendment 14 U.S. Constitution For with holding Probable Cause ECF of Defective Warrant, Indictment, and Investigation Report # ~~OCTA~~ 161030-0251 Cherokee Indian Police Department ORI NC0870200.

TABLE OF AUTHORITIES CITED

CASES Probable Cause (Gorstien) Hearing: Evidence PAGE NUMBER

United States v. Calandra, 414 U.S. 338, 343 (1974)

whether there is evidence which, if unexplained, would warrant a conviction at trial. Stand information, evidence of Warrant, Indictment, Evidence, and later in orders,

Incompetency Findings without Proper Testing
or witness Doctors Present of log in to present
Mental Health Department Review of North Carolina.

Hutado v. California 110 U.S. 516 (Complaint or Probable Cause)

Jacobs, 258 F.R.D. at 195, Sims v. Blot, 534 F.3d 117,
132 (2d Cir. 2008), Vasconcellos, 962 F. Supp. at 708.

U.S. v Ray Stamper III April 2011-2010, June-Aug 2003 (w/upon)

STATUTES AND RULES

Annotation 16 Amendment 14; Withholding evidence
by prosecution Authorities in depriving of
Due Process of the Law, 5th U.S. Const. Amendment
U.S. Supreme Court Ruling.

Local Rules, Forms, And Attorney Discipline Rules:

Rule 3(a) in Connection to Rule 4 of Untimely Notice,
as well as Rule 5(a)(b)(C), Rule 8 Stay or Injunction
Pending Appeal (a)(b)(1)(2)(3)(4), Rule 10, 11 Forwarding
the Record, and Rule 12 Notice of Docketing.

Fed. Rule of Appellate Procedure 4; 28 USC § 2107 District
Courts; Appeals 28 USC § 2522; 42 USC § 300aa-12(f)(6)

OTHER

D. Fed. Court Rules 50.2: Excludable Time a) Continuance; ~~18 USC~~

18 USC § 3161 Speedy Trial Act (9 months time limit of Indictment)

Dist. Federal Court Rules 52.1: Proposed Finding (Electronic Certified Filing)

(F.C.R.) Fed. Court Rules 72; Pre-trial Motions & Order 3; Magistrate Judge

Federal Rules of Criminal Procedure 1.03 Stages of Criminal Prosecution

B) 1) - 4) Investigation C) 1) 2) Complaint / Probable Cause C) 6) Rule 1-6.

Appeals

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 33 to the petition and is

☒ reported at Page 2 of 2 and 1 of 2; 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 _____ 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 _____ 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 12-12-2017.

☐ 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: 12-12-12, 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 _____.
A copy of that decision appears at Appendix _____.

☐ 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

Under Annotation 16 Amendment 14 sec. 1, "That in a Conviction if a prosecution Authority is withholding evidence that could find the Defendant/Defence not Guilty, then it is hereby in violation of Due Process of the Law" including the 5th U.S. Constitutional Amendment

The 14th section 1 states "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the U.S.; Nor shall any State deprive any person of life, liberty, or property without due process of the law; Nor deny to any person within its jurisdiction the equal protection of the law."

The 5th U.S. Constitution Amendment states "No Person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of a Grand Jury," It later states "Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; Nor shall be compelled in any Criminal case to be a witness against himself, Nor be deprived of life, liberty, or property without due process of the law."

The 4th Amendment: U.S. Constitution states "Unreasonable Searches and Seizures: The Right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or Affirmation, and particularly describing the place to be searched and the persons or things to be seized."

The 6th U.S. Constitutional Amendment states "The Rights of the accused: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial

Jury of the State and district wherein the crime shall have been committed, which shall have been previously ascertained by law, and to inform of the nature and cause of the (crime) accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defense."

After stating these Amendments of the U.S. Constitution on the Statute of The Speedy Trial Act 18 USC § 3161 has been breached barring this case of Falsified Incompetency Findings in the Asheville Federal Court 1 district. The Federal Rules of Criminal Procedure 1.03 Stages of Criminal Prosecution B(1)-4 of Investigation Tactics that did have magistrate judge or District Judges Signature from Asheville Federal Court under Federal Court Rules 72 of Pretrial Motions and Orders. Magistrate Judge. Federal Rules of Criminal Procedure 1.03. C(1)(2) and (C).

These are 4th amendment withholdings of Unreasonable Search and Seizure tactics that are violations of Due Process of the Law for the U.S. Appeals Court to not properly Download the Warrant and Defective Indictment Information Depriving of Speedy and Public Trial. Assistance of Counsel for His Defense was Deprived by Public Defender Officers of the Court. Conspiring for malpractice, withholding of Illegal Indictment enforcing Cruel and Unusual Punishment Violating 10th Amendment

STATEMENT OF THE CASE

I am Ray Stemper III under 12.2 rules of Federal Rules of Criminal Procedure having been misled of plea purposely in violation of sectional codes 7.4-7.56 by an assistant public defender and their offices. They did this in a conspiring fashion of Cruel and Unusual Punishment to take the Fairness and Equality as well as dignity from the laws of the case of a Probable Cause (Gerstien) hearing Avoidance. Unreasonable Search and Seizure Tactics by Fredilyn Bison and Joshua Carpenter of the Federal Public Def offices in connection to Justin Eason and the Special Assistance of U.S. Attorney offices with holding a Defective Indictment and Warrant Not Signed by the Magistrate, Magistrate Judge or District Judge of Asheville's 1st District Federal Courts but of Cherokee Tribal Courts, NC.

The Case is barred by Double Jeopardy Evidence Collection of a weapon Mossberg 12 Gauge Serial # UM 430891 in connection to being a staged weapon of two prior cases in which the weapon went missing for lack of Evidence Dismissal in 17.4412 Court Record of July 2003 lack of Evidence Dismissed Case and a 2010-2011 April Dismissal: Lack of Evidence Case of the Same Serial # weapons Charges. The 3th U.S. Constitutional Amendment is clear on "Nor shall any person be subject for the same offense to be puttin Jeopardy of life or limb" Fed. Rules of Criminal Procedure

are clear under 1.03 Fed.R.Crim.P. of (1) 2) Probable cause hearing purposely overlooked in a defective indictment, defective information, improperly joined stages of criminal prosecution, the prejudicial manner in which the offense are joined, and the unconstitutional manner the key evidences were collected in this case are to be determined are clearly prejudicial to a fair trial for the defendant. 18 USC § 4241(a)(2012) is illegal to enforce without:

The Mental Health Declaration of Human Rights clearly states "The Right to Full and Free Consent" Section A) 1 "The Scientific Medical Tests Confirming any alleged diagnosis of Psychiatric Disorder and the right to refuse any Psychiatric diagnosis of Mental Illness that cannot be medically confirmed." Section B "No Person shall be given psychiatric or psychological treatment against his or her will."

In this case I the Defendant being Mistaken of Plea of Not Guilty purposely to withhold Illegal Indictment. Evidence held unreasonably under orders that "No State shall make or Enforce any law to abridge against the immunities or privileges of a U S Citizen" of The Right to Full and Free Consent or the Right make a fair plea, ~~searched and seized~~ I have been held unreasonably searched and seized against under Federal Rules of Criminal Procedure 12.2 without proper Scientific Tests to refute by the Mental Health Department Review Board.

REASONS FOR GRANTING THE PETITION

That it is under Annotated Amendment 11th sec 1 that the Prosecution Authorities Withheld Evidences of Scientific Tests to Medically Confirm any Diagnosis of any proof of mental illness to find the Defendant I Ray Stumper III Incompetent to stand trial. In that they Surpassed Deadlines of Speedy Trial Act and did not complete Document 9, 17, or 25 Orders in timeliness of notice to Enforce or Make any law to withhold evidences of Unreasonable Search and Seizure tactics, Double Jeopardy Evidences used to twice puttin jeopardy of life or limb for the same crime, and that without Scientific Medical Test that legally the 18 U.S.C § 4241(b) (2012) Sell v. United State is not allowed to enforce past Speedy Trial Act, 18 U.S.C § 3161.

That the Asheville Federal Courts 1st district pushed incompetency findings without proof of Testing or full and form consent to do so. That the Justin Eason Tribal Lawyer was allowed to conspire to motion of malpractice techniques to hide an illegal indictment with the Federal Public Defenders officer for monetary gain and furtherance of career.

They withheld the evidence of Probable Cause hearing due to it being Double Jeopardy

evidence of the missing weapon of the 2011 April dismissal for lack of Evidence. The Cherokee Police Department Staged this evidence and their Investigation Report was so Impugn It was not even signed by Investigation Team.

This Fed. Rules of Criminal Procedure 1.03 violation of Section B) 1, 2, 3, and 4 as well as C) 1, 2, 3, 4, 5, 6) Code 1-6 is prejudicial to the fact of the case attempting to hospitalize a defendant to withhold evidence unreasonably searching and seizing evidence including medical records of Cherokee Indian Hospital Authorities, Central Regional Hospital, and all inclusions without full and form consent to enforce any of the immunities of a fair trial. Furthermore a Forensic Report does not constitute Incompetence or Diagnosis of any Mental Illness to Diagnosis of Doctoral Findings without Full and Form Consent of the Defendant to Diagnose. It is a Medical Malpractice procedure to withhold evidence to deprive of the speedy and public trial due to a defective indictment, information of unreasonable search and seizure tactics, witnesses such as doctors present in court to present tests Reviewed by Mental Health Department Review Board. They also Release An Interview of Plaintiff ~~and~~ Witnesses Ray Stumper Jr and Catina Smith in the Forensic Report. This Constitutes a Fed. Rules. Crim. Proce. Fair Trial Agreement.

Violation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ray L. Hunter III

Date: 3-9-18