

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Stefan Rodgers — PETITIONER
(Your Name)

Hamilton, Warden, ^{VS.} HCC

_____ — 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

Stefan Rodgers
(Your Name)

P.O. Box 129

(Address)

Haynesville, Va. 22472

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Each and every point is stated within the petition for writ of certiorari.
2. Did each of the tribunals rule fairly within the Consideration of Rule 10 (a), (b), (c) of the Supreme Court?

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:

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	12
STATEMENT OF THE CASE	1
REASONS FOR GRANTING THE WRIT	10-12
CONCLUSION.....	12

INDEX TO APPENDICES

APPENDIX A United States Court of Appeal for The Fourth Circuit

APPENDIX B United States Court of Appeal for The Fourth Circuit

APPENDIX C United States District Court for The Eastern District
of Virginia

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

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 ^C_____ 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☒ is unpublished.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 ^C_____ 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☒ is unpublished.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☐ is unpublished.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 Judgment attached.

☐ 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: Judgment attached, 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

Petitioner is presenting evidence and facts that his 6th, 8th and 14th Amendments to the Constitution were violated.

STATEMENT OF THE CASE

1. The Statement of the Case is articulated within the Cover page and explained in detail from page 1 'til the concluding page 12.

Within this Petition for Writ of Certiorari petitioner has shown adequate reasons and grounds why the previous courts failed to review the petition in accordance to 2254(d)(1) and Rule 10 (a) (b) and (c) of the Supreme Court.

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

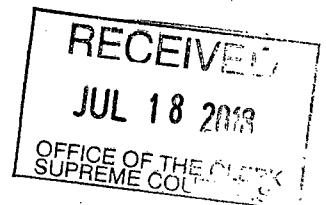
Stefan Rodgers#1052381
v.

Hamilton, Warden, HCC

Case No. 1:17 cv 150(AJT/IDD)

PETITION FOR WRIT OF CERTIORARI

1. Petitioner filed a writ of habeas corpus in the Virginia Supreme Court and the Court denied the petition. Petitioner, then filed a 2254 in the Federal Court.
2. The District Court denied the writ on November 07, 2017 and petitioner appealed the decision which was also denied April 12, 2018. Finally, petitioner petitioned for Rehearing and Rehearing En Banc which was denied on May 31, 2018.
3. Petitioner, now, comes before this Honorable Court Motioning for review of Certiorari. Based on the following facts and constitutional issues the District Court, Court of appeals and Rehearing En Banc failed to properly review and give adequate reason for their decision(s).
4. For starter petitioner being a pro se litigant and not being abreast with legal jargon had the assistance of another "inmate" at the commencement of filing the initial Writ to the Virginia Supreme Court. Considering petitioner was rapidly approaching the filing deadline and abruptly underwent complications with Heart failure.
5. During which time petitioner was moved from the Unit of the individual who assisted with the State Writ and placed in the infirmary.



6. Petitioner begins to undergo numerous " sugeries" in order to correct a deficiency within his heart. This process carried on for a lengthy period of time. That when petitioner was able to comply with the filing of the Writ. Being " ignorant " of the legal procedures, rules and statues. Petitioner thought by sending what he previous drafted would be enough for the Court to review and make an " independent" determination within the " Argument of Ineffective Assistance of Counsel", along with use their personal judgement and see the[title] Ineffective Assistance of Counsel involved the evidence. Evidence which extented in to multiple directions and consisted on numerous termonology.

7. Therefore, according to Fay v. Noid 372 U.S.391(1963).

The Court previously excused a complaintant's failure to exhaust state remedies when petitioner didn't " diberately bypass" state review of a Claim.

8. As explained to the District Court the suggestion of Coleman v. Thompson 501 U.S. 722 (1991) opposes/barrs petitioner under the previous standards of Wainwright v. Sykes doesn't apply to petitioner afterall, the delay isn't based on " counsel's or petitioner's dilerate choice. Instead centers around petitioner's medical ordeal which he has no control over.As a result, within Haines v. Kerner, 404 U.S. 519 (1972)

" a pro se complaint, however inartful pleaded" must be heldto " less strigent standards than a formal pleading drafted by lawyers" and can only be dismissed for failure to state a claim if it appears " beyond doubt that plaintiff can prove no set of facts in support of his claim which would entitle him relief.'" Id at 520-521 quoting Conley v. Gibson 355 U.S. 41,45-46 (1957).

9. Even evaluating the facts of petitioner's legal knowledge and the conditions he experienced. Each Court failed to view that both the "adequate and independent" clause petitioner's has shown doesn't apply to him.

For example: Wainwright v. Sykes discuss the errors of "counsel or petitioner prevent him from adhering to state procedures." In contrast to the decision made by the District Court by upholding this procedural ground. This Honorable Court failed to apply the "adequate and independent" standard, otherwise this Court would have seen petitioner comply with the states procedural and based on factors which didn't involve "deliberate choices" to preclude the state from review of his claims. Instead in Gray v. Netherland 518 U.S. 152,162 (1996). Petitioner has "demonstrated cause and prejudice."

Afterall, the premise of Coleman v. Thompson 501 U.S. 722 at 729-30 See Dreke v. Haley 541 U.S. at 391-93(While anadequate and independent state procedural disposition strips this Court of certiorari jurisdiction to review a state court's judgement, it provides only a strong prudential reason grounds in consideration of comity and concerns for orderly administration of justice, not to bypass upon defaulted constitutional claim presented for federal review.

The District Court ignored review of the constitutional claims and discarded the matters of "adequacy and independence."

Therefore, if this Court used Harris v. Reed 489 U.S.255 (1989) to support its reason to uphold the states "adequate and independent clause." Then the Court of Appeals should have proper viewed the petition of the petitioner and considered since the State never ruled on the "merit of the claims presumed defaulted." As a result, it hasn't been shown petitioner falls within the state adequate ruling to denied the federal court an opportunity to decide on the "substantial showing of the denial of a constitutional right."

28 U.S.C. 2253(c)(2)(2012).

Since the state judgment isn't adequate and independent of federal law. Thus the adequacy to bar is not within the prerogative of the State to finally decide. See Lee v. Kenna 534 U.S. 362, 375 (2002). Here, as matter of federal law (the rights to waive can be done only by the accused. Mainly, the right to confront one's accuser. Since the counsel for petitioner waived petitioner's right to Confront the Analyses who did the Lab Result on the Drug Violated petitioner's 6th and 14th Amendments. Wherefore, there wasn't an adequate waiver of petitioner's rights because counsel failed to inform him of his desire to avoid calling the Analyses and challenging the results of the person(s) who did the lab on the allege substance. Carter v. Sowder 5 F.3d at 980-82 (counsel's decision to waive 6th Amendment right to confront could not bind habeas corpus petitioner in absence of showing petitioner was adequately informed of right and consented to waive.

10. In spite of the facts the Commonwealth claims to notified the counsel for defense of its intent to call the Analyse(s) to confirm or concur with the state's evidence. this doesn't exclude the constitutional facts of petitioner's right to "face and confront his accuser."

11. Considering the evidence of the Commonwealth involved "drugs" alleged to have been sold to an Informant. Which the investigating officer testified as a "white substance" he acquired or received from the Informant(T.). On several occasions the Investigating officer testified to ascertaining the "drugs" from the informant and placing them within his locker(T.) and then carrying them to the Lab for results.

12. During trial this officer testified in Court himself of what each Certificate of Analysis did and the result of the "white substance" he obtained from the Informant.

"No one can vouch for, nor corroborate," evidence that doesn't have the "conventional indicia of reliability and it isn't susceptible to cross-examination."

13. As a result, the decision rendered by the District Court to deny and avoid review/of petitioner's claims were a fundamental miscarriage of justice. Wherefore, the Court of appeals should have granted petitioner a certificate of appealability.

After all, when a prisoner satisfies this standard by demonstrating that a reasonable jurist would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel 529 U.S. 473, 484 (2000)

14. Here it is both "debatable and wrong for both the District and Court of Appeals to rely on the state's procedural grounds and deny review of pertinent constitutional issues petitioner's has addressed. Which show the denial of the Writ by the state/federal court "fall under the contrary clause set forth by the United States Supreme Court cases or confronts a set of facts indistinguishable from decisions of the United States Supreme Court and arrives at a result different from its precedent. 2254(d)(1).

14. The state court never adjudicated any facts denying the claims of petitioner on the merit of these claims. Therefore, under Section 1257 petitioner isn't refuting the facts of the judgment; instead the "unlawfulness" of the incarceration due to the admission of the Certificates of Analysis.

15. These unlawfull references to the lab Result " tainted the case and prevented petitioner from having a fair trial.

According to Gray v. Netherland 518 at 162 whenever a petitioner procedural defaults he must show " cause and prejudice."

In petitioner's petition to the District Court and Court of Appeals he precise expounded on the " cause"; which derived from Special circumstances: A. A sever medical ordeal he experienced due to heart complications. B. Heart problems so extreme which [c]aused petitioner to have repeated surgeries during the timethe state habeas corpus was in the motion for filing. Based on the indication of Haines v. Kerner supra.404 U.S. 519(1972). For the District Court to ignore during the crisis petitioner underwent during these Heart problems. He didn't deliberately skip or ignore state re-view of his habeas corpus, instead could only forward to the Court what the " offender assisted him with," in hopes the Court would pereceive his knowledge of law isn't the same as an attorney and if/by chance he recovers from the heart surgeries he can continue to litigate his Claims.

16. Petitioner didn't know he had to " exHaust " the argument to Confront the witness(es) against him. When in fact, petitioner thought Ineffective Assistance of Counsel meant the Heading "covered the entire gamit of the grievance against counsel's performance.

So when the state fell to view the Evidence was Insufficient to convict. Petitioner thought the Certificate of analysis being part of the Evidence used to convict. He could continue under the Heading of Ineffective Assistance of Counsel and explain indepth how his constitutional rights are being violated.

17. So considering these factors petitioner's health problem and knowledge/insight of law were the " cause" that prevent him from properly submitting these claims to the state court which the court. Now, uses the failure to " exhaust" defense to allude review. Even the District Court stated had petitioner attempted to return to the state court and offer them a chance to review these claims he would be time barred.(See District decision p.4). The claims could be treated as "exhausted" if it is clear the claims would be procedurally barred under state law if the petitioner attempted to present it to the state court. Baker v. Corcoran 220 F.3d 276,288 (4th Circuit 2000).

18. Also the District Court on page 5 footnote #2 referenced petitioner attaching the insufficiency of the evidence based on the [i]nformant trial is different from the argument of the evidence pertaining to the Certificates of analysis.

Once again petitioner isn't astute when it comes to legal jargon and he thought " evidence" means the same, regardless of which direction he aims. After all, in order to sustain and uphold the conviction.

A. The alleged transaction between Mr. Rodgers and the Informant must have some nexus.

B. Since the Analyst ~~is~~ ^{are not} present within the Court to verify what the alleged " white substance" ~~now~~ it relates to the evidence as a whole and give rise to anything in connection to the testimony of the Informant.

C. Also on page #5 The District Court stated all the unexhausted claims are incapable of exhaustion and they quoted 8.01-654 (A)(2) and successive 8.01 654(B)(2) refusing to give review.

19. However both these Codes do not negate petitioner from at least being offered a chance to stay the federal habeas petition and dismiss the current habeas " without prejudice" before boycotting and denying review of the other claim the state court failed to acknowledge which stemmed from violations of petitioner constitutional rights.

20. It seems in an attempt to avoid review the District Court reverted to conclude petitioner never met the burden or requisite of Harris v. Reed 489 U.S. 255,260(1989). When in fact, petitioner has shown his incarceration hinges on the violation of both his 6th and 14th Amendment to the Constitution. Regardless, of the Respondent's accusation of petitioner two versions of the Insufficiency of the Evidence are disparate. Nevertheless, the two are predecated from the same Indictment and stem from the same investigation that involves the Informant's purpose to place " drugs" as the evidence he received from Mr. Rodger during each encounter.

21. Therefore, if the mandate of Harris v. Reed is to be followed then The District Court eluded the facts, testitomy from the Informant cause petitioner's unlawfull incarceration and prejudiced petitioner from receiveing a fair trial. Which escalates to a funndamental misscarriage of justice in correlation to acceptable federal laws.

22. Petitioner is asking this Honorable court to note within the appeal to the District Court page #8 he succintly showed how the admission of the "drugs" tainted the trial. Especially enlight of the rights the Court articulated in Crawford v. Washington 541 U.S. 365 124 S.Ct 1354, 138 L.Ed 2d 177 (2006) and Luis Melendez-Díaz v. Massachusetts 557 U.S.305, 129 S.CT 2527, 174 L.Ed 2d 314 (2009)

23. These laws the Supreme Court established and mandated an "accused the right to Confront/ anyone who bears testimony for the sole purpose of determining ones guilt or innocence."

The District Court failed to honor these rules and rights of petitioner when the Court denied the petition without evaluating the facts. Facts that clearly showed the state court adequate and independent procedural ground rule doesn't apply to him.

Because he has pointout precisely the "cause and prejudice" requirement of Gray v. Netherland supra. Along with explained to the Court he didn't "bypass" review of the State Court instead had

Also on page #4 of petitioner's petition for Rehearing and For Rehearing En petitioner explained under Johnson v. Lee 136 S.Ct 1802 (2016). That the "special circumstance" excuses petitioner

from being able to present the suggested procedurally barred claims from the state court. Because examining the totality of petitioner's conviction. The argument of the right to face/confront the Analyst(s) is the substance to show petitioner's incarceration is unlawful and in violation to the Constitution.

24. Step away from the PROCEDURAL DEFAULT violation and turning to the Ineffective Assistance of Counsel. Petitioner has/will show the COA errored by not granting a certificate of appealability.

INEFFECTIVE ASSISTANCE OF COUNSEL'S REASONS FOR PETITIONER'S UNLAWFUL DETAINMENT IN THE DOC.

25. Even if the Courts were to proclaim the decisions in Coleman v. Thompson the state court's adequate procedural ground rule and circumvent to the "narrow exception" of Martinez v. Ryan 566 U.S. 1 (2012). Hyperthetically assuming petitioner direct appeal assertion of the Insufficiency of the Evidence and the issues discussed in the habeas to the federal court are distinct.

26. The federal court still had the jurisdiction to do an " independent review of the Claims. Regardless of the disparity between the Direct Appeal and the alleged refusal to entertain the merits, based on the " adequate ground" rule of the state.

Because the " Evidence" noted in the trial court's err and the " Evidence" of the Certificate of Analysts were all needed to make the case against the petitioner. After all, if the testimony of the Informant is to be credible and primarily reliable to convict Mr. Rodger. Then the trial Court failed to adhere to Federal laws.

27. When listening to the testimony of the Informant; he on numerous occasions this Informant informed the court of a sell of drugs between him and the petitioner. Drugs which the Court never proved were indeed " what the Informant received from petitioner.

Because the record doesn't confirm the " white substance" referenced by the investigator to be properly admitted into the trial by the authorized Analyst.

28. Considering the Analyst is the only personnel who can verify the " white substance " to be drugs and since neither Analyst supported or corroborated the Informant assumption that what he received from Mr. Rodgers was in fact drugs or what the investigator carried to the Lab was indeed drugs.

29. Once again the " adequate ground" rule of the state is inaccurate and the procedural default doesn't abort nor negate an " independent" federal review. Especially when the " narrow exception" of Martinez has been shown counsel's performance was deficient and without actual knowledge of what those lab results were. The failure to confront the Analyst(s) were prejudicial.

30. So in order for the state to enforce its procedural ground, rule is "defeated" the facts petitioner never "personally consented to the waiver of having the Analyst(s) present during trial. Spencer v. Kemp, 781 F.2d 1458,1462,70-71(11th Cir 1986) Even In Carter v. Sowders 5 F.3d at 980-82 In absence of the facts petitioner was adequately informed of counsel's decision not to call the Analyst violates Due Process. Subsequently, Mr. Rodger must be fully apprised of his rights and the nature and consequence of such waiver. In connection to the procedural default petitioner was incapable of making a knowing and intelligent waiver because of some debilitating condition and circumstance.

31. In light of all the facts explained to the District Court petitioner has shown his reasons were "substantial" Fowler 753 F.3d at 461 and the "acts and omissions of counsel were outside the range of professionally competency"Strickland v. Washington 466 U.S. 668, 687 ,690 (1984) Therefore, the insinuations made by the District Court that the "acts and omissions" were trial strategy Spencer v. Murray 18 F.3d 229,233 (4th Cir 1994). These suggestions acts and omission worked extremely to petitioner actual and substantial disadvantage, infecting his entire trial with errors of constitutional dimension. Murray v. Carrier 477 U.S. 478,494 (1986).

32. reviewing all the facts the question cease to exist. That would a "reasonable jurist find the facts of petitioner conviction debatable?"

The issues of the failure to grant review and liberate petitioner from the unlawfully restraints of the court's violation of his Constitutional Rights.

33. Petitioner, now, brings before this Honorable Court the decision of the District Court, Court of Appeals and Rehearing En Banc which overlooked clearly established laws and Supreme Court decisions.

Relief

34. Petitioner is asking this Honorable Court to remand the petition back for further consideration in response to the mandate made " an accuse right to confront all witness(es) against him.

35. That counsel will be provide to help me with further litigation of facts.

36. That this Honorable Court will dismiss the Indictment and release him from custody do to violation of his Constitutional Rights.

37. That the Indictment be retried without the tainted evidence initial used against him.

Certifcate of Service

On June 12 2018 I, Mr. Rodgers swear under the penalty of perjury that the information inside this brief is true and that a copy of all facts were sent to the Attorney General's Office.

Respectfully Submitted,

^{fgw}
Stephan Rodgers #1052381



REASONS FOR GRANTING THE PETITION

1. Petitioner succinctly explained to each court that according to other Supreme court rulings and the standards governing federal law which conflict with other circuit and constitutional issues. The previous Court should have properly evaluated each claim and granted the relief petitioner requested from pages 10-12 of the Writ for Certiorari.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Stefan Rodgers

Date: 8-23-18

County/City of Richmond; Commonwealth of Virginia
The foregoing instrument was subscribed and sworn before me this

23 day of August, 20 18

Stefan Rodgers
(Name of person seeking acknowledgement)

Patricia W. Hand
Notary Public

My Commission expires 2-28-19

Notary Reg. No. 164858

