

No. _____

17-7268

IN THE
SUPREME COURT OF THE UNITED STATES

William B. Brown — PETITIONER
(Your Name)

vs.

Warden Mansukhani — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

William Benjamin Brown 16860-021
(Your Name)

P.O. Box 699
(Address)

Estill, SC 29918
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Did the District Court Abuse its Discretion By Not Address its Court ORDER?

Did the Respondent Violate Rule 5 by not answering the Court Order?

Did the District Court Abuse its Discretion by Filing A Second Report and Recommendation?

Did the District Court Abuse its Discretion by not making the ruling of the District Court part of Court Docket Text?

Did the District Court Abuse its Discretion by filing after the Government Conceded June 16, 2017, by not address the Court Order?

Did the District Court Abuse its Discretion by not resolve all claims of the petition?

Did the District Court Abuse its Discretion by not ruling on its Court Order?

LIST OF PARTIES

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

[x] 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:

William Benjamin Brown
Robert F. Daley, Jr
Ewing Jimmie
Mary G. Lewis
Bristow Marchant

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921(a)(20)

750-110

Rule 5

OTHER

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 is unpublished.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 is unpublished.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 is unpublished.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 26, 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 9, 2018, and a copy of the order denying rehearing appears at Appendix A.

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

Amendment 4

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

STATEMENT OF THE CASE

petitioner argue this Case should be remanded back to the District Court without Rules 10-14 (petitioning for Certiorari) because the District Court are instructed to resolve all claims for Reliefs raised in a petition for writ of habeas Corpus pursuant to 28 U.S.C.S. § 2254 regardless whether habeas relief is granted or denied, 960 F.2d 925 Clisby v. Jones, 11th Cir. 1992)

The Court's resolution of my claim is defect and effect's the integrity of the federal habeas proceeding Gonzalez v. Crosby, 545 U.S. 524, 532, (2005)

petitioner claims that according to Gonzalez v. Crosby a Court can Reopen an inquiry in a post conviction proceeding when a lower Court fails to Rule on all the claims in the Original motion.

Comes Now, William Benjamin Brown, pro se, moves this Honorable Supreme Court to remanded this injustice Ruling by Both Court's. petitioner argue and will show, with supporting Document's, the District Court Honorable Mary G. Lewis, made a ruling on the Magistrate Judge Bristow Marchant, Report and Recommendation. The ruling was left out the Court's Docket Text.

petitioner filed an 28 U.S.C. § 2241 writ of Habeas Corpus motion to Dismiss Count one and Count three, because prior to this arrest, Brown had discharged from Custody on the maximum date allowed, March 17, 2008. See Appendix G petitioner was not on probation or parole. Under Michigan state laws, petitioner had completed H's Sentence, with all key Civil rights had been restored. See presentence Report at Appendix G, Also, the Failure to Register Charge was 1971, Complete 1977, the 1975 was Complete 1988, the Charge is in violation of Ex post Facto Law. No Certified Copies of Judgment of

attach pages.

Conviction, At Appendix C on page 8 State: Details, including Oking Sentencing documents, of the Detroit (Michigan) Department arrest are not available. Petitioner argued that the magistrate judge was and did argue in and through fraud. (There is no certified copies of Michigan Judgment of Michigan Conviction's). See Appendix-D 09-09-2016

petitioner argue since this made up conviction, Ex Post Facto Law. Michigan sex offender Amendments Can't Be Retroactively Applied. Applying retroactive amendments to Michigan's sex offender Registration Clause, the U.S. Court of Appeals for the Sixth Circuit held Aug. 25 (Doe v. Snyder, 2016 Bl 276689, 6th Cir, NO. 15-1536, 8/25/16).

petitioner argue also, the United States Supreme Court won't Hear sex offender Registrants case.

The Michigan Legislature's attempt to retroactively place restriction on registered sex offender won't be reviewed by the U.S. Supreme Court (Snyder v. Doe, U.S. NO 16-768, review denied 10/2/2017). 9

petitioner argue, The Supreme Court resolved the split in favor of the position taken by the Fourth Circuit, holding that whether a felon's Civil rights have been restored "is governed by the law of the convicting jurisdiction." 511 U.S. at 371.

petitioner argue the same as the Hampton case; Hampton v. United States, 191 F.3d 695. (6th Cir. 1999)

Thus, all of petitioner key rights were restored at the time he was charged (191 F.3d 703) with a violation of 922(g). Because his rights were so restored from the 1986 conviction, it appears that petitioner pled guilty to a charge to which he was (actually innocent) because the government could not satisfy all of the elements of the 922(g) charge.

Petitioner argue the magistrate Judge Bristow marchant, on 04/10/2017 Filed 13 Report and Recommendation, It is Recommended that the petition in this action be dismissed without requiring Respondent to file a return. See Court Docket TEXT-D

petitioner filed on 04/20/2017 15 OBJECTION to 13 Report and Recommendation. by William Benjamin Brown. See Court Docket TEXT-D

petitioner argue Honorable Mary Geiger Lewis made a ruling on the Report. on 4/26/2017 Document Number: 17 See Document-17 Appendix-E Ruling: TEXT ORDER denying [13] Report and Recommendation. And the Document went on to say: Concerning Section 2241 petitions, however, this action is REMANDED to the magistrate Judge with directions to require Respondent to file a response to the petition. Given the age of this case, the Court respectfully requests this matter be handled on an expedited basis. See Document of Appendix E

petitioner argue the District Court Honorable Mary G. Lewis, on April 27, 2017, Remanded this case to the undersigned with directions to require Respondent to file a response to the petition.
ECF NO. 17

TO RESPONDENT:

Respondent shall file an answer or other response to the petition as soon as reasonably possible but no later than fifty (50) days from the date of service. petitioner argue this Court ORDER was filed 04/27/2017. See Order Entry Number 21 Appendix-F

petitioner argue the District Court Ruling Order denying [13] Report and Recommendation was not made apart of the Court Docket TEXT. See Docket TEXT 17 at Appendix-D.

Petitioner argue Document Number: 41 TEXT ORDER, The Respondent filed a motion to dismiss the petition on June 16, 2017. Since Respondent did not address in its filing the issue raised by the District Court in its Order filed on April 27, 2017. Petitioner argue the Government Waived their right April 16, 2017. ALSO Petitioner argue the District Court Judge did not rule on the Respondent filing. See Appendix- G [They Conceded]

Petitioner argue the filing was not made apart of the Court Docket TEXT until 33 days after the Respondent did not address the Court Order. It was filed 7/19/2017 See Court Docket TEXT AT Appendix- D 17.

Petitioner argue the magistrate judge filed a Second Report and Recommendation. It is recommended that the petition in this action be dismissed, without prejudice. Magistrate Judge knew the District Court had rule on 4/26/2017 TEXT ORDER denying [13] Report. See Document Number: 41 At Appendix- G. Petitioner argue the Magistrate Judge filed the first Report, 04/10/2017, Petitioner argue the Magistrate Judge Rule over the District ruling, and did his filing. See Court Docket TEXT 07/27/2017 45 Appendix-D.

Petitioner argue the Respondent filed a motion June 16, 2017. The Magistrate Judge filed and in his order ADOPTING the Report and Recommendation and Dismissing the petition without prejudice, Petitioner argue that had been denied by the District Court Judge. TEXT ORDER denying [13] Report, with a Court Order not being address. Magistrate Judge was Waived. June 16, 2017. The Magistrate had waived all rights to file anything. July 27, 2017. Magistrate Judge file what had been denied, then the

Magistrate Judge rejected petitioner argument, and the Court reject such argument for the same reason articulated in the Report. Magistrate Judge went on to say, petitioner also appears to argue in his memorandum that Respondent neglected to address issues raised by this Court in its April 26, 2017, Order. Like the rest of petitioner's memorandum, however, this argument fails to direct the Court to a specific error in the Report. Moreover, this Court's April 26, 2017, Order is directed to the magistrate Judge, not Respondent. ECF No. 17.

petitioner argue the magistrate Judge filed 08/30/2017 Order Adopting the Report and Recommendation and Dismissing the petition without prejudice. petitioner argue the 04/10/2017 Report and Recommendation, (The First one) See Court Docket Appendix-D petitioner argue District Court Honorable Mary Geiger Lewis, on 04/26/2017 kule, TEXT ORDER denying [13] Report and Recommendation. See Document Number: 17 At Appendix- E Magistrate Judge Did not make the ruling apart of the Court Docket Text. Appendix-D 17

petitioner argue the United States Court of Appeals for the Fourth Circuit made a ruling without the Record. The District Court Judge ruling was left off, Court Docket Text- Appendix- E petitioner argue the appeals Court made a ruling without the ruling of the District Court, See Document Number: 17 at Appendix- E.

petitioner argued the search of the residence was in violation of the Fourth Amendment to the Constitution. petitioner argue there was no probable cause, The arrest was 01/26/2011, petitioner argue the superseding indictment was 3/3/2011 for no crime being committed. petitioner was already in jail for failure to Register, NO Warrant, NO Michigan Certified Copies of Judgment of Conviction. petitioner argue His discharge from custody on

the maximum date allowed March 17, 2008. See Presentence Report Appendix-C page 10. That was for Breaking and entering, it was use to sentence me as Armed Career Criminal Act, Objection's was made before it was used. United States Court of Appeals for the Sixth Circuit, United States v. Ritchey, 840 F.3d 310; 2016 U.S. App. LEXIS 19319; 2016 FED App. 0262N (6th Cir.) Defendant was improperly sentenced under ACCA, 18 U.S.C.S. § 924(e), based on several prior convictions of Michigan breaking and entering statute, Mich. Comp. Laws § 750.110, because conviction under § 750.110 did not qualify as predicate violent felony under ACCA as statute's terms were broader than generic burglary, and it was not divisible.

Petitioner argue as I have always, the Government in this case, have never had any court records, no certified copies of Michigan breaking and entering of Michigan conviction's. The Government argued at sentence's, there certified copy was Mich. Comp. Laws, not a certified copy.

Petitioner argue argue prior to this arrest, petitioner also argue it's never been a judgment of conviction for him to register. At the time of conviction, there was no law. (See Appendix-C presentence Report at page 9, The Government probation officer wrote Escaped outside the 1981 conviction. Petitioner argue, he have never had an Escape, also, on page 9 of the presentence Report.

Petitioner argue prior to this arrest, under Michigan state law, petitioner sentence was complete, Michigan discharged me, without any condition of release. No probation or parole. Michigan restored all key civil rights.

petitioner argue as in the Campbell case. United States v. Campbell, 256 F.3d 381. (6th Cir. 2001)

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceeding were held. Any conviction which has been expunged, or set aside, or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this Chapter.

Under 921(a)(20) "the laws of the state of conviction, not federal law determines the restoration of civil rights as a rule". Caron v. United States, 524 U.S. 308, 316. 141 L. Ed 2d 303, 118 S.Ct. 2007 (1998). in 922(g)(1) cases, this Court has determined that essentially all of a former felon's civil rights, including the right to vote, hold public office, and sit on a jury, are restored under Michigan law upon the former felon's release from custody.

petitioner argue the 6/16/2017 Assistant United States Attorney, filed a responds in opposition to petitioner William Benjamin Brown's petition for writ of Habeas Corpus, filed pursuant to 28 U.S.C. § 2241 and in support of its motion to dismiss.

petitioner argue the magistrate Judge Bristow marchant stated in an order mailed ^{to} me 7/19/2017, See Docket Text Appendix D 41 TEXT ORDER. The Respondent filed a motion to dismiss the petition on June 16, 2017. Since Respondent did not address in its filing the issue raised by the District Court in its Order filed on April 26, 2017. 30 Some days after June 16, 2017, there is nothing rule by the District Court Judge. Petitioner argue he did not get a copy of the Respondent filing June 16, 2017. Petitioner argue the magistrate Judge did all this behind the District Court Honorable Mary G. Lewis back. The Judge

would have to say something before the case could move on, the April 27, 2017, Court Order have not been addressed, the 04/10/2017 13 Report and Recommendation of Magistrate Judge Bristow Marchant. It is recommended that the petition in this action be dismissed without requiring Respondent to file a return. See Docket Text Appendix-D

Petitioner argue on 4/26/2017 The District Court Honorable Mary Geiger Lewis made a ruling on the Report, See Document Number: 17 At Appendix-E TEXT ORDER denying [13] Report and Recommendation. Entered at the direction of Honorable Mary Geiger Lewis on 4/26/2017. (cwhi,) Appendix-E

Petitioner argue 04/27/2017 Court Order filed. On April 27, 2017, the Honorable Mary G. Lewis, United States District Judge remanded this case to the undersigned with directions to require Respondent to file a response to the petition. ECF No. 17.
TO RESPONDENT:

Respondent shall file an answer or other response to the petition as soon as reasonably possible but no later than fifty (50) days from the date of service. See Entry Number 21. At Appendix-F

Petitioner argue the Magistrate Judge did not make the ruling denying the Report, [13] Report or the Court Order apart of the Court Docket Text. But sent me a copy. Petitioner argue, when the Magistrate Judge stated to the Court of Appeals, moreover, this Court's April 26, 2017, Order is directed to the Magistrate Judge, not Respondent. ECF No. 17. These are false statements. Petitioner argue the Court of Appeals made a ruling without the real Record. Petitioner ask this

Honorable Court to remanded this case back to the District Court, ordering the Court to resolve all claims, issues raised by the District Court ORDER. The District Court Judge have not rule on the Court Order. The Magistrate Judge made a Record to say what he wanted it to say. See Docket Text, 17 Appendix-D. The ruling of the District Court Judge was not made apart of the Docket Text... Ruling denying [13] Report and Recommendation, [The Government Conceded]

Petitioner argue prior to this arrest, all Civil Rights had been restored. See Froede v. Holland Ladder + Mfg. Co., 207 Mich. App. 127, 523 N.W. 2d 849 (Mich. Ct. App. 1994), was decided by a panel of the Michigan Court of Appeals on October, 3, 1994. In Froede, the Michigan Court held that "a former felon's right to serve as a juror was restored once the sentence was completed" because section 600-1307 a (1)(e) "only requires that a potential juror not be under sentence for a felon at the time of jury selection and because juror qualifications are a matter of legislative control." 523 N.W. 2d at 852. Hampton v. United States, 191 F.3d 695; (6th Cir. 1999) also see United States v. TAIT, 252 F.3d 1320, (11th Cir. 2000), Michigan law provides for the automatic reinstatement of all civil rights of convicted felons following release from custody and completion of probation. Petitioner was discharged from custody on the maximum date allowed, March 17, 2008.

Petitioner ask this Honorable Court to remanded this case back to the District Court to resolve all claims, or This Honorable Court vacate this conviction and order an immediate release.

REASONS FOR GRANTING THE PETITION

Petitioner argue and ask this Honorable Court to Grant his petition, Cause it's been rule on Half the Record, the District ruling on the Magistrate Judge Report and Recommendation. making the ruling by the 4th Cir. Court of Appeals injustice.

Petitioner argue the Report was rule, TEXT ORDER denying [13] Report and Recommendation. Magistrate Judge did not make the Ruling apart of the Docket Text.

Petitioner argue there was a Court Order giving, and a time, 50 days, for the the Respondent to response to the petition, Respondent file a motion to dismiss, But Did not Address in its filing the Issue raised by the District Court, the Government Waived there rights to file anything, they Conceded.

Petitioner argue after all this, the Magistrate Judge file a Second Report and Recommendation, knowing the District Judge Had on 4/26/2012 TEXT order denying [13] Report.

Petitioner argued prior to all this, the arrest, Conviction, petitioner argue state of Conviction, Michigan discharged petitioner from Custody on the maximum date allowed, March 17, 2008. No probation or parole. Under Michigan State Law, petitioner had Complete His Sentence, with all key Civil Rights had been restored.

Petitioner also argue, the Charge is in violation of Ex post Facto Law. Applying retroactive amendments to Michigan's Sex Offender Registration Act is a punishment the violates the U.S. Constitution's ex post facto Clause.

Petitioner argue the use of Two breaking and entering Conviction's in Michigan, is an improper Sentence, 750.110 did not qualify as predicate Violent felony under ACCA as statute's terms were broader than generic burglary, and it was not divisible.

Petitioner argue, this case never had "Certified" copies of Michigan Judgment of Conviction. In there one persentence report, page 10

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

William B. Brown

Date: 6/20/2018