

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

RODNEY DALE HOOD

(Your Name) — PETITIONER

vs.

WILLIAM STEPHENS
_____ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF TEXAS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RODNEY DALE HOOD

(Your Name)
2665 PRISON RD. 1

(Address)

LOVELADY, TX 75851

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

WHETHER PETITIONER WAS DENIED EFFECTIVE ASSISTANCE OF COUNSEL BY HIS COUNSEL'S FAILURE TO INVESTIGATE AND INTRODUCE MEDICAL EVIDENCE CRITICAL TO HIS DEFENSE.

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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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☒ is unpublished.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 _____ 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 February 3, 2016.

☒ 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

This case involves Amendment VI to the United States Constitution, which provides:

In all criminal prosecutions, the accused shall enjoy the... have the ASSISTANCE of COUNSEL for his defence.

This case also involves the Anti-Terrorism Effective Death Penalty Act, which provides:

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim--

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

28 U.S.C. 2254 :(d)(1)(+)(2)

STATEMENT OF THE CASE

The prosecution's theory at trial was that Petitioner was driving while intoxicated due to the ingestion of prescription medications, not alcohol. ROA. 804,879. The Petitioner performed the standard field sobriety tests at the scene (not recorded) and again at the station (recorded). ROA. 814-20. The officer that administered the test testified that the Petitioner failed both sobriety test and that he was intoxicated due to prescription medication. ROA.825. There was no breath or blood tests performed in this case.

The defense theory was that the Petitioner's poor performance on the standard field sobriety tests was based on his severe medical disabilities and medical deficiencies, not intoxication. The Petitioner also suffered from anxiety and seizures, and while he was detained at the scene of the traffic stop he took two pills to calm his anxiety, which explained his poor performance on video recorded of his sobriety test once he was taken to the police station. ROA. 866. However, Trial Counsel offered none of Petitioner's medical records into evidence.

During closing argument, the prosecution told the jury that there was no medical evidence to support Petitioner's medical defense and that Petitioner was merely a pill addict. ROA.879.

Attached to Petitioner's pro se post-conviction writ were numerous medical records dating from the weeks before his arrest in this case back twenty plus year. These records indicate that Petitioner did in fact have a previous history of seizures and anxiety. More importantly, the records reveal serious spinal problems, including bulging discs, as well as nerve damage in his ankle, and prior head injuries. The medical evidence included a decision from an administrative law judge authorizing disability payments since 1991 and detailing the medical evidence of Petitioner's significant spinal injuries. ROA, 424-28;RE12. Trial Counsel offered none of this medical records or information and allowed the State to argue during closing that Petitioner had fabricated his medical claims.

REASONS FOR GRANTING THE PETITION

Review should be granted because the lower courts' findings and conclusions that Trial counsel did not render deficient and prejudicial assistance of counsel by failing to introduce the plethora of medical records proving that Petitioner was physically ~~XXXXX~~ incapable of performing the standard field sobriety tests due to his physical disabilities is contrary to well established Supreme Court law. and an unreasonable application of Supreme Court law. i.e. STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984).

Review should also be granted because there exists a split among the circuits as to exactly when an attorney's failure to introduce medical records in support of his defensive theory constitutes ineffective assistance of counsel.. See:

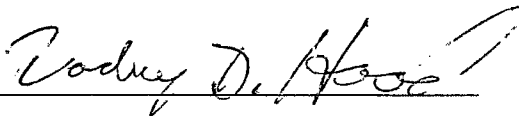
Pavel v. Hollins, 261 F.3d 210 (2d Cir. 2001)(counsel ineffective for failing to call medical expert); Richey v. Bradshaw, 498 F.3d 344 (6th Cir. 2007)(Counsel ineffective for failing to call expert); compare to Hood v. Stephens, No. 14-20779 (5th Cir. February 2, 2016)(counsel not ineffective for failing to produce medical records).

This matter is of utmost importance and goes beyond just error in Petitioner's case and has nationwide implications.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: May 2, 2016