Supreme Court, U.S.
FILED
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No. 03-7027

IN THE

SUPREME COURT OF THE UNITED STATES

JERRY DONNELL GRAVES — PETITIONER
(Your Name)

vs.

MICHAEL A. WILSON — RESPONDENT(S)

ON PETITION FOR A WRIT OF HABEAS CORPUS

MISSISSIPPI SUPREME COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF HABEAS CORPUS

JERRY DONNELL GRAVES, PRO SE
(Your Name)

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QUESTION(S) PRESENTED

(1)

WHETHER THE U.S. FIFTH CIRCUIT COURT OF APPEALS RULING WAS CONTRARY TO UNITED STATES SUPREME COURT RULINGS IN **SLACK V. MCDANIAL**, WHEN IT RULED THAT THE DISMISSAL OF THE PETITIONER'S FIRST HABEAS CORPUS MOTION ON PURELY PROCEDURAL GROUNDS... CONSTITUTES A RULING ON THE MERITS SO AS TO PRECLUDE THE GRANTING OF THE FILING OF PETITIONER'S RESUBMITTED (EXHAUSTED) HABEAS CORPUS IN THE U.S. DISTRICT COURT?

(2)

WHETHER THE DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, AND ART. 3, SECTION 14 OF THE MISSISSIPPI CONSTITUTION WERE VIOLATED WHEN THE FIFTH CIRCUIT COURT OF APPEALS DENIED THE FILING OF PETITIONER'S HABEAS CORPUS ON GROUNDS NOT EVEN RAISED BY SUCH PETITION?

(3)

WHETHER MISSISSIPPI SUPREME COURT DISMISSAL OF THE WRIT OF CERTIORARI AS BEING MOOT IS IN CONFLICT WITH WELL ESTABLISHED SUPREME COURT PRECEDENTS SO AS TO DENY EQUAL PROTECTION?

(4)

CAN THE PETITIONER CONTINUE TO BE SUBJECTED TO AN UNCONSTITUTIONAL CONVICTION AND ILLEGAL SENTENCE USED FOR ENHANCEMENT PURPOSES WITHOUT VIOLATING THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND MISSISSIPPI CONSTITUTION?

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STATEMENT OF THE FACTS NECCESSARY TO AN UNDERSTANDING OF THE QUESTIONS PRESENTED

On or about the 21st day of December, 1979, the Jackson Police Department arrested Jerry D. Graves (Petitioner) for the criminal offense of armed robbery against one Mynelle M. Terry.

Subsequently, a Hinds county Grang Jury, March 1980 Term, on or about the 3rd day of March, returned an indictment against the petitioner for the alleged crime. See Record Exhibit -A (Rec. Ex.).

As a result of the Hinds county Grand Jury's action, petitioner initiately plead not guilty to the charge but subsequently (on the advice of counsel William R. Collins, court appointed) petitioner on the 21st day of July, 1980, withdrawed his previously entered not guilty plea and entered a plea of guilty pursuant to a plea bargain reached between the prosecution and the defense counsel. The terms of the agreement was that the petitioner would plead guilty to the charge of armed robbery with a knife, in exchange for a sentence of twenty-five (25) years in the custody of the Mississippi Department of Corrections (MDOC) with ten (10) years suspended and fifteen (15) years to be served concurrently with Cause No. 0-90, a previous conviction. See Rec. Ex. B, two pages.

Subsequently, petitioner was again indicted by a Hinds County Grand Jury, July 1984 Term, for the alleged murder of one Jerry Moller, which occurred on or about December 21, 1979, and charged under the habitual offenders statute Section 99-19-83, Miss. Code Ann. (1972), utilizing the July 21, 1980, sentence and conviction of armed robbery as one of the two priors. See Rec. Ex. C.

Pettiioner, on November 28, 1984, was tried, convicted and sentenced on November 29, 1984, to a prison term of life imprisonment without the possibility of parole or other conditional releases, in Cause No. Z590-H. See Rec. Ex. D, two pages.