

ORIGINAL

No. _____

25-7156

FILED
FEB 09 2026
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Hezekiah Hamilton — PETITIONER
(Your Name)

vs.

People Of The State Of Illinois — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court Of Illinois
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Hezekiah Hamilton
(Your Name)

P.O. Box 1000
(Address)

Menard Illinois 62259
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Whether the Illinois Court failed to comply with 725 ILCS 5/109-3.1 and whether the court committed structure error, and failed to comply with the second prong of the plain error doctrine
for the indictment
- 2) Was counsel, both trial and appellate counsel ineffective failing to raise petitioner's indictment being unconstitutional pursuant to 725 ILCS 5/109-3.1 and Section 111-2, or 725 ILCS 5/114-1(A)
725 ILCS 5/114-1(A)
- 3) Was petitioner's 14th Amendment right to a fair grand jury proceeding, and indictment process violated when the state allowed perjured, misleading, and deceptive testimony from Aurora Police Detective John Gebulski, to the grand jury.

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is unpublished.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is unpublished.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

reported at P.L.A. Appellate Court (2nd Dist) 132150; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the Appellate Court (2nd Dist) court appears at Appendix B to the petition and is

reported at App. III 2nd Dist No 2-24-0504; 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 Nov 26, 2025.
A copy of that decision appears at Appendix A .

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

14th Amendment Due Process

Illinois Constitution 1970 art 1 Sec 7

STATEMENT OF THE CASE

On October 31, 2007, Petitioner Hezekiah Hamilton, was Arrested and Charged With First degree murder of Brenetta Beck. During the 48-Hours of Custody the Aurora Police Department was notified by the Federal Law enforcement (I.C.E) to detain Petitioner and transport Petitioner to (I.C.E) Within 48-Hours (See Attached Exhibit-D). The Petitioner was detained in (I.C.E) Custody. After his Arrest, and remained in (I.C.E) Custody Until November 23, 2007. Then the Aurora Police came and retained Custody of Petitioner (See Exhibit-D, 1-5) At that moment on November 23, 2007 during Aurora Police Departments Rearrest of petitioner, had procedural Statute in place to Adhere to 725 ILCS 5/109.3.1(b), which make December 23, 2007. The deadline to have an Indictment issued before Due Process Rights prevents further Seizure of the petitioner.

Unfortunately, Indictment No. 07-CF-3445, was not obtained Until January 9, 2008. Which is 16-days past Illinois Constitutional Procedural Statute 725 ILCS 5/109.3.1(B) and Illinois Constitution Art 1 Sec 7 Which the Court and the State failed to Comply With. Petitioner filed this issue to the Court in a 2-1401 Petition on May 26, 2023

(1) Arguing that he was not Indicted Within 30-days of his Arrest (2) That the State used false testimony to be presented to the Grand Jury, defendant also Claimed as a result the Court lacked Personal and Subject matter Jurisdiction to enter the final Judgment. Thereby rendering his Conviction Unconstitutional. The State filed a Motion to dismiss and/or Grant Summary Judgment arguing that Petitioner's Petition, must be dismissed because it was Untimely and lacked Merit. On August 7, 2024 the Trial Court dismissed Petitioner's Petition, holding that because defendant's argument failed to establish that the Judgment was Void and Untimely Under Section 2-1401 (c) of the Code.

The Court explained that (1) defendant Caused delay in filing the Indictment and thus. It was not Untimely and (2) Defendant Waived his argument regarding improper Grand Jury testimony.

STATEMENT OF THE CASE - CONT #1

Defendant timely Appealed and the Trial Court appointed the Office of the State Appellate Defender the Appellate Defender filed a Motion to Withdraw as Counsel Pursuant to Pennsylvania V. Finley. 481 US-551 (1987). The Appellate defender moved to Withdraw as Counsel. (See Exhibit B) Stating that he read the issues of no available Merit and advised Petitioner of his opinion after a Motion by Petitioner responding to the Motion to Withdraw. The Appellate Court agreed with Appellate Counsel that this issue lack arguable Merit defendant file this timely Appeal to this Court.

(2) Also the State Attorney called a Detective John Cebulski, to testify that there was blood found all over the Drivers Seat and Back Cushion (See Exhibit - E) On October 30, 2007. Aurora Evidence technician Maria Lee, Conducted a evidence Sweep of the Petitioner's Truck and said what appeared to be a Reddish Brown Stain on the Seat of the Drivers side and Collected three Samples. (#1) Was tested Using a presumptive blood test (Pherolphthalon) and the results was Negative for presence of Blood. Next after Using a enhancer Levico Crystal Violet (LCV) three areas appeared to show blood Sample 8 and 9 was taken and sent to the Lab for testing On November 1, 2007 and On November 8, 2007. The Lab report showed that Samples 8 and 9 had NOT BEEN examined. With this evidence Petitioner was found guilty. (See Exhibit - G-3).

REASONS FOR GRANTING THE PETITION

(1) Petitioner has continued to show the Trial Court, the Illinois Appellate Court, and Illinois Supreme Court that the issues raised in Petition for review should be granted because the People of the State of Illinois are aware of the entire Arrest Procedure which clearly shows that defendant arrested October 31, 2007 and Indictment on January 9, 2008 was in violation of Illinois Law.

The Illinois Courts and the prosecution was aware of Illinois Statute 725 ILCS 5/109.3(b), and Illinois Constitution article 1 Section 7. Pursuant to 725 ILCS 5/109.5(b) the Indictment should have been issued within 30-days. The Illinois Courts failed to comply.

Article 1 Section 7 of the Illinois Constitution provides:

No person shall be held to answer for a crime punishable by death or by imprisonment in the Penitentiary unless either the initial charge has been brought by Indictment of a grand jury or the person has been given a prompt preliminary hearing to establish probable cause.

The Trial Court and Illinois Court of Appeals failed to comply with Illinois Law which is also a violation of the second prong of the plain error doctrine as well, because this violation was so serious it denied Petitioner a fair trial. Structural Error, which renders a Criminal Trial fundamentally unfair which deems review. In which this Court should grant this petition.

Appellate Counsel had a complete copy of the arrest records. Trial Counsel had a complete copy of the arrest records. This issue and Indictment circumstances were clear, and clearly a violation of the Strickland Standards. Strickland v. Washington 466 U.S. 668. Strickland Standards apply to both Trial and Appellate Counsel as well. Failing to raise Trial Counsel's Ineffectiveness for failing to raise these Indictment Claims in Trial, and for failing to raise these issues on Appeal.

2) The State allowed false testimony by detective John Cebulski, a Aurora Police Detective. He stated in his testimony that there was blood found all over the drivers Seat, and Back Cushion. (See - Attached Transcript Exhibit -E) The State of Illinois was aware that this was perjured testimony, which may have directly affected the judgment of the Grand Jury. This testimony from detective Cebulski was contradicted when evidence showed that On October 30, 2007, Aurora Evidence Technician Maria-Lee, conducted a evidence sweep of Petitioner's Truck and saw what appears to be a Reddish Brown Stain on the seat of the drivers side and collected three samples. (#1) was tested using a presample blood test, and the results was Negative for presence of blood. (See Attached Transcript Exhibit G 1-3)

After using a blood enhancer Leuco Crystal Violet (LCV) three areas appeared to show blood so sample 8 and 9 was taken and sent to the Lab for testing. On November 1, 2007. And On November 8, 2007 the Lab report showed that sample 8 and 9 had NOT BEEN EXAMINED (See Attached Transcript - G-3).

So how could Detective John Cebulski, claim such at the Grand Jury hearing, The State knowing allowed this false testimony of blood being present "ALL OVER" the drivers Seat Cushion to be expressed to the jury and this lead to the Grand Jury being misled and deceived about the evidence. The deception was crucial to determine the states probable cause and issuing of this Indictment. The State presented inaccurate Evidence which denied Petitioner a fair Grand Jury proceeding, denying him his 14th Amendment U.S. Constitutional Rights.

3). The state's argument is of total nonsense when the state asks the court to dismiss the 2-1401 petition because it is substantial insufficient of law. This is false, and in order to obtain relief under section 2-1401 a petitioner must show both a Meritorious defense, to the charges against him and due diligence. A meritorious

Defense Under 2-1401 involves Errors of Fact, Not Law. (Haynes, 192 Ill.2d At 461, 249) Here the Petitioner has made a Meritorious arguement that the Indictment # 07-CF-3445 is Void (Untimely) according to 725 ILCS 5/109-3.1(B). On page (6) of the State's response, the state Conceded to all the facts of the time frame but argues that there is no legal or factual Error, this is simply Not true.

While the state alleges that the Petitioner failed to point out the "Delay" provisions that give Exceptions to the 5/109-3.1 B Statue this was not the case, when it's Clear that the Petitioner made ~~the~~ Court aware in his petition and in the Conclusion of the petition that it is the state who must show this and the petitioner the CAUSE of the delay and if it's not justified then the Indictment is Void and the Circuit Court Lacks Jurisdiction there after, the state can not show the delay is Occasioned by the Petitioner.

The record makes Clear that On December 6, 2007 the petitioner was not yet Assigned a public defender as of yet, Nor did he ever get an Arraignment yet, as the state is trying to Falsely assert in their response. Additionally the Court "Granted" a Setting for a Preliminary hearing that same day (meaning the Clock was ticking) and not tolled at any point in time as the state Falsely states. Although the Petitioner was being represented by Mr. Wenderich who worked out of the public defenders Office "No" by agreement was said. The state had a obligation to making sure they got this Indictment or hearing done within 30-days of the Petitioner being in Custody when a Court date was set to January 10, 2008 that was part of the Court process to Schedule another court date as routine and this had no Interference with the States Failure to obtain this Indictment in time. On page 8 of the state response, the state is trying to apply a Speedy trial Statute "Rule" to this situation and it is Obsurb and a ERROR, and not the TOPIC. here the 725 ILCS 5/109-3.1(B) Statue or provisions (does not) have anything saying what the state is trying to imply to show Cause for their delay. In Fact the provision is Clear that the only

Exceptions is events were the defendant causes delay due to unfit, or not being in the mind set to stand to know what is taking place. In short (Incompetency) and other circumstances the judge may allow a Continuance if for, Example a Death of the State Attorney or, Illness (Section 114-4). In this case neither took place and the requirement of Section 109-31 have not been complied with. Therefore the States argument is Frivolous and Patently Without Merit.

In fact it's not until January 10, 2008 when the petitioner is not in court and has now been assigned a Counsel (Mr. McCulloch), and for the first time he request a Month "Continuance on Record" which further shows that "NO DELAY" came from the petitioner that would have stop the state from the need to obtain legal authority according to 725 ILCS 5/109-3.1(B). Therefore the Court should find that the state is absolutely incorrect and unjustified for their excuse of this indictment being in violation of 5/109-3.1(B).

Finally the States Cites (People v. Clay, 167 Ill. App.3d 628) as it reasoning why the Court should dismiss the petitioner Relief of Judgment. But this case is not Synonymous in any way legally or in facts to this particular argument. 1.) The defendant in that case was out on Bond and by Law had different Statutory requirements that follow which would have made her entire situation at odds to this particular claim, where if the defendant is in custody the Law states a 30-day issuing of a Indictment is require and if you are out on a Bond 60-days is the Law. 2.) In the people v. Clay case the defendant is out on Bond and has asked for a Continuance to obtain a Counsel of Choice invoking her 6th Amendment Rights. Therefore the delay is cause by her request to the Court before the Preliminary hearing. In short this case very distinguishable to the case at issue and lacks Legal and Factual Support, which the Court should Grant grounds for further proceedings or Relief of Judgment.

Lastly when Involving purely Statutory Causes of action it is said that unless the Statutory requirements was Satisfied a Court

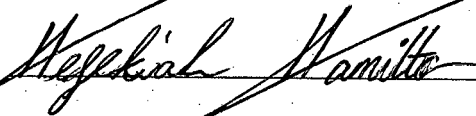
Lacked jurisdiction to grant relief requested or in this case to make a judgment. (Martin V. Schillo, 389 Ill. 607, 609-10 1945). Davis 156. Ill 2d at 156, 189 Ill. Dec 49, 619 N.E.2d 750 1993) Anna 168 Ill. 2d At 113, 212 Dec 963 658 N.E.2d 445). Because the State failed to obtain this indictment in time it did not satisfy the Statutory Requirements, and caused the Trial Court to not confer subject matter and personal jurisdiction to try the case before complying to the petitioner's Due Process Rights. And this is why the Petitioner States that the Courts judgment is a Void order, because of the Untimely, Indictment, issued (16-days) After the Statutory requirements. In Short Trial Court Acted Without; inherent authority because the Court has Acted Without power or jurisdiction there by rendering the judgment Void.

The Stat does not dispute the allegations said and shown about the Grand Jury being misled about the Forensic Evidence therefore the allegations are taken as true. Instead the State ask the Court to dismiss the Claim because the Evidence is not "Newly Discovery" and should have been Challenge by Trial Attorney or during post-Conviction, Relief. The Petitioner agrees but has asserting this Claim also because the 2-11401 petition allows the Court to determine Weather Facts existing that were never known to the Trial Court at the time would have prevented entry of the judgment. The Petitioner has good reason to believe that had the Trial Court been made aware of this procedural ERROR before its judgment it would have prevented it from moving forward until the issue was corrected. And this is a proper Meritorious Defense to assert such in the 2-11401 Petition to Remedy this major defect. This Claim also show more Creditability to the in-Validity of the Indictment Obtain which lead to the Trial Court having no jurisdiction and in its totality it lacked Due Process just to get an Indictment by any means necessary including Breaking the Law.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 2-8-2026