

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

DEANDRE ANTOINE STURGES — PETITIONER
(Your Name)

vs.

CINDI S. CURTIN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DEANDRE ANTOINE STURGES 712861
(Your Name)

SAGINAW CORRECTIONAL FACILITY
(Address) 9625 PIERCE RD.

FREELAND, M.I. 48623
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

SHOULD THIS COURT POTPONE THE ADJUDICATION OF THEPETITIONERS CLAIMS ON THE MERITS AS THE RECORD IS NOT COMPLETE DUE TO THE SUPPRESSION OF EVIDENCE BY THE OAKLAND COUNTY POLICE DEPARTMENT AND PROSECUTOR?

WHETHER THE UNITED STATES APPEAL COURTS HAVE CONFLICTING DECISIONS WHEN IT COMES TO PETITIONER"S RIGHT TO COUNSEL OF CHOICE CLAIM APPLYING TO MULTIPLE ATTORNEYS, THAT NEEDS TO BE DECIDED BY THIS COURT? DID THE LOWER FEDERAL COURT AND STATE COURT ERROR IN CONCLUDING THAT PETITIONER FAILED TO DEMONSTRATE HOW HE WAS DEPRIVED THE RIGHT TO COUNSEL AND TO PRESENT A DEFENSE WHEN PETITIONERS ISSUE WAS A DENIAL OF THE RIGHT TO COUNSEL OF CHOICE, WHICH HE SHOWED THE ERRONEOUS DEPRIVATION?

WHETHER THE LOWER STATE COURTS & POLICE DEPARTMENTS ARE IMPEDING PETITIONERS RIGHTS TO HAVE HIS ACTUAL INNOCENCE CLAIM ADJUDICATED ON THE MERITS BY WITHHOLDING THE PROSECUTOR, HOMICIDE/ POLICE AND MISCELLANEOUS FILES, WHICH INCLUDES EXCULPATORY EVIDENCE BY BRANDON DAVIS CORROBORATING PETITIONERS ACTUAL INNOCENCE?

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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OTHER

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 A 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☒ is unpublished.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 United States district court appears at Appendix B 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☒ is unpublished.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 E 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 D 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 August 16, 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: February 7, 2018, and a copy of the order denying rehearing appears at Appendix C.

[] 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

UNITED STATES CONSTITUTIONAL AMENDMENT, VI 8
MICHIGAN CONSTITUTION 1963, Article 1, § 13 8
28 U.S.C. § 1294 (1) 2

STATEMENT OF THE CASE

The Petitioner Deandre Antoine Sturges was convicted of first degree felony murder, conspiracy to commit armed robbery and felony ~~firearm~~ firearm, on December 21, 2009, after a jury trial in Oakland County Circuit Court. On January 12, 2010, he was sentenced to a prison term of mandatory life for the murder conviction, 20-40 years for conspiracy to commit armed robbery and two yearss consecutive for felony firearm. A timely appeal was filed to the Michigan Court of Appeals February 22, 2010. The conviction was affirmed by the Michigan Supreme Court on December 6, 2011 and was denied on June 6, 2012. Petitioner filed a federal habeas corpus petition on May 5, 2013 to the ~~federal~~ eastern district for the southern division and was denied on July 12, 2016. Petitioner was denied a certificate of appealability as well. Petitioners motion for En Banc was denied by the United States Court of Appeals for the Sixth Circuit on August 16, 2017 and February 7, 2018.

The charges arose out of the shooting death of Catherine Blain on October 15, 2008. The prosecution alleged that Petitioner conspired with Brandon Davis and Jerome Hamilton to rob Ms. Blain. Jerome Hamilton the accused shooter was acquitted at the end of a third jury trial on March 9, 2010. The video of the crime scene does not depict any crime taking place. Nor does it show any of the accused.

Brandon Davis was interviewed by police on numerous of occasions. His request to consult with counsel was denied. Trial VI 8/31/09, 220. Davis originally told police he did not know what happened at the crime scene because he was asleep in the car, and that there had been no preceding discussion about a robbery. Trial VI 8/31/09, 221, 240-241. The officers kept telling him they wanted him to furnish a version of the facts that was consistent with the one they already believed. Trial VI 8/31/09 pg 246. Davis was intercepted by officers on his way to court and

interviewed a second time without counsels knowledge. Trial VII 9/1/09, 16-17.

Davis' attorney felt his clients sixth amendment right to counsel was compromised by the police conduct during the first two interviews. At a third interview a proffer agreement was signed and the prosecutor agreed not to use his testimony to incriminate him. Trial VI 8/31/09, 146; Trial VII 9/1/09, 35. Davis pled guilty to conspiracy and accessory after the fact, on February 17, 2009 and sentenced on March 23, 2010. None of the witnesses identified petitioner. Davis insisted that any idea of a plan was suggested by the detectives. Trial VI 8/31/09, 240-243, 246 249-250; Trial VII 9/1/09, 11.

The trial judge denied one of petitioners attorneys from presenting the defense. Attorney Reed spent considerable time and effort in preparing a defense and was denied the opportunity to do so. This was based on the trial judge stating in the middle of the trial that he told the defense at the beginning of trial that he wouldn't allow it and that its never been the practice of his court room. Attorney McGinnis who only prepared for the cross examination of witnesses was unfortunately forced to present the defense. Trial VIII 09/3/09, 77.

Brandon Davis recently sent a letter to attorney James McGinnis. James McGinnis then forwarded that letter to Petitioner. The letter consisted of Brandon Davis providing exculpatory statements about Petitioners involvement of the crimes his current conviction is for and proving his innocence. Davis admits to lying at trials due to police coercion, threats and promises made.

REASONS FOR GRANTING THE PETITION

ISSUE I.

Petitioner is asking this court to grant his petition and postpone the adjudication of his claims as the record is incomplete. Petitioner has filed prior appeals being a laymen at law in hopes of staying in accordance with federal deadline rules. Petitioners federal district counsel as well lower appeal court counsel failed to retain the complete record and evidence in petitioners case and turn it over. The Oakland County police department has impeded petitioner from receiving the prosecutors, homicide/ police and miscellaneous files and other unknown exculpatory documents that corroborate the statements made by Brandon Davis (see Appendix F) exonerating Petitioner of the crimes he is convicted of and proving his actual innocence. Petitioner is asking that his right to appeal and to perfect his claims be preserved as he petitions for the productions of the above listed documents so his claims can be perfected and adjudicated on the merits and complete facts. (see Appendix G)

ISSUE II.

There is a split decision in the federal circuit courts as to whether the right to counsel of choice has been held to include representation by more than one attorney. See Rodriguez v Chandler 492 F.3d 863, 864-865 (7th Cir 2007); United States v Laura, 607 F.2d 52, 55-57 (3rd Cir 1979); Fuller v Diesslin, 868 F.2d 604, 605, 610-611 (3rd Cir 1988); Lainfiesta v Artuz, 2000 U.S. Dist. Lexis 8840; United States v Panzardi Alvarez, 816 F.2d 813, 815-819; United States v Burton, 584 F.2d 485, 489-492, 498 & n.45, 189 U.S. App. D.C. 327 (D.C. Cir 1978). The United States Court of

Appeals for the Sixth Circuit has entered a decision in conflict with the decision of those numerous U.S. Appeal Courts above on the same matter. The Sixth Amendment of the United States Constitution is the right to counsel and counsel of choice; not the right to COUNSELOR or COUNSELOR OF CHOICE. The court must take note of the plurality of counsel meaning more than one. Under this reality in english grammar multiple counsel has to naturally and platonically attach to the Sixth Amendment rights regardless if no case specifically addressed the word "multiple or second".

"In short, Supreme Court precedent, and the logical extension of that precedent, recognized by the Courts of Appeals that have addressed the question, holds that: the Sixth Amendment guarantees a criminal defendant the right to counsel of choice, qualified by considerations as to the fair administration of justice, that right includes the right to representation by more than one counsel at trial; and where a trial court arbitrarily denies defendant's exercise of that right, the conviction must be reversed (or habeas relief granted) without the need to show prejudice." Lainfiesta v Artuz, 2000 U.S. Dist. Lexis 8840, at *25.

The United States Court of Appeals has decided an important federal question in a way that conflicts with relevant decisions of this court based on United States v Gonzalez-Lopez, 548 U.S. 140; 126 S.Ct. 2557; 165 L Ed 2d 409 (2006). The federal court of appeals and lower state courts decisions were contrary to and an unreasonable application of clearly established federal law.

The federal court of appeals as well as the lower state courts did not consider and misinterpreted the symbiotic nature and plurality of a defense team. The definition of counsel in any dictionary but specifically the blacks law dictionary defines counsel as being plural and not singular. The age old adage is "there is no I in team." In a defense team each lawyer is secured to do specific duties and will pursue different strategies as it pertains to those duties. The right to counsel of choice is a guarantee and protected under the United States Constitution U.S. Const. Amend. VI; and Michigan Const. 1963, Art. 1, subsect. 13; Mich. Comp. Law 763.1.

"Different attorneys will pursue different strategies with regard to myriad trial matters, and the choice of attorney will affect whether and on what terms the defendant cooperates with the prosecution, plea bargains, or decides to go to trial. It is impossible to know what different choices the rejected counsel would have made, and then to quantify the impact of those different choices on the outcome of the proceedings. This inquiry is not comparable to that required to show that a counsel's deficient performance prejudiced a defendant." Gonzalez*Lopez at 2563-2565. When an accused is erroneously denied one part of the defense counsel it affects the entire frame work of the team and the trial.

The federal court of appeals and the lower states courts decisions were contrary to and an unreasonable application of clearly established federal law. Those courts erred in ruling that

defendant failed to show how he was deprived of counsel and to present a defense when he was allowed to have counsel represent him and present his defense. The sixth circuit court of appeals and the lower state courts errorred in their opinions and misinterpreted petitioners arguments to be the denial of counsel and not the denial of counsel of choice which are two completely different arguments.

In Gonzalez-Lopez the Supreme Court stated " deprivation of the right is 'complete' when the defendant is erroneously prevented from being represented by the lawyer he wants, regardless of the quality of the representation he received. To argue other wise is to confuse the right to counsel of choice- which is the right to a particular lawyer regardless of comparative effectiveness- with the right to effective counsel- which imposes a baseline requirement of the competence on whatever lawyer is chosen or appointed... A choice- of- counsel violation occurs whenever the defendant's choice is wrongfully denied." at 147, hn 5, 149.

Petitioner understands that a judge has a wide discretion in balancing the needs of fairness and controlling his court room as it relates to counsel of one's choice. The judges discretion does not supersede the United States Constitution or the United States Supreme Court. None of the limitations on the right to choose one's counsel is relevant here. Thus if a defendant chooses a particular counsel, the Sixth Amendment prevents a court from taking any arbitrary action prohibiting the effective use of a particular counsel. As displayed in the judgment of sentence, the

circuit court acknowledges Refetioners two retained attorneys in the judgment of sentence.

The Petitioner feels he has shown how he was deprived of counsel of choice when the trial judge made an erroneous determination that he informed petitioners counsel that second attorney could not speak on defendants/Betitioners behaaaf and present the defense. (see Appendix D State Court of Appeals Decision, pg 6). Ultimately erroneously denying his choice of counsel; as well as it never being a practice of his court room to have multiple attorneys throughout a trial. The reasons the trial judge gave do not meet the ~~phrenb0d~~ threshold contures of balancing the needs of fairness. The judges statements were a lie as the entire record is devoid of the events the judge states took place. In fact the trial jddge made the attorney in question here make an appearance on the record if he was going to be speaking on ~~petiti0ness~~ behalf. There ~~was~~ no good reason for disqualification, which resulted in defendants right to counsel of choice and to present his defense being denied.

The defendant wanted attorney Reed to present his defense and was denied that right by an erroneous conclusion by the trial judge that did not meet the needs of fairness. It matters not if one attorney was representing Refitioner after the deprivation at trial but if the attorney Petitioner chose and wanted did so in the instant case.

ISSUE III

Petitioner brings forth the actual innocence claim that was surpressed by the Oakland County police department and prosecutor impeding petitioners counsel from proving his actual innocence

and is asking this court to preserve the right to have the issue properly raised after the files are secured and given to petitioner (see Appendix F, Letter from James McGinnis and Brandon Davis)

Petitioner feels that it is more likely than not that no reasonable juror would find him guilty on retrial. The documents are being withheld by the assistance attorney general. Who is the respondent in petitioners claim and responsible for those documents.

Production of these documents will prove, corroborate and verify Petitioners actual innocence. Petitioner is seeking appointment of counsel or private investigator to retrieve those documents. Petitioner reserves his right for this court to appoint counsel in the interest of justice.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

deandre antoine Sturges

Date: May 4, 2018