

OPIC

No. 18-8751

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE, THOMAS E. NESBITT - Petitioner,

VS.

SCOTT FRAKES - Respondent.

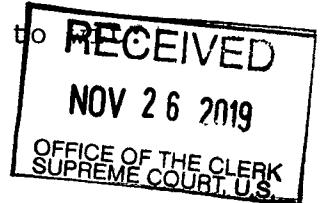
ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE EIGHTH CIRCUIT

VERIFIED PETITION FOR REHEARING

The pro se pauper Petitioner herein respectfully moves this Honorable Court for an Order, (1) Vacating its Denial of the Petition For Writ of Certiorari, entered on October 7 , 2019, and, (2) Granting the Petition.

Upon these below following Factual and Legal Verified Grounds for this Petition For Rehearing to Issue, Petitioner states these following Substantial meritorious Reasons, to wit:

(i)



I- WRONGFUL JURISDICTIONAL CONCISE ERROR

As a manifest Miscarriage of Justice, the "...Court..." (sic), by way of the Clerk in this extraordinary exceptional No-Crime case of Actual Innocence, mistakenly Decided under a 28USC§1254 Jurisdictional Decision, to wrongfully issue in Error, its OCTOBER 7, 2019 complex Dismissal Orders, for whatever misapplication reasons to effectively close the Equal Protection Courtroom Door access.

The egregious wrongful miscarriage failures of these Lower 28USC§2241(c-3) Courts to issue any (§2253-Certificate of Appealability)(C.O.A.) Orders, by law, never granted any §1254 Jurisdiction to this Court. See: HOUSE v MAYO, 324 US 42, 44-45 (1945)(same).

Whereas, the 28 USC § 1651 "ALL WRIT ACTS", instead, grants this Court Authority to (1), issue a C.O.A. (DAVIS v JACOBS, 454 US 911, 912-13 (1981)), and (2), Obtain Jurisdiction under §2241(c-3), as mandate holds in HOUSE v MAYO, supra.

II- MERITORIOUS CONCISE SUBSTANTIAL ALLEGATIONS OF ERROR

Moreover, this Court's mandate holds in WILLIAM v KAISER, 323 US 471, 473-474 (1945), it continues to Assume that Petitioner's Habeas Allegations of Error, are all true, whenever these Lower Court's (District and Appellate), wrongly deny, like Petitioner's at Bar, the State to allow any Answers, nor Petitioner any opportunity to prove his substantial meritorious Allegations of Error. WILLIAMS v KAISER, supra.

Also See, Petitioner's 28 USC § 1756(2) Declaration of 28 USC § 1746 (2) upon Oath as all being True and Correct. (Pet. at pg. 23).

III - LOOK-THROUGH FULL-THROATED INTERVENING

CONTROLLING EVIDENTIARY HEARING DUE PROCESS MANDATES

Upon the untrained Innocent pauper Petitioner's Clear and Convincing No-Fault Due Diligence, this Honorable Court's October 7 , 2019, erroneous Judgment, along with the Lower Courts' herein wrongful Dismissals Without Prejudice, all egregiously Failed upon their respective inadequate Reviews as Miscarriages of Justice, to justifiably find and uphold these several presented meritorious Constitutional substantial Claims of Error raised in the Petition for Certiorari, upon constant Substantial Due Diligence.

Upon Grounds I and II material and exculpatory Trial and Appellate several Errors therein, Unfairly Prejudicially Denied Petitioner a Fair Trial and Direct Appeal as the Law and Justice otherwise clearly requires, (28USC § 2243), continuing in this Court as a Manifest Miscarriage of Justice.

III-A: INADEQUATE LOOK-THROUGH DUE PROCESS REVIEWS

This Honorable Court, along with these Lower habeas Courts, all erred when failing in this Exceptional No-Crime case of Actual Innocence, to Adequately Review these continuously raised and repeatedly Exhausted, Constitutional violations of Trial and Appellate Errors, in accordance with this Court's "LOOK-THROUGH" DUE PROCESS Review Lens of LYST v NUNNEMAKER, 501 US 797, 803-05 (1991) mandate, when rendering their respective Judgments.

III-B MEANINGFUL EVIDENTIARY HEARING DUE PROCESS JUSTICIALE MANDATE

At every stage of this entire meritorious habeas litigation in both the

State and Federal Courts', your pro se pauper Petitioner Clearly and Readily Requested in accordance with this Court's (28 USC §2254(e)(2)) Due Process "EVIDENTIARY HEARING" habeas review mandate of WILLIAMS v TAYLOR, 529 US 420, 437 (2000), and under FUENTES v SHEVIN, 407 US 68, 80 (1977) - BURDEN OF PROOF DUE PROCESS EVIDENTIARY HEARING mandate, wrongly Overlooked or simply Ignored as raised in Ground II of the Petition substantial Review Errors.

This controlling intervening precedental Due Process Review Law justifiably warrants Granting the necessary required EVIDENTIARY HEARINGS herein, all previously systematically wrongly denied by the Courts'. Dismissal Errors. McQUIGGINS v PERKINS, 569 US 383,396 (2013)(Innocence Gateway Exception to Prejudice).

III -A&B- Lacking Look-Through Full-Throated Evidentiary Hearing Processes Due, were, and still are absolutely required reviews here to find and utimately establish the necessary Clear and Convincing readily existing sufficient Factual Exculpatory bases of Record where, may have been perceived or determined by this Court as apparently or supposedly lacking in support of Petitioner's several substantial Constitutional Claims of Error in Ground I of the Petition.

Certiorari review for relief is clearly warranted here as this Due Process Review Law and Justice requires in this Exceptional No-Crime case of Actual Innocence. (28 USC § 2243).

CONCLUSION

For these meritorious intervening justiciable Reasons set forth above, as well as all those Ground I and II Claims of Constitutional Errors prejudicially Denying Petitioner a Fair Trial and Appellate Review contained and raised in the Petition for a Writ of Certiorari to issue, Petitioner prays herein this Honorable Court Grant Rehearing of the Denial Order, Vacate that Order, and Grant the Petition and Review of this Court's Judgment therein.

Dated: 11-19-19

RESPECTFULLY SUBMITTED BY:



Thomas Edward Nesbitt, Petitioner, pro se

P.O. Box 11099

OMAHA, NE 68111

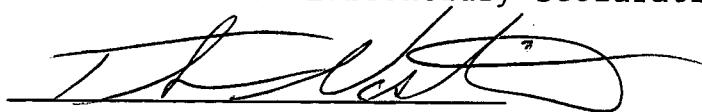
(402) 5953964

VERIFIED DECLARATION

I, Thomas Edward Nesbitt, the pro se pauper layperson Petitioner in the above-entitled habeas case, hereby declares under penalty of perjury, that all forestated Factual and Legal Statements herein, are both True and Correct under 28 USC §1746(2).

Executed this 19th day of November, 2019.

(See: ROBERTSON v HAYIT POLICE DEPT., 241 F3d 992, 994-95 (8th Cir. 2001)(28USC § 1746- Verified Evidentiary Declaration.).



Thomas Nesbitt, Petitioner

CLERK NOTICE:

(11-19-19)

From postem on page (i) ante, please be respectfully advised after your personal knowledge herein of this Rehearing page #1 - LACK of any 10-7-19 Jurisdiction of this Court and the Clerk, that I will still, if it should still remain, attempt as stated in my Clarification letter to your Office, (10-30-19), attempt to have sent your Rule 38(b) \$ 200,00 Rehearing Filing Fee, by way of a gracious family member gift, thank you.

Thomas Nesbitt, Petitioner Appellant

(SEE 10-17-19, 30-45 DAY EXTENSION Application To File ReHearing.)

IN THE SUPREME COURT OF THE UNITED STATES

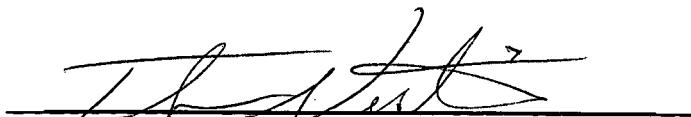
In Re, Thomas E. Nesbitt,
Petitioner,
vs.
Scott Frakes,
Respondent.

No. 18-9751

Verified Rehearing
CERTIFICATE

Comes Now the prose pauper Petitioner in the above-captioned
meritorious justiciable habeas case, restricted to S.Ct. Rule 44
(1 & 2) provisions, and hereby Certifies under 28 USC § 1746,
that the enclosed and attached Petition for Rehearing is being
presented in Good-Faith and not for any Delay, Limited to inter-
vening Controlling substantial Due Process grounds Due of prece-
dental effect.

Executed this 15th, day of November, 2019, as True and
Correct under penalty of perjury.



Thomas E. Nesbitt, Petitioner pro se
P.O. Box 11099, OMAHA, NE 68111