United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 8, 2019
Decided May 16, 2019

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

~~DIANE S. SYKES, *Circuit Judge*~~

No. 18-2271

REGINALD LACY,
Petitioner-Appellant,

v.

DAVID GOMEZ,
Respondent-Appellee.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 17 C 7296

Gary Feinerman,
Judge.

ORDER

Reginald Lacy has filed a notice of appeal from the denial of his petition under 28 U.S.C. § 2254 and an application for a certificate of appealability. We have reviewed the final order of the district court and the record on appeal. We find no substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253(c)(2).

Accordingly, the request for a certificate of appealability is DENIED. Lacy's motion for appointment of counsel is DENIED.

(Appendix A)

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

REGINALD LACY,	)	
	)	
Petitioner,	)	17 C 7296
	)	
vs.	)	Judge Gary Feinerman
	)	
MATTHEW SWALLS,	)	
	)	
Respondent.	)	

MEMORANDUM OPINION AND ORDER

Reginald Lacy (which is how he spells his last name, although Illinois court documents spell it "Lacey"), an Illinois prisoner, seeks a writ of habeas corpus under 28 U.S.C. § 2254. Doc. 6. He was convicted in 2012 of burglary and sentenced to eighteen years' imprisonment. Lacy's petition asserts that: (1) his Fourth Amendment rights were violated when he was arrested pursuant to an invalid "investigative alert"; and (2) his Fourteenth Amendment due process rights were violated when he was convicted on the basis of insufficient evidence. The habeas petition is denied, and the court declines to issue a certificate of appealability.

Background

Following is the evidence introduced at Lacy's bench trial, as described by the Appellate Court of Illinois. *People v. Lacey*, 2014 IL App (1st) 123291-U, 2014 WL 4413491 (Ill. App. Sept. 8, 2014).

At some point after 8:00 p.m. on April 29, 2011, the Calvary Baptist Church, including the pastor's office, was burglarized. *Id.* at ¶ 3. Fingerprints lifted from the pastor's desk led to Lacy's arrest some six months later. *Ibid.*

(Appendix B)

At trial, Tommy Wright, the church's custodian and trustee, testified that he was responsible for cleaning the offices in the old and new church buildings, including the pastor's office on the new building's second floor. *Id.* at ¶ 4. The office had a desk with a glass top, chairs, bookshelves, and a flat screen television set. *Ibid.* Wright testified that he last cleaned the desk top with Windex and paper towels on April 28, but later stated that he did so on April 29. *Ibid.* Wright further testified that when he left the church at 8:00 p.m. on April 29, there were still people in the basement for a youth program, and he told the janitor to lock up. *Ibid.*

When Wright entered the church the next morning, he noticed "a lot of stuff" on the floor. *Id.* at ¶ 5. There were no signs of forced entry in the old building, but Wright found equipment missing from the sound room and frames torn out of the basement doors leading to the finance room. *Ibid.* In the new building, the doors leading to the roof and the janitorial supplies room, and the locks to the pastor's and the superintendent's offices, were broken. *Ibid.* Upon entering the pastor's office, Wright noticed that the television set was missing and that there were fingerprints all over the desk's glass top. *Ibid.* Wright recalled that the fingerprints were not there when he cleaned the desk the previous day. *Ibid.* The parties stipulated that the fingerprints matched Lacy's. *Id.* at ¶ 7. A counting machine from the finance office and some cash from the secretary's file cabinet were missing as well. *Id.* at ¶ 5. Wright denied that he or anyone else in the church permitted anyone to remove those items from the building. *Ibid.*

Reverend James Ray Flint, Jr., the church's pastor, testified that he was in his office earlier in the day on April 29 and that he locked his door when he left. *Id.* at ¶ 8. Reverend Flint testified that he did not give anyone other than his custodian permission to enter his office and that no one else was allowed to use it for conferences. *Ibid.* He further testified that he did not know Lacy, had never seen him in the church or had a meeting with him, and had not given him

permission to enter his office. *Ibid.* On cross-examination, Reverend Flint testified that he brought individuals into his office only for scheduled appointments. *Ibid.*

Lacy testified in his own defense. *Id.* at ¶ 9. He acknowledged his prior convictions for burglary, stealing a car, and drug possession, but maintained that he was innocent of the church burglary. *Ibid.* Lacy testified that he was released from prison on April 22, 2011, and went to the church in his neighborhood around 11:00 a.m. on April 29 to seek help. *Ibid.* Lacy entered the new building and asked a woman coming out of the daycare where he could find someone to speak with, and she directed him upstairs to the business office. *Ibid.* Lacy walked up to the first open door he saw. A man in the office asked how he could help, and Lacy explained that he did not have any money, food, or clothes. *Ibid.* Lacy testified that the man in the office was dark, tall, bald, and did not look like the pastor. *Ibid.* They conversed for five to fifteen minutes, while Lacy sat in a chair in front of the desk. *Ibid.* At the end of the conversation, Lacy and the man stood at the side of the desk and the man put a hand over Lacy's head and prayed over him. *Ibid.* Lacy did not recall whether or not he touched the desk, but he acknowledged the possibility of his doing so while denying that he touched any item on the desk. *Ibid.* He then left the church and never returned, and stated that he would not burglarize a church because it was not moral. *Ibid.*

The court found Lacy guilty of burglary. *Id.* at ¶ 10. Lacy appealed, arguing that the evidence was insufficient to sustain a conviction. The Appellate Court of Illinois affirmed the conviction, *id.* at ¶ 28, and the Supreme Court of Illinois denied leave to appeal, *People v. Lacey*, 21 N.E.3d 716 (Table) (Ill. 2014).

Discussion

Lacy's Fourth Amendment claim can be dispatched quickly. For one, Lacy argues only that his arrest was illegal, not that any illegally acquired evidence was used against him at trial. Doc. 6 at 5; Doc. 13 at 5-8. Second, even if Lacy had raised a genuine exclusionary rule argument, he would not be entitled to habeas relief because he has not alleged, let alone shown, that the state court denied him a fair hearing on any Fourth Amendment claim. *See Stone v. Powell*, 428 U.S. 465, 494 (1976) ("[W]here the State has provided an opportunity for full and fair litigation of a Fourth Amendment claim, a state prisoner may not be granted federal habeas corpus relief on the ground that evidence obtained in an unconstitutional search or seizure was introduced at his trial."); *Monroe v. Davis*, 712 F.3d 1106, 1113 (7th Cir. 2013) ("Relief on a Fourth Amendment claim thus requires a habeas petitioner to show two things: (1) that the state court denied him a full and fair hearing on his claim, and (2) that the claim was meritorious.").

That leaves Lacy's insufficient evidence claim. "Federal habeas relief may not be granted for claims subject to § 2254(d) unless it is shown that the earlier state court's decision 'was contrary to' federal law then clearly established in the holdings of [the Supreme] Court, § 2254(d)(1); or that it 'involved an unreasonable application of' such law, § 2254(d)(1); or that it 'was based on an unreasonable determination of the facts' in light of the record before the state court, § 2254(d)(2)." *Harrington v. Richter*, 562 U.S. 86, 100 (2011) (one citation omitted). Lacy does not dispute any of the facts upon which the state appellate court relied in rejecting his insufficient evidence argument, so the court will consider his petition under § 2254(d)(1) alone.

A state court's decision is "contrary to" clearly established federal law within the meaning of § 2254(d)(1) "if the state court applies a rule different from the governing law set

forth in [Supreme Court] cases, or if it decides a case differently than [the Supreme Court did] on a set of materially indistinguishable facts." *Bell v. Cone*, 535 U.S. 685, 694 (2002). To obtain relief under the "unreasonable application" prong of § 2254(d)(1), "a state prisoner must show that the state court's ruling on the claim being presented in federal court was so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement." *Richter*, 562 U.S. at 103. "For purposes of § 2254(d)(1), an *unreasonable* application of federal law is different from an *incorrect* application of federal law." *Id.* at 101 (internal quotation marks omitted). "A state court's determination that a claim lacks merit precludes federal habeas relief so long as fairminded jurists could disagree on the correctness of the state court's decision." *Ibid.* (internal quotation marks omitted).

"The relevant decision for purposes of [the court's] assessment is the decision of the last state court to rule on the merits of the petitioner's claim[.]" *Charlton v. Davis*, 439 F.3d 369, 374 (7th Cir. 2006). The last state court decision to rule on the merits of Lacy's insufficient evidence claim was the state appellate court's opinion on direct appeal.

Far from "appl[ying] a rule different from the governing law set forth in [Supreme Court] cases," *Cone*, 535 U.S. at 694, the appellate court correctly identified the governing rule for an insufficient evidence claim, as stated in *Jackson v. Virginia*, 443 U.S. 307 (1979). *Lacey*, 2014 IL App (1st) 123291-U, at ¶ 16 (citing *People v. Collins*, 478 N.E.2d 267, 277 (Ill. 1985), which in turn cites *Jackson*). That rule provides that an insufficient evidence claim fails if, "after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Jackson*, 443 U.S. at 319. The appellate court applied the *Jackson* rule and concluded: "The evidence

presented in this case showed that the office where the prints were found had been broken into, and defendant's prints were impressed on a desktop in the immediate vicinity of the stolen television set. The evidence further showed that defendant was not authorized to enter the office, and the glass surface of the desk where his prints were found was cleaned the night before. Taken together, these circumstances were sufficient for the trial court to conclude that defendant's fingerprints were made on the pastor's desk at the time he committed the offense." *Lacey*, 2014 IL App (1st) 123291-U, at ¶ 18.

Lacy argues that the prosecution presented no evidence that he entered the church with the intent to steal. Doc. 13 at 2-3. The appellate court considered that argument and concluded: "The State, however, was not required to present direct evidence to prove unlawful intent, and here, the same circumstances that indicated that defendant committed a burglary—his fingerprints on a previously cleaned desktop, the broken office door, the missing television set, and his lack of authorization to enter the pastor's private office—are equally persuasive to infer defendant's intent to commit a theft inside the church." *Lacey*, 2014 IL App (1st) 123291-U, at ¶ 21. A "fairminded jurist" could easily agree with the appellate court's resolution of Lacy's insufficient evidence claim, and so § 2254(d)(1) precludes this court from disturbing it on habeas review.

Conclusion

For the foregoing reasons, Lacy's petition for a writ of habeas corpus is denied. Habeas Rule 11(a) provides that the district court "must issue or deny a certificate of appealability [('COA')] when it enters a final order adverse to the applicant." *See Lavin v. Rednour*, 641 F.3d 830, 832 (7th Cir. 2011). Regarding Lacy's claims, the applicable standard is:

> To obtain a COA under § 2253(c), a habeas prisoner must make a substantial showing of the denial of a constitutional right, a demonstration that ...

> includes showing that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.

Slack v. McDaniel, 529 U.S. 473, 483-84 (2000) (internal quotation marks omitted); *see also Lavin*, 641 F.3d at 832.

This court's denial of Lacy's habeas claims relies on settled precedents and principles. The application of those precedents and principles to Lacy's petition does not present difficult or close questions, and so the petition does not meet the applicable standard for granting a certificate of appealability. The court therefore denies a certificate of appealability.

May 23, 2018

United States District Judge

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

May 30, 2019

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

No. 18-2271

REGINALD LACY,
Petitioner-Appellant,

v.

DAVID GOMEZ,
Respondent-Appellee.

Appeal from the
United States District Court
for the Northern District of Illinois,
Eastern Division.

No. 17 C 7296

Gary Feinerman,
Judge.

ORDER

On consideration of the petition for rehearing, all of the judges have voted to deny rehearing. It is therefore ordered that the petition for panel rehearing is DENIED.

(Appendix C)

No. 1-15-2809
Order filed June 16, 2017
Sixth Division

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 11 CR 18823
	)	
REGINALD LACEY,	)	Honorable
	)	Thomas M. Davy,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE DELORT delivered the judgment of the court.
Presiding Justice Hoffman and Justice Rochford concurred in the judgment.

SUMMARY ORDER

¶ 1 Defendant Reginald Lacey appeals from the circuit court's order dismissing his petition for relief from judgment filed pursuant to section 2-1401(f) of the Code of Civil Procedure (735 ILCS 5/2-1401(f) (West 2014)) and denying his motion for a default judgment.

¶ 2 Following a bench trial in 2012, defendant was convicted of burglary. Defendant was subject to mandatory Class X sentencing based on his prior felony convictions and was sentenced to 18 years in prison. On direct appeal, this court affirmed defendant's conviction and sentence. *People v. Lacey*, 2014 IL App (1st) 123291-U.

(Appendix D)

¶ 3 In 2014, defendant filed a postconviction petition, which the circuit court summarily dismissed. On appeal, this court granted appellate counsel's motion to withdraw pursuant to *Pennsylvania v. Finley*, 481 U.S. 551 (1987), and affirmed the judgment. *People v. Lacey*, 2015 IL App (1st) 151348-U.

¶ 4 During the pendency of that appeal, defendant filed two *pro se* motions that are the subject of this appeal. On April 21, 2015, defendant filed a petition for relief from judgment pursuant to section 2-1401(f), alleging that his conviction and sentence were void. The gist of defendant's claim is that his conviction and sentence were "void *ab initio*" because the police arrested him based on an "investigative alert" rather than an arrest warrant. On June 1, 2015, defendant filed a motion for default judgment asking the court to grant his earlier motion. On July 31, 2015, the trial court denied both of those motions. Defendant now appeals that ruling.

¶ 5 The State Appellate Defender, who represents defendant on appeal, has filed a motion for leave to withdraw as appellate counsel. A memorandum in support of the motion has been submitted pursuant to *Pennsylvania v. Finley*, 481 U.S. 551 (1987), in which counsel states that there are no issues of arguable merit for an appeal. Counsel notes that authorities such as *United States v. Hensley*, 469 U.S. 221 (1985), *People v. Hyland*, 2012 IL App (1st) 110965, and *People v. Jones*, 2015 IL App (1st) 142997, demonstrate that defendant's conviction and sentence are not rendered void because he was arrested following an "investigative alert." Copies of the memorandum and motion were sent to defendant, and he was advised that he might submit any points in support of his appeal. Defendant has filed two responses which argue that his conviction and sentence were void.

¶ 6 We have carefully reviewed the record in this case, along with counsel's memorandum and defendant's responses, and we agree that an appeal in this case would be without arguable

merit. Therefore, counsel's motion to withdraw is allowed, and the judgment of the circuit court of Cook County is affirmed.

¶ 7 This order is entered in accordance with Illinois Supreme Court Rules 23(c)(2), (4) (eff. July 1, 2011).

¶ 8 Affirmed.

PERSONNEL ASSIGNED:

Dt. 761B Ofc. G. LAU # 5744
Bt. 761B Ofc. A. GEMGNANI #14437
Bt. 5258 Det. Andre L. WATKINS Sr. #21045

INVESTIGATION: This CLEARED CLOSED ARREST AND PROSECUTION SUPPLEMENTARY REPORT should be read in conjunction with all other reports.

The Reporting Detective (R/Det.) received an assignment of one in custody for Investigative Alert #299972068 in the 007th District by the on duty watch commander Sgt. E. QUARTERMAN #2366 of this command. Further investigation revealed that the alert was for a burglary unlawful entry at the Calvary Baptist Church.

The R/Det., relocated to the 007th District and subsequently met with Ofcs G. LAU and his partner A. GEMIGNANI who informed the R/Det., that they were aware of LACEY?S active Investigative Alert and drove into the area of the 006th District where they happen to see LACEY at 1601 W.

79th Street. The officers related that they approached for purposes of conducting a field interview and after LACEY identified himself they placed LACEY into custody and advised him of his rights, then transported LACEY into the 007th District.

The R/Det., then introduced himself and advised LACEY of his rights in the presence of Ofc. G. LAU at 1630 hrs., and LACEY stated he does not wish to answer questions. The R/Det., concluded the interview.

The R/Det., then contacted Felony Review and asked for the case to be reviewed by an Assistant State?s Attorney (ASA). Subsequently the R/Det., was recontacted by ASA [redacted] The R/Det., apprized ASA [redacted] of the facts and after ASA [redacted] reviewed the facts he approved felony charges for Burglary 720 ILCS 5/19-1A.

The R/Det., requests this case be classified as CLEARED CLOSED ARREST AND PROSECUTION.

LOSS: One 42? LG flat panel T.V model and serial number unknown. Valued at $850.00.
One paper currency counter: make, model and serial number unknown. Valued $1,500.00.
USC, twenty five dollars.

COURT INFO: 04 Nov 2011 Br 38-2

Submitted by Det. Andre L. WATKINS Sr. #21045

"Appendix E"

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Pub.L. 89–554, § 4(d), Sept. 6, 1966, 80 Stat. 621, added chapter 158.

1960 Amendments. Pub.L. 86–682, § 10, Sept. 2, 1960, 74 Stat. 708, added chapter 173.

Effective and Applicability Provisions

1996 Acts. Amendment of analysis by section 3(e) of Pub.L. 104–331, effective Oct. 1, 1997, see section 3(d) of Pub.L. 104–331, set out as a note under section 1296 of this title.

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"2256. Habeas corpus from bankruptcy courts.".

Section 402(b) of Pub.L. 95–598 was amended by section 113 of Pub.L. 98–353, Title I, July 10, 1984, 98 Stat. 343, by substituting "shall not be effective" for "shall take effect on June 28, 1984", thereby eliminating the amendment by section 250(b) of Pub.L. 95–598, effective June 27, 1984, pursuant to section 122(c) of Pub.L. 98–353, set out as an Effective and Applicability Provisions note under section 151 of this title.

Section 121(a) of Pub.L. 98–353 directed that section 402(b) of Pub.L. 95–598 be amended by substituting "the date of enactment of the Bankruptcy Amendments and Federal Judgeship Act of 1984 [i.e. July 10, 1984]" for "June 28, 1984". This amendment was not executed in view of the prior amendment to section 402(b) of Pub.L. 95–598 by section 113 of Pub.L. 98–353.

Amendments

1978 Amendments. Pub.L. 95–598, Title II, § 250(b), Nov. 6, 1978, 92 Stat. 2672, directed the addition of item 2256, "Habeas corpus from bankruptcy courts", which amendment did not become effective pursuant to section 402(b) of Pub.L. 95–598, as amended, set out as an Effective and Applicability Provisions note preceding section 101 of Title 11, Bankruptcy. See Codifications notes set out preceding section 2241 of this title.

1966 Amendments. Pub.L. 89–711, § 3, Nov. 2, 1966, 80 Stat. 1106, substituted "Federal courts" for "State Courts" in item 2254.

CROSS REFERENCES

Priority of civil actions, consideration given to any action brought under this chapter, see 28 USCA § 1657.

LAW REVIEW AND JOURNAL COMMENTARIES

The habeas corpus suspension clause after *INS v. St. Cyr*. Gerald Neuman, 33 Colum. Hum. Rts. L.Rev 555 (2002).

Tale of two habeas. Barry Friedman, 73 Minn.L.Rev. 247 (1988).

§ 2254. State custody; remedies in Federal courts

(a) The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.

(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B)(i) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.

(c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented.

(Appendix F)

[redacted]

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

(A) the claim relies on—

(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(f) If the applicant challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court's determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the State to do so by order directed to an appropriate State official. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the State court's factual determination.

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(g) A copy of the official records of the State court, duly certified by the clerk of such court to be a true and correct copy of a finding, judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be admissible in the Federal court proceeding.

(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.

(June 25, 1948, c. 646, 62 Stat. 967; Pub.L. 89–711, § 2, Nov. 2, 1966, 80 Stat. 1105; Pub.L. 104–132, Title I, § 104, Apr. 24, 1996, 110 Stat. 1218.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1948 Acts. This new section is declaratory of existing law as affirmed by the Supreme Court. (See *Ex parte Hawk*, 1944, 64 S.Ct. 448, 321 U.S. 114, 88 L.Ed. 572.) 80th Congress House Report No. 308.

1996 Acts. Senate Report No. 104–179 and House Conference Report No. 104–518, see 1996 U.S. Code Cong. and Adm. News, p. 924.

Senate Revision Amendments

Senate amendment to this section, Senate Report No. 1559, amendment No. 47, has three declared purposes, set forth as follows:

"The first is to eliminate from the prohibition of the section applications in behalf of prisoners in custody under authority of a State officer but whose custody has not been directed by the judgment of a State court. If the section were applied to applications by persons detained solely under authority of a State officer it would unduly hamper Federal courts in the protection of Federal officers prosecuted for acts committed in the course of official duty.

"The second purpose is to eliminate, as a ground of Federal jurisdiction to review by habeas corpus judgments of State courts, the proposition that the State court has denied a prisoner a 'fair adjudication of the legality of his detention under the Constitution and laws of the United States.' The Judicial Conference believes that this would be an undesirable ground for Federal jurisdiction in addition to exhaustion of State remedies or lack of adequate remedy in the State courts because it would permit proceedings in the Federal court on this ground before the petitioner had exhausted his State remedies. This ground would, of course, always be open to a petitioner to assert in the Federal court after he had exhausted his State remedies or if he had no adequate State remedy.

"The third purpose is to substitute detailed and specific language for the phrase 'no adequate remedy available.' That phrase is not sufficiently specific and precise, and its meaning should, therefore, be spelled out in more detail in the section as is done by the amendment."

1966 Acts. Senate Report No. 1797, see 1966 U.S. Code Cong. and Adm. News, p. 3663.

References in Text

Section 408 of the Controlled Substances Act, referred to in subsec. (h), is classified to section 848 of Title 21, Food and Drugs.