SUPREME COURT OF GEORGIA

JOSEPH TIGER-D. PRINCE

V.

DENNIS BROWN, WARDEN

CASE NO. S13H1362

SUPPLEMENTAL BRIEF

Prepared by: Joseph Tiger-D. Prince, #428409
pro se.

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I.

A. STATEMENT OF THE CASE:

This is a Supplemental Brief filed in the case of Prince V. Brown, Case number S13H1362, a Petition For Probable Cause To Appeal the dismissal of Petitioner's State Petition For Writ of Habeas Corpus from the lower Court of the Richmond County Superior Court.

During the September, 1995 term of Court, Petitioner was indicted by a Dougherty County Grand Jury for the offenses of Malice Murder and Recidivist under a one count indictment. The State did not provide any notice to seek the death penalty nor was the death penalty sought in the case. A special plea of incompetent to stand trial was filed by the defense after indictment; Petitioner was mentally evaluated at the Dougherty County Jail Facility by a State's expert; transfered to the custody of the South-Western State Hospital for further mental evaluation; discovered to be suffering from mental disorders, but competent to stand trial; evaluated by defense psychiatrist and discovered to being mentally insain with a number of undetermined other mental disorders; returned back to the custody of the Dougherty County Superior Court without a competency trial being held. On Febuary 19th, 1996 Petitioner was asked to entere a plea to the indictment by counsel unfamiliar with the case and Petitioner stood mute. With the only plea active to the indictment of incompetent to stand trial, a jury trial on Petitioner's guilt and/or innocence was held on November 18th, 1998 where the

prospective juriods refused to being juriods; the trial was re-scheduled and the entire jury dismissed.

On January 11th-13th, 1999 a Jury Trial was held on the defective indictment, where the only existing plea was incompetent to stand trial. On January 13th, 1999 Petitioner was convicted of Malice Murder and Recidivist violation. The prosecution declared that Petitioner's mental capacity had never become an issue in the case, as the Court was in cahoots with the false allegations and Petitioner's trial counsels failed to correct such misleading allegations. This Honorable Court denied Petitioner's direct appeal in Prince v. State, 277 Ga. 230, 587 S.E. 2d 637 (Ga. Supp. 10/03).

On Febuary 14th, 2004 Petitioner filed a State Petition For Writ of Habeas Corpus within the Richmond County Superior Court. A hearing was held on said petition on April 13th, 2004. During the afforementioned hearing, it was determined by the court that a second part of the hearing would be held because Petitioner's trial counsels refused to provide him with any of the case files in order for Petitioner to effectively persue his petition. On September 23rd, 2004 the Richmond County Superior Court dismissed Petitioner's petition without Petitioner receiving the case records nor holding the second part of the hearing. On March 28th, 2005 this Honorable Court denied Petitioner's Probable Cause To Appeal.

On April 21st, 2005 Petitioner filed a Federal Habeas Corpus Petition

case after a black handled Knife was found with the victim's blood on it and the Petitioner's finger prints. The Middle District Court of Georgia placed a stay on the case.

On January 8th, 2008 petitioner properly filed a Petition For Writ of Mandamus within the Dougherty County Superior Court against Clerk Evonne Mull, for her refusal to file Petitioner's properly submitted Extraordinary Motion For New Trial, which Petitioner submitted after submitting his "Notice of Filing" ten days prior to filing his Extraordinary Motion For New Trial. At the time that service of the Mandamus was being perfected, Clerk Evonne Mull of the Dougherty County Superior Court declared that Petitioner would get nothing more from her office and she should hire someone from inside the prison system to stab Petitioner while Petitioner would be in the shower or asleep. Pursuant to the Mandamus, and prior to the hearing of it, on June 3rd, 2008 Petitioner's Extraordinary Motion For New Trial, and accompanying pleadings, was filed within the State V. Prince case, Ind. number 95R1119.

On March, 2010 the Middle District Court denied Petitioner's Federal Habeas Corpus Petition. The 11th Circuit Court of Appeals denied Petitioner's Probable Cause To Appeal.

On July 20th, 2011 Petitioner filed his State Habeas Corpus within the Chattooga County Superior Court, based on the New case filed within the Dougherty County Superior Court, on June 3rd, 2008 as to his Extra-

County Superior Court to the Richmond County Superior Court.

On March 7th, 2013, or about, the Richmond County Superior Court erroneously dismissed Petitioner's petition, without a hearing, as an unpermissable successive Petition.

On or about April 10th, 2013 Petitioner filed his "Petition For Probable Cause To Appeal within this Honorable Court, simultaneously filing a Notice of Appeal within the Richmond County Superior Court.

On or about May 16th, 2013 Petitioner's Probable Cause TO Appeal... was docketted in this Honorable Court, as this Honorable Court has subject matter jurisdiction and ripe for disposition.

B. STATEMENT OF FACTS:

This is a case deriving from a new case filed within the Dougherty County Superior Court on June 3rd, 2008 as to an Extraordinary Motion For New Trial. By opperation of law, said motion was admitted to by Respondents by their none responses to the allegational facts within the pleadings, but failed to be enforced by the sentencing Court due to the sentencing Court committing malicious error by failing to bring the case into actual existance.

In addition, the facts presented within the Extraordinary Motion For New Trial, nor the recent July 20th, 2011 State Habeas Corpus could not, effectively, have been presented pursuant to Petitioner being denied the case files. The Petitioner's Petition For P...

THE CASE IN FAVORE OF PETITIONER BASED ON THE INVALID VOID AND MERE NULLITY INDICTMENT AND INEFFECTIVE ASSISTANCE OF TRIAL AND APPELLATE COUNSELS:

SUPPORTING FACTS:

One of the valid grounds that was ripe for ajudication in the lower courts were ground six of the Petition For Writ of Habeas Corpus (see "Motion For Leave of Court To File Expanded Document And Final Amendment To Writ of Habeas Corpus", filed and granted to be filed by said filing as Docket #34 within the Chattooga County Superior Court. Id. @ pg. 5 of 19, Lines 21-28).

Accordingly, an accused cannot receive a sentence greater than that prescribed by law for the offense of which he has been convicted. Black v. Caldwell, 231 Ga. 589, 592, 203 S.E. 2d 208 (1974). While it is necessary for a defendant to have notice of the prior convictions to be used against him, it has been held that it is not necessary for the former conviction(s) to be set out in the indictment as the state has done in the lower court, in the case at bar, see Anderson v. State, 176 Ga. App. 255, 256, 335 S.E. 2d 487 (1985); Anderson v. State, 199 Ga. App. 559, 561 (3), 405 S.E. 2d 558 (1991); Cf. Exhibit #1, which is the State v. Prince, Ind. #95R1119 Dougherty

prosecution has done in the lower sentencing and Trial court, (Riggins v. Stynchcombe, 231 Ga. 589, 592, 203 S.E. 2d 208 (1974)) and it is error for the jury to be made aware of the prior convictions during the guilt/innocence phase of the trial. Favors v. State, 182 Ga. App. (1), 355 S.E. 2d 109 (1987); State v. Freeman, 198 Ga. App. 553, 556 (3), 402 S.E. 2d 529 (1991).

In order for a criminal indictment to be valid, an indictment must: (a) show the accused what to prepare a defense against; (b) identify the offenses so that he is tried for the same charges that was brought before the grand jury; (c) protect somewhat against double jeopardy; and (d) give the court the means to accept or reject the verdict, pronounce judgment, and pass sentence. Thompson v. State, 542 So. 2d 1286, 1291 (Ala. Crim. App. 1988); Lankford v. Idaho, 500 U.S. 110, 111 S.Ct. 1723, 114, 114 L.Ed. 2d 173 (1991). The indictment in the case at bar (see Ex. #1) was predicated upon matters and facts illegally presented to the grand jury in violation of Petitioner's due process rights and the provisions of O.C.G.A. § 17-10-7(D), which states:

"PAROLE INELIGIBLE:

Any sentence of incarceration under (a) and (c) is not parole eligible. Any jail sentence, **except murder**..."

Since murder is a capital felony, and O.C.G.A. § 17-10-7(D) expressly excepts from it's purview capital felonies it follows th...

to the grand jury in violation of Petitioner's due process rights. Meriwhether v. State, 63 Ga. App. 667, 11 S.E. 2d 816 (1940). See also U.S. v. Barurto, 497 F. 2d 781 (9th cir. 1974); U.S. v. Estepa, 471 F. 2d 1132 (2d cir. 1972); O.C.G.A. § 17-10-32(b) (GCA § 27-2528); State v. Ingram, 266 Ga. 324, 467 S.E. 2d 523 (1996) (The Georgia Supreme Court held that a sentence of life without parole is not appropriate when the state did not seek the death penalty).

In the case at bar, Petitioner was indicted on two separte offenses out of completely different grades of offenses, but under one indictment and under one count, causing the indictment to being further faulty. Gilbert v. State, 65 Ga. 449 (1) (1880); Evans v. State, 252 Ga. 312, 320, 314 S.E. 2d 421 (1984), Cert. denied, 469 U.S. 826, 105 S.Ct. 106, 83 L.Ed. 2d 50 (1984); Goldin v. State, 104 Ga. 549, 30 S.E. 749 (1898); State v. Williams, 247 Ga. 200 (2), 275 S.E. 2d 62 (1981). The indictment went out to the jury during the guilt and innocence ~~faze~~ of trial, completely sweeping away Petitioner's presumption of innocence (Sides v. State, 213 Ga. 482, 99 S.E. 2d 884 (1957)) Petitioner was entitled to during the grand jury proceeding and at trial. Innocence was the only defense Petitioners trial counsels raised. O.C.G.A. § 16-1-5 (GCA § 26-501); Anderson v. State, 196 Ga. 468 (7), 26 S.E. 2d 755 (1943); Kirby v. United States, 141 Ga. App. 94, 95, 232 S.E. 2d 620 (1977);

The indictment was subject to a demurrer. If Petitioners trial counsels would have effectively filed a de

848, 237 S.E. 2d 406 (1977); State v. Mendoza, 190 Ga. App. 831(1), 380 S.E. 2d 357 (1989); Young v. State, 239 Ga. 53, 60, 236 S.E. 2d 1 (1977); Herring v. Estelle, 491 F. 2d 125, 127 (5th Cir. 1974); Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984); Davenport v. State, 172 Ga. App. 848, 851, 325 S.E. 2d 173 (1984).

WHEREFORE, Petitioner pray that this Honorable court relieve him of the illegal sentence of life without the possibility of parole and conviction under an illegal indictment by simply dismissing the illegal indictment, which would vacate the sentence and conviction by operation of law.

This 12th day of April, 2014 Joseph Tyger D. Prince

No. 95R1119

SUPERIOR COURT
DOUGHERTY COUNTY

Exhibit #1

SEPTEMBER TERM, 1995

THE STATE
vs.

JOSEPH TIGER PRINCE
****
MURDER, RECIDIVIST
****

TRUE BILL

Bobby E. Hatcher
FOREMAN

BRITT R. PRIDDY, District Attorney

DET. CHARLES POOLE
PROSECUTOR

****
* ✓ INDICTMENT *
* ___ ACCUSATION *
* ___ SPECIAL PRESENTMENT *
****

Received in Open Court from the sworn Grand Jury Bailiff, and filed in office this 12 day of Oct, 1995.

Jeanell Pable
CLERK

****

WITNESSES FOR THE STATE

Charlie Poole

PRESENTED BY: SP

****

WE THE JURY FIND THE DEFENDANT

The Defendant Joseph T. Prince waives indictment and arraignment, list of witnesses, full panel, formal arraignment, and pleads Not Guilty this 19th day of Feb, 1996

Britt Priddy
District Attorney

I Will be for Mark Brinkley

EORGIA, DOUGHERTY COU. Y:
HE GRAND JURORS, selected, chosen and sworn for the County of Dougherty, to-wit:

1 BOBBY EUGENE HATCHER Foreman

2 CURTIS R. HUMPHREY, JR.	13 LINDA D. DAVIS
3 KATRINA JACKSON	14 SANDRA WRIGHT
4 GLORIA J. MCKINNEY	15 EDMOND M. GOLD
5 ODELL WALKER	16 KATHERINE MENDENHALL
6 WILLIE KATE BLANCH	17 IRENE HATCHER
7 PHILLIP JARRETT	18 THADDEUS LEWIS
8 SAMUEL F. ~~XXXXXX~~ SALARY	19 BENJAMIN FORD
9 GINA BOWLES	20 CHARLES GREGORY BECK
10 KATIE POWERS	21 SUZANNE LESCOSKY
11 MONICA D. WRIGHT	22 IRENE KENNEDY
12 GWENDOLYN J. OKWUOSA	23 MARY T. HENSON

COUNT I

In the name and behalf of the citizens of Georgia, charge and accuse Joseph Tiger Prince with the offense of Murder, for that the said accused, in the County aforesaid, on or about the 10th day of August, Nineteen Hundred and Ninety-Five, did unlawfully and with malice aforethought cause the death of Edgar Reagan, a human being by stabbing him, contrary to the laws of said State, the good order, peace and dignity thereof,

And the aforesaid Grand Jurors, in the name and behalf of the citizens of Georgia charge that the said accused, Joseph Tiger Prince, prior to committing the above charged offense had entered a plea of guilty to the following offense:

In the Superior Court of Dougherty County, indictment No. 87R084, Joseph T. Prince was charged with Armed Robbery and on indictment no. 87R067, Joseph T. Prince was charged with Burglary and was sentenced on May, 12, 1987,

CERTIFICATE OF SERVICE

I, Joseph Tiger-D. Prince, hereby certify that I have, this day, served a true copy of the enclosed "Supplemental Brief" upon Senior Assistant Attorney General Paula Kristian Smith @ the Department of Law, 40 Capitol Square, S.W., Atlanta, Georgia, 30334; By placing said document in a properly addressed envalope addressed, supra, and placing proper postage thereon; and placing said envalope in the U.S. Postal Service mail for proper delivery thereon this 21 day of April, 2014

Joseph Tiger-D. Prince

Prepared by: Joseph Tiger-D. Prince, #428409; 14A4
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Augusta State Medical Prison
3001 Gordon Hwy.
Grovetown, Ga. 30813

بسم الله الرحمن الرحيم

السلام عليكم ورحمة الله