

No. 24-7139

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

David Little — PETITIONER
(Your Name)

vs.

State of Georgia — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Georgia

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

PETITION FOR WRIT OF CERTIORARI

David Little II # 1282051

(Your Name)

P.O. Box 276
(Address)

Chaster, GA 31012
(City, State, Zip Code)

—
(Phone Number)

Questions Presented

1. Whether the trial court violated Petitioner's Sixth Amendment right to Confrontation by admitting the deceased alleged victim's diary - which contained testimonial statements - without affording Petitioner an opportunity for cross-examination (Crawford v. Washington, 541 U.S. 36 (2004)).
2. Whether Petitioner's Trial and Motion for New Trial Counsel were ineffective under Strickland v. Washington, 466 U.S. 668 (1984), by failing to challenge the Indictment (See Kyler v. State, Youmans v. State), to object to hearsay evidence and judicial conflicts (Wood v. Georgia), to address an incomplete trial transcript (Graham v. State), and to raise HIPAA violations.
3. Whether the trial court violated O.C.G.A 17-8-57 by making improper, prejudicial comments regarding the evidence and Petitioner's Guilt (Rouse v. State, 290 Ga. 213, 765 S.E. 2d 879 (2014))

4. Whether the trial Court Improperly admitted residual hearsay by failing to meet the three-part test for necessity, trustworthiness, and materiality under O.C.G.A 24-8-807.

5. Whether the evidence was insufficient under Jackson v. Virginia, 443 U.S. 307 (1979) to support a conviction for aggravated battery under O.C.G.A 16-5-24 (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:

RELATED CASES

- Case No. A 24A1142 David Little v. The State
- Case No. S 25 C 0277 David Little v. The State

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Certificate of Service

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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 _____ 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 C to the petition and is

reported at S25 Co277; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the State Court of Appeal court appears at Appendix A to the petition and is

reported at A24 A1142; 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 01/14/25. A copy of that decision appears at Appendix C.

[] 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

- U.S. Const. amend. VI - Right to confront witnesses
- U.S. Const. amend XIV - Due process
- O.C.G.A. 17-8-57 - Prohibition on judicial bias
- O.C.G.A. 24-8-807 - Residual hearsay exception
- O.C.G.A. 16-5-24(a) - Aggravated battery definition

STATEMENT OF THE CASE

Petitioner was indicted in Ben Hill county on September 17, 2018 for aggravated battery and cruelty to children. His jury trial was conducted on June 22-23, 2021 (TT.1).

The jury found him guilty on both counts (R. 285; TT. 185-186), and he was sentenced to 21 years in the Georgia Department of Corrections (TT. 195; R. 293).

On Sept. 23rd, 2024, the Georgia Court of Appeals affirmed the conviction. The Georgia Supreme Court denied further review on 1/14/25.

Petitioner now seeks a writ of certiorari.

Reason for Granting The Writ

1. Sixth Amendment violation - Admission of testimonial Hearsay.

The court admitted the deceased alleged victim's diary without affording petitioner the opportunity for cross-examination. This diary, which was used as evidence of the alleged crime, constitutes testimonial hearsay under *Crawford v. Washington*, 541 U.S. 36 (2004) and *Davis v. Washington*, 547 U.S. 813 (2006). See Mrs. Byrd testimony (T. 108 - TT. 108 Line 13).

- **Testimonial Nature:** The diary's contents, which describe alleged abuse, were introduced for their truth and used to substantiate the prosecution's case.
- **Unavailable Declarant:** The alleged victim was deceased, precluding any possibility of cross-examination.
- **Failure to link to petitioner:** The diary does not explicitly reference petitioner (T. 110 line 17 - TT. 111 line 11), yet the Jury was led to believe it implicated him.

The admission of this evidence, without cross-

examination, fundamentally violated petitioner's
Sixth Amendment right to confront adverse
witnesses.