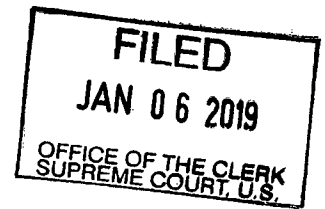


No. 19-6075

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

ANTHONY QUENTIN KELLY — PETITIONER
(Your Name)

vs.

WARDEN, FRANK B. BISHOP, JR., et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

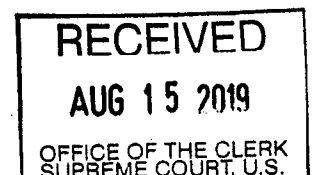
PETITION FOR WRIT OF CERTIORARI

ANTHONY Q. KELLY #352736
(Your Name)

North Branch Correctional Institution
17100 McMillen Hwy. S.W.
(Address)

Cumberland, Maryland 21502
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

" On August 11, 2017 petitioner Anthony Q. Kelly, filed his habeas corpus in United States District Court for the District of Maryland "Baltimore" (hereafter "lower federal court").

On August 17, 2017 lower federal court issue memorandum opinion, states:

A brief overview of Petitioner Anthony Quentin Kelly ("Kelly") writ history in the Court is in order.

United States Court of Appeals for the Fourth Circuit (hereafter "Fourth Circuit") made "administrative error" by saying:

Anthony Quentin Kelly seeks to appeal the district court orders dismissing as untimely his 28 U.S.C. 2254 (2012) petitions.

Fourth Circuit November 8, 2018 decision conflicts with a August 17, 2017 decision of the lower federal court, ANTHONY Q. KELLY vs. WARDEN, FRANK B. BISHOP, JR, et al., Civil Action No. 17-2330-RAB and consideration by the full Court is therefore necessary to secure and maintain uniformity of the Courts' decisions.

This petition for a writ of certiorari will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Courts' discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

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2. On July 21, 2017 petitioner Anthony Q. Kelly filed his habeas corpus in lower federal court.

On July 27, 2017 lower federal court issue memorandum opinion, states:

A brief overview of Petitioner Anthony Quentin Kelly ("Kelly") writ history in the Court is in order.

Fourth Circuit made "administrative error" by saying:

Anthony Quentin Kelly's seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2012) petition.

Fourth Circuit November 8, 2018 decision conflicts with a July 27, 2017 decision of the lower federal court, ANTHONY Q. KELLY vs. WARDEN, FRANK B. BERTHOFF, JR., et al., Civil Action no. 17-3066-RDB and consideration by the full court is therefore necessary to ~~see~~ settle and maintain uniformity of the court's ~~best~~ decision.

[illegible]

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. Warden, Frank B. Bishop, Jr., Respondent
2. John McCarthy, State's Attorney, Respondent
3. Maryland Attorney General, Respondent.

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APPENDIX B	Decision of Maryland Court of Special Appeals (see Attached).
APPENDIX C	Decision of Maryland Court of Appeals (see Attached).
APPENDIX D	Decision of Lower Federal Court Denying Review (see Attached Attached).
APPENDIX E	Decision of Fourth Circuit (see Attached), Deny Review
APPENDIX F	Order of Fourth Court Denying Rehearing and Reconsil (see Attached).

Before Roger L. Gregory, Chief Judge, Diana Gribbon Motz, Cir-
cuit Judge, and William B. Traxler, Jr., Senior Circuit Judge
(Fourth Circuit Judges).

TABLE OF AUTHORITIES CITED

CASES

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STATUTES AND RULES

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix E to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix D to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Circuit Court for Montgomery County court appears at Appendix A to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 8, 2018.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: December 31, 2018, and a copy of the order denying rehearing appears at Appendix F.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was July 21, 2008.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The right of a state prisoner to seek federal habeas corpus relief is guaranteed in 28 U.S.C. 2254. The standard for relief under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) is set forth in 28 U.S.C. 2254 (d)(1).

STATEMENT OF THE CASE

Petitioner Anthony Q. Kelly, was convicted by a Maryland jury of ~~the~~ two counts of murder, burglary, armed robbery, theft, and use of handgun in Case No. 977492. Petitioner Kelly was sentenced to serve two consecutive life without parole sentences for the two murders, plus an additional 80 years in prison for the remaining offenses, with three sentences to be served consecutively to each other and the sentences imposed in Case Nos. 977606 and 964336.

Petitioner Anthony Q. Kelly was convicted by a Maryland jury of first degree rape, first degree assault, and use of handgun in the commission of a felony or ~~the~~ crime of violence in Case No. 964336. Petitioner Kelly was sentenced to serve a life in prison for first degree rape and a consecutive twenty-year sentence for the handgun offense, with these sentences to be served consecutive to the sentences imposed in Case No. 977606.

REASONS FOR GRANTING THE PETITION

This writ will be in aid of the Court's appellate jurisdiction, that exceptional circumstances warrant the exercise of this Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other Court.

Fourth Circuit and lower federal court decisions conflicts with the decisions in *Jennings vs. Woodford*, 290 F.3d 1006, 1010 (9 Cir. 2002) [citing *Slack*, at 483]; *Miller-El vs. Lockrell*, supra, 537 U.S. at 337; *Lanbright vs. Stewart*, 220 F.3d 102, 1025 (9 Cir. 2000) [en banc] and consideration by the full Court is therefore necessary to secure and maintain uniformity of the Court's decisions.

Applying the above standard for granting a Court of Appealability (COA), this court has acknowledged that the standard is "relatively low". *Jennings vs. Woodford*, 290 F.3d 1006, 1010 (9 Cir. 2002) [citing *Slack* at 483]. Moreover, because the COA ruling is not an adjudication of the merits of the appeal, it does not require a showing that the appeal will succeed. *Miller-El vs. Lockrell*, supra, 537 U.S. at 337. Finally, doubts about the propriety of a COA must be resolved in the petitioner's favor. *Lanbright vs. Stewart*, 220 F.3d 102, 1025 (9 Cir. 2000) [en banc].

Thus, petitioner Anthony Q. Keller has shown that reasonable jurists could differ as to the procedural ruling denying the habeas petition on statute of limitations grounds. Consequently, petitioner Keller has satisfied the procedural component of the Slack test for obtaining a COA.

Petitioner Anthony Q. Kelly's who are suffering tremendous physical and emotions toll is a direct result of incarceration.

Petitioner Kelly's are suffered prejudice to warrant.

Equal protection and application of the law, e.g., the Petition for a Writ of Certiorari, is in the interest of justice and therefore a public interest.

Further incarceration would constitute gross "unfairness" because of the basic inequities involved.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Anthony Q. Kelly
Anthony Q. Kelly, 352736
North Branch Corrections Center
19100 McMillen Hwy. S.W.
Cumberland, Md. 21502

Date: 8-7-19

"I, Anthony Q. Kelly, do solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing papers are true."

8-7-19

D.ATG

Anthony Q. Kelly
Anthony Q. Kelly, 352736
Pro se, Affidavit