

IN The Supreme Court of The
United States 18A1155

Petitioner's application for an extension of time to file a Writ of Certiorari in The Supreme Court of the United States.

Jurisdiction Statement

The Fifth Circuit Court of Appeals decision to deny en-banc was entered on February 19, 2019 in Case No[#] 18-50336. The Jurisdiction of the United States Supreme Court is invoked under § 28 U.S.C. 1254⁽¹⁾

FILED
APR 29 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

To the honorable Justice Mr. Neil Gorsuch, now comes Petitioner [Carter] respectfully requesting an extension of time to file a Writ of Certiorari in the Supreme Court of the United States. Petitioner [Carter TOCJ 01872967 Edward Lee] is not a lawyer. [Carter] is a Pro-Se indigent litigant who is being held in custody by the respondent Lorie Davis director of the Texas department of Criminal Justice Correctional institutions division in violations of the Constitution or Laws of the United States of America, and there are Controverted. Previously unresolved facts which are material to the legality of Petitioner's confinement exist and still need to be resolved.

ON April 17, 2018 [S.COT.US] HELD: A federal habeas Court reviewing an UNEXPLAINED State Court decision on the Merits MUST "LOOK THROUGH" That decision to the last related State Court decision that provides a relevant rational and presume that the UN-EXPLAINED decision adopted the same reasoning → Wilson v Sellers 138 S.C.T 1188⁽²⁰¹⁸⁾ THE LOOK THROUGH METHODOLOGY controls in [Carter's] case.

ON April 8, 2019 [Carter] filed in the fifth circuit court of appeals, requesting that he be allowed to file a second or successive 2254 federal habeas corpus with the federal district court for the Western district of Texas. Petitioner is awaiting a decision from the fifth circuit at the present time. Under 28 U.S.C 2244

[Carter's] claims relies on a NEW RULE OF CONSTITUTIONAL law made retroactive by the SUPREME COURT, that was previously unavailable "THE LOOK THROUGH METHODOLOGY" Wilson v Sellers 138 S.C.T 1188⁽²⁰¹⁸⁾

[Carter] has properly presented seven, due process abuse of discretion violations to the state courts and the federal courts. The claims have "never" been adjudicated on the merits. The federal courts say that the state courts procedurally barred petitioner's claims, but the state court "never" relied on any state law waiver as a ground for rejecting any aspect of [Carter's] grounds. Harris v Reed 109 S.C.T 1038⁽¹⁹⁸⁹⁾ Plain Statement requirements. The state courts never said any ground was procedurally barred. The western district of Texas federal court said petitioner's claims were procedurally barred. Wilson v Sellers 138. S.C.T 1188⁽²⁰¹⁸⁾ The "LOOK THROUGH METHOD" will show otherwise. The western district of Texas federal court clearly erred in its application of Supreme Court [controlling] law, which allowed the court to dismiss [Carter's] claims with prejudice. The claims that have "never" been adjudicated on the merits are about [Carter's] trial Judge [Angus McGinty] during the trial. Mr. McGinty was found to be corrupt, he admitted to taking bribes/ rigging and manipulating criminal cases on the bench as a district Judge in San Antonio, Tx Bexar County district courtroom 144th. Mr. McGinty pled guilty to honest service wire fraud and was thus sentenced to two years in federal prison Cartaline v Washington

122 F.3d 10 A bribed judge is deemed partial whatever fact of the matter may be. ②

Petitioner [Carter] has been pursuing his rights and working his case diligently. [Carter] is requesting a 45-60 Day extension in order so he can properly and correctly present his claims/questions to the Supreme Court of the United States.

Pro-se
Petitioner
"Indigent"
Respectfully
Edward Lee Carter TDCJ# 01872967
William R. Boyd unit
200 Spur 113
Teague, TX 75860
Todays date is April 26, 2019

Inmate's Declaration

I Edward Lee Carter TDCJ# 01872967, being presently incarcerated in Freestone County, Texas at the William R Boyd unit declare under penalty of perjury that the foregoing is true and correct.

Executed on the 26 day of April, 2019.

Signed by Edward Lee Carter
a Pro-se Petitioner. William R. Boyd
unit 200 Spur 113
Teague, TX
75860

Certificate of Service

I Edward Lee Carter TDCJ# 01872967 as Pro-se "INDIGENT" petitioner whom is incarcerated at the William R. Boyd unit in Teague, Texas hereby certify that a true and correct copy of Petitioner's application for an extension of time to file a writ of Certiorari in the Supreme Court of the United States, has been placed in the prison unit mailbox on April 29, 2019.

This application should be mailed to the Clerk of the United States Supreme Court at 1 1st ST NE Washington D. C 20543

William R. Boyd TDCJ# 01872967
200 Spur 113
Teague, TX 75860
Signed by Edward Lee Carter
ON April 26, 2019

(3)

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-50336



A True Copy
Certified order issued Nov 27, 2018

Jyle W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

EDWARD LEE CARTER,

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Texas

O R D E R:

Edward Lee Carter, Texas prisoner # 01872967, seeks a certificate of appealability (COA) to appeal the district court's denial of his 28 U.S.C. § 2254 petition, challenging his convictions for aggravated sexual assault and indecency with a child and resulting 16-year sentence. To obtain a COA, he must make "a substantial showing of the denial of a constitutional right," which, for claims rejected on procedural grounds, requires him to show "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." 28 U.S.C. § 2253(c); *see Slack v. McDaniel*, 529 U.S. 473, 484 (2000). For claims rejected on the merits, he must demonstrate "that reasonable

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jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack*, 529 U.S. at 484.

If his COA motion is liberally construed, Carter renews his claims that the trial judge was corrupt and biased; that appellate counsel was ineffective in raising only unpreserved claims, in failing to raise preserved and obvious errors, including that the trial judge was biased, and in failing to communicate with him; and that trial counsel was ineffective for failing to ensure that he was present when the jury note was read, not striking for cause a venireperson who expressed concern about a defendant's refusal to testify, not objecting to expert testimony, failing to request a continuance, and in re-admitting a State's exhibit into evidence as a defense exhibit. He briefs no argument renewing any of the other claims raised in his § 2254 petition and has therefore abandoned those claims. *See Hughes v. Johnson*, 191 F.3d 607, 613 (5th Cir. 1999).

Additionally, although Carter renews the above-listed claims, he does so in a wholly conclusional fashion, merely restating them. Because he fails to brief any argument challenging the extensive reasons the district court gave for denying relief, Carter has likewise abandoned those claims. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993); *Brinkmann v. Dallas County Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

Affording his brief very liberal construction, Carter also appears to assert, for the first time, the following claims: (1) he is actually innocent, (2) appellate counsel's deficiencies amounted to a constructive denial of counsel on appeal, (3) trial counsel was ineffective in advising him not to testify; (4) cumulative errors by trial counsel deprived him of a fair trial, and (5) his state habeas proceedings were flawed. However, because he did not raise these

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claims in the district court, this court will not consider them. See *Henderson v. Cockrell*, 333 F.3d 592, 605 (5th Cir. 2003).

Carter additionally asserts, also for the first time in his COA motion, that the deferential standards of 28 U.S.C. §§ 2254(d) and (e) do not apply to the state court's adjudication of his claims because his state habeas application was denied without written order or evidentiary hearing. This court will similarly not consider this newly raised claim. See *Henderson*, 333 F.3d at 605. Even were that not so, the argument would fail because the state court's denial of Carter's habeas application without an evidentiary hearing or a written order constitutes an adjudication on the merits subject to deference under §§ 2254(d) and (e). See *Register v. Thaler*, 681 F.3d 623, 626 & n.8 (5th Cir. 2012); *Valdez v. Cockrell*, 274 F.3d 941, 950-51 (5th Cir. 2001).

~~cause~~ The district court upheld the state court's determination that Carter's due process challenges to several trial court rulings were procedurally barred. ~~he~~ Carter contends that the district court erred in concluding that he failed to establish cause and prejudice or actual innocence sufficient to overcome the procedural bar. He further contends that the district court's denial of his habeas petition without an evidentiary hearing was error. However, as to these properly preserved and briefed claims, Carter fails to make the required showing to obtain a COA. See *Miller-El*, 537 U.S. at 327; *Slack*, 529 U.S. at 484. Accordingly, the motion for a COA is DENIED.

Signed: 11-27-2018

/s/ Catharina Haynes

CATHARINA HAYNES

UNITED STATES CIRCUIT JUDGE

1100 Commerce St, Rm 1264 Dallas, TX

75242

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Address

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IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-50336

EDWARD LEE CARTER,

Petitioner - Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

Appeal from the United States District Court
for the Western District of Texas

ON PETITION FOR REHEARING EN BANC

Before SOUTHWICK, HAYNES, and HO, Circuit Judges.

PER CURIAM:



Treating the Petition for Rehearing En Banc as a Motion for Reconsideration, the Motion for Reconsideration is DENIED. No member of the panel nor judge in regular active service of the court having requested that the court be polled on Rehearing En Banc (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

() Treating the Petition for Rehearing En Banc as a Motion for Reconsideration, the Motion for Reconsideration is DENIED. The court

having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service and not disqualified not having voted in favor (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

ENTERED FOR THE COURT: 2-19-19

Dean Saxon
UNITED STATES CIRCUIT JUDGE