

No. 25-6815

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

STEVEN TRENT ELLIS - Petitioner

Vs.

STATE OF FLORIDA - Respondent

FILED
DEC 09 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO
FIFTH DISTRICT COURT OF APPEALS, STATE OF FLORIDA

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Does appellate counsel's failure to argue on appeal a fundamental constitutional right, in this case a trial judge's improper comments on a defendant's 6th amendment right to an impartial jury decided in Jenkins v United States, 380 U.S. 445 (1965), require a finding of ineffective assistance of appellate counsel under the 6th and 14th amendments of the United States Constitution?

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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 judgement below.

ORDER BELOW

The order of the highest state court to review the merits appears at appendix A to the petition and has been designated for publication but is not yet reported.

JURISDICTION

The date on which the highest state court decided my case was October 1, 2025.
A copy of that decision appears at appendix A.

A timely petition for rehearing was thereafter denied on November 7, 2025.
A copy of the order denying rehearing appears at appendix B.

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

CONSTITUTIONAL PROVISIONS INVOKED

XI Amendment to the United States Constitution

- In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

XIV Amendment to the United States Constitution

- Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

On February 23, 2023, Steve Ellis, the Petitioner, was charged by information in the circuit court of the fifth judicial circuit with 2 counts of sexual battery upon a person under twelve, §794.011(2)(a), Fla. Stat. and one count of lewd and lascivious molestation of a child less than twelve, §800.04(5)(b). (R 69-70)

On August 14, 2023 the Petitioner proceeded to trial, and on August 15, 2023 the Petitioner was found guilty as charged in the information. (R 91-93)

The Petitioner was sentenced on August 15, 2023 to a term of life in prison on all counts to run concurrent. (R 133-138)

The Petitioner timely appealed his judgement and sentence and was declared indigent and appointed counsel to represent him on appeal. After a review of the record, appellate counsel filed an Anders¹ brief, stating there were no meritorious grounds to argue to the court.

On November 15, 2024, the Fifth District Court of Appeals issued its mandate affirming the Petitioner's judgement and sentence. Ellis v State, No. 5D23-2691, 2024 Fla. App. LEXIS 8167 (Fla. 5th DCA Oct. 22, 2024).

On March 4, 2025, the Petitioner filed a habeas corpus petition to the Fifth

¹ Anders v California, 386 U.S. 738 (1967)

District Court of Appeals, pursuant to Florida Rules of Appellate Procedure 9.141(d), alleging specifically that appellate counsel was ineffective for failing to raise the trial court's erroneous instruction to the jury that violated his right to an impartial, or "hung", jury. (See Appendix C).

On October 1, 2025 the Petitioners petition was denied on the merits. (See Appendix A) Petitioner filed a timely motion for rehearing, which was denied on November 7, 2025. (See Appendix B) This timely petition for writ of certiorari follows.

In the Petitioner's case, prior to deliberations, the jury was given instructions on the parameters of their deliberations. One of the standard instructions given is that "You must follow these rules for there to be a lawful verdict...you must follow the laws as set out in these instructions." (T-201)² Fla. Std. Jury Instr. (Crim) 3.1D.

Within the giving of these standard instructions, the trial judge varied three different times with significant statements that violated the Petitioner's 6th amendment right to an impartial jury. The trial court instructed that:

"You must render a decision as to each count." (T-204)

"You can only choose one, but you have to choose one." (T-205)

"You have to choose one, but you can only choose one, A, B, or C." (T-205)

² "T" denotes where the referenced quote can be located in the trial transcripts.

Taking into account the entirety of the instructions to the jury, there was nothing further that was instructed to contradict nor correct these statements made by the trial judge. In Jenkins v United States, 380 U.S. 445 (1965), this Honorable Court decided that the trial judge in Jenkins case reversibly erred when the judge told the jury "You have got to reach a decision in this case." Id. at 446. This Court held this statement violated the defendant's right to an impartial jury under the 6th amendment of the United States Constitution. The statement in Jenkins is almost verbatim the statement in the Petitioner's case of "You must render a decision as to each count." (T 204).

As stated above, appellate counsel appointed to the Petitioner failed to raise this claim on direct appeal, and, as stated, filed an Anders brief finding no meritorious errors in the record. The Fifth District Court of Appeals found that appellate counsel was not ineffective for failing to raise this constitutional violation. (See Appendix A)

REASONS FOR GRANTING THE WRIT

The reason that the Petitioner requests that this Honorable Court grant his petition for writ of certiorari is to provide more specific guidance to the state's as to the minimum standards of performance for appellate counsel when claims of constitutional rights are overlooked.

The 6th and 14th amendments to the U.S. Constitution not only grant the right of counsel, but grant the right of effective counsel. The United States Supreme Court has not spoken clearly and decisively when it comes to what constitutes ineffective appellate counsel. Though there may be many strategic decisions that must be made when it concerns trial counsel. Appellate counsel's job is more narrowly tailored, and the main objective is to raise the strongest claims at their disposal to reverse the defendant's judgement and sentence.

This Court should speak on whether or not foregoing constitutional claims on direct appeal is per se ineffective, and at what point does a claim that would have reversed a judgement, but is not raised on direct appeal, is not deemed ineffective on the part of appellate counsel.

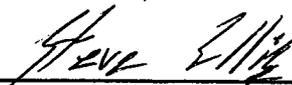
This Court should answer the important federal question to clarify to the states what, if any, constitutional claims always warrant ineffective appellate counsel, and in doing so bring forth a case in the magnitude of Strickland v Washington, 466 U.S. 668 (1984) as a modern standard by which all states will look to when deciding cases of ineffective appellate counsel claims.

CONCLUSION

A state court of last resort in the state of Florida has decided that the failure of appellate counsel to raise a 6th amendment, impartial jury, claim that this Court's precedent states is reversible error does not constitute ineffective assistance of appellate counsel.

For the preceding reasons, this Court should grant this petition for writ of certiorari, and settle with specificity when constitutional claims that are backed by United States Supreme Court precedent qualify as a violation of the right to effective assistance of appellate counsel.

Respectfully Submitted,



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