

No. _____

19-6097

IN THE

SUPREME COURT OF THE UNITED STATES

CLARENCE DUKE REYNOLDS

(Your Name)

vs.

STATE OF VIRGINIA, et al

— RESPONDENT(S)

PETITIONER

FILED

SEP 23 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR A WRIT OF CERTIORARI TO

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

CLARENCE DUKE REYNOLDS

(Your Name)

PO BOX 430

(Address)

DILLWYN, VIRGINIA 23936

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- I. Is §53.1-134, the law used for the selection of parole board members, unconstitutional?
- II. Is the Virginia Parole Board Manual that mandates the use of the "Present Offense" as part of the decision-making for parole eligibility unconstitutional?
- III. Is petitioner being denied his constitutional right to a neutral and detached hearing when sitting members of the parole board are a victim of crime or member of a crime victim's organization?

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APPENDIX F

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:

State of Virginia
Virginia Parole Board Chairwomen, Adrienne Bennett
Virginia Parole Board member, Rev. A. Lincoln James
Virginia Parole Board member, Sherman Lee
Virginia Parole Board Co-Chair, Jean W. Cunningham
Virginia Parole Board Member, Joni L. Ivey (former)
Former Governor Terry McAuliffe
Senate and House of Representative of Virginia

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Morrissey v Brewer, 408 US 471, 33 L.Ed. 2d 484 (1971) -----	5,6
Franklin v Shields, 569 F.2d 784 (1976) -----	6,8,9
Franklin v Shields, 399 F.Supp. 309 (W.D. Va. 1975) -----	6,8,9
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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 A 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☒ is unpublished.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 B 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**: NA

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

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☐ is unpublished.

NA The opinion of the _____ court appears at Appendix _____ 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 June 4, 2019.

☐ 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: July 22, 2019, and a copy of the order denying rehearing appears at Appendix D.

NA ☐ 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: NA

NA The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

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

NA ☐ 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

United States Constitutional Amendment #14

Virginia Code Section 53.1-134

STATEMENT OF THE CASE

I. Is Petitioner being denied his right to a neutral and detached parole hearing?

When rights to a neutral and detached hearing body are asserted in parole hearing, courts considers the offender's limited due process rights.

Because parole hearing occur after a criminal prosecution has ended in a conviction, an offender is not entitled to the full panoply of constitutional rights to which he was entitled at trial.

Although the Sixth Amendment right to a fair trial applies only in criminal trial, a more limited right of a neutral and detached hearing body such as traditional parole board, members of which need not be judicial officers or lawyers, is required. The Supreme Court of the United States has expressed the Fourteenth Amendment "minimum requirement of due process" as providing, among other things, "a neutral and detached" hearing body. Henderson v Commonwealth, 2285 Va. 314 (4th 2013).

Pursuant to Virginia Code Section 53.1-134, the Virginia Parole Board is made up of at least one member who is a victim of a crime, or representative of a crime victim's organization.

Section 53.1-134 states: "At least one member of the Parole Board shall be a representative of a crime victim's organization or a victim of crime".

Not only are crime victims or representatives of a crime victim's organization frequently admitted to the Virginia Parole Board, but actually are required to sit on the board by Virginia law.

Petitioner asserts that he is being denied a neutral and detached hearing body when, as here, victim's of crime or representative of a crime victim's organization, are seated on the Virginia Parole Board.

a crime victim's organization, are on the Virginia Parole Board.

The Federal Court have given inmates during their prison life a constitutional rights during their classification, disciplinary hearing and the parole before being violated. Morrissey v Brewer 408 US 471, 33 L.Ed. 2d 484 (1971). It would only be fair and true justice for those eligible for parole to receive fair and impartial parole hearing from a fair and impartial parole board.

When parole board members advocate for crime victims that puts them at odds against the accused or inmates.

Prior to serving on the parole board, Adrienne, L. Bennett in her private practice focused primarily on domestic relations issues and criminal matters. And advocating on behalf of abused, neglected and sexually exploited children as a certified Guardian ad later.

Jean W. Cunningham prior to her serving on the parole board, successfully sponsored Legislation on domestic violence, adoption and patient medical privacy. She was also chief patron on a bill, which eliminated the "street sweeper" semiautomatic weapon.

Linda A. Bryant, now serving in place of Joni Ivey, served as a prosecuting attorney. She is ask to turn loose ones that she have put in prison.

Now these three Parole Board Members is ask to reconsider and do about face in their thinking and action. They that once fought strongly or have a hatred for is now ask to have a compassion for the offender. Nor do the parole board have compassion for the offenders family.

I ask the parole board to be release before the passing of my mother, Mary Virginia Reynolds. In October 2016 she pass away

being grieved of not seeing her son home to be with her.

If the Parole Board don't have compassion for my family surely they want have compassion for me. Which shows their attitude toward inmates have not changed.

In a court of law under the Sixth Amendment neither of these parole board members would be allowed to set on a jury. So the accused would receive a fair and impartial trial.

The United States Supreme Court has given prisoners limited due process in every aspect of prison life. Should not the same protection be for a fair and impartial parole hearing with a fair and impartial parole board.

In Garrett the court held that the "ground for a constitutional claim, if any, must be found in statutes or other rules defining the obligations of the authority charged with [granting parole]." Garrett, III v Angelone, 390 Va. Cir 307, 1996 Va. Cir LEXIS 158, Law no. 144914.

"[A] law repugnant to the constitution is void." Marbury v Madison, 5 US (1 Cranch) 137, 2 L.Ed. 60 (1803).

In the present, the law used for the selection of parole board members is unconstitutional because it not only allows, but actually requires the selection of a biased parole board members.

There is no significant difference between a prison disciplinary hearing and a prison parole board hearing. Morrissey v Brewer, 408 US 471, 33 L.Ed. 2d 484 (1971).

In Franklin v Shields, 569 F.2d 784 (1976); Franklin v Shields, 399 F. Supp 309, 315 (W.D. Va. 1975) states, "Because a prisoner has a statutory right to fair parole consideration and because

are subject to the Due Process Clause," "[T]he Constitution requires that the procedures, utilized by the States in determining whether such expectation of liberty will be granted, must be "fundamentally fair."

Moreover, Virginia is not complying with the mandate of *Franklin v. Shields* because Section 53.1-134 requires appointment of bias members to be appointed to the board.

II. Is the Virginia Parole Board Manual that mandates the use of the "Present Offense" as part of the decision-making for parole eligibility unconstitutional?

The Virginia Parole Board Manual mandates that the board uses the "Present Offense" for determining an offenders parole suitability. Petitioner asserts that this practice is unconstitutional because he cannot change the nature of the present offense. Since he can never change the nature and circumstance of his offense, he would never become parole suitability.

Each time the "Present Offense" is used to determine the suitability for parole, the parole board is reopening the case. Which the court of law and Judge set to be closed. Only the ruling of the court can the case be reopen.

The Parole Board is retrying Petitioner again for the same crime by using the circumstance and mitigating factors when determining Petitioner eligibility for parole.

Parole eligibility should be determine totally be a person action after the crime or incarceration. Plus their attitude with programs to improve their social behavior.

When a law establishes a person right to be consider for parole

that avenue should be fundamentally fair. Franklin v Shields, 569 F.2d 784 (1976); Franklin v Shields, 399 F.Supp 309, 315 (W.D. Va. 1974). Being accordance with standard of the United States Constitution for fairness and impartial.

REASONS FOR GRANTING THE PETITION

- 1) Petitioner knows he has no Constitution right to parole.
- 2) The wording of Virginia Law Code Section 53.1-134 is repugnant to the United States Constitution, thus making it unconstitutional.
- 3) Petitioner has a right to a fair and impartial parole board hearing. Franklin v Shields, 569 F.2d 784 (1976); Franklin v Shields, Nevertheless, Petitioner is not receiving fair and impartial hearing because you have members setting on Parole Board who are bias because they are victims of crime or member of a crime victims organization.

CONCLUSION

Because Petitioner is not receiving a fair and impartial parole hearing and bias and prejudice parole board members are appointed to the Parole Board pursuant to 53.1-134 certiorari should be granted.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Clarence D. Reynolds

Date: September 12, 2019