

NO. _____

IN THE
UNITED STATES SUPREME COURT

_____ TERM

AARON LAROSE,

PETITIONER,

VS.

STATE OF MISSOURI,

RESPONDENT.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

PRO SE:

AARON LAROSE
#1223972
POTOSI CORRECTIONAL CENTER
11593 STATE HIGHWAY O
MINERAL POINT, MO 63301

QUESTIONS PRESENTED FOR REVIEW

I. WHETHER THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT ACTED UNREASONABLY AND IN A MANNER IN CLEAR VIOLATION OF CLEARLY ESTABLISHED CONGRESSIONAL LAW AND MANDATE, BUT REFUSING TO ENFORCE 28 USC 1447(c) IN VIOLATION OF THE 1ST, 5TH, 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION. DOES THIS CLEARLY ESTABLISHED WRONG DEPRIVE THE STATE COURT OF SUBJECT MATTER JURISDICTION?

II. WHETHER THE ACTIONS OF THE UNITED STATES UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, AS WELL AS THE DISTRICT COURT SUBJECT PETITIONER TO UNREASONABLE ENFORCEMENT OF THE DUE PROCESS AND EQUAL PROTECTION OF THE 1ST, 5TH, 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION, WHEREIN STATE COURT WHEREIN THIS CASE WAS REMOVED, DENIED PETITIONER MEANINGFUL ACCESS TO MISSOURI "DNA" REMEDY VAMS 547.035, WHEREIN THE STATE COURT IMPOSED A CIVIL FILING FEE ON PETITIONER, THAT HAS NEVER EVER BEEN IMPOSED UPON DOZENS AND DOZENS OF SIMILARLY SITUATED CASES IN CLEAR VIOLATION OF BOTH EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION AND CONTROLLING UNITED STATES SUPREME COURT PRECEDENTS, SMITH V. BENNETT, 81 Sct. 895 (1961); GARDNER V. CALIFORNIA, 89 Sct. 580 (1969); LANE V. BROWN, 83 Sct. 768; ROPER V. WEAVER, 127 Sct. 2022 (2007), AND MAINLY HAYWOOD V. DROWNS, 129 Sct. 2108 (2009)?

LIST OF PARTIES

PETITIONER:

AARON LAROSE
#1223972
POTOSI CORRECTIONAL CENTER
11593 STATE HIGHWAY O
MINERAL POINT, MO 63660

RESPONDENT.

PROSECIGUTORS OFFICE
COURT HOUSE
CIRCUIT COURT ST. CHARLES COUNTY
300 N. 2ND STREET
ST. CHARLES, MO 63301

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTIONAL STATEMENT	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT OF THE CASE	3
REASONS FOR GRANTING THE WRIT:	
I. WHETHER THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT ACTED UNREASONABLY AND IN A MANNER IN CLEAR VIOLATION OF CLEARLY ESTABLISHED CONGRESSIONAL LAW AND MANDATE, BUT REFUSING TO ENFORCE 28 USC 1447(c) IN VIOLATION OF THE 1ST, 5TH, 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION. DOES THIS CLEARLY ESTABLISH LAW DEPRIVE THE STATE COURT OF SUBJECT MATTER JURISDICTION?	6
II. WHETHER THE ACTIONS OF THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, AS WELL AS THE DISTRICT COURT SUBJECT PETITIONER TO UNREASONABLE ENFORCEMENT OF THE DUE PROCESS AND EQUAL PROTECTION OF THE 1ST, 5TH, 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION, WHEREIN STATE COURT WHEREIN THIS CASE WAS REMOVED, DENIED PETITIONER MEANINGFUL ACCESS TO MISSOURI "DNA" REMEDY VAMS 547.035, WHEREIN THE STATE COURT IMPOSED A CIVIL FILING FEE ON PETITIONER, THAT HAS NEVER EVER BEEN IMPOSED UPON DOZENS AND DOZENS OF SIMILARLY SITUATED CASES IN CLEAR VIOLATION OF BOTH EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION AND CONTROLLING UNITED STATES SUPREME COURT PRECEDENTS, SMITH V. BENNETT, 81 Sct. 895 (1961); GARDNER V. CALIFORNIA, 89 Sct. 580 (1969); LANE V. BROWN, 83 Sct. 768; ROPER V. WEAVER, 127 Sct. 2022 (2007), AND MAINLY HAYWOOD V. DROWNS, 129 Sct. 2108 (2009)?	8
CONCLUSION:	11
PROOF OF SERVICE	11
TABLE OF APPENDIX:	

TABLE OF CASES AND AURHORITIES

<u>CASE:</u>	<u>PAGE:</u>
COOPER V. WOODFORD, 358 F3d 1117 (CA9)	8,9
GARDNER V. CALIFORNIA, 89 SCt. 580 *1969)	10
HAYWOOD V. DROWNS, 129 SCt. 2108 (2009)	10
HICKMAN V. MISSOURI, 52 SW 351 (MO), REV., 22 SCt. 18	6
JOHNSON V. DELTA HOUS. DIV., 2006 US DIST. LEXIS 92255 (DC MISSS 2006)	6,7
LANE V. BROWN, 83 S Ct. 768	10
ROPER V. WEAVER, 127 SCt. 2022 (2007)	10
SKINNER V. SWITZER, 131 SCt. 1284	9,10
SMITH V. BENNETT, 81 SCt. 895 (1961)	10
STATE EX REL. LAUGHLIN, 318 SW3d 695 (MO.BANC)	7
STATE EX REL. NIXON, 2003 MO. APP. LEXIS 670 (MO. APP.WD)	7
STATE EX REL. NIXON V. MOORE, 108 SW3d 813 (MO.APP. WD)	7
STATE EX REL. NIXON V. MOORE, 159 SW3d 488 (MO.APP. WD)	7
TURNER V. HEALTHCARE SERVICES GROUP, INC., 156 SW3d 431 [3] (MO.APP.ED)	7
US EX REL. GREEN V. WASHINGTON, 917 FSUPP. 138 (ND ILL)	10
WIS. V. DEPT. OF CORR. V. SCHACHT, 524 US 381, 389 ...	7
YARRIS V. COUNTY OF DELAWARE, 465 F3d 129, 142-143 (CA3)	8,9,10
UNITED STATES CONSTITUTION:	
1ST, 5TH, 14TH AMENDMENTS	6,8,
UNITED STATES CODE:	
28 USC 1447(c)	6,7,
STATE STATUTES OF MISSOURI:	
547.035	8,9

NO. _____

IN THE

UNITED STATES SUPREME COURT

_____ TERM

OPINIONS BELOW

The opinion of the United States Court of Appeals for the 8th Circuit denying rehearing, rehearing en banc was issued March 25, 2018 and reported as 2018 US APP. LEXIS 6606 (CA8 March 15, 2018).

The opinion of the United States Court of Appeals for the 8th Circuit Judgment was issued January 17, 2018 and is unreported.

Appendix A-1 is the March 25, 2018 order denying rehearing and rehearing En Banc. While Appendix A-2 is the Judgment of the United States Court of Appeals 8th Circuit.

Appendix 3 is the judgment issued by the United States District Court July 28, 2017 and is reported 2017 US Dist. Lexis 118372 (EDMo 2017).

JURISDICTIONAL STATEMENT

The judgment issued by the United States Court of Appeals Appx. A+1, and A-2 are final judgments. The United States Supreme Court has jurisdiction 28 USC 1254 and any other provision by law.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1st Amendment US Constitution:

"... to petition the government for redress of grievances."

5th Amendment US Constitution:

"...nor be deprived of life, liberty or property without due process of law."

14th Amendment US Constitution:

"... 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 law."

28 USC 1447(c):

"... A certified copy of the remand shall be mailed by the clerk to the clerk of the State Court. The State court may thereupon proceed with such case." 1]

[1] While not an issue in this appeal, the conviction of Aaron LaRose for first degree murder life without possibility of parole, and 30 years for armed criminal action are both void. In State v. McBeth, 507 SW3d 94 (Mo.App.ED 2016), conviction of first degree murder reversed for new trial on felony murder. In that case St. Charles prosecutor used ample evidence of DNA evidence (Such was suppressed in petitioner's St. Charles County conviction. McBeth shows the importance of DNA, also bringing it home to St. Charles County prosecutor who also recognised the importance. Nonetheless, while McBenge was charged acted with another, has no bearing on the fact one cannot be convicted of first degree murder when second degree felony murder is written into the case. Aaron Larose was convicted of armed criminal action unlawful use of a dangerous weapon, aka armed criminal action, made it clear, that felony murder was written all over Larose alleged charges. Many people have been convicted of felony murder by unlawful use of a dangerous weapon. See: This means by converting the weapon use into an armed criminal action, state violated McBenge rule, just the same.

STATEMENT OF THE CASE

Petitioner, AARON LAROSE, was charged, tried and convicted of first degree murder and armed criminal action in the Circuit Court of St. Charles County, Missouri.

On June 26, 2011 the Circuit Court of St. Charles County, Missouri under Criminal Cause 0911-CR03956-01 for one count of first degree murder and one count of armed criminal action, RSMo 565.020, and RSMo 571.015. Petitioner after protesting to the vehemically about Brady Violations and lack to production and inspection, examination of evidence in states custody, such pleas fell on deaf ears. Petitioner was sentenced to life without the possibility of parole and thirty years.

On direct review to the Missouri Court of Appeals ED970431 the conviction was affirmed, transfer to Missouri Supreme Court denied, and writ of certiorari denied on various challenges.

Subsequently, petitioner first filed a State Post-conviction Remedy, VAMR 29.15 motion logged under Civil Case Number PCR No. 1411-CC00186. Subsequently, the petitioner filed a State "DNA" petition in the criminal case 0911-CR03956-01.

The state court judge refused to allow the VAMS 547.035 motion proceed, and failed to issue findings of fact and conclusions of law, and failed to order the state show cause, and refused to allow a timely appeal be processed in forma pauperis. The Supreme Court refused by the clerk to allow the appeal be processed in forma pauperis.

Because the petitioner was having seriously difficulties with his PCR 29.15 counsel, and the Circuit Court totally obstructed fair review, and failed to follow the mandate of VAMS 547.035. The

petitioner then filed his petition to remove both cases, his PCR 29.15 1411-CV00186 and his DNA petition filed as new action in his criminal case, 0911-CR03956-01.

The petitioner requested the district court to take judicial of dozens of files projecting numerous items ripe for DNA testing filed in his first removal. That was denied and timely remanded to state court, reported as 2013 US Dist. Lexis 47454 (EDMo. 2013), affirmed as modified striking any filing fees (Appendix A-9 on August 2, 2013, and denying rehearing, 2013 US App. Lexis 18537 (CA8).

When the second removal was filed as to the State PCR 29.15 and DNA, the petitioner incorporated the massive DNA files into his second removal from 2013 US Dist. Lexis 47454 (EDMo 2013).

The District court in second removal did not even consult the massive DNA records filed in first removal, and further, the 8th Circuit did not require the files be transferred before it denied the appeal without reasons (Appendix A-1; A-2).

In the second removal, the district court remanded the PCR 29.15, but it did not remand the DNA removal of Case 0911-CR03956-01. Repeated demands in district court and 8th Circuit to comply with 28 USC 1447(c), if the court won't act remand cases back to state court to the state criminal file 0911-CR00956 as the district court remanded the PCR part of removal, 1411-CV00186 (Appendix A-1; A-2; A-3).

Petitioner states there exist numerous items that can be subjected to DNA testing (Appendix A-11 pp. 1-13).

The district court erroneously said all petitioner had to do is pay the filing fee for DNA (Appendix A-3). This loud

statement was issued in uncontradicted facts that dozens of DNA cases were allowed without prepayment of cost and fees, and to Perfect appeals as such. Petitioner is the only one in the history of VAMS 547.035 to be singled out for filing fees and notwithstanding petitioner filed affidavit, unrefuted affidavit, uncontested affidavit that he was poverty stricken, unable to pay any cost and as such, was given no hearing whatsoever. The state did not contest the forma pauperis, it was the judge and clerk of Missouri Supreme Court. Under Missouri law, VAMS 547.035 may be filed under a civil designation but it is 99% quasi criminal proceedings to test DNA that was not done, or could not be done at trial.

The district court was informed so was the 8th Circuit that no state convicted person filing decades of petitions have ever been required to pay filing fees. The St. Charles County Circuit Court judge was intentionally obstructing a fair and impartial trial, she blocked motion after motion at trial that charged the state with its intentional obstruction of DNA testing demands. The judge set the trial date at a time making it impossible to challenge obstruction of DNA. So, after conviction petitioner filed his "DNA" VAMS 547.035 and for the first time in history the judge literally blocked that motion, refused to process it, did not make findings of facts and conclusions of law on multitude of items needed DNA test. The judge even blocked the state from responding, refused to order to show cause and then caused the appeal given to dozens upon dozens of other similarly situated persons freely, without prepayment of cost and fees, was totally obstructed in petitioner's case warranting federal removal.

REASONS FOR GRANTING THE WRIT

I. WHETHER THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT ACTED UNREASONABLY AND IN A MANNER IN CLEAR VIOLATION OF CLEARLY ESTABLISHED CONGRESSIONAL LAW AND MANDATE, BUT REFUSING TO ENFORCE 28 USC 1447(c) IN VIOLATION OF THE 1ST, 5TH, 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION. DOES THIS CLEARLY ESTABLISHED WRONG DEPRIVE THE STATE COURT OF SUBJECT MATTER JURISDICTION?

Whether or not these is DNA testing to be done in this case, a reading of Appendix A-11, pp. 1-13 is just a drop in the hat to which could be tested (Appendix A-11 pp. 9-;; is just a drop in the bucket, nonetheless, points to the shambles and seperation from DNA testing prevented to frame petitioner. There is lots more, and could pack this court ti stacks of what could be, what should be tested. In the first removal, stacked with reports made of collecting items, test~~that~~ should have been done but eere not done, the second removal judge nor the 8th Circuit even bothered to review those state created reports one right after another filed in 2013 US Dist. Lexis 47454 (EDMo)(Stacks of reference the court will not return).

Under mandatory federal law, the state court does not aquire jurisdiction back by federal court simply remanding the case. It shall issue a certified remand order to state court clerk, otherwise state court will not have jurisdiction. Johnson v. Delta Hous. Div. 2006 US Dist. Lexis 92255 (DC Miss. 2006). Matter of fact the United States Supreme Court reversed Missouri Supreme Court when it took action prior to certified remand order. Hickman v. Missouri, 52 SW 351 (Mo), reversed, 22 SCt. 18. Missouri has no jurisdiction until certified remand order issues. Turner v. Healthcare Services

Group. Inc., 156 SW3d 431 [3] (Mo.App.ED); State ex rel. Nixon v. Moore, 2003 Mo. App. Lexis 670 (Mo.App.WD); State ex rel. Nixon v. Moore, 108 SW3d 813 (Mo.App.WD); State ex rel. Nixon v. Moore, 159 SW3d 488 (Mo.App.WD). Neither the district court nor the 8th Circuit could ignore this glaring issue, which it is duty bound to find and to follow, not the duty of AARON LARONE. Wis. DEPT. OF CORR. v. Schacht, 524 US 381, 389. State of Missouri is frozen in time when it even tries to infringe on jurisdiction belong to federal government. See: State ex rel. Laughlin v. Bowersox, 318 SW3d 695 (Mo. Banc).

28 USC 1447(c) is mandatory not discretionary. No such order was issued as it relates to the state DNA case and as such, this Court needs to order such remand be taken place unless this court finds because of the gross violations, the district court should have ordered state show cause

Until this has been done, technically speaking, the district court has continuing jurisdiction. Johnson, supra.

II. WHETHER THE ACTIONS OF THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, AS WELL AS THE DISTRICT COURT SUBJECT PETITIONER TO UNREASONABLE ENFORCEMENT OF THE DUE PROCESS AND EQUAL PROTECTION OF THE 1ST, 5TH, 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION, WHEREIN STATE COURT WHEREIN THIS CASE WAS REMOVED, DENIED PETITIONER MEANINGFUL ACCESS TO MISSOURI "DNA" REMEDY VAMS 547.035, WHEREIN THE STATE COURT IMPOSED A CIVIL FILING FEE ON PETITIONER, THAT HAS NEVER EVER BEEN IMPOSED UPON DOZENS AND DOZENS OF SIMILARLY SITUATED CASES IN CLEAR VIOLATION OF BOTH EQUAL PROTECTION CLAUSE OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION AND CONTROLLING UNITED STATES SUPREME COURT PRECEDENTS, SMITH V. BENNETT, 81 Sct. 895 (1961); GARDNER V. CALIFORNIA, 89 Sct. 580 (1969); LANE V. BROWN, 83 Sct. 768; ROPER V. WEAVER, 127 Sct. 2022 (2007); AND MAINLY HAYWOOD V. DROWNS, 129 Sct. 2108 (2009)?

A reading of the removal order (Appendix A-3) shows that the district court, even when asked to do so, by incorporation, did not read the abundance of DNA records from first removal (Appendix A-8 and A-3).

Appendix A-11, pp. 10-13 cites all kinds of test that could be done, even the "EDTA" test cited and explained in Cooper v. Woodford, 358 F3d 1117 (CA9) (Overrides DNA findings).

Missouri cannot allow dozens of litigants proceed in forma pauperis under VAMS 547.035 and single out petitioner with no legal or justifiable reasons, notwithstanding petitioner humbly presented his poverty status in filing. Dozens allowed in forma pauperis, and only petitioner denied violates federal law. Yarris v. County of Delaware, 465 F3d 129, 142-143 (CA3). ~~Such fees in one isolated case~~

No DNA traced to petitioner except by fabrication by the ex parte criminal investigation conduct, eliminating anybody and only focusing on petitioner.

One of the test could be performed is called "EDTA" testing to ascertain if evidence was planted. The testing procedure is explained in detail in Cooper v. Woodford, 358 F3d 1117 (CA9). It being noted the trial judge intentionally closed the door on filed motions against states DAN violation discovery. During sentencing the petitioner point these issues out, and which fell on deaf ears by the very judge who destroyed access to DNA testing before trial, and obstructed timely prosecution of VAMS 547.035.

Under 28 USC 1447(c) the state court can not ever legally resolve that until the district court sends that case back under the certified remand order, which it did not do in the dna case (Appendix A-3).

A reading of VAMS 547.035 and checking such, will show that zoens of cases upon dozens prosecuted without prepayment of cost and fees.

Petitioner tried desperately to the district court and 8th circuit that they had no legal authority to single out petitioner by just arbitrarily deny petitioner access to VAMS 547.035, citing the case of Yarris v. County of Delaware, 465 F3d 129, 142-143 (CA3); Skinner v. Switzer, 131 SCt. 1289. Appendix A-12 pp. 1-29 shows prejudice.

Larose was flat out and framed. Appendix A-12 pp. 1-29 shows with unmistakable clarity how the state court obstructed justice in this case warranting justice from this court.

Such assessment in a quasi-criminal appeal challenging a criminal conviction, such fees are unlawful. Smith v. Bennett, 81 SCt. 895 (1961); Gardner v. California, 89 SCt. 580 (1969). In addition, such wrong violated Lane v. Brown, 83 SCt. 768; Roper v. Weaver, 127 SCt. 2022 (2007). It surely cannot pass the test cited in Haywood v. Drowns, 129 SCt. 2108 (2009).

The state has no power to keep the petitioner from seeking DNA test. Skinner v. Switzer, 151 SCt. 1289. Following that precedent, state must make such items available to test. The US Supreme Court said in Lane v. Brown, supra, if Indiana did not allow access to the state created remedy it would discharge Brown. id.

In this case, Haywood, supra, if state did not follow federal ---supremacy rights, it shall take jurisdiction. id.

End of argument is, Missouri did not have to create VAMS 547.035, but once it did, petitioner obtained a liberty interest in that said remedy that could not be taken without due process of law. see: US ex rel. Green v. Washington, 917 FSupp. 138 (DC Ill). Compare, Yarris, 465 F3d at 142-143 (CA3). 2]

2] The district court in Appendix A-8 refused to return the dozens of DNA official records, reports. But this court should be able to call them up on case-net. Those documents would place this petitioner in a much better position before this court. Nonetheless, the lower courts have made it clear, they buried those bonidide records in red tape, seriously injuring petitioner^{er} instant petition. See Appendix A-12. pattern of abuses.

The court is to focus on Appendix A-11 pp. 9-11, where DNA EVIDENCE CLEARLY EXISTED IN THIS CASE, notwithstanding state tampering and recklessly deminishing certain items, none of these were subjected for test in name of AARON LAROSE (Partial profiles and others). Bad faith written all over this case (p. 10). Motions was filed to preserved seized automobile for testing (p. 9). Nonetheless, all this was swept under the rug by prosecutors St. Charles County, unlike they did in McBenge, 507 SW3d 94 (Mo.App.ED 2016). The trial of Larose was a sham (Appendix A-11; A-12 incorporated herein restated.

CONCLUSION

WHEREFORE, PETITIONER SO HUMBL Y PRAYS THAT THE PETITION FOR WRIT OF CERTIORARI BE GRANTED.

RESPECTFULLY SUBMITTED,



AARON LAROSE

#1223972

POTOSI CORRECTIONAL CENTER
11593 STATE HIGHWAY O
MINERAL POINT, MO 63660

PROOF OF SERVICE

I, AARON LAROSE, certifies that in accordance with UNITED STATES SUPREME COURT RULES, true copies of the MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND COPY OF PETITION FOR WRIT OF CERTIORARI WAS MAILED POSTAGE PREPAID FROM THE POTOSI CORRECTIONAL CENTER ON THE 19th DAY OF APRIL 2018 TO:

PROSECUTING ATTORNEY
COURT HOUSE
CIRCUIT COURT OF ST. CHARLES COUNTY
300 N. SECOND STREET
ST. CHARLES, MO 63301


AARON LAROSE