

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Edmond McClinton PETITIONER

VS.

State of Arkansas RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Arkansas Supreme Court
(~~NAME THE LAST COURT THAT LAST RULED ON THE MERITS~~)

PETITION FOR WRIT OF CERTIORARI.

NAME Edmond McClinton, Jr.

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Father's Phone #

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 _____ 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☐ is unpublished.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 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☐ is unpublished.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 A to the petition and is

- ☒ reported at McClellan v. State, 2018 Ask. 116; or, (See also Direct Appeal CR-14-1060)
☐ 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☐ is unpublished.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☐ is unpublished.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 _____

☐ 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 April 12, 2018.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date:
May 10, 2018,
and a copy of the order denying rehearing appears at Appendix B.

☐ 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).

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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QUESTION(S) PRESENTED

The issue and matter to be determined, based on State and United States Constitutional violations:

1. The Arkansas Supreme Court did not give a fair appellate opinion, and which conflicts with relevant decisions of the U.S. Supreme Court, U.S. Court of Appeals and other state court of last resort, much more has conflicted with decisions of the U.S. Supreme Court and Court of Appeal. The U.S. Supreme Court being the highest court in the land.
2. Petitioner has not been binded over for trial, therefore trial court without jurisdiction for trial.
3. Petitioner not given due process of arraignment.
4. Ineffective Assistance of Counsel, trial counsel nor appellate counsel protected the constitutional rights of the petitioner, not functioning a representative or counsel. And caused serious prejudice.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

That when a court has jurisdiction, it has a right to decide every question before it; But if the subject matter is not within it's jurisdiction, all is void, and judgment in law nullities. *Dynes v. Jonah D. Hoover*, 61 U.S. 65, 15 L. Ed. 838. Objection to subject matter jurisdiction may be raised at anytime. Thus after losing at trial a party may move to dismiss the case because the trial court lacked subject matter jurisdiction. *Wenderson v. Shinseki*, 562 U.S. 428, 131 S.Ct. 1197, 179 L. Ed. 2d, 79 U.S.L.W. 4130. There being no jurisdiction of the subject matter or of the party, you are bound to relieve the petitioner *Ex Parte Milligan* 71 U.S. 2, 18 L. Ed. 281 (at 71 U.S. 62)

The term preliminary hearing or bindover hearing refers to a hearing to obtain subject matter jurisdiction over the defendant, in which a judge decides whether probable cause exist to require a defendant stand trial; to determine whether the prosecution can present enough evidence to justify a belief that a crime occurred and that the defendant committed it. If the Judge decides that the prosecution has sufficient evidence

Constitutional & Statutory Provisions (Pg 2)

then a defendant is "bound over", meaning that the Court will retain jurisdiction over the defendant until the case is either taken to trial or settled; That which is an adversarial preliminary hearing to determine probable cause to file charges. *Rothger v. Gillespie County, Texas* 554 U.S. 191, 128 S.Ct. 2578, 171 L.Ed 2d 366, 76 U.S. L.W. 4520 (June 23, 2008).

Arkansas Code Annotated 16-85-302 provides: Whenever a defendant has been held to answer at a preliminary examination to await the action of the grand jury or has been held for the Circuit Court, the Prosecuting attorney may proceed to file information in the Circuit Court and to trial of the case;
See Ark. Rules. of Criminal Procedure Rule 8.3

Petitioner has not been bound over according to this law therefore the Circuit Court did not have jurisdiction to try the case. Thereby in violation of Article III section 1 of the U.S. Constitution.

Also in violation of U.S. Constitution Amendment 5
(Arkansas Constitution Article 2, Section 8) Grand Jury clause;
In violation of U.S. Constitution Amendment 4 probable
Cause determination; In violation of U.S. Constitution
Amendment 5 and 14 Due Process clause; In violation
of U.S. Constitution 6th Amendment right to fair trial.

As well the petitioner's right to effective assistance of
counsel has been violated, that the trial lawyer was deficient,
made errors prejudice to the petitioner's constitutional rights
being protected not acting as his counsel guaranteed
by the 6th Amendment of the U.S. Constitution. Disregarded
the facts and law of the case therefore prejudice the
defense. Which deprived the petitioner of a fair trial
and appeal.

Petitioner never was taken to arraignment
violation of due process of law U.S. Constitution 5 and
14th Amendment.

STATEMENT OF THE CASE

Petitioner has been convicted and sentenced to life sentence illegally, in violation of the laws of the State of Arkansas and the United States of America. Has been deprived of liberty without due process of law, and the trial court did not have subject matter jurisdiction for trial, nor was the petitioner given arraignment.

There was no chain of custody to evidence used at trial, buy which this evidence was never presented before a judge nor grand jury. That the case was never bound over for trial. Therefore the trial court did not have jurisdiction to convict petitioner, and his conviction should be reversed due to being illegal and invalid on it's face.

REASONS FOR GRANTING THE PETITION

1. Arkansas Supreme Court has decided an important federal question in a way that conflicts with the decision of U.S. Court of Appeals and the U.S. Supreme Court.
2. Arkansas Supreme Court disregarded jurisdiction argument. The State of Arkansas Jefferson County Circuit Court did not have jurisdiction for trial, there was no bindover, nor was there an arraignment. This Court has ruled in many cases that subject matter jurisdiction will reverse conviction, and grant writ of certiorari

writ of certiorari should be
granted

Edmond McClinton

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

Edmond McClinton

Date: June 9, 2018

I declare under penalty of perjury that the foregoing is true and correct.

Edmond McClinton
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Edmond McClinton
Pro Se