

No. 18-6180

1:17-CV-01157-CCF-LPA

IN THE
SUPREME COURT OF THE UNITED STATES

Juan c. Ramirez — PETITIONER
(Your Name)

vs.

Erik a. Hooks — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. District Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Juan c. Ramirez
(Your Name)

P.O. Box 1109
(Address)

Clinton, N.C. 28329
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Due to my ability to the spanish language and the lack thereof to understand the english language as well as speaking english is very difficult and extraordinary.

1. Does my Constitutional right to Due Process and to be equally treated and Protected by the that right somehow get ignored when I plainly and clearly state to the court the reason I did not timely appeal is I did not understand.

2. Does the law dismiss my case based on the reason, I did not appeal my M.A.R. to the highest State Court?, I did not know there were steps. I did not have anyone at that time to explain the rules in spanish as, I do now.

3. Does the Court allow flagrant violations of my Constitutional Rights of the 6th, and 14 amendments of the U.S. Unanswered based on a rule or Procedure that I did not understand, the D.A. knowingly allowed a law enforcement officer an another witness to testify as to things the deceased allegely said.

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:

Attorney General of North Carolina
Josh Stein

Secretary of D.P.S.
Erik a. Hooks

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TABLE OF AUTHORITIES CITED

CASES

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United States V. Berger, Conaway V. Polk
United States V. Brady; United States V. Thomas
United States V. Jerome Atilus.

STATUTES AND RULES

56 (6) N.C.G.S. 15A-1415, 15A-1420

OTHER

By not understanding the English language it was impossible for me to understand the rules and Procedures of all courts. It is my belief that it is evident that I did not understand. Therefore, I am requesting leave to go back and fully exhaust all claims in State Court.

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 _____ 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 Guilford County Superior 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 April 24 2018.

☐ 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: _____, 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

My Constitutional rights were flagrantly violated in the 5th, 6th, 8th, 13th and 14th Amendments to the United States Constitution.

The fundamental rights involved the following Provisions of; 1-Ineffective Assistance of Counsel; 2-Confrontation Clause under the Sixth amendment; 3-Cruel and unusual Punishment; 4- Abuse of Discretion; 5-Trial court errors; 6-No mental Evaluation for the time of the alleged crimes; 7-Prosecutorial Misconduct "Improper Methods;" See Berger V. United States, at 295 78,88- (1935).

Based on sole United States Constitutional violation Warrants, a dismissal of the charges, New Trial, or lesser Included offense. See N.C. Gen. Stat.-15A-954-1415(b)(3)

STATEMENT OF THE CASE

Petitioner contends that April and I met at J&S Cafeteria in Greensboro [Pg, 284.] I ask April's Parents for Permission to date April, and they give their approval. [Pg, 285.] April told me not to tell her Parents how old I was, because, April had told her mother I was 17 years old, April became Pregnant in December of 2004, then on September 9th, 2005, we had my son David Wayne Caldwell. When he was about 7 months old April and I moved into a rental house at 3008 Peebles dr, #F in Greensboro, N.C. 27403

On December 8th, 2006. I got off work from Camco Manufacturing, April was waiting on me with her friend, Celina. April told me we were going to K&W Cafeteria to eat with her Parents, Terry and Anna Caldwell. When we arrived at K&W, I started talking about a female friend from work, [Pg, 290.] At some point April and I began to argue over my female friend, before we entered the cafeteria. April started Pushing me and accusing me of my female friend as being my girlfriend. I told April I'm not going to argue with you anymore and I grabbed the car keys and threw them away. I left the Parking lot of the cafeteria going to my house, and at that time I realized, I didn't have the key to open my door at home. So, I called April and told her to give me the key so I could get into my house. April arrived at my house and then I told her to give me the keys to the car. I didn't want to have trouble with my uncle, because the insurance and tag was in his name. Then April began to argue with me and refuse to give me the car keys, and then April began to drive off while I was standing in front of the car and she ran over my foot. I got in my car and drove until I seen a Police officer, and I stopped and ask the officer to take me to the hospital. After explaining to the officer what had happend, I was take to the hospital and a hospital report was filed [Pg, 293.] I called April and but the call didn't go through, I also called my aunt to come and get me at the hospital and I went to my cousin's house.

Three days later I went back to see April and showed her my swollen foot and she cried and said She was sorry. I told April I was staying with my aunt and she said, Are you coming home? I told her later, [Pg, 294.] then I saw April at her work and my cousin and I went back to April's house to get a change of clothes and to take a bath, when I arrived there was a white man on my couch and I went to my bedroom and Celina and a white man was there, and my cousin ask me, who are these guys? then I said, "lets not get into a fight lets go" we will lose. My cousin then took my suit cases and we left. My cousin told me you should leave April, she is cheating on you. So, I went with my cousin to his cousin's house. Later, I went back to see April at her work, [Pg, 295.] I then said to April, who are those men and April ask why did you go over there, and I said to get my clothes and I found those men in our house, April said they are friends of celina. I told April to get them out of our house, I then told April, I'm coming back home. I took a bath at my aunts house, and then went back home, and the two men were leaving with their beer and Seemed to be cigars or drugs such as marijuana in cigar Paper. I stayed at home with April until the next day [Pg, 296.]

On December, 25, 2006. I took a back, and I ask my friend to lend me his car to go see my Son at April's mother's house, my son was there but April was not there. then on the 22nd or 23rd I brought flowers to April and gave them to her and she put them in a vase, and I had left home and gone to my aunt's →

STATEMENT OF THE CASE

house and April came there in the same mustang that she had on December 8th [PG, 298.] Marsha, asked April, why didn't the guy get out, April said that she didn't want the two of them there, April never said she wasn't interested in staying together, I left April's Parents house at around 3:00PM, Then I went and left the car at my friends house, because, my car was at April's Parents house and she was going to move her things to my house. Then at some point I went to get my car from April's Parents house. [PG, 299.] After, I got my car I went to my aunts house, then I went home, as I was turning into the apartments, I was looking for April, because, She wasn't at home. I started walking through the apartments, and I could not find April, So I went back to my car and went by a window with the light on. I saw a silhouette of a woman and man, it attracted my curiosity and I approached the window, and I saw through the crack, April was performing Oral sex to a man in the bedroom. This was very disturbing at the least, I was hurt and upset, I went around the corner and knocked on the door. Someone inside said, 'It's your husband!'. [PG, 300.] Then the door opened and they said to me, who told you we lived here?, I told them no-one, I by chance saw them through the window and now I know where my wife is, At this time April came out putting on some tan pants and she was putting on a tan Jacket. I started to argue with the men, and they told me, Why are you here, and what do you want. Then the man told me that rent wasn't free, and April began insulting me saying that, why are you here? I told April that the vanilla Pod, I bought that for you with my money. Then April started insulting me again, and told me to leave. I really felt bad hurt worse than I ever felt. [PG, 301.] I got myself together and I left and went home. While at home I seen my son's room and my room, my feelings were hurt and I was devastated, So I went to the kitchen, and I saw a knife, I tried to cut my veins, because I saw April having Oral sex with another man, I couldn't do it. I got in the car, and I said to myself I am going to get my wife out of there, so I thought. I went back to where she was, and had the knife to protect myself against those men. who had my wife, because I couldn't run. [PG, 302.] The two men opened the door, and April came and tried talking to me, I told April that I wanted her to get out of there. April told me no, I said okay April, Call your mom to get out of there. [PG, 303.] The April started insulting me again starting that their sex was better than mine. I went into an blackout rage that came over me, and I have never experienced the hurt and devastation at that time April stated our son was going to have a new dad, at that time I was so angry everything went blank, My hands were sweating and the next thing I know April was gone, I didn't do it, It felt like I was outside of my body, and I heard someone say, 'Juan don't do it!', this is in my head, I told her mom on the phone that it was someone else not me, [PG, 304.] I mean, I seen myself do it, Something like outside of my body, I didn't have any control at all, I couldn't do anything to stop. I wanted to stop myself, but like I said I was outside of my body helpless. Dazed, Confused, and not thinking about what had happened or what I was doing, so I turned on the motor, and I came back and saw April walking, I took April and put her in the grass by the tree and left her there as I kissed her, and went back to my car and left the apartments, the I heard the voice of a boy crying [PGS, 304, 305, 306.]

REASONS FOR GRANTING THE PETITION

1- Petitioner contends that this Petition should be granted due to the serious and flagrant violations of my Constitutional rights explained in my MAR.

2- Petitioner requested the U.S. District Court to grant leave, once I obtained a better understanding to the rules and Procedure, because of the help of an Interpreter to help me understand in Spanish, in which at the time of the untimely appeal I had no one to help me understand in my native Language.

3- There are serious violations that fall under a fundamental miscarriage of Justice if given a fair review of each claim on the merit and to an accumulative aspect in whole of the review giving Petitioner wide latitude would show a reasonable Juror to have a different result.

4- It would create a "Manifest Injustice" if Petitioner's writ of certiorari is not granted due to Flagrant Violations of Constitutional rights and misconduct on behalf of the state and law enforcement.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Juan C. Ramirez

Date: May 31 2018