

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MURRAY HOOPER,)	
)	
Petitioner,)	
)	Case No. 10 C 1809
v.)	
)	Hon. Joan B. Gottschall
CHARLES L. RYAN, Director, Arizona)	
Department of Corrections, and LISA)	
MADIGAN, Illinois Attorney General,)	
)	
Respondents.)	

MOTION FOR ENTRY OF FINAL JUDGMENT

Pursuant to 28 U.S.C. §§ 2241, 2243, and 2254, the September 9, 2013 mandate of the United States Court of Appeals for the Seventh Circuit (Dkt. No. 66), and the December 11, 2013 notice provided by respondent (*see* Dkt. No. 74; Ex. 1), petitioner Murray Hooper requests that this Court enter judgment in his favor, granting Hooper’s petition for writ of habeas corpus, vacating Hooper’s Illinois convictions for murder, armed robbery, and aggravated kidnapping and the sentences accompanying those convictions, and ordering the State to release Hooper from all custody and detainer relating to the proceedings in the Circuit Court of Cook County in *People v. Hooper*, No. 81 C 1204.

Hooper was indicted by a Cook County grand jury in February 1981 on charges of murder, aggravated robbery, and aggravated kidnapping. *See* Ex. 2 (Indictment No. 81-1204). Hooper was tried in the Circuit Court of Cook County in August 1981, and a jury returned a verdict of guilty on all of those charges. *See* Ex. 3 (Sept. 27, 1981 Judgment and Execution Order in *People v. Hooper*, No. 81 C 1204, Circuit Court of Cook County, Criminal Division) at 1. Hooper was sentenced to death due to the murder convictions, *see* Ex. 4 (Sept. 23, 1981 Order

of Sentence and Commitment), sentenced to three sixty-year sentences for armed robbery, and sentenced to three fifteen-year sentences for aggravated kidnapping, *see* Ex. 5 (Tr. of Sept. 23, 1981 Hearing) at 1247–48. Hooper’s death sentence was reaffirmed on resentencing, *see* Ex. 6 (July 17, 1993 Order of Sentence and Commitment), but later commuted to life imprisonment, *see* Ex. 7 (Dec. 11, 2006 Postconviction Mem. Op. and Order) at 1.

Hooper’s first claim for relief in his petition for a writ of habeas corpus in this Court is that the Illinois Supreme Court unreasonably applied *Batson v. Kentucky*, 476 U.S. 79 (1986), in its determination that Hooper failed to make a prima facie showing of discrimination as to the State’s use of peremptory challenges against black jurors at Hooper’s August 1981 trial. (*See* Dkt. No. 23, Am. Pet. at 12–44). The Seventh Circuit concluded “that the Supreme Court of Illinois applied *Batson* unreasonably” which “remove[s] the state court’s ground of decision and entitle[s] Hooper to an evidentiary hearing in federal court.” *Hooper v. Ryan*, 729 F.3d 782, 787 (7th Cir. 2013). The Seventh Circuit held that at any such evidentiary hearing, the State would bear the burden of “articulat[ing] a non-discriminatory reason for all five of the contested peremptory challenges,” which would then be evaluated by the Court for credibility. *Id.*

The State has declined its opportunity to attempt to offer non-discriminatory reasons at an evidentiary hearing. Ex. 1. That means Hooper has established that his rights under the Equal Protection Clause, as interpreted in *Batson*, were violated at the jury selection in his 1981 trial, and the convictions were therefore obtained in violation of the Constitution of the United States. *Batson*, 476 U.S. at 97–98. As even a “single discriminatory peremptory challenge vitiates the judgment,” *Hooper*, 729 F.3d at 787, and none of the State’s five challenges have been explained, Hooper’s convictions and their accompanying sentences must be vacated.

Accordingly, Hooper respectfully requests that this Court enter judgment in his favor. A proposed order is submitted herewith.

Dated: December 12, 2013

Respectfully submitted,

By: s/ Nathaniel C. Love

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Respondents.)	

[PROPOSED] FINAL JUDGMENT

Judgment is entered in favor of petitioner Murray Hooper, granting Hooper's petition for writ of habeas corpus pursuant to 28 U.S.C. §§ 2241, 2243, and 2254; vacating Hooper's September 1981 Illinois convictions for murder, armed robbery, and aggravated kidnapping in *People v. Hooper*, No. 81 C 1204 (Circuit Court of Cook County, Criminal Division), and the sentences accompanying those convictions; and immediately releasing Hooper from all custody and detainer relating to the proceedings in the Circuit Court of Cook County in *People v. Hooper*, No. 81 C 1204.

DATED: _____

JOAN B. GOTTSCHALL
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of December, 2013, I electronically filed the foregoing document with the Clerk of the Court, using the CM/ECF system, which will automatically send email notification of such filing to all counsel who have entered an appearance in this action.

/s/ Nathaniel C. Love

Nathaniel C. Love