ORIGINAL

No. 03-8498

Supreme Court, U.S.
FILED
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OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2003

IN RE KAFELE PARKER

Petitioner

ON PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS, PURSUANT TO 28 U.S.C. §1651(a) AND UNITED STATES SUPREME COURT RULE 20, TO THE ILLINOIS APPELLATE COURT, FIRST JUDICIAL DISTRICT

PETITION FOR EXTRAORDINARY WRIT OF HABEAS CORPUS

KAFELE PARKER #B37685
PONTIAC CORRECTIONAL CENTER
P.O. BOX 99
PONTIAC, ILLINOIS 61764
PRO SE

LIST OF PARTIES

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 where judgment is the subject of this Petition is as follows:

Richard Devine
State's Attorney of Cook County Illinois
309 Daley Center
Chicago, Illinois 60602

Lisa Madigan
Attorney General of Illinois
100 West Randolph Street
12th Floor
Chicago, Illinois 60601

QUESTIONS PRESENTED FOR REVIEW

1. Whether the Illinois Jurisprudential Rule which equates "Beyond a Reasonable Doubt" with "Moral Certainty of Guilt" violates the Sixth and Fourteenth Amendments to the U.S. Constitution?

2. Whether an Appellate Court, when reviewing a challenge to the sufficiency of the evidence, should leave witness credibility to the trier of fact or conduct a de novo review?.

3. Whether this Court's decision in Apprendi v. New Jersey, 530 U.S. 466 (2000), applies to the Illinois Consecutive Sentencing Statute, 730 ILCS 5/5-8-4(a), when the aggregate of the consecutive sentence exceeds the maximum stautory sentence for the most serious offense charged?

OPINIONS BELOW

The decision of the Illinois Appellate Court, First Judicial District, affirming Petitioner's conviction and sentence is reported in People v. Parker, No. 1-98-1586 (unpublished under Illinois Supreme Court Rule 23), attached hereto as Appendix A.

The decision of the Illinois Appellate Court, First Judicial District, affirming the dismissal of Petitioner's pro se Petition for Post Conviction Relief is reported in People v. Parker, No. 1-01-1204 (unpublished under Supreme Court Rule 23), appears at Appendix B.

JURISDICTION

The Illinois Appellate Court issued its Order affirming Petitioner's conviction and sentence in People v. Parker, No. 1-98-1586, on February 25, 2000.

The Illinois Appellate Court issued its Order affirming the dismissal of Petitioner's Petition for Post Conviction Relief in People v. Parker, No. 1-01-1204, on October 10, 2002.

This Court's jurisdiction to grant extraordinary writs is invoked under 28 U.S.C. §1651(a) and Supreme Court Rule 20.

doctor's appointment at Bethany Hospital. (B.165) They and Walter Cage left the house to go to the hospital around 10:30 and 10:45 a.m. (B.165, 174) Johnson said they arrived at the hospital between 11:10 and 11:20 a.m. (B.167) She saw the doctor after 1:00 p.m., and Petitioner and Cage waited with her during the entire time. (B.167-168)

Calvin Ridgell, the security guard at the hospital, confirmed Johnson's testimony. Ridgell testified that he did indeed see Johnson and Petitioner at the hospital, but said that it was between 11:30 and 11:40 a.m. (B.183, 184) Ridgell said that Johnson signed in at 11:41 a.m. (B.184)

Following a jury trial, Petitioner was convicted of the First Degree Murder of Booker Flowers, and the Attempt First Degree Murder of Antwan Mimms. (B.228) Petitioner was subsequently sentenced to consecutive terms in the Illinois Department of Corrections of sixty (60) years for First Degree Murder, and thirty (30) years for Attempt First Degree Murder. (C.78-79)

REASONS FOR GRANTING THE WRIT

1. WHETHER THE ILLINOIS JURISPRUDENTIAL RULE WHICH EQUATES "BEYOND A REASONABLE DOUBT" WITH "MORAL CERTAINTY OF GUILT" VIOLATES THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION?

This Court should grant review pursuant to 28 U.S.C. §1651(a) and Supreme Court Rule 20 to determine, as a matter of first impression, whether it is permissible under the standard announced in Jackson v. Virginia, 443 U.S. 307, 99 S.Ct. 2781