

Case No. 18-8237

IN THE UNITED STATES SUPREME COURT

HARRY EUGENE BRISCOE :

Petitioner, :

-vs- :

LaSHANN EPPINGER, Warden, :

Respondent. :

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

PETITION FOR REHEARING

FOR PETITIONER:

Harry Eugene Briscoe
Reg. No. A530-252
Grafton Corr. Inst.
2500 S. Avon-Belden Rd.
Grafton, Ohio 44044

Petitioner, in pro se

FOR RESPONDENT:

Benjamin M. Flowers
30 E. Broad St.
Columbus, Ohio 43215
(614) 466-8980
(614) 466-5087 (FAX)

State Solicitor and
Counsel for Respondent

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STATEMENT OF GROUNDS FOR REHEARING

Procedural Posture

On March 4, 2019, Petitioner's Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit was docketed in this Court and, on April 15, 2019, Certiorari was denied. An initial Petition for Rehearing was timely submitted, but rejected for procedural corrections with a new time limit for re-submission. This Petition for Rehearing, presented pursuant to and in accordance with Supreme Court Rule 44, is, thus, timely.

Specific Grounds for Rehearing

1. Petitioner's initial petition was inartfully crafted and did not adequately express that he was seeking both appellate and supervisory jurisdiction of this Court under the All Writs Act and pursuant to Article III of the United States Constitution.
2. The doctrine of Stare Decisis compelled the Sixth Circuit not only to issue a COA, but also to grant relief, under this Court's prior decision in **Glover vs McCaughtry**, and its own prior decisions, including, e.g. **U.S. v Adeseda** (CA 6, 1997) 129 F3d 846, and this Court overlooked that mandate in denying Certiorari.
3. Petitioner's request to liberally construe his Petition for Writ of Certiorari to include a direct Petition for Writ of Habeas Corpus under 28 U.S.C. §2241, was overlooked in denying relief.
4. The underlying claim, establishing that the initial Complaint and arrest warrant had no jurat, thus depriving the trial Court of subject matter jurisdiction, has not been reviewed on its merits by any federal court due to the erroneous application of time limits to a void judgment.
5. The underlying claim that the result of the constitutional violations in the underlying case constitutes involuntary servitude, i.e. slavery, banned by the Constitution and the moral conscience of our system of government and people and yet which occurs, and is permitted to occur by inaction, throughout our broken court system.
6. Liberal construction of Petitioner's pleadings due to his pro se status as mandated by this Court in, e.g. **Haines v Kerner**,

has not been afforded, thus denying him of equal protection of the law.

7. The institutional racism of the Court system is being accommodated, facilitated and rewarded by the refusal to conduct a federal review and place clear lack of subject matter jurisdiction and a void judgment under appropriate constitutional scrutiny.

BRIEF ARGUMENT

The above grounds articulate the underlying importance of this case currently before this Court. This is not a run-of-the-mill prisoner petition complaining about a technicality. It is the desperate plea of an innocent man whose confinement was obtained without any Constitutional compliance, without procedural or substantive due process, and completely without subject matter jurisdiction or authority to do so, unarguably amounting to kidnapping by the State, wrongful imprisonment and involuntary servitude, each of which has been universally condemned by this Court and society in the past, yet continues to be inflicted on impoverished people of color in Ohio and other States.

The denial of Certiorari and resultant complete foreclosure of federal review and constitutional scrutiny in this case resulted primarily from the fact that the pleadings were inartful. Petitioner clearly requested consideration as a direct habeas petition in his Certiorari, thus signifying his unfamiliarity with the convoluted and often archaic rules of court a prisoner must navigate, without counsel if he is impoverished as Petitioner herein is, and results in the promulgation and continuation of manifest injustices such as the instant case.

It has long been well-said: "The only thing necessary for evil to prevail, is that good men stand by and do nothing". Each Justice of this Court, as well as the lower Federal Courts, and the State Courts, have taken an oath to protect and defend the Constitution of the United States. All have failed miserably in this, and many other similar cases.

Petitioner submits that the proper Question Presented for Review in his Certiorari Petition should have read:

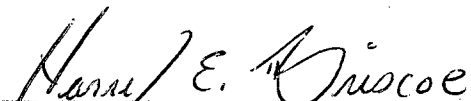
Whether the AEDPA limitations period for the presentation of a Petition for Writ of Habeas Corpus under 28 U.S.C. §2254 applies in cases where the underlying State Court judgment is demonstrably void ab initio, in accordance with prior cases decided by this Court?

Petitioner seeks a rehearing with this, more properly crafted, argument before this Court.

CERTIFICATION OF GOOD FAITH

I hereby certify, under penalty of perjury, that this Petition for Rehearing is presented in good faith, that I have an honest and reasonable belief that I am entitled to the relief sought herein, and that it is not being interposed for delay, as this is not a death penalty case and no stay of execution of sentence has been sought or issued in the underlying case.

Respectfully submitted,



Harry Eugene Briscoe
Reg. No. A530-252
Grafton Corr. Inst.
2500 S. Avon-Belden Rd.
Grafton, Ohio 44044
Petitioner, in pro se

CERTIFICATE STATING THAT GROUNDS FOR REHEARING ARE LIMITED TO
INTERVENING CIRCUMSTANCES OF SUBSTANTIAL OR CONTROLLING EFFECT
AND TO OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED

I hereby certify, under penalty of perjury, that this Rehearing Petition is based upon grounds constituting intervening circumstances, including obtaining competent prisoner law clerk assistance to attempt to properly present the issues herein, and to substantial grounds not previously presented, including the revision of the Question Presented for Review seeking a determination of the extent and scope of the AEDPA limitations period in the case of a demonstrably void judgment.

Respectfully submitted,



Harry Eugene Briscoe
Reg. No. A530-252
Grafton Corr. Inst.
2500 S. Avon-Belden Rd.
Grafton, Ohio 44044
Petitioner, in pro se
(28 U.S.C. §1746)

IN THE UNITED STATES SUPREME COURT
ONE FIRST STREET NORTHEAST
WASHINGTON, DC 20543

AFFIDAVIT OF TRUE FACTS

I, Antonio M. Callahan, hereby solemnly swear under oath and the penalties for perjury that the facts as stated herein below are correct, true, and intended not to mislead nor oppose any laws governing this land;

Fact #1: Harry Eugene Briscoe is an indigent petitioner in this High Court, and he is pursuing a legal obligation for rehearing within a twenty-five (25) day window of opportunity per U.S. S.Ct. Rule 44.

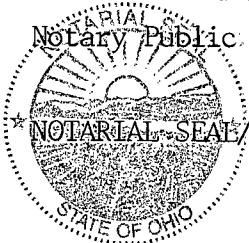
Fact #2: I am therefore paying the postage in support of Mr. Briscoe's cause, so that he may comply within the requisite time period.

AFFIANT FURTHER SAYETH NAUGHT.

Respectfully Submitted,

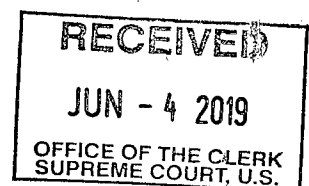
x Antonio M. Callahan
Antonio M. Callahan #550-262
Grafton Correctional Institution
2500 South Avon Belden Road
Grafton, Ohio 44044

Sworn to under solemn oath after first being duly cautioned in my presence, a Notary Public for the State of Ohio, in Lorain County, on this 23 day of May, 2019.



ELIZABETH OSBORNE
Notary Public
for the State of Ohio
My Commission Expires
June 25, 2021

x Elizabeth Osborne
NOTARY PUBLIC



**Additional material
from this filing is
available in the
Clerk's Office.**