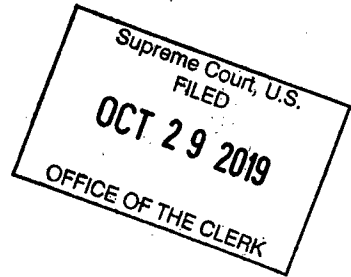


19-6639

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



ANTHONY ANDREWS — PETITIONER
(Your Name)

vs.

UNITED STATES OF America — RESPONDENT(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

ANTHONY ANDREWS
(Your Name)

P.O. Box 340
(Address)

Salter's SC 29590
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1) Under 28 U.S.C. 2255(h), Is Andrews numerically Second 2255 motion Second or Successive where the basis for his claim did not arise until after the district court denied his first 2255 motion? IF NOT
- 2) Does an "officer's convictions constitute a new fact," restarting the one-year statute of limitations on 2255 Motions?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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:

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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☒ is unpublished.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☒ is unpublished.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**:

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☐ is unpublished.

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☐ is unpublished.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 March 28th 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: June 3rd 2019, and a copy of the order denying rehearing appears at Appendix C.

[✓] An extension of time to file the petition for a writ of certiorari was granted to and including October 31, 2019 (date) on June 18th 2019 (date) in Application No. 18 A1316.

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 _____.
A copy of that decision appears at Appendix _____.

[] 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

28 USC 1254(1)

28 USC 2255

28 USC 2255(h)

28 USC 2244(b)(2)

28 USC 2244(b)(3)(A)

5th Amendment - Due Process

14th Amendment

6th Amendment

STATEMENT OF THE CASE

Petitioner Andrews was originally Sentenced to 188 months imprisonment, \$ 9,700 fine and 5 Year Supervised Release on Nov. 5th 2001. No direct appeal was taken. Andrews did file a 2255 Motion on Ineffective Assistance and Prosecutorial Misconduct due to the govt withholding evidence in violation of Brady v. Md, 373 U.S. 83 (1963). THE district court held an evidentiary hearing. Before decision, upon counsel's advice, I abandon & withdrew the claims of prosecutorial Misconduct of "withholding statements which showed "lower drug weight", affecting invalidity of the plea, Due Process. THE District court dismissed the claim with prejudice, an adjudication on the merits on March 3rd 2003. After the first 2255 was dismissed, IN 2004-2007, after the "officers convictions" in "Operation Tarnished Badge", I filed a Second 2255 which was denied in 2007. I filed to the appeals court for Certification under 2244(b). It was denied in 08-822.

On June 11th 2014, the Fourth circuit decided U.S. v. Hairston 754 F.3d 258 (4th Cir 2014) (holding a numerically Second 28 USC 2255 motion would not be considered Second or Successive pursuant to 2255(h), "where the facts relied on by the movant seeking re-sentencing" "did not exist" when the numerically first motion was filed and adjudicated. On 3/28/2018 I filed a 2255. The claims under Brady v. Md, 373 US 83 (1963) and Brady v U.S, 397 US 742 (1970) (Affirmative misrepresentation) based on the "officers convictions" in "Operation Tarnished Badge" "did not exist" when the first motion 2255 was filed and Adjudicated and thus under 4th circuit's "own precedent" of Hairston, a GVR is due.

The district court in Quintana v. U.S., 2010 U.S. Dist. Lexis 99233 (E.D.N.C. Sept. 21st 2010), Before Hairston was decided in 2014, allowed Quintana who proceeded to trial, under 2255(h), a 2255 hearing on his claims, citing 5th Circuit precedent due to the claims were unknown to him when his first 2255 was filed and adjudicated. Andrews & Quintana, before Hairston were both in the same procedural posture. Both 2255 petitions were denied before "Operation Tarnished Badge" claim existed and both were denied Certification under 2244(b). The only difference is I pled guilty to the offense. The Brady claims applied equally. I filed in 2007 denied. He filed in 2010, same claim, granted. There cannot be two different standards with respect to these claims. It is clear that if the officers criminal conduct was known to me, I would not have pled guilty, but proceeded to trial. THE 4th Circuit in U.S. v. Fisher, 711 F.3d 460 (4th Circuit) found that Due Process is violated and a plea cannot be knowing, Voluntary or intelligent when a defendant is "misinformed about critical information regarding whether to take the plea based on 'Affirmative Misrepresentation' of the officers in the case, who after a defendant who has taken a plea later finds out of that corruption. I have been in custody of U.S. conviction since 3/28/2001. I respectfully ask that the Petition be granted as to the questions presented.

REASONS FOR GRANTING THE PETITION

The Questions presented to the Court will instruct the lower courts as to if claims did not exist when the first 2255 was filed and adjudicated, they are not required certification under the stringent requirements of AEDPA, 28 USC 2244(b). As the Court determines this whether an "official conviction", constitutes the 1 Year under 2255 as a "new fact" like the vacation of a state conviction. These are important questions before the Court. Andrews challenges his conviction & sentence due to all the officers who arrested me were convicted of federal drug offenses, Rico, lying to Agents, Grand Jury, Arson, etc. I just received on 8/9/2019, 1 Year Supervised Release violation on a conviction and sentence that should be vacated long-ago, The plea is invalid, had I known of the Agents "Criminal Misconduct", I would not have pled guilty, but proceeded to trial. The Agents convictions were "after the first 2255 was filed & adjudicated. I have not had this claim adjudicated on the merits, this I ask!!



In Support of Petition for Writ of Certiorari under Hainston,
754 F.3d 258 (4th Cir. 2014). IN RE: Williams, 444 F.3d 233
(4th Cir. 2006) (2254 case); See Also Panetti v. Quarterman,
551 U.S. 930 (2007) (holding that a numerically second 2254
habeas petition is not governed by the strictures of
2244(b)(2) on Second or Successive petitions where the
claim was not ripe at the time of the initial petition.
See Also IN RE: Taylor, 171 F.3d 185 (4th Cir. 1999)
(Allowing numerically second 2255 motion where claim
arose at a re-sentencing hearing afforded to a movant
as a result of his first 2255 motion. See 28 USC 2255(h),
28 USC 2255(c)(2), 2253(c)(1)(B).

Andrews brought Prosecutorial Misconduct claims twice, the
first due to the govt withholding statements in violation
of Brady v. Md, 373 US 83 (1963), I withdrew them, court dismissed
with prejudice on March 3rd 2003. I brought the second
Prosecutorial Misconduct claims due to the "officers convictions"
in "Operation Tarnished Badge" that "did not exist in 2003". They
are wholly separate claims, that was unknown to me. The
district court's 9/28/2018 order does not distinguish this fact, only
I brought the claims before of Prosecutorial Misconduct on
2255. The claims based on the "officers convictions are not
Second or Successive under 2255(h) and thus no certification
under 28 USC 2244(b) is required.

I ask petition be granted.

CONCLUSION

The petition for a writ of certiorari should be granted

Respectfully submitted,

John Doe # 15965-256

Date: 10/24/2019