03-6563 ORIGINAL

IN THE
SUPREME COURT
OF THE UNITED STATES

Supreme Court, U.S.
FILED
SEP 16 2003
OFFICE OF THE CLERK

In Re DARRYL W. TAYLOR, Petitioner,	
versus	USCA No. 01-30870 USDC No. 99-CV-261-B-M2 No. 98-CR-24-ALL S.Ct No. 02-10164
L. E. FLEMING, WARDEN, Respondent.	

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SUPREME COURT, U.S.

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241 AND 28 U.S.C. §1651 OF THE ALL WRITS ACT

Petitioner, In Re Darryl W. Taylor, appearing in pro-pria persona, respectfully moves this Honorable Supreme Court in this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. §2241 and 28 U.S.C. §1651 of the All Writs Act.

In addition, the Petitioner asks that this Honorable Supreme Court view this pro-se petition with less stringent standards that lawful papers drafted by an attorney. **Haines v. Kerner**, 404 U.S. 519 (1970).

JURISDICTION

This Honorable Supreme Court has subject matter jurisdiction pursuant to 28 U.S.C. Sections 1331, 1651, 2241 and Articles I and III of the United States Constitution where it states under Article I, §9, cl.2 that the Constitution forbids the suspension of the Writ of Habeas Corpus except in a situation of rebellion or invasion, in addition to Article III §2, cl.1 which gives this Honorable Supreme Court the authority to issue

this Writ of Habeas Corpus.

§2242 APPLICATION

Petitioner, In Re Darryl W. Taylor, is being illegally detained at the Federal Medical Center in Fort Worth, Texas by the Respondent, L. E. Fleming.

The Petitioner has addressed this Writ of Habeas Corpus to this Honorable Supreme Court because the claims in this writ were not properly addressed by the lower courts requiring re-determination of the merits under the Ends of Justice. This Honorable Supreme Court is the only Article III Court that can re-determine the denial of Petitioner's Certificate of Appealability for 28 U.S.C. §2255 motion after the Petitioner sought review in this Honorable Supreme Court through Writ of Certiorari and re-hearing. With this said, no district or appellate court can reverse this Court's decision denying Petitioner's COA.

§2243 - ISSUANCE OF WRIT

A court, justice or judge entertaining an application for a Writ of Habeas Corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

EXHAUSTION OF ADMINISTRATIVE REMEDY

Petitioner asserts that the Federal Bureau of Prisons has neither the jurisdiction nor authority to grant the relief requested. Therefore, the Agencys' Administrative Remedy process is inadequate, ineffective and an act of futility.

STATEMENT OF THE CASE

This Honorable Supreme Court agreed with the Middle

District Court of Louisiana and the Fifth Circuit's reasoning in denying the Petitioner's Petition for Certificate of Appealability by denying Petitioner's Petition for Writ of Certiorari. And now this Court has denied Petitioner's Petition for Rehearing. This denial by the Supreme Court clearly violated Articles I, III, V, VI, VIII and XIV of the United States Constitution since the Petitioner clearly demonstrated in his §2255 motion that he was (and is) actually innocent of the substance "crack" cocaine, that his counsel was ineffective for failing to investigate this case and bring this fact with the 487 Amendment, Lab Reports stating Procaine and cocaine base, audio transcripts, document in discovery where Government admits that there was no evidence and defective indictment in light of Rule 12(b)(2) Federal R. Crim. P. which has the same reasoning as **Apprendi** to the District Court's attention. All this evidence was (and is) overwhelming under **"Cotton"**, which should have been sufficient enough to demonstrate that said claims were debatable among jurists of reason requiring the issuance of a Certificate of Appealability in addition to the District Court Judge and Fifth Circuit Judges acting like prosecutors by changing the Government's argument in reference to Petitioner's guilty plea and type of cocaine base in order to avoid **U.S. v. Monroe**, 978 F.2d 433 (8th Cir. 1992), a case similar to the Petitioner's case where the substance involved was Procaine and cocaine base, violating Article III of the Constitution. See: **Trest v. Cain**, 522 U.S.____, 139 L.Ed.2d 444, 118 S.Ct. ____(1997).

The Petitioner now contends that he received notice from this Honorable Supreme Court advising him that his Petition

for Writ of Certiorari was filed March 20, 2003 and placed on the docket April 17, 2003 and that the due date for a brief in opposition was May 17, 2003. The Petitioner never received a copy of any brief in opposition; instead his Writ of Certiorari was denied May 19, 2003. This denial led the Petitioner to ask this Honorable Supreme Court to rehear his Certiorari, but said request was denied without an opinion on August 4, 2003, depriving the Petitioner an opportunity to have the merits of his case properly reviewed on appeal in an Article III Court by an Article III Judge holding office in good behavior, in addition to the Petitioner being deprived of his Constitutional right to petition the Court in redress of grievance against the Government. This injustice has prevented the Petitioner from having the merits of claims properly reviewed with the Constitution in mind under the Equal Protection Clause of the Fourteenth Amendment.

The Petitioner will now demonstrate through the following grounds for relief why this Honorable Surpeme Court should grant the appropriate relief and order his immediate release from the Fort Worth Medical Center.

GROUNDS FOR RELIEF
ISSUE I

WHETHER PETITIONER'S CONSTITUTIONAL RIGHTS TO PETITION THE COURT IN REDRESS OF GRIEVANCE AGAINST THE GOVERNMENT IN AN ARTICLE III COURT BY AN ARTICLE III JUDGE OR JUSTICE HOLDING OFFICE IN GOOD BEHAVIOR WERE VIOLATED IN LIGHT OF THE DENIAL OF PETITIONER'S REQUEST FOR CERTIFICATE OF APPEALABILITY

GROUNDS FOR RELIEF
ISSUE II

WHETHER THE PETITIONER SHOULD BE ALLOWED TO HAVE

THE CLAIMS THAT WERE PREVIOUSLY DENIED IN HIS INITIAL §2255 MOTION REDETERMINED ON THE MERITS UNDER THE ENDS OF JUSTICE STANDARD TO AVOID BEING CHARGED WITH ABUSING THE WRIT

GROUNDS FOR RELIEF
ISSUE III

WHETHER THE FIFTH CIRCUIT AND THE DISTRICT COURT FAILED TO CONSIDER PETITIONER'S FIFTH AMENDMENT CLAIM IN REFERENCE TO DEFECTIVE INDICTMENT PURSUANT TO RULE 12(b)(2) FEDERAL RULES CRIMINAL PROCEDURE

GROUNDS FOR RELIEF
ISSUE IV(a)

WHETHER THE MIDDLE DISTRICT COURT OF LOUISIANA AND THE FIFTH CIRCUIT FAILED TO CONSIDER THAT APPRENDI IS APPLICABLE TO THIS CASE

CONCLUSION

Therefore, the Petitioner prays that his Honorable Supreme Court consider the Grounds for Relief in this Writ of Habeas Corpus and the attached Memorandum of Law in Support and grant the appropriate relief to ensure that the violations of Petitioner's Constitutional Rights to Articles I, III, V, VI, VIII, and XIV are corrected from the cruel and unusual punishment he has been receiving by being illegally detained for a crime he was (and is) actually innocent of.

Accordingly, the Petitioner further prays that this Honorable Supreme Court grant him an Evidentiary Hearing and appoint counsel to represent him in this matter so that his defense counsel can testify as to why he advised Petitioner to plead guilty to "crack" when the substance was Procaine and cocaine base an unknown substance, in addition to failing to file a Motion to Dismiss Petitioner's Defective Indictment under the Fifth and Sixth Amendments of the United States Constitution.

Clause and **United States v. Davis**, 417 U.S. 333, 346, 94 S.Ct. 2298, 41 L.Ed.2d 109 (1974).

After Petitioner's **Apprendi** claim was denied in the District Court, he then filed a COA, which was also denied in the District Court and when Petitioner filed it in the Fifth Circuit, the Fifth Circuit denied said challenge utilizing **United States v. Brown**, 305 F.3d 304 (5th Cir. 2002), arguing that **Apprendi** did apply to cases on collateral review. For the Fifth Circuit to utilize **Brown** to deny Petitioner's COA clearly violated Article III of the Constitution because **United States v. Walker**, No. 01-3051 (5th Cir. 2002) was available to the Fifth Circuit before **Brown** was decided. Had the Fifth Circuit relied on **Walker**, it would have granted Petitioner's COA because **Walker** was similar to Petitioner's case. **Walker** was sentenced in 1996 and his §2255 motion was pending when **Apprendi** was decided and he amended his §2255 motion with **Apprendi** and the District Court granted relief by reducing **Walker's** life sentence to ten (10) years. **Walker** appealed the ten (10) year sentence and the Fifth Circuit affirmed the District Court's ten (10) year sentence without overruling the District Court by saying **Apprendi** cannot be applied retroactively to cases on collateral review.

With respect to the above allegations in reference to **Walker** and **Brown**, the Fifth Circuit failed to consider that the Petitioner relied on the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendments to receive the same benefits of **Apprendi**.

While the Fifth Circuit and the District Court failed

EXHIBIT R

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April 7, 1999

Darryl Taylor
DOC #: 02975-095
R-1
P.O. Box 5000
Oakdale, LA 71463

Dear Darryl:

This correspondence should confirm our previous conversation regarding my understanding of procaine.

From my review of the facts and understanding that the government was charging you with cocaine base following the results from the crime lab, it was my understanding that "procaine" and "cocaine base" was (and is) the same substance. Thus it was proper for the government the charge you with regard to "cocaine base" and that any objection because the substance was called "procaine" would have been without a sufficient good faith basis.

That was my understanding at this time. I wish you the best in all your life pursuits.

Sincerely,

James P. Manasseh

JPM/rs