

No. \_\_\_\_\_

\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

SHAWN K. WILLIAMS — PETITIONER  
(Your Name)

vs.

JEFF NORMAN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR EIGHTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

SHAWN K. WILLIAMS  
(Your Name)

255 W. Highway 32  
(Address)

Licking, MO. 65542  
(City, State, Zip Code)

N/A  
(Phone Number)

### QUESTION(S) PRESENTED

These questions suggest to this Court, its interpretation of abuse of the writ doctrine should not be confined to Habeas Corpus procedures void on its face of a Constitutional Rule of Court.

- 1). Whether Boykin v. Alabama, 395 U.S. 238 (1969), is a Constitutional Rule of Court, mandated on U.S. District Courts or merely the exercise of its supervisory authority to regulate evidence in the absence of Congressional direction?
- 2). Whether petition is procedurally barred as a successive habeas corpus petition, if original habeas corpus process was absence of the Constitutional requirement mandated in Boykin v. Alabama, 395 U.S. 238 (1969), to meet substantive due process of law within Federal R. Crim. P. Rule 11?
- 3). Whether a initial habeas corpus procedure that was void on its face of its Constitutional requirement under Boykin v. Alabama was violative of the U.S. Constitution 5<sup>th</sup> Amendment due process clause?

- 4). Whether Constitutionally required evidence that proves petitioner was convicted without proof beyond a reasonable doubt, satisfies substantial showing of the denial of a Constitutional right?
- 5). Whether a habeas corpus procedure that is void on its face of a Constitutional requirement considered a Plain Error under Fed. P. Crim. P. 52(b)?
- 6). Whether a certificate of appealability should issue, when the United States District Court failed to uphold the U.S. Constitution while processing a original habeas corpus petition?

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

☒ 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 whose judgment is the subject of this petition is as follows:

UNITED STATES EASTERN DISTRICT COURT OF MISSOURI

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IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was February 23, 2018.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: March 30, 2018, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION AMENDMENT V (1791)

UNITED STATES CONSTITUTION AMENDMENT XIV (1868)

28 U.S.C. § 1254 (1)

28 U.S.C. § 2254

28 U.S.C. § 2244

## STATEMENT OF THE CASE

Title I of the Antiterrorism and Effective Death Penalty Act of (1996) significantly amends habeas corpus law. The amended version sets forth a more stringent standard for issuance of a writ of habeas corpus, and substantially limits the power of a federal court to grant a state prisoner's habeas petition on grounds decided on the merits in state court.

The Antiterrorism and Effective Death Penalty Act of (1996), fails to define what constitutes a "second or successive" application. Stewart v. Martinez-Villareal, 523 U.S. 637, 643-45 (1998), Panetti v. Quarterman, 551 U.S. 930, 943-47 (2007), Palmer v. Clarke, 293 F.Supp.2d 1011 (2003), Muniz v. U.S., 236 F.3d 122, 125 (2d Cir 2001), Crouch v. Norris, 251 F.3d 720, 723 (8th Cir 2001). Courts considering the construction of 28 U.S.C. § 2244(b) have uniformly rejected a literal reading. It is generally acknowledged that the interpretation of "second or successive"

involves the application of pre-AEDPA abuse-of-the-writ principles.

The petitioner's complaint alleges that an initial filing of a habeas corpus 2254 application that the U.S. District Court failed to process within the required Constitutional Court Rule 11. (SEE Appendix B pp.2). Is "null and void" and a second filing of a habeas corpus 2254 cannot be viewed under the "abuse of the writ" doctrine.

The District Court denied the second habeas corpus as successive. The District Court denied a Certificate of Appealability. The Court of Appeals denied a Certificate of Appealability.

### BASIS FOR FEDERAL JURISDICTION

This case raises a question of interpretation of the second or successive habeas corpus "abuse of the writ" doctrine when the Due Process Clause of the Fifth Amendment was not upheld in the judicial process of the petition. Jurisdiction is conferred by 28 U.S.C. § 1254(1).

### REASONS FOR GRANTING THE WRIT

#### A. Conflicts With Decisions Of Other Courts

The holding of the United States Eastern District of Missouri and United States Eighth Circuit Appeals Court is in

Conflict with not only this Court's own standings, the AEDPA, the Fed. R. Crim. P. Rule 11, but other Circuit Appeals Courts.

In McCarthy v. United States, 394 U.S. 459 (1969), this Court held a Federal defendant is entitled to plead anew if a plea had been accepted in violation of Fed. R. Crim. P. Rule 11. To insure that every accused was afforded those procedural safeguards and reduce the waste of judicial resources required to process frivolous attacks on guilty plea convictions that were encouraged when the original record was inadequate. By a unanimous United States Supreme Court. Class v. U.S., 138 S.Ct. 798 (2018).

Then in Boykin v. Alabama, 395 U.S. 238 (1969), this Court in effect fasten upon the States, as a matter of federal constitutional law, the rigid "prophylactic" requirements of Rule 11 of the Federal R. Crim. P.

This Court held that the purpose of provisions of Rule 11 are to assist district judges in making constitutionally required determination that defendants guilty plea is truly voluntary, and to produce complete

record at time plea is entered of factors relevant to such voluntariness determination. Even to this day.

### B. Importance Of The Question's Presented

U.S.C.S. Fed. R. Crim. P. Rule 52(b) is, in every pertinent respect, as binding as any statute duly enacted by Congress; thus, Federal courts have no more discretion to disregard Rule's mandate than they do to disregard constitutional or statutory provisions. Bank of Nova Scotia v. United States, 487 U.S. 250 (1988). Under Rule 52 all error is either

"harmless" or "plain" depending on whether substantial rights are affected; if plain, it must be considered if properly brought to attention of court and may be considered although not brought to attention of court. Fuckett v. United States, 556 U.S. 129 (2009).

The first two conditions for recognizing plain error, that there be error and it be clear, are without doubt satisfied here. (Appendix B pp. 2 footnote 1) shows the United States Eastern District Court never received the guilty plea transcript of petitioners from the state of Missouri, but processed the 2254 anyhow without the guilty plea transcript. in violation of Boykins v. Alabama, 395 U.S. 238 (1969),

Constitutional law. Making the 2254 habeas corpus proceeding "null and void." Johnson v. Boyd-Richardson Co., 650 F.2d 147 (1980). Hunter v. Underwood, 362 F.3d 468 (2004).

As a mere formality. To hold that every refiled petition is "second or successive" under (AEDPA) "would mean that a dismissal of a first habeas petition for technical procedural reasons would bar the prisoner from ever obtaining federal habeas review." Martinez-Villateal, 523 U.S. at 645 (stating "this may have been the second time that respondent had ask the federal courts to provide relief on his [previously unripe] claim, but this does not mean that there were two separate applications, the second of which was necessarily subject to § 2244(b)").

The United States Eastern District Court of Missouri presumed waiver of petitioner's constitutional rights from a silent record. The court never determined if a valid waiver of constitutional rights guaranteed by the Fifth and the Fourteenth Amendments of the U.S. Constitution met the federal standards of Rule 11 of the Federal Rules of Criminal Procedure, that is required in a 2254 procedure

under the Constitutional Law of Boykin v. Alabama, 395 U.S. 238 (1969). This denied the district court from upholding its Constitutional duty.

In (1996) Congress, while enacting the LAEDPA, never defined a United States District Court that failed to fulfill its constitutional duty while processing an original habeas corpus 2254, would not be affecting the fairness, integrity or public reputation of judicial proceedings if a second habeas corpus 2254 petition is filed.

### CONCLUSION

Under the principle jurisprudence of comity, finality, Federalism or judicial proceedings. A United States District Court that refuses to perform a constitutional duty while processing a habeas corpus 2254 original petition. Is denying a prisoner the fairness of a constitutionally protected federal habeas review. No second habeas corpus should be dismissed as successive when the original habeas corpus proceeding did not fulfill its constitutionally required obligation in the processing of the original habeas corpus. Under the Constitution the protected liberty interest in freedom from criminal taint, is subject to the Fifth Amendment's due process guarantee of

Fundamental fairness, not "abuse of the writ doctrine."

Jurists of reason could disagree with the district courts resolution of petitioners constitutional claims or jurists could conclude the issues presented are adequate to deserve encouragement to proceed further. Miller-El v.

Cockrell, 537 U.S. 322, 327 (2003).

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Shawn K. Williams

Date: June 7<sup>th</sup>, 2018