

PC
IN THE
SUPREME COURT OF THE UNITED STATES
No.

Mr. Vincent X Lee
Petitioner

vs

State Of Missouri
Warden Cindy Laffine
Institutional Parole Officer Miller
MDOC Director Anna Placinta
Collins A. Dietiker
Independence, Mo. Police Department
Peter Sterling
Calvin Holders
In Their Individual/
Personal Capacity
S. Miles Swanson
New Boston
Daniel L. L. L.
Joseph W. Nixon
Respondents

Petition For A Writ Of Certiorari
To The 8th Circuit Court Of Appeals

Mailed Certified
BB Requested
October 30, 2017
9.53 - 5

Mr. Vincent X Lee
Petitioner Pro Se
Potosi Correctional Center
Mineral Point, Mo. 63660

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Petition For A Writ Of Habeas
 In The United States Supreme Court

Petitioner, Vincent X Lee, prays that a writ of certiorari issue to review the judgment and order of the U.S. Court of Appeals, for the Eighth Circuit entered in the above entitled case on ~~June~~ July 21, 2017; a Notice of Briefing was filed by Petitioner, but was assigned on July 27, 2017, making the 11th of that Court, issued 7-21-17, its final decision.

Opinion Balance

The opinions and decisions of the Eighth Circuit Court of Appeals have been reported, and copy of opinions appears in Appendix A attached hereto.

Indiscretion

The judgment of the U.S. Court of Appeals, 8th, Circuit, (Appendix A), was originally entered on September 21, 2017; a timely motion for rehearing was filed; Politkovskas motion for rehearing was denied by the Court of Appeals on 7-27-17; by the foregoing denial of the motion for rehearing, the judgment as entered of 9-21-17 became the final order of the 8th Circuit Court of Appeals. (See this Politkovskas valid documentation supporting Politkovskas' legal arguments).

The jurisdiction of this Court is involved under 28 U.S.C. Section 1257(3).

Question Presented

I

Whether this Court's definitive ruling in the cases of *Cayton v. Louisiana*, 412 U.S. 522 (1975), *Lee v. Missouri*, 439 U.S. 416 (1979), *Peters v. Kiff*, 92 S.Ct. 2163 (1972), *Durvas v. Spencer*, 261 F.Supp. 542 (S.D. Ala.), *Hill v. Texas*, 310 U.S. 400, *Smith v. Texas*, 311 U.S. 128, *Durvas v. Louisiana*, 391 U.S. 145, are still legally binding on both state and federal lower courts, in light of the fact that the Missouri Court of Appeals, Southern District, (*Lee v. Mo.*, No. 24637, May 13, 1987), is accorded with this Court's ruling above, (*Lee v. Mo.*, supra, ruled, (Petitioner's Exhibit 2):

That Respondent's court below extend to this Petitioner such a judicially hearing new trial by a fair and impartial judge and jury, composed of a representative cross-section of the community, with the aid and assistance of counsel, in compliance with Missouri Supreme Court Rule 27.16(h).

and

Title 28 U.S.C., Sec. 2254(b)(4)

or he no want shall a prisoner be prohibited from bringing

PL civil action or appealing a civil action or criminal judgment because he lacks the ³ ~~status~~ ³ (Hampton v. Hobbs, 106 F.3d at 1284, 6th Cir. 1997);

but, regardless of the above issues, facts, and law cited above, and still extant, this Petitioner, as of this date, has still been denied, refused said and due right hearing by Respondents, in clear violation of Petitioner's right to due process of law and equal protection of the laws, made binding on the States by the Due Process Clause and Equal Protection Clause of the Fourteenth Amendment. (See also Article III, Clause 1 of the Federal Constitution, and Article I, Section 10 then 21 of the Missouri Constitution; and Dawson v. Williams v. Cook County Jail, Chicago, Illinois, 160 _____, (1992), and also Dawson v. Williams, 160 _____, (Oct. 29, 2001).

Question Presented

II

Whether this Court's definitive ruling in the cases, Hack v. Humphrey, 114 S. Ct. 2364 (1994), (Citing Mitchell v. Easter, 407 U.S. 225 (1992), and Collins v. Hackman, 341 U.S. 165, 167, 71 S. Ct.

936, 939, 25 L. Ed. 1153 (1951), Justice Sutherland, joined by Justice Blackmun, Justice Stevens, and Justice O'Connor, stated the following:

"Harmonizing Section 1983 with the habeas corpus statute by requiring a state prisoner seeking damages for unconstitutional conviction does not run afoul of what we have called, repeatedly, 'the very purpose of Section 1983,' to impose the federal court between the States and the people, as guardians of the people's federal rights." *Mitchum v. Foster*, *supra*.

And that would be a result hard indeed to reconcile with the purpose of Section 1983, or with the origin of what was "popularly known as the Ku Klux Act." *Collins v. Hardyman*, 341 U.S. 651, 667, 71 S.Ct. 937, 939, 25 L. Ed. 1153 (1951), the statute having been enacted in part out of concern that many state courts were in league with those who were bent upon abrogation of federally protected rights. *Mitchum v. Foster*, 409 U.S. at 240, 92 S.Ct. at 210, (Cf. Congressional Globe 42 Congress, 1st Session 577 (1871)) "the federal government has a right to set aside... action of State authorities" that deprive

PC a person of his Fourteenth Amendment rights.) (Quoting *Morse v. New York City Department of Social Services*, 436 U.S. 658 (1978).

Which shows lengthy^{log} opposition by Justice Souter, makes perfectly clear that the ruling by the Missouri United States 8th Circuit Court of Appeals, to wit, *Chae v. Triffie*, at 21, No. 17-2155,

re declared that appeal is dismissed for lack of jurisdiction; dated July 27, 2017; is clearly out-of-law without merit, and in direct conflict with the ruling opinion of this High Court, and should be removed set-aside, in light of the above rulings of this Court, as justice and law require.

Constitutional Provision Involved

This case involves the First, Fourth, Fifth, Sixth, Eighth Amendments to the United States Constitution and the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.

First Amendment

Petitioners religious and human right to) practice, study, and worship his religious, ISLAM; and to petition the government for a redress of grievances.

Fourth Amendment

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, and

Fifth Amendment

nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be deprived of life, liberty, or property, without due process of law;

Sixth Amendment

The right to a speedy and public trial, by an impartial judge, to be confronted with the witnesses against him; for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Eighth Amendment

nor cruel and unusual punishment inflicted.

Fourteenth Amendment

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Important Note: Date: Aug. 9, 2017

On this date, AM, the Potomac Correctional Center Institutional Parole Officer Miller came to this Petitioner's Cell, H4-4A-9, to speak with this Petitioner regarding their scheduled Parole Hearing relative to Petitioner; (They, Representatives, their Attorney, having received such advice against this Petitioner's legal efforts, Petitioner's tentative proposal, suggestions, such Motion for Possible Settlement with the Above-named Defendants;) (Appendix A, Exhibit 7) Petitioner again brought to his/her attention that the Courts, both state and federal tribunals, namely,
see *U. 176*, 439 U.S. 461 (1979);
see *U. 176* App. 141639 (17 Aug 13, 1987);
see *U. Dormire*, No. 05-0801 (Oct. 4, 2005);
see *U. Dormire*, No. 05-8775716 (Jan 4, 2008)
(Appendix A) Exhibit 7)

• Petitioner pointed out to JDO Miller,
• "It is not the state/federal courts
that are illegally/unlawfully detaining
this Petitioner in confinement, but
the MDOC / their subordinates,
wardens, staff personnel;"

Statement of the Case

This Petitioner was charged indictment
with two counts of murder, first degree, and
two counts of robbery, first degree. Jury
trial was held in the Jackson County Circuit
Court (Morgans, et al), in Kansas City. Verdicts
of guilty were returned as to each count and
Petitioner was sentenced to four life terms
in confinement in the Missouri Division
of Corrections. Petitioner's convictions
were affirmed on appeal. (State v. Lee, 556
Mo. 2d 25 (Mo. Sup. 1977)).

But, because of the clearest evidence
extant during that period of time, to give all
and nothing, (See Taylor v. Louisiana, 419
U.S. 522 (1975); Patsy v. Mills, 92 S. Ct.
1163 (1972); Indur v. Spawco, 261 F. Supp.
547 (S.D. Ala.), etc., that the United States
legal system was in extreme disrepair,
virtually all of these legal actions, including
this Petitioner's case, (Lee v. Mo. 439 U.S. 416
(1979)), were overruled, reversed and
annulled, and returned to the court below,
with specific instructions to the court(s):
That these Defendants/Petitioner's
were denied a fair and impartial
trial, by a fair and impartial judge

Panel jury, composed of a representative cross-section of the community, in compliance with Missouri Supreme Court Rule 27.16(h).

(See Appendix A, and Washington County Circuit Court, and Court-ordered legal behavior/hurdling of this legal action, which parallels the legal behavior of the Laclede County Circuit Court;)

Upon demand of this cause, a new indictment charging the same crimes were filed against this Petitioner. A charge of murder from Jackson County to Laclede County, Mo. was required by Petitioner's Attorney, Peter Sterling, and during voir dire proceedings, this Petitioner made the following comment:

"Darn! the only thing 'black' is this court room is me and the judges robe. And Attorney Sterling's reply was, 'Yes, so I notice, and I am going to bring it to the attention of the judge (Mason, D.) so that it can be used later in an appeal.' This Petitioner further requested that he (Attorney Sterling) get some 'blacks' on the jury panel, and he stated, 'You have no Constitutional right to have 'blacks' on the jury panel, but I do have a right to have a representative cross-section of the community on the jury panel.'"

This very important/essential point was neither presented or presented for review by Attorney Sterling, and when questioned as to why he failed to perform this elementary and important legal function, he finally stated, "I guess I just forgot to do so."

And, because of the very obvious and
flagrant and hostile display of both racist and
religious bigotry and hatred manifested by
the Lawrence County all-white jury panel, this
Petitioner was very rapidly found "guilty" on
all counts, and the judge (Mason, D.), under
the Sacred Offended Act fixed the punish-
ment at four (4) concurrent life terms.

Petitioner's convictions were affirmed
on appeal. (State v. Lee, No. 28398 (Mo. Sup. 1981)).
This Petitioner alleges that the outrageous,
unjust, and unlawful verdict of guilty rendered
by the all-white, hostile, and racist and
religiously prejudiced jury, and the
opinion and decision of the Missouri
Supreme Court is in direct conflict with
the past decisions of the U.S. Supreme
Court, and various federal courts of
appeal and several state High Courts, relating
to the criminal defendants right to trial by
a fair and impartial judge and jury, composed
of a representative cross-section of the
community, as mandated and interpreted
by the U.S. Supreme Court in Smith v. Texas,
311 U.S. 128; Hill v. Texas, 310 U.S. 400; Lee v.
Missouri, 439 U.S. 411 (1979); Gossard v. United
States, 315 U.S. 60; Ballard v. United States,
329 U.S. 187.

Specifically, Petitioner contends that the
unjust verdict rendered by the all-white,
hostile, and racist and religiously prejudiced
jury in Lawrence County / Washington
County, is in direct conflict with the
above rulings, and thus, cannot stand.

And, the U.S. Supreme Court remarked at 538, *Taylor v. Louisiana*, *supra*:

... jury wheels, pools of names, panels or various from which juries are drawn must not systematically exclude distinctive groups in the community such thereby fail to be reasonably representative of the community.

And, in *Peters v. Kiff*, 91 S.Ct. 2163 (1972), the Court stated as follows:

Mr. Justice Brennan, joined by Mr. Justice Douglas, and Mr. Justice Stewart, concluded that "A state court, consistent with due process, subject a defendant to indictment by a grand jury, or trial by a petit jury, that has been selected in such a manner and such discriminatory manner contrary to the federal constitutional requirements, such as lack of any showing of actual bias, petitioner had standing to attack the systematic exclusion of blacks from the grand and petit jury service."

And further, the Court stated in *Taylor*, at 530:

... the 'fair cross-section' rule is interpreted by this Court in *Taylor v. Louisiana*, *supra*, hold that the requirement that juries be selected from a fair cross-section of the community is fundamental to the jury trial guaranteed by the Sixth Amendment, is applied to the states through the Due Process Clause of the Fourteenth Amendment.

18 U.S.C. Section 241 (4)

4. Due to due process right has been defined and made specific by the court

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respect the police department and had not been
approached.

Petitioner contended that trial court (N) Tabor,
D) owed and abused its discretion when it
approved the charge of venue to Lawrence
County, and assigned himself and his court
clerk to personally preside over the trial in
the Lawrence County Court, thereby grossly
prejudicing this Petitioner's right to a fair
and impartial trial by a fair and impartial
judge and jury, and right to due process of
law, and the equal protection of the laws.

Petitioner ^{contended} that the commissioners and
commissioners perpetrated by Attorney Victor
Stalling and Calvin Holcomb not only sub-
jected this Petitioner to unjust judicial
prejudice, denial of due process, but
also the right to the adequate and effective
assistance of counsel, as mandated by the
U.S. Supreme Court rulings in *Douglas v.*
California, 372 U.S. 353; *Trichou v. Blair*
Wright, 372 U.S. 335; *Coyler v. Sullivan*, 446
U.S. at 344, 100 S.Ct. at 1716; *Strickland v.*
Washington, 446 U.S. at 85, 104 at 2063;
McMann v. Richardson, 397 U.S. 759 (1970);
Furter v. Lacey, 105 U.S. 830 (1983) (Appendix
A, Petitioner's Exhibit 1).

This Petitioner state, and factually contended,
that at the time that these "executive style"
murders occurred, this Petitioner was
approached by a Kansas City, Mo. police
officer, and questioned; which Officer, at
Covington, who later wrote a definitive
report, stating, conclusively,
"that this Petitioner (Mr. V.X. Lee) and his

black-on-gold/yellow cackllac did not fit the description of the person or cackllac being searched for by the police authorities, and, for that reason, was neither arrested or taken into police custody.²⁵ And this Petitioner was denied the right to pursue this police witness and his written testimony in a manner favorable to this case, in violation of Petitioner's right to due process and equal protection of the laws, including the adequate and effective assistance of counsel. (See Petitioner's Exhibit 1, Appendix A).

This Petitioner has continuously sought both relief and redress in the courts below. (See Petitioner's Exhibits 1, 2, 3, Appendix A), but to no avail, regardless of the fact that the federal law state clearly:

cc
That pro se complaints are to be given a liberal construction... that all facts, claims, allegations are to be interpreted in a manner most favorable to plaintiff... that all claims, allegations, and facts asserted by plaintiff are to be accepted as true... and that layman/convicts are not to be burdened with the knowledge and expertise of a competent attorney.²⁶ *Corley v. Libson*, supra (1957); *Schaum v. Rhodes*, supra (1974); *Harris v. Hester*, supra 1977;

Therefore, this Petitioner appealed the

²⁶ Since Respondent's/court-below has denied Petitioner, per Court Order, access to counsel.

Therefore, this Petitioner appealed the denial of Petitioner's Petition/Valid Pleadings (in the Monroe County Circuit Court (1979) to the Missouri Court of Appeals, Southern District, (Petitioner's Exhibit 1), which Court definitively stating citing Missouri Supreme Court Rule 27.26(h):

There is nothing in the record to indicate that counsel (for Petitioner) complied with this rule prerequisite. In fact, there is no record of any representation of law by counsel in the 27.26 proceeding prior to the filing of the notice of appeal, other than a copy of a writ of prohibition, evidently filed in the Supreme Court by law, in which he requested the trial court be declared to appoint new counsel because his present counsel refused to communicate with him, and refused to accept his telephone calls regarding the case. Under such circumstances, it was error to deny law's motion to vacate his conviction. *Hirsch v. State*, 698 S.W.2d 164, 165 (Mo. App. 1985).

We do not believe law's constitutional and statutory rights should be forever closed on the basis of the shoddy record we have here. It is significant that in its brief filed here, the state does not contest law's claim of ineffective representation.

The order of the motion court denying law's motion to vacate is reversed, and the cause is remanded for further proceedings in compliance with Rule 27.26(h).

OC Presiding Judge Douglas W. L. Brown
Concurs Judge Carl Crow
Concurs Judge J. H. L. Stain

But, again, as of this date, this Petitioner
have not received, have denied said
evidentiary hearing/trial, as Declared
by the 1st Tennessee Court of Appeals, per
May 13, 1987. (Petitioner's Exhibit 1).

How Federal Questions Are Presented

The United States has - Members (Congress)
and Judicial Branch / High Courts (1, the
interpret and enforce the law), have deter-
mined that, "This (Federal) Constitution,
and the laws made in pursuance thereof,
shall be the supreme law of the land, and
the judges in every state shall be bound
thereby, anything in the constitution or
laws of any state to the contrary notwithstanding;⁵⁵

Title 28 U.S.C., Section 1915(b)(4)

"no amount will a prisoner be pro-
hibited from bringing a civil action
or appealing a civil action or criminal
judgment because he lacks the means;⁵⁵
(See Hampton v. Hobbs, supra, 6th Cir.
App. (1997)). See also Walp v. Scott,
supra, 5th Cir. App. (1997).

PC

Reasons for Denying the Writ

The opinions and the decisions of the lower courts in both Lawrence County, Mo., Cole County, Mo., and Washington County, Mo., relative to their blatant disregard/failure to honor the ruling and order of the Missouri Court of Appeals, Southern District in this instant case, (Case No. 14637, reversed and remanded, May 13, 1987), is in direct conflict with the past decisions of this Court, and various federal Courts of Appeal, and several State High Courts, relating to a criminal defendants right to trial by a fair and impartial judge and jury composed of a representative cross-section of the community; and also a criminal defendants right to the adequate and effective trial and assistance of counsel, and the process of law, and the equal protection of the laws, as mandated and interpreted by this Courts opinion in these legal matters. (See Petitioner's Exhibits 1 through 14, Appendix A), constitutional and statutory protections which were denied to this Petitioner.

And to conclude, this Court has stated:

"A party whose counsel is unable to provide effective representation is in no better position than one who has no counsel at all."⁵

(Evitts v. Lucey, 105 U.S. 830 (1983).)

CF Title 18 U.S.C., Section 241 (4)

4. The sections providing penalty for conspiracy against rights of citizens such as section 242 of this title providing penalties for deprivation of rights under color of law were designed to prevent violation of all rights guaranteed under U.S.C.A., Amendment 14, including both due process and equal protection. *United States v. City of Philadelphia, C.A. Pa. 1980 644 F.2d 187.*

Wherefore, for all of the reasons outlined above, this Petitioner state that he has indeed been unjustly and unlawfully denied his constitutional, statutory, and human right to a fair and impartial trial by a fair and impartial judge and jury, and also the adequate and effective assistance of counsel during these various legal proceedings.

Accordingly, Petitioner request and pray that a writ of certiorari should issue to review the opinion of the 8th Circuit Court of Appeals, as justice and law require.

Respectfully submitted
Vincent X Lee
Petitioner Pro Se

cc:

Dated: Aug. 9, 2017