

**25-5659**  
No. \_\_\_\_\_

**ORIGINAL**

**FILED**  
**AUG 12 2025**

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**IN THE**  
**SUPREME COURT OF THE UNITED STATES**

**RICARDO DODSON,**

Petitioner,

**VS.**

**SHELBY SMITH, WARDEN**

Respondents,

**PETITION FOR CERTIORARI TO OHIO SUPREME COURT**

**PETITION FOR WRIT OF CERTIORARI**

**Ricardo Dodson, #239-129**  
**Belmont Correctional Institution**  
**68518 Bannock Road, St. Rt. 331**  
**P.O. Box 540/St. Clairsville, Ohio**  
**43950**

**(740) 695-5169: FAX 526-0511**

## QUESTIONS PRESENTED FOR REVIEW

1. Can a trial court correct-Amend a jury's verdict that announced the wrong name upon reading the verdict, upon assenting to the verdict on polling, and after the jury has been discharged? Or, did the trial court loose jurisdiction to correct-amend the verdict upon discharging of the jury?
2. Whether Petitioner conviction, sentence, and imprisonment is unlawful where the jury reached a guilty verdict against the wrong party and not Petitioner, announced the wrong name during the reading of the verdict, assented to the wrong name during jury polling, then discharged without correcting the verdict error finding the wrong party guilty?
3. Where the jury verdict form incorrectly listed the wrong name, and that wrong name was announced in open court during the reading of the verdict, and the jury assented to the incorrect name, polled on the incorrect name, and the judge accepted the jury verdict, then discharged the jury without correcting the verdict, did the trial court error when it overruled the verdict, found petitioner guilty, and imposed a sentence?
4. Whether the trial court's Correction of a Verdict, after the jury had been discharged, by switching it from Ricardo Jackson to Ricardo Dodson to Correct an Error made by the Jury where they assented to the wrong name on the Verdict Form and assented to the wrong name during jury polling, Violates the Double Jeopardy Clause?
5. Whether State law allowing the trial judge to enter a judgment of conviction during jury trial where the jury failed to render a proper guilty verdict prior to being discharged abridge privileges or immunities of citizens of United States within meaning of Fourteenth Amendment?
6. Whether it was error for the trial court to enter a finding of guilt when, by error, the jury did not make a finding of guilty against Petitioner before being discharged?
7. Where the jury verdict forms was misread during the reading of the jury verdict, announcing the wrong name of the party standing trial, and the jury assented to the misread version of its verdict, then discharged without correcting the misread verdict, does the misread verdict constitute the final verdict?
8. Where the jury failed to reach a verdict finding petitioner guilty on any counts of the indictment due to error, and discharged without reaching a verdict or correcting the verdict error, does the trial court have authority to enter a guilty verdict on behalf of the jury?

9. Whether Petitioner was denied his Sixth Amendment Right to a trial by jury when the trial discharged the jury without the jury rendering a guilty verdict against Petitioner, then entered guilty verdicts on behalf of the jury?
10. Whether the Petitioner was denied fourteenth Amendment Due process Protection when the trial court accepted the guilty verdicts on all counts despite the fact that the verdict forms and the open reading of the verdicts contained the wrong name of the Defendant standing trial?
11. Whether Petitioner was acquitted on all charges once the jury was discharged, without his Petitioner's consent, without reaching a verdict?
12. Whether the trial court's judgment of conviction and sentence placed Petitioner in jeopardy twice for the same offense in violation of the Fifth Amendment?
13. Did the trial court make fraudulent misrepresentation when it submitted public record journal entry of conviction stating that the jury found Petitioner, Ricardo Dodson, guilty of all counts?
14. When the journal entry of conviction and sentence does not accurately reflect what transpired during trial, is the erroneous journal entry record constitute a fraudulent document?

The Court's duty to resolve this matter is particularly compelling, because we are the *only* court authorized to do so. See **[\*1203]** State Oil Co. v. Khan, 522 U.S. 3, 20, 118 S. Ct. 275, 139 L. Ed. 2d 199 (1997)

## **LIST OF ALL PARTIES**

1. Ricardo Dodson, Petitioner
2. Shelbie Smith, Warden, Respondent

## RELATED CASES

State ex rel. Dodson v. Gray, 2024-Ohio-2766, 2024 Ohio App. LEXIS 2639 (Ohio Ct. App., Belmont County, July 19, 2024)

State ex rel. Dodson v. Smith, 2025-Ohio-1878, 2025 Ohio LEXIS 1117 (May 29, 2025)

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19. Mattice v. Maryland Casualty Co., 5 F.2d 233 (W.D.Wash.1925)."
20. Fox v. United States, 417 F.2d 84, 89 n. 5 (5th Cir. 1969).
21. Finn v. Carnegie-Illinois Steel Corp., 68 F. Supp. 423, 435 (W.D.Pa.1946).
22. California Fruit Exchange v. Henry, 89 F. Supp. 580, 588 (W.D.Pa.), aff'd, 184 F.2d 517 (3d Cir. 1950).
23. Crawford v. Washington, 541 U.S. 36, 61, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004),
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28. North Carolina v. Pearce, 395 U.S. 711, 717, 89 S. Ct. 2072, 23 L. Ed. 2d 656 (1969).
29. Blueford v. Arkansas, 566 U.S. 599, 606-08, 132 S. Ct. 2044, 182 L. Ed. 2d 937 (2012).
30. Martin Linen Supply Co., 430 U.S. at 571.
31. Ohio v. Johnson, 467 U.S. 493, 501-02, 104 S. Ct. 2536, 81 L. Ed. 2d 425 (1984).
32. Jolly v. United States, 170 U.S. 402, 408, 18 S. Ct. 624, 42 L. Ed. 1085 (1898).,
33. Green v. United States, 355 U.S. 184, 191, 78 S. Ct. 221, 2 L. Ed. 2d 199, 77 Ohio Law Abs. 202 (1957),
34. Wade v. Hunter, 336 U.S. 684;
35. Kepner v. United States, 195 U.S. 100, 128.
36. McDonald v. Chicago, 561 U. S. 742, 813, 130 S. Ct. 3020, 177 L. Ed. 2d 894 (2010)
37. Maxwell v. Dow, 176 U. S. 581, 606-608, 20 S. Ct. 448, 44 L. Ed. 597 (1900)

38. United States v. Martin Linen Supply Co., 430 U.S. 564, 572-73, 97 S. Ct. 1349, 1355, 51 L. Ed. 2d 642 (1977):
39. United States v. Ball, 163 U.S. 662, 671, 16 S. Ct. 1192;
40. Sandstrom v. Montana, 442 U.S. 510, 523 (1979)
41. Morissette v. United States, 342 U.S. 246, 275 (1952)
42. United States v. United States Gypsum Co., 438 U.S. 422, 446 (1978))

## **STATUTES AND RULES**

R.C. 2907.02,

R.C. 2923.02,

R.C. 2905.01.

**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.

**OPINION BELOW**

☒ Case From State Court

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is reported at:

1. State ex rel. Dodson v. Smith, 2025-Ohio-1878, 2025 Ohio LEXIS 1117 (May 29, 2025)

**JURISDICTION**

☒ For Cases From State Courts:

The date on which the highest state court decided my case was May 29, 2025. A copy of that decision appears at Appendix A.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).



## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

**The First Amendment to the United States Constitution;**

**The Fifth Amendment to the United States Constitution;**

**The Sixth Amendment to the United States Constitution:** which guarantees an accused the right to a jury trial;

**The Fourteenth Amendment to the United States Constitution:** Nor shall any state deprive any person of life, liberty, or property, without due process of law.

## **ARGUMENT FOR ALLOWANCE OF WRIT**

1. This case raises a question of first impression;
2. This case presents an issue of great importance;
3. The Ohio Supreme Court's decision merit this Court's review

On writ of certiorari to the Supreme Court of Ohio, Petitioner seeks review of the Ohio Supreme Court decision affirming the judgment of the Seventh District Court of Appeals denial of petition for a writ of habeas corpus. Petitioner asserts that the jury did not, due to error, render a guilty verdict against Petitioner.

Petitioner asserts that the Ohio State Court has denied petitioner right to trial by jury, Due process and Equal Protection of the law pursuant to the 1<sup>st</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendments to the United States Constitution when it failed to safeguard his freedom. These arguments are based on the undisputed fact that the jury, due to error, rendered guilty verdicts finding Ricardo Jackson instead of Ricardo Dodson, was polled on the Ricardo Jackson verdict and

assenting to name announced on the guilty verdict, the court accepted and recorded the verdicts, and discharged the jury without correcting the Ricardo Jackson guilty verdict.

This Court has disapproved the this type of trial court action of entering a finding of guilt in place of the jury's verdict not merely because it "'conflict[s] with the overriding presumption of innocence with which the law endows the accused,'" Sandstrom v. Montana, 442 U.S. 510, 523 (1979) (quoting Morissette v. United States, 342 U.S. 246, 275 (1952)), but also because it "'invade[s] [the] factfinding function' which in a criminal case the law assigns solely to the jury," 442 U.S., at 523 (quoting United States v. United States Gypsum Co., 438 U.S. 422, 446 (1978)). The constitutional right to a jury trial embodies "a profound judgment about the way in which law should be enforced and justice administered." Duncan v. Louisiana, 391 U.S. 145, 155 (1968). It is a structural guarantee that "reflect[s] a fundamental decision about the exercise of official power -- a reluctance to entrust plenary powers over the life and liberty of the citizen to one judge or to a group of judges." Id., at 156. A defendant may assuredly insist upon observance of this guarantee even when the evidence against him is so over-whelming as to establish guilt beyond a reasonable doubt. That is why the Court has found it constitutionally impermissible for a judge to direct a verdict for the State. See United States v. Martin Linen Supply Co., 430 U.S. 564, 572-573 (1977). That is also why in Carpenters v. United States, 330 U.S. 395 (1947), the Court did not treat as harmless a jury instruction that mistakenly did not require express authorization or ratification to hold a union criminally liable for its officers' participation in an antitrust conspiracy -- regardless of how overwhelming the evidence that authorization or ratification in fact existed. We said:

"No matter how strong the evidence may be of an association's or organization's participation through its agents in the conspiracy, there must be a charge to the jury setting out correctly the limited liability under [the Norris-LaGuardia Act, 47 Stat. 70,] of such association or organization for acts of its agents. For a judge may not direct a verdict of guilty no matter how conclusive the evidence. There is no way of knowing here whether the jury's verdict was based on facts within the condemned instructions . . . or on actual authorization or ratification of such acts . . . ." Id., at 408-409 (footnotes omitted).

In other words, "the question is not whether guilt may be spelt out of a record, but whether guilt has been found by a jury according to the procedure and standards appropriate for criminal trials." Bollenbach v. United States, 326 U.S. 607, 614 (1946). "Findings made by a judge cannot cure deficiencies in the jury's findings as to the guilt or innocence of a defendant resulting from the court's failure to instruct it to find an element of the crime." Cabana v. Bullock, 474 U.S. 376, 384-385 (1986).

That requirement, in safeguarding the liberty of the citizen against deprivation through the action of the State, embodies the fundamental conceptions of justice which lie at the base of our civil and political institutions. Hebert v. Louisiana, 272 U.S. 312, 316, 317. No decision of the Supreme Court of the United States has been brought holding that the state court is without power to issue this historic remedial process when it appears that one is deprived of his liberty without due process of law in violation of the Constitution of the United States. Upon the state courts, equally with the courts of the Union, rests the obligation to guard and enforce every right secured by that Constitution. Robb v. Connolly, 111 U.S. 624, 637-638. ("for the judges of the State courts are required to take an oath to support that Constitution, and they are bound by it, and the laws of the United States made in pursuance thereof, and all treaties made under their authority, as the supreme law of the land, "anything in the Constitution or laws of any State to the contrary notwithstanding. If they fail therein, and withhold or deny rights, privileges, or immunities secured by the Constitution and laws of the United States, the party aggrieved may bring the case from the highest court of the State in which the question could be decided to this court for final and conclusive determination.") In view of the dominant requirement of the Fourteenth Amendment, we are not at liberty to assume that the State has denied to its court jurisdiction to redress the prohibited wrong upon a proper showing and in an appropriate proceeding. Mooney v. Holohan, 294 U.S. 103, 113.

Further, this court has held and emphasized that the "very nature of the writ [of habeas corpus] demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected. State ex rel. Pirman v. Money, 69 Ohio St. 3d 591. Quoting" Mallory, supra, 17 Ohio St.3d at 36-37, 17 OBR at 30, 476

N.E.2d at 1048, citing Harris v. Nelson (1969), 394 U.S. 286, 291, 89 S.Ct. 1082, 1086, 22 L.Ed.2d 281, 286. Beyond question, no citizen of Ohio may be deprived of his liberty without due process of law. Among the historic liberties so protected was a right to be free from, and to obtain judicial relief for, unjustified intrusions on personal security. *Ingraham v. Wright*, 430 U.S. 651.

It is undisputed by the court record that the upon the trial court's reading of the jury verdict, the verdict found Ricardo Jackson instead of Petitioner, Ricardo Dodson, guilty of all counts in the indictment. After the reading of the verdict, each juror was polled on that verdict of Ricardo Jackson, and each juror affirmed that verdict. The trial Court accepted the verdict, recorded the verdict, discharged the jury, and went forward with sentencing the Petitioner. At no point was the verdict error corrected by the jury prior to discharge, nor was the verdict corrected by the trial judge.

On September 7, 1990, a Franklin County Grand Jury indicted Ricardo Dodson ("Petitioner") on three counts of rape, all felonies of the first degree, in violation of R.C. 2907.02, one count of attempted rape, a felony of the second degree, in violation of R.C. 2923.02, and one count of kidnapping, a felony of the first degree, in violation of R.C. 2905.01.

On March 11, 1991, the Petitioner exercised his right to a jury trial, and the trial commenced on this said date;

At the conclusion of trial, the Petitioner and the Prosecutor presented their arguments and evidence to the jury, and on March 14, 1991 the jury was sent to the jury room for deliberations, with the proper instructions on the determination of guilt or innocence of Petitioner, Ricardo Dodson relating to all counts charged in the indictment;

On March 18, 1991, the jury returned guilty verdicts on all counts against Ricardo Jackson and not Ricardo Dodson:

**Trial Transcript Page 465: [T. 465]**

The Court: Ladies and gentlemen, have you in fact reached a verdict?

The Foreperson: Yes, we have.

The Court: And are the verdict forms that you handed me, are these the verdicts in this case?

The Foreperson: Yes, it is.

The Court: The Defendant please stand.

We, the jury, being First duly impaneled and sworn in this case,  
Find the Defendant, Ricard Jackson, guilty of Kidnapping as  
charged in count six of the indictment.

Having found the Defendant guilty, we do further find that the  
Defendant did release the victim in a safe place unharmed.

Signed by all twelve of the jurors.

We, the jury being First duly impaneled and sworn, or excuse  
me, Count Seven, We the jury being duly impaneled and sworn  
In this case, find the Defendant, Ricardo Jackson, guilty of  
Attempted Rape charged in count Seven of the indictment.

Signed by all twelve of the jurors

We, the jury, being First duly impaneled and sworn in this case,  
find the Defendant, Ricardo Jackson, guilty of Rape as charged  
in count nine of the indictment.

We, the jury, being First duly impaneled and sworn in this case,  
Do find the Defendant, Ricardo Jackson, guilty of Rape as  
charged in count ten of the indictment.

Signed by all twelve of the jurors

After the return of the juror's verdicts, and after the affirmative vote was recorded, the counsel  
for the Petitioner requested a polling of the jury verdicts:

**Trial Transcript Pages 467-468**

[T. 467-468]

The Court: Anything further on behalf of the Defendant, Mr. Kentner?

Mr. Kentner: Yes, I request a polling of the jury.

The Court: All right, Ladies and gentlemen of the jury, at this time on the Request of Counsel, I'm required by law to ask each of you if, in fact, the verdict that has been delivered here are your verdict in this case.

Mr. Pannell, do you concur in each of these verdicts?

Juror No. 1: Yes.

The Court: Ms. Shafared?

Juror No. 2: Yes.

The Court: Do you in fact concur in each of these verdicts?

Juror No. 2: Yes, I do.

The Court: Ms. Pennington, do you concur in each of these verdicts?

Juror No. 3: Yes, sir.

The Court: Ms. Carter, do you concur in each of these verdicts?

Juror No. 4: Yes, sir.

The Court: Ms. Stafford, do you concur in each of these verdicts?

Juror No. 5: Yes.

The Court: Ms. Newburgh, do you concur in each of these verdicts?

Juror No. 6: Yes, I do.

The Court: Mr. Wren, do you concur in each of these verdicts?

Juror No. 7: Yes, I do.

The Court: Mr. Johnson, do you concur in each of these verdicts?

Juror No. 8: I do.

The Court: Ms. Krumlaut, do you concur in each of these verdicts?

Juror No. 9: Yes, I do.

The Court: Ms. Panovsky, do you concur in each of these verdicts?

Juror No. 10: Yes, I do.

The Court: Ms. Dils, do you concur in each of these verdicts?

Juror No. 11: Yes.

The Court: Mr. Covey, do you concur in each of these verdicts?

Juror No. 12: Yes, I do.

The Court: Anything further from the jury?

The Foreperson: No, your Honor.

The Court: At this time, the jury has concluded its duty. Thank you, and you are hereby dismissed. My Bailiff will escort you out.

After the jury was dismissed, the trial judge immediately sentenced the Petitioner:

**Trial Transcript Pages 467-468**

**[T. 467-468]**

The Court: The jury returned a verdict finding the defendant guilty of Counts Six, Seven, Eight, Nine, and Ten. The Court has considered all matters required by Sections 2929.12 and 2951.02 of the Ohio Revised Code, and it is the sentence of the Court that the defendant serve a period of not less than ten (10) years nor more than twenty-five (25) years on each counts Eight, Nine and Ten and a period of not less than eight (8) years nor more than fifteen (15) years on each of Counts Six and Seven, **all to run consecutive**, the institution of incarceration to be designated by the Ohio department of Rehabilitation and Corrections;

**The entry does not state an aggregate sentence.**

The Petitioner asserts that the judgment of conviction and sentence is unlawful where the jury did not, due to error, render a guilty verdict against Petitioner, and was discharged without correcting the error. The error relates to the jury rendered verdicts finding Ricardo Jackson guilty of all counts in the indictment instead of Ricardo Dodson. The jury was polled on the Ricardo Jackson verdict, each assenting to the guilty verdict, and discharged after the court accepted the verdict. However, in spite of the fact that the jury was discharged without rendering guilty verdict against Petitioner, or correcting the names announced in the verdict, the trial court entered judgment of conviction, off the record, finding that the jury did find Petitioner guilty on all counts in the indictment.

The defendant is entitled to resolution of the case by verdict from the jury. Richardson v. United States, 468 U.S. 317, 326, 104 S.Ct. 3081, 82 L. Ed. 2d 242 (1984). It is equally clear that the "Constitution gives a criminal defendant the right to demand that a jury find him guilty of all the elements of the crime with which he is charged." United States v. Gaudin, 515 U.S. 506, 511, 132 L. Ed. 2d 444, 115 S. Ct. 2310 (1995). These basic precepts, firmly rooted in the

common law, have provided the basis for decisions interpreting modern criminal statutes and sentencing procedures.

The violation of the right to a public trial is considered structural error and not subject to harmless-error analysis. Waller v. Georgia, 467 U.S. 39, 49-50, 104 S. Ct. 2210, 81 L. Ed. 2d 31 (1984), fn. 9; Johnson v. United States, 520 U.S. 461, 468-469, 117 S.Ct. 1544, 137 L.Ed.2d 718 (1997). A structural error is a "defect affecting the framework within which the trial proceeds, rather than simply an error in the trial process itself." Arizona v. Fulminante, 499 U.S. 279, 310, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991). A public-trial violation constitutes structural error "because of the 'difficulty of assessing the effect of the error,'" Weaver v. Massachusetts, U.S. , , 137 S.Ct. 1899, 1910, 198 L.Ed.2d 420 (2017), quoting United States v. Gonzalez-Lopez, 548 U.S. 140, 149, 126 S.Ct. 2557, 165 L.Ed.2d 409 (2006), fn. 4, and because it "furthers interests other than protecting the defendant against unjust conviction," id.

In a jury trial the primary finders of fact are the jurors. Their overriding responsibility is to stand between the accused and a potentially arbitrary or abusive Government that is in command of the criminal sanction. For this reason, a trial judge is prohibited from entering a judgment of conviction or directing the jury to come forward with such a verdict, see United States v. Martin Linen Supply Co., 430 U.S. 564, 569, 97 S. Ct. 1349, 51 L. Ed. 2d 642 (1977); citing Sparf & Hansen v. United States, 156 U.S. 51, 105 (1895); Carpenters v. United States, 330 U.S. 395, 408 (1947), regardless of how overwhelmingly the evidence may point in that direction. The trial judge is thereby barred from attempting to override or interfere with the jurors' independent judgment in a manner contrary to the interests of the accused.

The presumption of innocence accorded an accused is a basic component of a fair trial; it is our duty to be alert to factors that undermine fairness in the fact-finding [\*\*\*623] process and dilute the right to this presumption. Lane, 60 Ohio St.2d at 115, 397 N.E.2d 1338. The presumption of innocence of the accused in a criminal prosecution is a basic component of a fair trial in the criminal justice system. Coffin v. United States (1895), 156 U.S. 432, 453. It is the duty of our courts to guard against factors which may undermine the fairness of the fact-finding process and thereby dilute the right to the presumption of innocence. To implement the



presumption courts must be alert to factors that may undermine the fairness of the fact-finding process. *Estelle v. Williams* (1976), 425 U.S. 501, 503. These protections are extended to all criminal defendants even those who happen to be prison inmates. See *Wolff v. McDonnell* (1974), 418 U.S. 539.

The object of a poll is to give each juror an opportunity, before the verdict is recorded, to declare in open court his assent to the verdict which the foreman has returned and thus to enable the court and parties "to ascertain for a certainty that each of the jurors approves of the verdict as returned." *Humphries v. District of Columbia*, 174 U.S. 190, 194, 19 S. Ct. 637, 638-639, 43 L. Ed. 944 (1899);

A jury's verdict is considered valid when read in open court and recorded by the court. See *Finn v. Carnegie-Illinois Steel Corp.*, 68 F. Supp. 423, 435 (W.D. Pa. 1946) ("The verdict as recorded by the jury in open court is the verdict of the jury . . ."); *Fox v. United States*, 417 F.2d 84, 89 n.5 (5th Cir. 1969) (in a civil case, "the only verdict is that which is returned and announced in open court as the verdict of the jury"). The verdict in this case was read in open court and recorded by the trial court.

Petitioner asserts that the State Court seems to treat the verdict forms as if they constitute the verdict. On the contrary, the jury verdict is the oral statement of same in open court concurred in by the jury and thereafter entered by the court. The Fifth Circuit has said on this point:

"The only verdict is that which is returned and announced in open court as the verdict of the jury. *Bruce v. Chestnut Farms-Chevy Chase Dairy*, 75 U.S.App.D.C. 192, 126 F.2d 224 (1942); *United States v. Pleva*, 66 F.2d 529 (2d Cir. 1933); *Mattice v. Maryland Casualty Co.*, 5 F.2d 233 (W.D.Wash.1925)." *Fox v. United States*, 417 F.2d 84, 89 n. 5 (5th Cir. 1969).

Judge Gourley put the matter thus in a well-considered opinion:

"It is my further opinion that the verdict as recorded by the jury in open court is the verdict of the jury and that the form prepared in the jury room, though signed by each of the jurors and handed to the clerk, is no part of the record and has no significance whatsoever after the verdict is read to the jury and no dissent is offered by any of the jurors." *Finn v. Carnegie-Illinois Steel Corp.*, 68 F. Supp. 423, 435 (W.D.Pa.1946).

Professor Moore says:

"The jury's verdict is that which the jury announces to the court, in open court, and is received and recorded as the jury's finding. A sealed verdict is an agreement in writing, [\*\*19] reached by the jurors, and does not become the jury's verdict until, as just stated, it is announced to and received by the court." 5 J. Moore, Federal Practice para. 49.07, at 2237 (2d ed. 1965). (Footnotes omitted.)

See also California Fruit Exchange v. Henry, 89 F. Supp. 580, 588 (W.D.Pa.), aff'd, 184 F.2d 517 (3d Cir. 1950).

If a court discharges a jury when further proceedings may produce a fair verdict, the defendant is deprived of his "valued right to have his trial completed by a particular tribunal." Washington, 434 U.S. at 509. Crawford v. Washington, 541 U.S. 36, 61, 124 S. Ct. 1354, 158 L. Ed. 2d 177 (2004),

### **A. Scope of Double Jeopardy**

The Double Jeopardy Clause forbids the State from twice putting a person "in jeopardy" for the same offense. U.S. Const. amend. V. A person is "in jeopardy" as to each charged offense when the trial court empanels and swears the jury. United States v. Martin Linen Supply Co., 430 U.S. 564, 569, 97 S. Ct. 1349, 51 L. Ed. 2d 642 (1977). Once a defendant's first stint in jeopardy ends, the Constitution bars a second stint for the same crimes.

In United States v. Sanders, 591 F.2d 1293 (9th Cir. 1979), this Court stated that "jeopardy attaches when the jury is empaneled and sworn." Id. at 1296, quoting Crist v. Bretz, 437 U.S. 28, 29, 98 S. Ct. 2156, 2157, 57 L. Ed. 2d 24 (1978). At that point, the defendant has a "valued right to have his trial completed by a particular tribunal." Id.

Jeopardy ends in many ways. It ends when the jury convicts a defendant and his appeal fails. Price v. Georgia, 398 U.S. 323, 326, 90 S. Ct. 1757, 26 L. Ed. 2d 300 (1970). It ends after an acquittal. North Carolina v. Pearce, 395 U.S. 711, 717, 89 S. Ct. 2072, 23 L. Ed. 2d 656 (1969). And it ends when, after a mistrial, "a trial is aborted before it is completed"—

unless "manifest necessity" justifies stopping the proceedings or the defendant consents. Arizona v. Washington, 434 U.S. 497, 503-05, 98 S. Ct. 824, 54 L. Ed. 2d 717 (1978). In each case, the Double Jeopardy Clause bars the State from a do-over for the same crime.

Those are the general principles. Here are the specific principles about implied acquittals.

Acquittals that a jury does not render through a formal verdict generally turn on form and substance. Blueford v. Arkansas, 566 U.S. 599, 606-08, 132 S. Ct. 2044, 182 L. Ed. 2d 937 (2012). Form: An acquittal is "a final resolution" of deliberations. Id. at 606. Substance: An acquittal in essence is a "ruling" by the factfinder that, "whatever its label, actually represents a resolution . . . of some or all of the factual elements of the offense charged." Martin Linen Supply Co., 430 U.S. at 571.

Several breeds of implied acquittals exist under these principles. One type stems from a conviction on "lesser included offenses" when the court charges the jury to consider all of the offenses. Ohio v. Johnson, 467 U.S. 493, 501-02, 104 S. Ct. 2536, 81 L. Ed. 2d 425 (1984). When a jury passes over the greater offense and selects its lesser incidents, it impliedly acquits the defendant of the greater offense. Price, 398 U.S. at 329.

An implied acquittal likewise arises when a jury charged to consider several counts is instructed it may convict on only one. Jolly v. United States, 170 U.S. 402, 408, 18 S. Ct. 624, 42 L. Ed. 1085 (1898). The jury's choice of one count over the other, it's "legitimate" to assume, Green v. United States, 355 U.S. 184, 191, 78 S. Ct. 221, 2 L. Ed. 2d 199, 77 Ohio Law Abs. 202 (1957), amounts to a "resolution" in the defendant's favor on the alternative count, Blueford, 566 U.S. at 606.

Jeopardy must terminate whenever the trial court sends the jury home without rendering a verdict on a count—regardless of whether the jury considered the count, could consider the count, or resolved it in the defendant's favor. Petitioner points to Green v. United States as supporting this rule. 355 U.S. 184, 78 S. Ct. 221, 2 L. Ed. 2d 199, 77 Ohio Law Abs. 202. There, the Court inferred an acquittal from the jury's silence on a count, pointing to the fact that the jury convicted on the lesser included count. Under these circumstances, the Court first

reasoned, it is "legitimate" to assume that "for one reason or another" the jury "refused" to convict Green on the greater offense. Id. at 190-91.

This Court, as well as most others, has taken the position that a defendant is placed in jeopardy once he is put to trial before a jury so that if the jury is discharged without his consent he cannot be tried again. Wade v. Hunter, 336 U.S. 684; Kepner v. United States, 195 U.S. 100, 128.

The Privileges or Immunities Clause provides that "[n]o State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." Amdt. 14, §1. At the time of the Fourteenth Amendment's ratification, "the terms 'privileges' and 'immunities' had an established meaning as synonyms of 'rights.'" McDonald v. Chicago, 561 U.S. 742, 813, 130 S. Ct. 3020, 177 L. Ed. 2d 894 (2010) (Thomas, J., concurring in part and concurring in judgment). "[T]he ratifying public understood the Privileges or Immunities Clause to protect constitutionally enumerated rights" against abridgment by the States. Id., at 837. The Sixth Amendment right to a trial by jury is certainly a constitutionally enumerated right. See Maxwell v. Dow, 176 U. S. 581, 606-608, 20 S. Ct. 448, 44 L. Ed. 597 (1900) (Harlan, J., dissenting).

A trial judge may direct an acquittal but may never direct a verdict of guilty no matter how overwhelming the evidence may be, the Supreme Court stated in United States v. Martin Linen Supply Co., 430 U.S. 564, 572-73, 97 S. Ct. 1349, 1355, 51 L. Ed. 2d 642 (1977):

The trial judge is thereby barred from attempting to override or interfere with the jurors' independent judgment in a manner contrary to the interests of the accused.

In the same opinion Justice Brennan quoted from United States v. Ball, 163 U.S. 662, 671, 16 S. Ct. 1192, 41 L. Ed. 300 (1896), as follows:

Perhaps the most fundamental rule in the history of double jeopardy jurisprudence has been that "(a) verdict of acquittal . . . could not be reviewed, on error or otherwise, without putting (a defendant) twice in jeopardy and thereby violating the Constitution." 430 U.S. at 571, 97 S. Ct. at 1354

**This Honorable Court should review this case and allow the writ based on the following arguments. To wit:**

A state court has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

1. Can a trial court correct-Amend a jury's verdict that announced the wrong name upon reading the verdict, upon assenting to the verdict on polling, and after the jury has been discharged? Or, did the trial court lose jurisdiction to correct-amend the verdict upon discharging of the jury?
2. Whether Petitioner conviction, sentence, and imprisonment is unlawful where the jury reached a guilty verdict against the wrong party and not Petitioner, announced the wrong name during the reading of the verdict, assented to the wrong name during jury polling, then discharged without correcting the verdict error finding the wrong party guilty?
3. Where the jury verdict form incorrectly listed the wrong name, and that wrong name was announced in open court during the reading of the verdict, and the jury assented to the incorrect name, polled on the incorrect name, and the judge accepted the jury verdict, then discharged the jury without correcting the verdict, did the trial court error when it overruled the verdict, found petitioner guilty, and imposed a sentence?
4. Whether the trial court's Correction of a Verdict, after the jury had been discharged, by switching it from Ricardo Jackson to Ricardo Dodson to Correct a Error made by the Jury where they assented to the wrong name on the Verdict Form and assented to the wrong name during jury polling, Violates the Double Jeopardy Clause?
5. Whether State law allowing the trial judge to enter a judgment of conviction during jury trial where the jury failed to render a proper guilty verdict prior to being discharged abridge privileges or immunities of citizens of United States within meaning of Fourteenth Amendment?
6. Whether it was error for the trial court to enter a finding of guilt when, by error, the jury did not make a finding of guilty against Petitioner before being discharged?
7. Where the jury verdict forms was misread during the reading of the jury verdict, announcing the wrong name of the party standing trial, and the jury assented to the misread version of its verdict, then discharged without correcting the misread verdict, does the misread verdict constitute the final verdict?

8. Where the jury failed to reach a verdict finding petitioner guilty on any counts of the indictment due to error, and discharged without reaching a verdict or correcting the verdict error, does the trial court have authority to enter a guilty verdict on behalf of the jury?
9. Whether Petitioner was denied his Sixth Amendment Right to a trial by jury when the trial discharged the jury without the jury rendering a guilty verdict against Petitioner, then entered guilty verdicts on behalf of the jury?
10. Whether the Petitioner was denied fourteenth Amendment Due process Protection when the trial court accepted the guilty verdicts on all counts despite the fact that the verdict forms and the open reading of the verdicts contained the wrong name of the Defendant standing trial?
11. Whether Petitioner was acquitted on all charges once the jury was discharged, without his Petitioner's consent, without reaching a verdict?
12. Whether the trial court's judgment of conviction and sentence placed Petitioner in jeopardy twice for the same offense in violation of the Fifth Amendment?
13. Did the trial court make fraudulent misrepresentation when it submitted public record journal entry of conviction stating that the jury found Petitioner, Ricardo Dodson, guilty of all counts?
14. When the journal entry of conviction and sentence does not accurately reflect what transpired during trial, is the erroneous journal entry record constitute a fraudulent document?

## **STATEMENT OF THE CASE**

The procedural history as relevant to the habeas corpus proceeding in which Appellant, Ricardo Dodson, sought his immediate release from the Belmont Correctional Institution. As the basis for his habeas corpus claim, petitioner asserts that his present incarceration is illegal because the jury did not render a verdict against him on any counts of the indictment, and he was never convicted of any offense

during the underlying criminal action. Also, Appellant asserted that his maximum sentence has expired where his sentences are not consecutive but in fact concurrent

**In Case Number (90CR-5678B)**

On September 7, 1990, a Franklin County Grand Jury indicted Ricardo Dodson ("Petitioner") on three counts of rape, all felonies of the first degree, in violation of R.C. 2907.02, one count of attempted rape, a felony of the second degree, in violation of R.C. 2923.02, and one count of kidnapping, a felony of the first degree, in violation of R.C. 2905.01.

On March 11, 1991, the Petitioner exercised his right to a jury trial, and the trial commenced on this said date;

At the conclusion of trial, the Petitioner and the Prosecutor presented their arguments and evidence to the jury, and on March 14, 1991 the jury was sent to the jury room for deliberations, with the proper instructions on the determination of guilt or innocence of Petitioner, Ricardo Dodson relating to all counts charged in the indictment;

On March 18, 1991, the jury returned guilty verdicts on all counts against Ricardo Jackson and not Ricardo Dodson:

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The Court: Ladies and gentlemen, have you in fact reached a verdict?

The Foreperson: Yes, we have.

The Court: And are the verdict forms that you handed me, are these the verdicts in this case?

The Foreperson: Yes, it is.

The Court: The Defendant please stand.

We, the jury, being First duly impaneled and sworn in this case,  
Find the Defendant, Ricard Jackson, guilty of Kidnapping as  
charged in count six of the indictment.

Having found the Defendant guilty, we do further find that the

Defendant did release the victim in a safe place unharmed.

Signed by all twelve of the jurors.

We, the jury being First duly impaneled and sworn, or excuse me, Count Seven, We the jury being duly impaneled and sworn In this case, find the Defendant, Ricardo Jackson, guilty of Attempted Rape charged in count Seven of the indictment.

Signed by all twelve of the jurors

We, the jury, being First duly impaneled and sworn in this case, find the Defendant, Ricardo Jackson, guilty of Rape as charged in count nine of the indictment.

We, the jury, being First duly impaneled and sworn in this case, Do find the Defendant, Ricardo Jackson, guilty of Rape as charged in count ten of the indictment.

Signed by all twelve of the jurors

After the return of the juror's verdicts, and after the affirmative vote was recorded, the counsel for the Petitioner requested a polling of the jury verdicts:

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The Court: Anything further on behalf of the Defendant, Mr. Kentner?

Mr. Kentner: Yes, I request a polling of the jury.

The Court: All right, Ladies and gentlemen of the jury, at this time on the Request of Counsel, I'm required by law to ask each of you if, in fact, the verdict that has been delivered here are your verdict in this case.

Mr. Pannell, do you concur in each of these verdicts?

Juror No. 1: Yes.

The Court: Ms. Shafared?

Juror No. 2: Yes.



The Court: Do you in fact concur in each of these verdicts?

Juror No. 2: Yes, I do.

The Court: Ms. Pennington, do you concur in each of these verdicts?

Juror No. 3: Yes, sir.

The Court: Ms. Carter, do you concur in each of these verdicts?

Juror No. 4: Yes, sir.

The Court: Ms. Stafford, do you concur in each of these verdicts?

Juror No. 5: Yes.

The Court: Ms. Newburgh, do you concur in each of these verdicts?

Juror No. 6: Yes, I do.

The Court: Mr. Wren, do you concur in each of these verdicts?

Juror No. 7: Yes, I do.

The Court: Mr. Johnson, do you concur in each of these verdicts?

Juror No. 8: I do.

The Court: Ms. Krumlaut, do you concur in each of these verdicts?

Juror No. 9: Yes, I do.

The Court: Ms. Panovsky, do you concur in each of these verdicts?

Juror No. 10: Yes, I do.

The Court: Ms. Dils, do you concur in each of these verdicts?

Juror No. 11: Yes.

The Court: Mr. Covey, do you concur in each of these verdicts?

Juror No. 12: Yes, I do.

The Court: Anything further from the jury?

The Foreperson: No, your Honor.

The Court: At this time, the jury has concluded its duty. Thank you, and you are hereby dismissed. My Bailiff will escort you out.

After the jury was dismissed, the trial judge immediately sentenced the Petitioner:

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**[T. 467-468]**

The Court: The jury returned a verdict finding the defendant guilty of Counts Six, Seven, Eight, Nine, and Ten. The Court has considered all matters required by Sections 2929.12 and 2951.02 of the Ohio Revised Code, and it is the sentence of the Court that the defendant serve a period of not less than ten (10) years nor more than twenty-five (25) years on each counts Eight, Nine and Ten and a period of not less than eight (8) years nor more than fifteen (15) years on each of Counts Six and Seven, **all to run consecutive**, the institution of incarceration to be designated by the Ohio department of Rehabilitation and Corrections;

**The entry does not state an aggregate sentence.**

In October 1991, the Court of Appeals affirmed Petitioner's convictions on direct appeals. *State v. Dodson*, 10th Dist. No. 91AP-411, 1991 Ohio App. LEXIS 5172 (Oct. 24, 1991) (direct appeal in case No. 90CR-5678B).

In July of 1993 Petitioner Filed a Motion for Delayed Reconsideration of His Direct Appeal in Case No. 91AP-411 (Direct appeal in case No.90CR-5678B);

The Petitioner argued in the delayed reconsideration, but not limited to, that the trial judge abused its discretion and committed prejudicial error when it without jurisdiction, amended the jury's guilty verdict from Ricardo Jackson to Ricardo Dodson.

On September 7, 1993 the Court of Appeals found that the trial court's misreading of a jury verdict does not constitute amending the jury verdict. ***State v. Dodson***, 10th Dist. No. 91AP-411, 1993 Ohio App. LEXIS 6538 (Sept. 7, 1993).

Dodson petitioned the Court of Appeals for Belmont County, Ohio, Case No. 23 BE 0054Seventh District for a writ of habeas corpus in 2023. *State ex rel. Dodson v. Gray*, 2024-Ohio-2766, 2024 Ohio App. LEXIS 2639 (Ohio Ct. App., Belmont County, July 19, 2024) Petitioner asserted that he is being unlawfully held in prison because the jury verdict had been returned against the wrong party, a person named Ricardo Jackson, and not him Ricardo Dodson. He further argued that since the jury had been discharged without correcting the verdict, the trial court had lacked jurisdiction to correct the verdict by entering judgment of conviction on behalf of the jury.

On January 2, 2024 Appellee filed a Civ.R.12(B)(6) motion to dismiss. On July 19, 2024 the Court of Appeals granted the motion to dismiss on the grounds.

On August 12, 2024 Petitioner filed an appeal in the Ohio Supreme Court. On May 29, 2025 the Court affirmed the decision. *State ex rel. Dodson v. Smith*, 2025-Ohio-1878, 2025 Ohio LEXIS 1117 (May 29, 2025)

## CONCLUSION

For the reasons above stated and stated in the Jurisdictional Statement filed in this Court in respect of the Ohio Supreme Court decision, the petition for a writ of certiorari should be granted.

Respectfully Submitted,

Richard Jackson

Date: August 6, 2025