No. 25-5771 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Jared Wade Hinman

Petitioner

v.

People of the State of Illinois

Respondent(s)

ON PETITION FOR WRIT OF CETIORARI TO THE

Supreme Court of Illinois

PETITION FOR WRIT OF CERTIORARI

Jared Wade Hinman #Y53702
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QUESTION(S) PRESENTED

1. Did the blanket refusal, by the Appellate Court of Illinois, to 'substitute their judgement for that of the Trier of Fact', deny an affirmative defense 'Sufficiency of Evidence to prove essential elements of the Crime' to the Defense on Appeal and thus violate Due Process?
2. Did the Trial Court commit constitutional error when closing arguments gave contradicting jury instructions, referring to the importance of essential elements and their specifics, and the Court failed to admonish the jury on the issue it presented?
3. Did the Court(s) allow for *too much* "other bad acts" (of uncharged incidents) and thereby deny the defendant a fair trial?
4. Are Illinois Courts bound by ***Miller v. Alabama, 567 U.S. 460, 479 (2012)?***

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Opinions Below

Jared Wade Hinman (hereinafter "petitioner") petition for a writ of certiorari to review the judgement of the Illinois Court of Appeals for the 5th District, there heard on appeal from the Circuit Court of Pulaski County, Illinois, Honor Jeffery B. Ferris, Judge Presiding, where the Appellate Court [HELD] the judgement of the Circuit Court convicting Petitioner of two counts of Predatory Criminal Sexual Assault and one count of Criminal Sexual Assault, where Petitioner appealed that there was Insufficient Evidence to prove essential elements of the charged crime, and that the amount of Other Crimes Evidence presented at trial was Too Excessive, and that Sentencing was Too Severe.

The Judgement of the Court of Appeals was entered on 04/04/24, a Petition for Rehearing was filed on 04/16/24, Appellate Court's denial was filed on 05/01/24, Petition for Leave to Appeal to the Illinois Supreme Court was filed on 06/04/24, Supreme Court's denial was filed on 09/25/24, Motion for Leave to File a Motion for Reconsideration and corresponding Motion for Reconsideration was filed on 11/22/24, and Supreme Court's denial was filed on 01/07/25

The opinion of the Court of Appeals is not reported.

Jurisdiction

The jurisdiction of this Court is invoked under ***28 U.S.C. Sec. 1245(1).*** This petition is timely filed pursuant to ***28 U.S.C. Sec. 2101(c).***

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES AND RULES

STATEMENT OF CASE

Denial of an Affirmative Defense

Due Process

The Constitutional test for *sufficiency of evidence* is "whether after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." ***Jackson v. Virginia, 443 U.S. 307, 319 (1979)***

The State of Illinois interprets that "*When* considering a challenge to the sufficiency of evidence, courts of review *must* consider whether, when viewing all the evidence adduced at trial in a light most favorable to the state, any rational trier of fact could find proof of the essential elements of the charged offense beyond a reasonable doubt." ***People v. Edward, 402 111, App. 3d 555, 564 (2010)*** (emphasis made by the petitioner)

"The trier of fact is responsible for determining witness credibility, the weight to be given to their testimony, and the reasonable inferences to be drawn from the evidence." ***People v. Harmon, 2012 IL app (3d) 110297, par.11*** "Factual disputes are resolved by the trier of fact where evidence can produce conflicting inferences." ***Harmon par.12***

The reviewing court may not substitute it's judgement for that of the Circuit Court." ***People v. Braddy, 2015 IL App (5th) 130354, par.32***

"The state is not required to disprove all possible factual scenarios. ***People v. Newton, 2018 IL 122958, par.27***

"We will not substitute our judgement for reasonable inferences made by the jury." ***People v. Hinman, 2024 IL App (5th) 220627-U***

Furthermore, the reviewing courts have effectively tied their hands, in regards to challenges to the sufficiency of evidence, denying all claims due process granted by ***Jackson v. Virginia.***

The essential elements of this case were: defendant was 17+ years of age at the time of the alleged crime; charged crime took place in *April of 2000*; the victim was 13- years of age at the time of the alleged crime. However, the only evidence to the charged offense transpiring within April of 2000 were:

"It could have been around Easter [...] but I'm not certain"

This is not beyond a reasonable doubt. The victim herself expressed reasonable doubt. For the record, this victim is 32 years of age during trial, not a child, and praised for her articulacy.

Victim's original statement was taken in 2015. Charges were not filed until 2021. The dates of the charged offenses were changed four times, and included time ranges: (1995-1999), (1998), (1999), (1999-2000), and finally (April 2000) with the last *Amended information* taking place Day 3 of trial (after the jury was selected but before any testimony was given). All these changes were derived from the same evidence available in 2015. Why is this important? Because if the alleged crime transpired at any other time, the defendant was not 17+, and possibly as young as 12 years old.

Failure to Admonish Jury

Court Error / Structural Defect

"It is error for judge to instruct jury that some elements of an offense are more important than others" ***U.S. v. Rawlings, 73 F.3d 1145 (D.C. Cir. 1996).*** "After the government has presented its evidence as to each element, and the defendant has had the opportunity to present a defense, if the defendant so chooses, the judge must instruct the jury on the law applicable to the issues raised at trial. Under the Sixth Amendment jurisprudence, the next two steps are strictly for the jury: (1) determining the facts as to each element of the crime, and (2) applying the law as instructed by the judge to those facts." ***U.S. v. Johnson, 71 F.3d 139 (4thCir. 1995)***

"Due process requires the Court to charge the jury on all elements of the crimes alleged in the indictment. A court's failure to instruct the jury on some of the elements of a charged crime has the effect of relieving the prosecution of part of its burden of proof in obtaining a conviction. The allegedly erroneous instruction must be considered in the context of the charge as a whole, but the complete omission of an element of an offense violates due process. ***U.S. v. Gallarani, 68 F. 3d 611 (2nd Cir. 1995)***

A jury's verdict cannot stand, if the instructions provided to the jury do not require it to find each element of the crime under the proper proof" ***Cabana v. Bullok, 474 U.S. 376, 106 S. Ct. 689, 88 L. ed. 2d 704 (1986) see also: U.S. v. Musgrave, 444 F. 2d 755 (5th Cir. 1971), U.S. v. Chambers, 922 F. 2d 228 (5th Cir. 1991), U.S. v. Mollier, 853 F. 2d 1169 (5th Cir. 1988)***

Here defense counsel asked for a directed verdict on the previously mentioned (in this petition) issue. This raised the issue at trial. However, in closing arguments, Prosecution tells the jury "we don't have to prove *when* it happened, only *that* it happened." (emphasis by state)

Rather than object, defense counsel attempts their own cure in their own closing argument, stating "dates matter, dates matter." The court proceeded as if nothing was amiss. The two conflicting instructions alleviated Prosecution of burden of proof to obtain a conviction on that element, and empowered the jury to ignore that element. If ***Rawlings*** holds the court responsible for its own comments, surely it holds the court responsible by proxy in this case.

This is a triple threat issue: Ineffective Assistance of counsel for not objecting; Prosecutorial misconduct for erroneous jury instructions during closing arguments; and Court error in its failure to address the issue. (Also, ineffective assistance of appellate counsel for not raising the issue on appeal)

Smith v. Horn, 120 F. 3d 400 (CA 3 1997) p.415 However, once the state has defined the elements of an offense, the federal Constitution imposes constraints upon the states authority to convict a person of that offense. It is well-settled that "the due process clause ***14th Amendment*** protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." ***In re Winship, 397 U.S. 358, 364, 90 S. Ct. 1068, 1073, 25 L. Ed. 2d 368 (1970);*** [omitted]. A jury instruction that omits or materially misdescribes an essential element of an offense as defined by state law relieves the state of its obligation to prove facts constituting every element of the offense beyond a reasonable doubt, thereby violating the defendant's federal du process rights. ***See Carella v. California, 491 U.S. 263, 265, 109 S. Ct. 2419 (1989) per curium***

When defense counsel moved for directed verdict on Counts I & II an affirmative defense was presented that had the effect of negating an element of the offense. "Thus, if a defendant asserts a defense that has the effect of negating an element of the offense, the prosecution must disprove that defense beyond a reasonable doubt." ***United States v. Deleveaux, 205 F. 3d 1292 (CA 11***

2000) citing Patterson v. New York, 432 U.S. 197, 97 S. Ct. 2319, 2327 (1977) p. 1298 Thus the IL App 5d erred on appeal in applying, "The State is not required to disprove all possible factual scenarios." ***[Newton]*** When Defense Counsel, in closing, stated "Dates matter, dates matter..." that affirmative defense was introduced to the jury. "Slight evidence supporting an affirmative defense shifts the burden to the [omitted] state to disprove the elements of the defense beyond a reasonable doubt." ***People v. Lewis, 2022 IL 126705, par.129*** The *State* had the burden prior to its closing argument, and *chose* to state "we don't have to prove *when* it happened, only *that* it happened" (emphasis by State). This jury verdict cannot stand.

[580.25] Reasonable Doubt Error Equals Structural Defect. ***Simpson v. Matson, 29 F. Supp. 2d 11 (Dumas 1998) p.18*** There is no Constitutional requirement that the trial court provide the jury with any particular definition of "reasonable doubt". ***Lanigan v. Maloney, 853 F. 2d 40, 48 (1st Cir. 1987)*** When testing to see if the standard was met, "the proper inquiry is not whether the instruction 'could have' been applied in an unconstitutional manner, but whether there is a reasonable likelihood that the jury did so apply it." ***[Id. at 5], p. 21*** When there is reasonable likelihood that the jury misapplied the reasonable doubt standard, then the trial in infected with a structural defect "which violates all the jury's findings" ***Sullivan, 508 U.S. at 281, 113 S. Ct. 20078 [Habeas Corpus Granted] Cage v. Louisiana, 498 U.S. 39, 41, 111 S. Ct. 328, 112 L. Ed. 2d 339 (1990)***

Upon realizing there were Fourteen jurors having deliberated, several steps were taken to cure. Among these were to instruct the jury to *redeliberate* without the alternates present. Jury reentered chambers and signed another verdict form (less that 5 minutes, after over an hour of previous deliberation) without redeliberating. If the jury so chose to ignore Court's instructions to redeliberate, there is nothing to suggest the jury obeyed any other instructions.

Too Much "Other Bad Acts"

Fair Trial

Reading the Petitioner's Appellate Brief, the State's Brief, Petitioner's Reply Brief, and finally the Appellate Court's Order, it becomes apparent that there may actually be *too much* case law on this subject, in Illinois. A reviewing Court has enough case law to ignore it, basically, and rule either way as if no case law existed. In an attempt to keep this simple and on point, the Appellate Order *alone* will be scrutinized here.

Par. 69 "In ***Cardamone***, the circuit had allowed testimony of 158 to 257 incidents of uncharged conduct." ***Cardamone, 381 Ill. App. 3d at 491. par. 70*** "Simply put, ***Cardamone*** was an extreme case." ***People v. Perez, 2012 IL App (2d) 100865, Par. 49***

The only way to have a range of uncharged conduct like this is if victims say things like "10 or 15 times" (15 victims). Simple math was used to deduce the range. What was the range in this case? ***988 to 6939*** is the allowed range. On appeal counsel argued *specific incidents*, and failed to mention what the jury was told to make their inferences with. **Par. 16** "J.J. recalled an incident that occurred when she was 5 years old, and the defendant was 12 years old." **Par. 22** "J.J. additionally testified that the abuse was "still pretty constant" after that incident until she was 12 years old." **Analysis:** 5 – 12 years old is **7 years**. **Par. 25** "P.R. testified [...] she was four or five years old." **Par. 27** "P.R. also testified "it went on all our lives" (injecting a possible inference that it continued to the present, to a 30-year-old woman). **Analysis:** 4 – 8 years is **4 years**. A.H.'s testimony doesn't use as specific age(s) thus for this purpose it will be excluded. **Par. 33** "J.H. testified [...] she was approximately 6 years old. [...] She testified that the defendant continued to sexually abuse her until she was approximately 13 or 14 years old." **Analysis:** 6 – 14 years is

8 years. That is a total of 19 years accumulatively. With the testimony given, a regularity of *once a week per victim* is not an unreasonable inference. **19** years times **52** weeks is a possible **988** instances. **19** years times **365.25** is **6939** instances (rounded down). ***Par.64*** "Relevant other-crimes evidence, however, must not become the focal point of the trial." ***People v. Boyd, 366 Ill. App. 3d 84, 94 (2006)*** What rational Justice could logically and rationally say that this did not happen here? ***Par. 59*** "Substantial evidence was presented for the State to prove beyond a reasonable doubt that the defendant committed two counts of predatory criminal sexual assault." An element of the charged crime was **April of 2000**, yet the *only* evidence to substantiate this is in ***par. 21***:

> "A: It could have been around Easter.
> Q: Okay.
> A: But I'm not certain"

Even the Appellate Court of Illinois fell victim to their own case law, stated as 'Reason for Granting'. Trial Court said at sentencing, "...it went on for *years*..." (emphasis original). Defendant wasn't charged with anything that 'went on for *years*' (emphasis original), but a single incident (involving two separate penetrations) in **April of 2000**, and another in 2005; two incidents of misconduct, not 988-6939 incidents with multiple victims. J.J. is the only charged victim.

There is *no way* the defendant's trial was "fair."

[Miller v. Alabama]

The Appellate Order – in this case – thoroughly sets out the applicable law for sentencing in Illinois in [***par. 83-87***]. The law in question is depicted in [***par. 85-86***]:

> ***Par.85*** The eighth amendment of the United States Constitution prohibits the infliction of "cruel and unusual punishments" (U.S. Const. Amend. XIV), ***People v. Dorsey, 2021 IL 123010, par. 37.*** "[T]he Eighth Amendment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders." ***Miller v. Alabama, 567 U.S. 460, 479 (2012)*** A prison sentence of more than 40 years imposed on a juvenile constitutes a *de facto* life sentence. ***Dorsey, 2021 IL 123010, par. 47***
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> ***Par. 86*** [***Miller***] did not foreclose the imposition of a life sentence in prison for juvenile offenders, rather it required sentencing courts to "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." ***Dorsey. 2021 IL 123010, par. 24*** (quoting ***Miller, 567 U.S. at 480*** "Neither a finding of permanent incorrigibility nor an on-the-record sentencing explanation is constitutionally required before a juvenile may be sentenced to a lifetime without parole." ***People v. Wilson, 2023 IL 127666. Par. 38.***

Undoubtedly SCOTUS felt no need to include specific qualifying factors for when it permitted a State Court to blatantly disregard its ruling(s). Thus, Illinois has ruled, "Neither a finding of permanent incorrigibility nor an on-the-record sentencing explanation is constitutionally required before a juvenile may be sentenced to a lifetime without parole." Before it blatantly disregards its ruling(s). This is *Bad Law*, and bad law practices. I formally challenge it as facially unconstitutional. This sets a precedent for States to do likewise with any other Federal Ruling, especially regarding Constitutional Rights ("cruel and unusual punishment" in this case, and many more to follow).

To be clear, Petitioner challenges ***Dorsey, Wilson***, as well as their implied/applied interpretations here in ***Hinman*** as facially unconstitutional with regards to ***Miller*** and its interpretation of ***U.S. Const. Amend(s) VIII & XIV***

REASONS FOR GRANTING THE PETITION

1. According to the Appellate Order, the law in Illinois currently reads, "When considering a challenge to the Sufficiency of Evidence [...] the reviewing court may not substitute its judgement for that of the circuit court," and "When considering a challenge to the Sufficiency of Evidence [...] We do not substitute our judgement for the determination made by the trier of fact." This is a clear denial of due process.
2. If the prosecution is allowed to erroneously instruct the jury, effectively 'relieving the prosecution of part of its burden of proof', then the jury is empowered to choose what essential elements are relevant. This violates due process.
3. "In the face of so many allegations of misconduct, there [is] a great risk that the jury could find that the defendant must have done *something*, or that it could find the defendant guilty beyond a reasonable doubt not of the charges but, instead, of uncharged acts." (emphasis original) ***Cardamone, 381 Ill. App. 3d at 493-94.***
4. Illinois Courts can literally do whatever they want with complete disregard for Federal Law, if this practice is continued.

CONCLUSION

For the above reasons the petition for Writ of Certiorari should be granted.

Respectfully Submitted,

Jared Wade Hinman

26 March, 2025, Re-Entered 08 May, 2025, Again 12 June, 2025, and 12 September, 2025