

No. 18-5128

RECEIVED

OCT 18 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

In re Gigi Fairchild-Littlefield, Petitioner

vs

Derral Adams, Warden, CCWF - Respondent(s)

Petition For ReHearing

Supreme Court, U.S.
FILED

OCT 22 2018

OFFICE OF THE CLERK

On October 1, 2018, The Court denied
The petition for extraordinary writ of
habeas corpus, No. 18-5128.

The Petitioner, Gigi Fairchild-Littlefield,
in proper, attorney of record, respectfully
requests a rehearing, in The highest Court
in The land; and She does NOT mean on The
basketball Court... but understands There
were points or some such given for laughter
by The Court.

So Petitioner Supposes She could
mention That The day of The denial was
The very first day of The new Term and

That she has been watching The Senate Confirmation Hearings... but That has not been The least bit funny... and Since grounds are limited to intervening Circumstances of a Substantial or Controlling effect That we'll assume were not Those...

That leaves only other Substantial grounds not previously presented. Paradoxically, According To Rule 44. Rehearing, Para. 3

"The Clerk will not file any response to a petition for rehearing unless The Court requests a response. In the absence of extraordinary Circumstances, The Court will not grant a petition for rehearing without first requesting a response."

The Petitioner contends That There are extraordinary Circumstances. She has Cited Napue and Schulp v Delo; Claims a miscarriage of justice and actual innocence, and has a Jury verdict acquitting her of The charged crime That has been fraudulently manipulated to make it appear it was a "Special allegation".

One problem with Th(e) argument (That, as a Civil remedy, habeas corpus should automatically use Civil, not Criminal procedures) lies in its failure to take into account The stakes involved in a

habeas proceeding. Unlike The Civil Cases Cited by The State, The errors being Considered by a habeas Corpus Court occurred in a Criminal proceeding, and Therefore, although habeas is a Civil proceeding, Someone's Custody, rather Than mere Civil Liability is at Stake.

O'Neal v McAninch, 513 U.S. at 440. see Id at 442 ("civil {harmless error} standard"

Inappropriate for "habeas proceedings" because "They review errors in State Criminal Trials").

AEDPA explicitly requires federal Courts to review The State Court "decision" (rather Than Considering de novo The claims addressed in That decision) to determine whether The decision fairly adjudicated... The merits " and, if so, whether The "decision... was Contrary TO... clearly established Federal law, as determined by The Supreme Court..."

28 U.S.C. § 2254(d)(1)

Since habeas Corpus is not an "appellate proceeding" but rather an original Civil action more recently described as "governed less by "statutory development" Than by "a complex and evolving body of equitable principles informed and controlled by historical usage... and judicial decisions.

The petitioner has alleged that her "Appellate procedures" were denied her due to spurious trial court record.

"The Great Writ" can be traced through the common law to well before the founding of this nation." (quoting *Fay v Noia*, 372 U.S. 391, 400-01 (1963)); *Fay v Noia*, 372 at 403; 3 William Blackstone Commentaries 131-32 (chitty revised 1832); 2 *Id* at 104-05.

⁹ *Fay v Noia*, 372 U.S. at 438 (citing *United States ex rel. Smith v Baldi*, 344 U.S. 561, 573 (1953) (Frankfurter, J., dissenting)). See, e.g., *McQuiggin v Perkins*, 133 S.Ct. 1924, 1934 (2013) (AEDPA's statute of limitations can be construed to include an "actual innocence" exception because statute's "Text... contains no clear command

countering the court's equitable authority to invoke the miscarriage of justice exception to overcome expiration of the

statute of limitations governing a first federal habeas petition" "[e]quitable

principals^(sp) have traditionally governed the substantive law of habeas corpus, ...

and... 'we will not construe a statute to displace court's traditional equitable authority absent the clearest command'" (quoting *Holland v Florida*, *infra*);

Holland v Florida, 560 U.S. 631, 644, 646 (2010) ("equitable principles" have Traditionally "governed" The substantive law of habeas Corpus"; habeas Corpus is "an area of law where equity finds a comfortable home"); Munaf v Geren, 553 U.S. 674, 693 (2008) ("Habeas Corpus is 'governed by equitable principles.'" (quoting Fay v Noia, 372 U.S. 391, 438 (1963))); Danforth v Minnesota, 552 U.S. 264, 278 (2008) (This Court has interpreted... The Statute's Command to dispose of habeas petitions as law and justice require.' 28 U.S.C. § 2243... as an authorization to adjust The scope of The writ in accordance with equitable and prudential considerations."); Schlup v Delo, 513 U.S. 298, 319 (1995) ("Court has adhered to the principle that habeas Corpus is, at its core, an equitable remedy") (quoted approvingly in Boumediene v Bush, 553 U.S. 723, 780 (2008)); Reed v Farley, 512 U.S. at 356 (Scalia, J., concurring the judgment); Id at 361 n2 (Blackmun, J., dissenting); Withrow v Williams, 507 U.S. at 686-87, Herrera v Collins, 506 U.S. 390, 403-04 (1993); Gomez v United States Dist. Ct., 503 U.S. 653, 653-54 (1992) (per curiam); McCleskey v. Zant, 499

finds extraordinary Circumstances it will not grant a petition for rehearing without first requesting a Response. Therefore, The Petitioner, respectfully requests That The Court order a Response to The habeas petition and/or The Motion for Release and Discharge That accompanied The Waiver of The Respondent's Rights.

The Petitioner, has no legal training, or no assistance to know if her release from her unconstitutional custody must be made by a Motion to Vacate or any other type of motion that may be Procedure. Therefore, if The Court could please Construe This motion to include any necessary or if it could please advise of a need to provide, or if appropriate and necessary if it could order Counsel be appointed.

The Petitioner, Gigi Fairchild-Littlefield, believes That, and prays That, if The Great Writ be an original Civil action; Then equitable principles would find a Response from The Respondent's be Ordered imperative for adjudication as law and justice require.

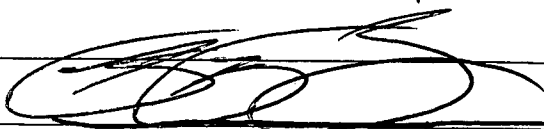
CERTIFICATE

of Petitioner - in pro per
unrepresented by Counsel

This petition for rehearing is
presented in good faith and not for
delay.

The grounds specified being
That a Response be Ordered by
The Court from The Respondents.
as being equitable in an original
Civil action. As one has not
been previously Ordered and
There have been no rulings on
The merits of The Petitioner's
Claims, or briefs in Opposition.

Respectfully requested and
Submitted,



Gigi Fairchild-Littlefield
in proper
attorney of record

10-2-2018

(date)

(attachments) Appendix A and Proof of Service

Appendix A

No. 18-5128

IN THE
SUPREME COURT OF THE UNITED STATES

In re Gigi Fairchild-Littlefield, Petitioner

VS.

Derral Adams, Warden, CCWF - Respondent(s)

MOTION re. Position of Opposition /
RELEASE and DISCHARGE

Gigi Fairchild-Littlefield, in pro per, Petitioner,
attorney of record, hereby MOTIONS The Court
regarding The Position of Opposition.

The Petitioner, respectfully requests The Court
please disregard any errors in procedure, as she has
no legal training.

On 7-23-2018, The State of California, Department
of Justice, OFFICE OF THE ATTORNEY GENERAL, Supervising
Deputy Attorney General, Kevin Richard Vienna, Signed a
WAIVER, in This Supreme Court of The United States,
Docket No. 18-5128 (attached) which was received,
by Petitioner, Through institutional legal mail, 7-27-2018,

The Petitioner, having no legal training,

believes this to mean that there is no opposition

to her claim that she is in illegal and unconstitutional
State custody, at the Central California Women's Facility,

in Chowchilla, California.

The Petitioner, if she is correct, and not premature

in asking, therefore respectfully motions this

United States Supreme Court, for her immediate

Release and Discharge from the Central California

Women's Facility, so that she may be eternally

grateful for her life and liberty as a law abiding citizen.

If this Motion is granted the Petitioner

requests the Discharge Order State :

1. That Gigi Fairchild-Littlefield, as the attorney of

record is to receive a copy of the Discharge Order

without delay, when the prison receives it.

2. That Gigi Fairchild-Littlefield, shall not be subject

to any parole or probation requirements pursuant

to any Penal Code Sections, Welfare Institution Code,

nor any other Authority, Section, nor restriction,

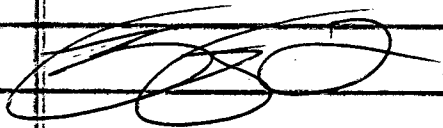
or confinement.

3. That Gigi Fairchild-Littlefield may petition to have the arrest and conviction, regarding INFO45012, records sealed.
4. (When money was sent to the Petitioner, the Prison took (55%) fifty-five percent for Restitution and Administrative fee. The total taken to date is somewhere around (\$8,000.) eight thousand dollars. The Petitioner would like this money returned at the time of her discharge to facilitate her return to society and therefore requests the Discharge Order also state.) Any and all monies paid on Restitution Fine Case INFO45012 and on account are to be given to Gigi Fairchild-Littlefield, at the time of her Release and Discharge and the Restitution Case then closed.
5. No photographs, fingerprints or DNA will be taken or required.
6. That the Discharge/Release Order state:
"Stipulation to or no contest of allegations underlying grounds for granting writ of habeas corpus or motion to vacate judgment; facts binding on Attorney General, fact finder, and California Victim Compensation and Government Claims Board; notice of stipulation of facts;

express factual findings, including Credibility determinations to be binding."

7. That Gigi Fairchild-Littlefield has been in illegal State Custody Since her arrest on 9-1-2003.
8. That Gigi Fairchild-Littlefield is to be Discharged / Released forthwith, (or given release date. I believe They have (7) seven days)

Respectfully requested and submitted,



Gigi Fairchild-Littlefield

In proper attorney of record

07-29-2018

(date)

(attachments)

WAIVER No. 18-5128

Proof of Service

WAIVER

Supreme Court of the United States

No. 18-5128

Gigi Fairchild-Littlefield
(Petitioner)

v. Warden, CCWF
(Respondent)

I DO NOT INTEND TO FILE A RESPONSE to the petition for a writ of certiorari unless one is requested by the Court.

Please check the appropriate boxes:

- ☒ Please enter my appearance as Counsel of Record for all respondents.
- ☐ There are multiple respondents, and I do not represent all respondents. Please enter my appearance as Counsel of Record for the following respondent(s):

- ☒ I am a member of the Bar of the Supreme Court of the United States.
- ☐ I am not presently a member of the Bar of this Court. Should a response be requested, the response will be filed by a Bar member.

Signature Kevin Viennen

Date: July 23, 2018

(Type or print) Name Kevin Viennen

☒ Mr. ☐ Ms. ☐ Mrs. ☐ Miss

Firm Ca. Dep't of Justice

Address 600 West Broadway Ste 1700

City & State San Diego, CA Zip 92101

Phone (619) 738-9133

SEND A COPY OF THIS FORM TO PETITIONER'S COUNSEL OR TO PETITIONER IF PRO SE. PLEASE INDICATE BELOW THE NAME(S) OF THE RECIPIENT(S) OF A COPY OF THIS FORM. NO ADDITIONAL CERTIFICATE OF SERVICE IS REQUIRED.

Cc:

RECEIVED

OCT 30 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 18-5128

IN THE
SUPREME COURT OF THE UNITED STATES

In re Gigi Fairchild-Littlefield, Petitioner

vs

Derral Adams, Warden, CCWF, Respondents)

MOTION FOR ADDITIONAL CONSIDERATION

The Petitioner, in pro per, hereby motions
The Court for additional consideration of
The following:

A Criminal Statutory presumption must be
regarded as irrational or arbitrary, and hence
unconstitutional for purposes of due process, unless
it can be said with substantial assurance that
The presumed fact is more likely than not to flow
from the proved fact on which it is made to depend.

"The appropriate standard is that where the
facts are in dispute, the federal court in habeas
corpus must hold an evidentiary hearing if
applicant did not receive a full and fair
evidentiary hearing in a state court, either at
the time of trial or in a collateral proceeding"

372 U.S. at 312

[Michael] Williams v Taylor, 529 U.S. 420 (2000) (CONSTRUING AEDPA's revised § 2254 (e) (2) as a reflection of The Pre-AEDPA decision in Keeney v Tamayo-Reyes, 504 U.S. 1 (1992)), Harbison v Bell, 556 U.S. 180, 183 (2009) (relying on The historical Core Conception of habeas Corpus To CONSTRUE The Term "final order" in § 2253 (c) (1) (a) as limited to "orders That dispose of The merits of a habeas Corpus proceeding - a proceeding challenging The lawfulness of The Petitioner's detention").

The First Amendment and Abuse of Government Power:
The Indictment and Information (Rule 7), now includes United States v. Moss, 872 F.3d 304 (5th Cir. 2017) (due process prohibits using novel construction of criminal statute for conduct that neither statute nor case law has given fair notice would be covered.)

Joinder of Offenses or Defendants (Rule 8) now includes United States v. Monteiro, 871 F.3d 99 (1st Cir. 2017); United States v. Zininy, 873 F.3d 38 (1st Cir. 2017) (jurors demonstrated their ability to discriminate among charges improperly joined when they acquitted defendant on one count and convicted him on the other.)

However, in The instant case, this presumption would be irrational, arbitrary and unconstitutional,

The Petitioner contends, because The jury found her not guilty of The Charged offense of murder and found her guilty of 1st Degree Murder Through an aiding and abetting Instruction, which she contends was Unconstitutional and a Fundamental Miscarriage of Justice, because she has no co-defendants and was and is The only person ever arrested and/or charged in The murder of Frank PEISON, a human being; and because The Statement Against Interest, presented to The jury as Stipulation #56 was demonstrably manufactured false evidence, known to be false by both The prosecution and The defense Counsel and Unconstitutional under Napue and The Fourteenth Amendment and which was admitted to The jury after both sides had rested; and because The FELONY COMPLAINT and The INFORMATION clearly show That The only "special allegation" was That The Petitioner had priors and The fraudulent manipulation of The jury verdict where The jury acquits The Petitioner of The actual charged crime by making it fraudulently appear That The charged crime was a "special allegation."

In Harbison, "The Court's description of The writ as a prisoner initiated civil remedy informed by equitable principles, and as a statutory procedure over which The courts, or at least The court, exercises broad regulatory power, has several strategic, tactical, and

adjudicative implications that may not be obvious. First, unlike in Criminal proceeding the litigative initiative in habeas Corpus belongs to the individual whose liberty is being restrained. The Court it seems should be more flexible in the "Civil" habeas Corpus context than in Criminal actions, in order for the Court to "yield to the imperative of correcting fundamentally unjust incarceration." of course the Court's discretion is paramount.

In *O'Neal v McAninch*, the Court recognized this Criminal-Civil paradox and the danger of withdrawing protections from habeas Corpus petitioners because they are invoking a "merely" Civil remedy. In deciding to adhere to the more protective rules governing the burden of persuasion of harmless error applicable when Courts "review" [] errors from a Criminal proceeding, "and not to apply the less protective rules that may apply when errors in Civil cases are reviewed, Justice Breyer wrote for the Court.

Additionally, the Governor of the State of California, recently signed into effect legislation [SB-1437] that appertains to "Accomplice Liability," and eliminates murder culpability if you were not the actual perpetrator and did not instigate the murder.

In The Instant Case, in addition to Napue and Stipulation #56 which violated Due Process and The Fourteenth Amendment, There was Testimony That The Petitioner purchased .357 ammunition. The Petitioner contends That Frank PEISON had two guns for sale and asked her to purchase ammunition for him while she was out. At The Store The Petitioner was unsure of what The other type of ammunition he wanted was and when she asked The clerk if it mattered The clerk told her it was very important, so she only purchased The ammunition she was certain he had requested. When she returned to The house he was upset she had only purchased one type. The Petitioner, called Patricia SHAMBOW, invited her to dinner and asked her to purchase The other ammunition he had requested. SHAMBOW called from The gun shop and The Petitioner asked PEISON again to be sure what type of ammunition was That he wanted and relayed The information to SHAMBOW, who then purchased The other ammunition; which was .44 Caliber and was consistent with being what killed him.

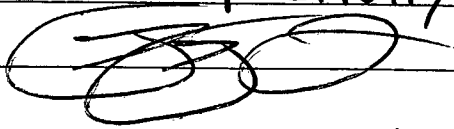
The Petitioner, had no reason to know That Frank PEISON had been gun shot when she spoke with The detective on 8-25-03. The reason for her call was The newspaper reporting That his death had been "violent". The

Petitioner believed that PEISON had O.D.'d prior to that because that's what she'd been told by the person that found him and when she looked from the doorway he appeared to be sleeping. Petitioner during her phone call with the detective 8-25-03 gave the detective both Victor DEAN and Patricia SHAMROW's names. Petitioner did not know that he had been shot until she was charged with his murder and got a copy of the Complaint.

The jury verdicts make it appear that the Petitioner was found guilty of murder through "Accomplice Liability" but since she has no co-defendants or co-conspirators or any others charged in the case or not and does not believe that "Accomplice Liability" could be construed to mean oneself. That even with this additional legislation that exonerated her; without the Court ordering a Response from the California Department of Justice, Office of the Attorney General, she could remain in Unconstitutional and illegal State Custody, due to the fraudulent manipulation of her Trial Transcripts, jury verdicts, Orders, etc. And for these Additional Considerations, The Petitioner, Gigi Fairchild-Littlefield, in proper, attorney of record, respectfully requests that the Court

Order a Response, from The California
Department of Justice, Office of
Attorney General, to The Petition for
Extraordinary Writ of Habeas Corpus
and Position of The Opposition, as
The attorney(s) of record for The
Respondents and as an equitable
request in a Civil action.

Respectfully Submitted,



October 22, 2018

Gigi Fairchild-Littlefield

in pro per, attorney of record
for The Petitioner

(attachment) Proof of Service