

IN THE SUPREME COURT OF THE UNITED STATES
Donald F. Hug II, GDC-0000674676,
Petitioner
vs

Case No.: 18-7852

Supreme Court, U.S.
FILED

APR 24 2019

OFFICE OF THE CLERK

T.J. Conley, Warden,

Respondent.

Habeas Corpus

On Petition For Writ OF Certiorari To The Georgia Supreme Court
PETITION FOR REHEARING

Comes Now Petitioner, Donald F. Hug II, Pro Se, and prays this
Honorable Court to grant Rehearing pursuant to Rule 44, and thereafter
grant him a Writ of Certiorari to review the Opinion of the Georgia
Supreme Court. In support of this petition, Mr. Hug states the following:

OVERVIEW

This petition is literally one of the most important that the U.S.
Supreme Court will rule on this year because, if unresolved, the issue
of his First question can adversely affect countless prisoners across
the country, and the issues of his second and third questions can
adversely affect every citizen in America. Petitioner's First question
involves whether or not prisons have the authority to purposefully delay
(for weeks or months) the prisoner's ability to file a habeas corpus
by making them wait that long to get their documents notarized,
thereby delaying them long enough to make them "untimely" so they
automatically lose. (Because some prisons are doing this now and
they did this to Petitioner.) Petitioner's second and third questions

(page 1 of 8)

involve whether or not Congress and state legislatures have the authority to limit and effectively nullify our (supposedly) constitutionally-protected rights, because there are state and federal laws on the books now that actually do this, which sets a dangerous precedent for allowing them to limit and effectively nullify this way all of our constitutional rights in the near future, whenever they may feel like doing so.

STATEMENT OF FACTS

The facts and caselaw in Petitioner's habeas have a very good chance to win his freedom after nearly 30 years, by sending him home to resume his formerly productive law-abiding life with "time-served." But the policies and actions of officials at the prison he was at prevented him from getting his documents notarized until he was "out of time." Were it not for the policies and actions of that prison, Petitioner's habeas filing would have been deemed "timely," even without a Mailbox Rule. Petitioner has been at three Georgia prisons that definitely delay prisoners this way, so there are likely other prisons doing so in Georgia and in other states too. Petitioner gives details on how this is done in his current habeas petition (now pending review by this Honorable Court).

The United States Constitution and the Georgia Constitution

(and very likely all other state constitutions) do not have "exceptions" or "limits" embedded within their listing of our constitutional rights.

For example, they do not say "You have the right to Freedom of speech within one year of your birth, and not thereafter". Instead they say (paraphrased from "Congress shall make no laws... abridging the Freedom of speech") "You have the right to Freedom of speech". Period.

Forever. So, because our Constitution is "the highest law in the land," it is absurd and dangerous to allow a few hundred legislators to pass laws that limit or effectively nullify these rights. Because only a constitutional amendment approved by a large majority of the American people should be able to limit or nullify these all-important sacred rights.

REASONS MERITING REHEARING

1. Prison policies and actions that clearly stall prisoners for weeks or months, who need motorizations, thereby causing their petitions to be "Filed late", thereby making them automatically lose their habeas, should be stopped, reversed, and prohibited from continuing. And strong disciplinary action should be taken against prisons and their officials

who continue to deny prisoners Due Process and Access To The Courts this way. And habeas courts should be prohibited from dismissing habeas filings as "untimely" when the facts show it was clearly the fault of the policies and actions of prison officials that made this happen (as in Petitioner's case). Because it is absolutely unfair, unjust, and unconstitutional to allow this to continue happening to Petitioner and countless other prisoners across the country.

2. Even though the U.S. Constitution, Art. I, Sec 9, Cl. 2, clearly states "The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it," the 1996 "AEDPA" law passed by Congress effectively takes away the right to file habeas petitions in federal courts one year (plus tolled time for state habeas petitions) after a prisoner's conviction becomes final. And, even though the Georgia constitution says the same thing, Georgia's statute O.C.G.A. § 9-14-42(c) effectively takes away the right to file habeas petitions in state courts one year after a misdemeanor conviction becomes final and four years after a felony conviction becomes final. Both of these laws do three things: (1) They effectively do suspend the right to habeas corpus

to all prisoners after that date, because they unconstitutionally automatically deny relief to every habeas filed after that date, no matter how wrongful their conviction and sentence may be, and no matter how unjustly long their sentence may be. (2) By allowing this "time limit" on the right to habeas corpus to stand, this dangerous precedent allows Congress and state legislatures to later shorten this "time limit" to any amount they want, such as "within 30 days," or "30 seconds," or "30 milli-seconds," of their convictions becoming final, thereby effectively nullifying that constitutional right. (3) By allowing this "time limit" on any constitutional right to stand, this dangerous precedent allows Congress and state legislatures to later put such "time limits" on all of our constitutional rights, such as passing laws that effectively do say (similar to the AEDPA law and O.C.G.A. § 9-14-42(c)) "You have the right to Freedom of speech within one year of your birth, and ~~not~~ thereafter," or "You have the right to Freedom of religion within one year of your birth, and ~~not~~ thereafter," et cetera, et cetera. So, on some dark day in the near future, we could wake up to find that all of our constitutional rights have been effectively taken away that way. So all laws that

put time limits on our constitutional rights loudly cry out to be overturned. In addition, Petitioner's current habeas petition (now pending review by this Honorable Court) significantly explains in new and more complete ways why time limits on pro se prisoners seeking habeas relief are unconstitutionally unjust and unfair. So, for both of these valid reasons, all time limits on the filing of habeas petitions need to be struck down and prohibited from ever being legislated again.

3. The Georgia Supreme Court's decision to not rule on any of these important issues is clearly in conflict with American concepts of fairness and justice, as well as the Fourteenth Amendment rights to Due Process and Equal Protection of the Laws. It is therefore imperative that this Honorable Court grant Rehearing and issue a Writ of Certiorari because the failure to do so would allow the Georgia Supreme Court and the Georgia superior courts to continue to allow prisons to stall notarizations for prison filings and then call these stalled filings "untimely", thereby denying justice to those it is entitled to; and it will also allow Georgia (and other state legislatures) to later shorten the "time limits" on filing habeas petitions down to nothing if they

choose to, and to later put "time limits" on other constitutional rights, thereby effectively taking those rights away.

4. This Honorable Court has an ethical duty by the United States Constitution to establish the law of the land and to ensure the Citizens of the United States of America that the state courts properly apply that law. When they do not, it is this Honorable Court's obligation to **HOLD THAT COURT ACCOUNTABLE** and see to it that justice is administered fairly. Therefore, it is imperative that this Honorable Court hear this case and hold the Georgia Supreme Court accountable for failing to properly apply the law of this Court and relief where relief is due, and for failing to respect and uphold the Constitutional Rights of the citizens of this nation.

CONCLUSION

For all of the reasons stated, it is imperative that this Honorable Court grant Rehearing of its judgment entered on April 15th, 2019, and issue a Writ of Certiorari to hold the Georgia Supreme Court accountable for failing to properly apply the law of this Court and grant Mr. Mug relief, and to prevent this grave injustice from happening to countless others across the nation.

Petitioner also wants to emphasize that he has served nearly 30 years on a 40-year sentence (with no prior record whatsoever) and this is his last chance to be able to go home to his family without making-out his extremely harsh unjust sentence.

WHEREFORE, Petitioner prays this Honorable Court grants his Petition For Rehearing and/or relief as this Honorable Court deems appropriate.

Executed in accordance with 28 U.S.C. § 1746 this 15th day of May, 2019.

Respectfully submitted,

Donald F. Hug II

Donald F. Hug II, pro se
GDC-0000674676

Baldwin State Prison, Bldg M-2

P.O. Box 218

Hardwick, MA 01034

PETITIONER

IN THE SUPREME COURT OF THE UNITED STATES
Donald F. Hug II, GDC-0000674676, *
Petitioner,
vs

Case No. : 18-7852

T.J. Conley, Warden,
Respondent.

Habeas Corpus

On Petition For Writ Of Certiorari To The Georgia Supreme Court
CERTIFICATE OF GOOD FAITH

Comes now Petitioner, Donald F. Hug II, pro se, and makes
certification that his Petition For Rehearing is presented to this Court
in good faith pursuant to Rule 44. Mr. Hug further states the following:

1. This Court entered its judgment denying Petitioner a Writ of
Certiorari on April 15th, 2019. Petitioner believes that he presents
this Court with adequate grounds to justify the granting of rehearing
in this case and said petition is brought in good faith and not
for delay. Furthermore, Petitioner believes that based upon the law
of this Court and facts of this case, Hug is entitled to relief
which has been unjustly denied him. He further believes that if
the Georgia Supreme Court and the Georgia Superior Courts are
continually allowed to deny habeas relief to petitioners who
are denied notary services by the prisons to make their
habeas filings "untimely", a ^{large} number of people will be denied
their constitutional rights to Due Process and Access
to The Courts. He further believes that if the laws

AEDPA and Georgia's O.C.G.A. § 9-14-42(c) (Georgia's equivalent of the AEDPA law) are allowed to stand, that these dangerous precedents will enable the Congress and the state legislatures to limit and effectively nullify all of our constitutional rights in the near future.

I declare under the penalty of perjury that the foregoing is true and correct. Executed this 15th day of May, 2019.

Donald F. Hug II

Donald F. Hug II, pro se

Petitioner