

IN THE SUPREME COURT OF APPEALS OF THE UNITED STATES  
WASHINGTON, D.C.

William Widmyer  
Petitioner

v.

Civil Action No.: 1:10cv84

Donald Ames, Superintendent<sup>1</sup>  
Mt. Olive Correctional Complex  
Respondent

**MOTION FOR EXTENSION OF TIME TO FILE A CERTIORARI**

Comes now, William Widmyer, hereinafter petitioner, acting *pro se*, and moves this Court via Chief Justice, John G. Roberts, Jr., Circuit Justice for the Fourth Circuit, to GRANT a sixty (60) day extension of time pursuant to Rule 13(5) of the 2017 Rules of the Supreme Court of the United States to file Petitioner's Certiorari.

Petitioner is indigent and is in the custody of the State of West Virginia.

A copy of the ORDER denying "the petition for rehearing" issued by the Fourth Circuit Court of Appeals is enclosed.

**I. RELEVANT FEDERAL PROCEDURAL FACTS**

1. February 24, 2010 - Petitioner filed a Federal § 2254 Writ of Habeas Corpus.
2. February 23, 2011 - Judge Irene Keeley determined the petition was filed timely but with unexhausted grounds. Thereby, a stay was placed on the petition in order that the Petitioner may return to the State courts to exhaust all grounds.

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<sup>1</sup> Petitioner named David Ballard as respondent in this matter; however, Mr. Ballard is no longer "warden" of Mt. Olive Correctional Complex. Accordingly, per Rule 25(d) of the Federal Rules of Civil Procedure, the appropriate party has been substituted. Additionally, effective July 1, 2018, the positions formerly designated as "wardens" are now designated "superintendents" pursuant to W. Va. Code § 15A-5-3.

3. June 4, 2015 - Petitioner reopened the Federal § 2254 Writ of Habeas Corpus.
4. February 16, 2018 - Magistrate Judge James E. Seibert issued a Report and Recommendation.
5. March 28, 2018 - Judge Irene Keeley issued a "Memorandum Opinion and Order Adopting Report and Recommendation." The Federal § 2254 Writ of Habeas Corpus was denied with prejudice.
  - a. Certificate of Appealability was also denied.
6. April 18, 2018 - Notice of Appeal filed.
7. March 12, 2019 - Certificate of Appealability denied.
8. March 12, 2019 - Notice of Judgment filed.
9. March 22, 2019 - Petition for Rehearing Filed.
10. March 25, 2019 - Stay of Mandate issued.
11. April 16, 2019 - ORDER for Rehearing Denied.
12. April 24, 2019 - Mandate filed.

## **II. GROUNDS FOR AN EXTENSION**

1. Petitioner is confined in the West Virginia Mount Olive Correctional Complex prison at One Mountainside Way; Mt. Olive, WV 25185.
2. Petitioner is extremely restrained to the rules and limitations of prisoner's access to the law library.
  - a. The Commissioner of Corrections affords Petitioner limited access to the Institutional Law Library pursuant to Policy Directive 329 (Institutional Law Libraries). Policy Directive 329 cites West Virginia Code § 25-1-5; § 62-13-4;

- and ACA Standard 4-4276.
- b. Due to the library size and other reasonable security considerations, the institution limits the number of inmates permitted to use the Law Library at any given time, or even close the library pursuant to security consideration.
  - c. The Respondent, Donald Ames, Superintendent, affords inmates limited access to the Institutional Law Library pursuant to Operational Procedure 5.07 which cites Policy Directive 329 and 506; ACA Standards 4-4078; 4-4268; 4-4269; 4-4273; 4-4274; 4-4276; 4-4481; 4-4505; and 4-4508 through 4-4511.
  - d. One side of the yard has access one day and then the next day, the other side of the yard has access.
3. Although the limitations to access to the Law Library is one problem, the major problem affecting access is the Law Library closure rate.
    - a. In April 2018, the Senior Correctional Specialist (Head Librarian) quit thereby making the Assistant Correctional Specialist (Assistant Librarian) to work alone.
    - b. The Assistant Correctional Specialist, however, retired on June 29, 2018, leaving only volunteers to open the Library.
    - c. In November 2018, the prison hired an Assistant Correctional Specialist, however, he was the ONLY person running the Library. The main position (Head Librarian) was not filled, which the Law Library was still at the mercy of volunteers to open.
    - d. Just in the latter part of June, the prison hired a Head Librarian, which will start on or about July 8, 2019.

- e. During the month of May 2019, due to an Institutional Lockdown, holidays, and vacations, the Law Library only worked one weekend and was closed for a minimum of twelve (12) days.
- f. The Legal Aide assisting Petitioner has almost gone bald being overwhelmed with other deadlines and trying to assist other clients with various legal remedies while trying to juggle around the time between being opened and being closed.
- g. There are currently four (4) Legal Aides to assist over 1000 inmates. The Legal Aides are literally “swamped” with deadlines but cannot get caught up due to the Law Library closures. The Legal Aide assisting the instant Petitioner has over seventy-five (75) active clients.

### **III. REQUEST FOR RELIEF**

- 1. Petitioner's petition for rehearing was denied on April 16, 2019 (Petitioner received it in the Institutional's Legal Mail on April 18, 2019). Pursuant to Rule 13(3) of the Rules of the Supreme Court, Petitioner has ninety (90) days in which to file a Certiorari, which the deadline would be July 15, 2019.
- 2. Pursuant to Rule 13(5), Petitioner may petition this Court for an extension of time to file a Certiorari for up to sixty (60) days.
- 3. Petitioner is indigent and has been declared so by the lower Courts.
- 4. The Petitioner has a valid question of law concerning Miranda Rights and Ineffective Assistance of Counsel.
- 5. A copy of the denied “Memorandum Opinion and Order Adopting Report and Recommendation” is enclosed.

6. THEREFORE, in the interest of justice, Petitioner humbly requests an extension of time for a period of sixty (60) days to perfect an already started Certiorari to this Honorable Court.

Respectfully submitted,

DATE: June 28, 2019

  
William Widmyer, *pro se*

**CERTIFICATE OF SERVICE**

I the undersigned Petitioner, William Widmyer, appearing *pro se* do attest that I have caused to be served a True and Exact Copy of the foregoing document (*Motion for Extension of Time to File a Certiorari*), by placing same in the United States Postal Mail, First-Class, Pre-Paid on this 28<sup>th</sup> day of June, 2019.

Parties served include:

U.S. Supreme Court  
Mr. Scott S. Harris, Clerk  
# 1 First Street NE  
Washington, DC 20543

West Virginia Attorney General  
Mr. Patrick Morrisey  
812 Quarrier Street, 6<sup>th</sup> Floor  
Charleston, WV 25301

Honorable Chief Justice John G. Roberts Jr.  
U.S. Supreme Court  
# 1 First Street NE  
Washington, DC 20543

  
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William Widmyer, *pro se*

## VERIFICATION

I, William Widmyer, Petitioner, do swear, under the penalty of perjury, and attest the Facts and Statements contained herein are True and Correct. As to those Statements based upon information of others, of Facts represented by others or founded upon their testimonies, I believe same to be True and Correct and do so represent to this Court the same as True and Correct and True in Representation as believed by me under penalty of perjury. All information in this Petition is set forth thereby as Truth. All documents represented and set forth are True and accurate as presented. The Document has been sent to the parties listed on the Certificate of Service. It is so Sworn.

Additionally, Petitioner does swear, under the penalty of perjury, that he placed the enclosed documents in the Mt. Olive Correctional Complex's Institutional Mail Box on the 28<sup>th</sup> day of June, 2019.

Respectfully Sworn and Attested

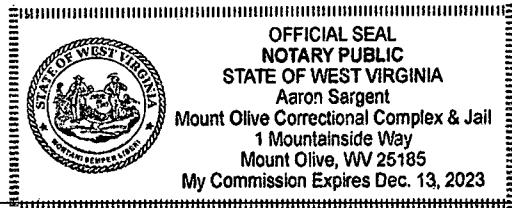
Date: June 28, 2019

William Widmyer  
William Widmyer, *pro se.*

Signed, Sealed, and Subscribed before me this 28<sup>th</sup> day of June, 2019.

Fayette County, WV

Aaron Sargent  
Notary Signature



Notary Seal