NO. 03-5846

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SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
JUL 22 2003
OFFICE OF THE CLERK

Jerry Anderson -PETITIONER

VS.

Tony Parker-warden RESPONDENT

ON PETITION FOR AN EXTRAORDINARY WRIT OF HABEAS CORPUS

Madison County Circuit Court

(NAME OF THE LAST COUT THAT RULED ON THE MERITS OF YOUR CASE)

PETITION FOR WRIT OF HABEAS CORPUS

JERRY ANDERSON#270247

960 state route 212

TIPTONVILLE. TENN 38079

QUESTIONS PRESENTED:

1. HOW CAN A 16 YEAR OLD WHOSE BEEN TRANSFERED TO THE CIRCUIT COURT CONSENT TO SIGNING A LEGAL DOCUMENT, WITHOUT THE CONSENT FROM HIS LEGAL GUARDIAN?

2. CAN A 16 YEAR OLD WHO HAS NO PRIOR CONVICTIONS, BE SENTENCED AS A CAREER OFFENDER?

3. CAN A CIRCUIT COURT JUDGE LET A 16 YEAR OLD BE SENTENCED AS A RANGE#3 OFFENDER CAREER,WHEN BY STATE LAW HE IS A RANGE #1 STANDARD OFFENDER?

4. WAS THE PETITIONERS ATTORNEY EFFECTIVE ,WHEN HEDID NOT INFORM THE PETITIONER OF HIS RANGE 1 STATUS?

5. WAS THE PETITIONERS ATTORNEY EFFECTIVE ,WHEN HE DID NOT INFORM THE PETITIONER THAT HE COULD APPEAL BACK TO THE JUVENILE COURTS?

6. WAS THE PETITIONERS ATTORNEY EFFECTIVE WHEN HE TOLD THE PETITIONER THAT HE WOULD BE FOUND GUILTY OF MURDER,EVEN THOUGH THE PETITIONER DID NOT DO IT?

7. IF THE JUDGE ASKED THE PETITIONER "DID YOU KNOW THAT EVEN IF FOUND NOY GUILTY OF MURDER, YOU WILL BE A RANGE 1 OFFENDER"PETITIONER STATED THAT I DID NOT KNOW THAT,SHOULD THE JUDGE HAVE ENDED THAT PLEA?"

8. WAS THE PETITIONERS ATTORNEY EFFECTIVE WHEN HE TOLD THE PETITIONER THAT HE WOUND BE OUT OF PRISON IN 15 YEARS, INSTEAD OF JUST GOING UP FOR PAROLE IN 37 YEARS?

9. WHAT CONSTITUTES A TRIAL?

10. AT THE PETITIONERS TRANSFER HEARING ,THE STATE SUBMITTED EVIDENCE,MADE OPENNING AND CLOSING ARGUMENTS,AND CALLED EVERY WITNESS THEY HAD,DOES THAT CONSTITUTE A TRIAL?

11. THE PETITIONERS TRANSFER HEARING BEGAN AT 7:00AM AND ENDED AT 7:00 PM,DOES THAT CONSTITUTE A TRIAL?

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STATEMENT OF THE CASE

||OUR PETITIONER RESPECTFULLY CONTENDS THAT THE STATE OF TENNESSEE WAS WITHOUT JURISIDICTION TO TRY HIM AS AN ADULT,AS YOUR PETITIONER WAS PUT IN JEOPARDY AT HIS JUVENILE COURT ADJUDACATORY HEARAING,WHOSE OBJECT TO DETERMINE IF THE DEFENDANT FIT THE CRITERIA FOR TRANSFER TO THE CRIMINAL COURTS,**BEFORE HEARING THE CASE ON ITS MERITS.**

THAT THE PETITIONERS TRIAL IN CRIMINAL COURT ,FOR THE SAME OFFENSE THAT HE WAS TRIED FOR IN JUVENILE COURT VIOLATED THE POLICIES OF THE DOUBLE JEOPARDY CLAUSE.A TWELVE HOUR HEARING WAS HELD ,THE STATE CALLED EVERY WITNESS THEY HAD,THE STATE ENTERED INCRIMINATING EVIDENCE,THE STATE STATE MADE OPENNING AND CLOSING ARGUMENTS AND AFTER THAT THE JUDGE ENTERED HIS DECISION.

ON OR AROUND JANURARY 20 1998 THE PETITIONER WAS TAKEN TO COURT,THE PETITIONER WAS 16 YEARS OLD AT THE TIME AND HIS LEGAL GUARDIAN WAS NOT PRESENT OR NOTIFIED. THE PETITIONERWAS ASKED QUESTIONS WHILE HE WAS SIGNING THE PLEA TO 60 years AT 60 % CLASSIFIED A CAREER OFFENDER, DATE OF BIRTH 5-1-81.

PETITIONERS LAW||ERSWITHDREW FROM THE CASE SOON AFTER,AND THE PETITIONERS WAS PLACED INTO SEGREGATION FOR SIXTEEN MONTHS WITHOUT THE ASSISTENCE OF COUNSEL,SEGREGATED FROM THE LAW LIBRARY, AND THE LEGAL AIDES.

ON OR AROUND APRIL 29,2000 THE PETITIONER FILED A POST CONVICTION,WHICH WAS FILED ON MAY THE 2, 2000 AND WAS DENIED AS TIME BARRED.THE PETITIONER DID NOT APPEAL BECAUSE HE DID NOT THINK THAT HE COULD .ON OR AROUND OCTOBER 18 2000 THE PETITIONER FILED A STATE WRIT OF HABEAS CORPUS,WHICH WAS DENIEDI APPEALED TO THE COURT OF APPEALS AND THE STATE SUPREME COURTS WHICH WAS ALSO DENIED ON SEPTEMBER OF 2000.

THE PETITIONER DID NOT KNOE THAT HE WAS TOME BARRED FROM THE FEDERAL COURTS, BECAUSE HIS STATE WRIT WAS NOT TIME BARRED.

THE PETITIONER FILED A FEDERAL WRIT WHICH WAS TIME BARRED ON MAY 2 2002 THE PETITIONER FILED A MOTION TO RECONSIDER WITH EXTRA ORDINARY REASONS WHY HIS PETITION SHLODD BE HEARD,BUT IT WAS DENIED AN DISMISSED ON MAY 24 2002

THE PETITIONER WAS SIXTEEN YEARS OLD AT THE TIME HIS ATTORNEY MISLED HIM INTO SIGNING THIS EXCESSIVE,ILLEGAL,SENTENCE WITHOUT THE CONSENT FROM HIS LEGAL GUARDIAN.

THE PETITIONER RECIEVED A SENTENCE UNDER THE CRIMINAL SENTENCING REFORMS ACT OF 1989.THE PETITIONERIS CURRENTLY CLASSIFIED AS A CAREER OFFENDER TO 60 YRS AT 60%.THE PETITIONER DOES NOT HAVE ANY FELONY CONVICTION OR PRIOR CONVICTION.

THE CRIMINAL SENTENCING REFORMS ACT COMMENTS:
THE CLASSIFICATION OF OFFENSES ALSO PERMITS THE CONSTRUCTION OF A SENTENCING GRID SO THAT THE POTENTIOL SENTENCE FOR EACH OFFEMDER CAN BE RAPIDLY ASCERTAIN

EACH FELONY CARRIES A MAXIMUM AND A MINIMUM SENTENCE. THUS A CLASS A FELONY CAN BE PUNISHED FROM BETWEEN 15 TO 60 YEARS. THE 15 to 60 YEAR SPAN IS DIVIDED INTO ONE OF THREE RANGES CALLED RANGE ONE,RANGE TWO,AND RANGE THREE.
THE RANGE DETERMINATION IS BASED UPON PRIOR CONVICTIONS,WHICH IN TURN DETERMINE THE POTENTIAL SPAN FOR THAT PARTICULIAR OFFENDER.
THUS A RANGE#1 IS SENTENCED TO 15 to 25 YEARS. A RANGE#2 IS SENTENCED TO 25 to 40 years,AND A RANGE THREE IS SENTENCED TO 40 to 60 years.

THE PETITIONER ALSO RELIES ON THE TENNESSEE CODE ANNOTATED 40-35-108
THE REQUIREMENTS OF A CAREER OFFENDER.
ANY COMBINATION OF SIX OR MORE CLASS A,B,OR C FELONY CONVICTIONSAND THE DEFENDANTS CONVICTION OFFENSE IS A CLASS A,B,OR C FELONY.
2.AT LEAST THREE CLASS A OR ANY COMBINATION OF FOUR OR MORE CLASS A OR B FELONY CONVICTIONS OFFENSE OS A CLASS D OR E FELONY.
OR 3. AT LEATS SIX PRIOR CONVICTIONS OF ANY CLASSIFICATIONS IF THE DEFENDANT HAS RECIEVED .
(B) IN DETERMINIG THE NOUMBER OF PRIOR CONVICTIONS A DEFENDANT HAS RECIEVED #1 (PRIOR CONVICTIONS) MEANS A CONVICTION FOR A OFFENSE OCCURRING PIROR TO THE COMMISSION OF THE OFFENSE FOR WHICH THE DEFENDANT IS BEING HELD.

THE PETITIONER DOES NOT MEET THE REQUIREMENTS THE WOULD MAKE THE PETITIONER A CAREER OFFENDER,THIS SENTENCE IS ILLEGAL BECAUSE THE PETITIONER DID NOT KNOW THATHE WAS A RANGE ONE OFFENDER UNTIL AFTER HE SIGNED THAT PLEA.IT MAY BE WITHIN THE LINES OF THE LAW FOR THE PETITIONER TO SIGN A PLEA KNOWINGLY BUT ITS NOT WITHIN THE LINES OF THE LAW WHEN THE PETITIONER DID NOT KNOW ALL THE ALTERNATIVES OF TAKING A PLEA.
THE PETITIONER DID NOT KNOW ABOUT THE APPEALS.THE PETITIONERS ATTORNEY DID NOT TELL HIM ANYTHING....

INE[redacted]TIVE ASSISTENCE OF COUN[redacted]

IN THE TENNESSEE CODE ANNOTATED KEY NOTE 5
DEFENDANTS ARE ENTITLED TO COUNSEL WITH REASONABLE COMPETENCE DETERMINED BY WHETHER THE ADVICE GIVEN OR THE SERVICES RENDERED BY THAT ATTORNEY ARE WITHIN THE RANGE OF COMPETENCE DEMANDED OF ATTORNEYS IN CRIMINAL CASES..

THE PETITIONER HAD LITTLE CONTACT WITH HIS ATTORNEY FROM WHEN HE WAS FIRST APPOINTED.IN THE TWENTY MONTHS BEFORE THE TRIAL THE PETITIONER SPOKE WITH HIS ATTORNEY THREE TIMES AND THAT THIRD TIME WAS WHEN THE PETITIONER ATTORNEY WAS CORECING THE PETITIONER INTO TAKING THAT PLEA.
THE PETITIONERS ATTORNEY DID NOT NOTIFY THE PETIITIONER THAT HE WAS GOING TO TRIAL,HE DID NOT NOTIFY THE PETITIONERS LEGAL GUARDIAN THAT THERE WAS A TRIAL DATE SET,AND WHEN THE PETITIONER SISTER TRIED TO CONTACT THE PETITIONERS LAWYER TO FIND OUT WHEN HE WAS GOING TO TRIAL THE PETITIONERS LAWYER,DID NOT CALL HER BACK OR CONTACT HER TO TELL HER.
THE PETITIONER ATTORNEY DID NOT TELL THE PETITIONER THAT HE WOULD BE A RANGE 1 STANDARD OFFENDER IF THE PETITIONER WENT TO TRIAL.
THE PETITIONERS LAWYER DID NOT TELL THE OETITIONER THAT IF FOUND GUILTY IN CRIMINAL COURT THAT HE COULD APPEAL BACK TO THE JUVENILE COURTS.
THE PETITIONER INFORMED HIS ATTORNEY THAT HE DID NOT KILL ANYONE ,THAT HIS CO-DEFENDANT ADMITTED TO KILLING THE VICTIM,AND THE PETITIONERS ATTORNEY STATED THAT IF THE PETITIONER WENT TO TRIAL THAT HE WOULD BE FOUND GUILTY OF MURDER EVEN IF HE DID NOT CIMMIT IT,THAT IF THE PETITIONER DID NOT TAKE THE PLEA THAT THE STATE OFFERED THAT THE PETITIONER WOULD RECIEVE LIFE IN PRISON PLUS THIRTY YEARS,LIKE HIS CO-DEFENDANT. THE PETITIONER FELT THAT HE DID NOT HAVE ANY CHOICE.

THE PETITIONER RELIES ON THE CASE OF BAXTER VS ROSE 523 S.W..2d 930
AND THE SUPREME COURT RULES OF ETHICAL CONDUCT 7-8and 7-12

ON OR AROUND THE 20 OF JANURARY 1998 THE PETITIONER PLEAD GUILTY UNDER THE ADVICE OF COULSEL .JUDGE MURCHISON WAS THE CIRCUIT COURT JUDGE AT THAT TIME.
THE JUDGE ASKED THE PETITIONER SEVERAL QUESTIONS ,WHILE THE PETITIONERS ATTORNEY WAS TELLING THE PETITIONER TO SIGN THE PLEA:
(Q) DID YOU KNOW THAT AFTER BEING FOUND NOT GUILTY OF FIRST DEGREE MURDER THAT YOU WOULD BE A RANGE #1 STANDARD OFFENDER WHICH IS 15 TO 25 YEARS?

(A)THE PETITIONER STATED THAT HE DID NOT KNOW THAT .

(Q) DID YOU KNOW THAT AFTER BEING FOUND GUILTY OR NOT GUILTY OF THE OFFENSES THAT YOU COULD APPEAL BACK TO THE JUVENILE COURTS?

(A) THE PETITIONER STATED THAT HE DID NOT KNOW THAT EITHER,AND HE LOOKED AT HIS ATTORNEY AND STATED THAT YOU DID NOT TELL ME THAT.

THE JUDGE WAS SUPPOSE TO STOP THE PLEA PROCEEDING BECAUSE THE PETTTIONER DID NOT KNOW ALL THE FACTS,BECAUSE THE PETITIONERS LEGAL GUARDIAN WAS NOT PRESENT,AND BECAUSE THE PETITIONERS ATTORNEY WAS NOT INFORMING ME ON ALL THE ALTERNATIVES OF NOT TAKING A PLEA.

REASONS FOR GRANTING THE WRIT

THE PETITIONERS HABEAS CORPUS SHOULD BE GRANTED IN THIS COURT, BECAUSE WHEN THE PETITIONER RECEIVED HIS SENTENCE,HE WAS SENTENCED TO AN ADULT FACILITY THE PETITIONER WAS 16 YEARS OF AGE AT THE TIME,DATE OF BIRTH 5-1-81. THE PETITIONER WAS SEGREGATED FROM THE LAW LIBRARY,THE PRISON PARALEGALS,AND THE PETITIONER WAS WITHOUT THE ASSISTENCE OF COUNSEL.THE PETITIONERS JUVENILE STATUS KEPT HIM FROM FILING ANY PETITION WITHIN THE SET STATUTE OF LIMITATIONS,UNTIL HE BECAME OF LEGAL AGE,WHICH WAS MORE THAN 16 MONTHS LATER.

THE PETITIONER WOULD RELY ON THE TENNESSEE DEPARTMENT OF CORRECTIONS POLICIES ON THE HOUSING OF JUVENILE INMATES..

THIS WRIT SHOULD BE GRANTED,BECAUSE THE PETITIONER HAS EXTRA ORDINARY CIRCUMSTANCES WHYHE COULD NOT FILE A WRIT WITHIN THE SET STATUTE OF LIMITATIONS EVEN IF THE PETITIONER WOULD HAVE FILED A PETITION WITHIN THE SET STATUTE OF LIMITATIONS, HE WOULD NOT HAVE KNOWN WHAT TO FILE OR WHICH COURT TO FILE IT IN.

THERE ARE KNOW GUIDELINES PUT IN PLACE FOR JUVENILES AFTER WE ARE PLACED INTO AN ADULT PRISON FACILITY,WE AUTOMATICALLY GO INTO SEGREGATION,BECAUSE WE ARE NOT OF LEGAL AGE.SUCH GIUDELINES AS HOW TO PROPERLY ACCESS THE COURTS, LAWYERS OR PARALEGALS TO INFORM US ABOUT THE STATUTE OF LIMITATIONS,STATE AND FEDERAL HABEAS CORPUS.IF JUVENILES DO NOT KNOW ALL THE COURT REMEDIES BEFORE WE ARE SEGREGATED,THEN WE WILL NOT KNOW ABOUT IT UNTIL WE BECOME OF LEGAL AGE,WHICH FOR MOST JUVENILES THE TIME LIMIT CAN BE TWELVE TO TWENTY-FOUR MONTHS.

THE REASONS THAT THIS WRIT SHOULD BE GRANTED IS JEOPARDY ATTACHED AT THE PETITIONERS TRANSFER HEARING TO CRIMINAL COURT.THE OBJECT OF THE HEARING WAS TO SEE IF THE PETITIONER FIT THE CRITERIA FOR TRANSFER TO THE CRIMINAL COURT BEFORE HEARING THE CASE ON ITS MERITS,BUT INSTEAD THE JUVENILE COURT JUDGE WAITED TWELEV HOURS AFTER THE STATE MADE THERE CASETO RENDER A DECISION. BLACKS LAW DICTIONARY STATES PROBABLE CAUSE:MORE THAN THE MERE SUSPICION BUT LESS THAN THE QUANTUM OF EVIDENCE REQUIRED FOR CONVICTION.

HOUR PETITIONER WAS SUBJECTED TO THE BURDENS OF TWO TRIALS FOR THE SAME OFFENSE,TWICE PUT TO THE TASKS OF FIGHTING FOR HIS INNOCENSE,AND TWICE FOUND GUILTY.THE PETITONER RELIES ON THE CASES OF BREED V JONES 95 S.CT 1779 (1975)

AND IN RIOS V CHAVEZ 620 F.2d 702 C.A. CAL (1980)

No. 02-5940

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

JERRY ANDERSON,

Petitioner-Appellant,

v.

FRED RANEY,

Respondent-Appellee.

ORDER

FILED
APR 15 2003
LEONARD GREEN, Clerk

Jerry Anderson appeals a district court judgment that denied his petition for a writ of habeas corpus filed under 28 U.S.C. § 2254. The district court denied Anderson a certificate of appealability, and Anderson now moves this court for a certificate of appealability pursuant to Fed. R. App. P. 22(b). In addition, Anderson moves for pauper status.

Upon consideration, the motion for pauper status is granted, and the application for a certificate of appealability is denied because Anderson cannot make a substantial showing of the denial of a federal constitutional right. *See* 28 U.S.C. § 2253(c); *Slack v. McDaniel*, 529 U.S. 473, 483-85 (2000).

ENTERED BY ORDER OF THE COURT

Leonard Green
Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

FILED BY bn D.C.
02 MAY -2 PM 4:18
U.S. DIST CT
TN JACKSON

JERRY ANDERSON,

Petitioner,

VS.

FRED RANEY,

Respondent.

No. 02-1096

ORDER GRANTING LEAVE TO PROCEED *IN FORMA PAUPERIS*
ORDER OF DISMISSAL
ORDER DENYING MOTION FOR TRANSCRIPTS
ORDER DENYING CERTIFICATE OF APPEALABILITY
AND
ORDER CERTIFYING APPEAL NOT TAKEN IN GOOD FAITH

Petitioner Jerry Anderson, Tennessee Department of Correction prisoner number 270247, an inmate at the Northwest Correctional Complex (NWCX) in Tiptonville, Tennessee, filed a petition under 28 U.S.C. § 2254, along with an application to proceed *in forma pauperis*. The motion to proceed *in forma pauperis* is GRANTED. The Clerk is ORDERED to docket the case and record the respondent as NWCX Warden Fred Raney.

A. STATE COURT PROCEDURAL HISTORY

Anderson, while a juvenile, was charged with first degree murder, conspiracy to commit especially aggravated robbery, and arson. On July 10, 1996, the Juvenile Court of Madison County conducted a transfer hearing and transferred him to Madison County

This document entered on the docket sheet in compliance with Rule 58 and/or 79 (a) FRCP on 05-03-02

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