

No. 19-6666

ORIGINAL

Supreme Court, U.S.  
FILED

NOV 07 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

CHRISTOPHER THORNTON — PETITIONER  
(Your Name)

vs.

PATRICIA ANNE COYNE-FAGUE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the First Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER THORNTON  
(Your Name)

P.O. BOX 8273  
(Address)

Cranston, RI 02920  
(City, State, Zip Code)

(Phone Number)

### QUESTION(S) PRESENTED

1. does the filing of a State prisoner writ of habeas corpus prohibit the federal court from returning a filing fees.
2. does the Fed.R.Civ.P. Rule 60(c)(1) violate petitioner's fifth and fourteenth amendment right to the return of his filing fees.
3. does petitioner's have a constitutional right to move the court for the return of his filing fee, that was obtain under a pretence of a court order.
4. does rule 60 (c)(1) create a statute of limitation that violate petitioners right to the return of a filing fee that was illegally received through an order of the court.
5. does the court have jurisdiction to with hold petitioners money through rule 60 (c)(1) for failure to discover this courts taking money through an order that would have at that *time* been considered illegal, if brought to the court's attantion.

## 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:

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	
STATEMENT OF THE CASE .....	
REASONS FOR GRANTING THE WRIT .....	
CONCLUSION.....	

## INDEX TO APPENDICES

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the Constitution of the United States provides in relevant part:

No persons...shall...be deprived of life, liberty or property, without due process of law.

The Fourteenth Amendment to the Constitution of the United States provides in relevant part:

No State shall...deprive any person of life, liberty, or property, without due process of law.

Writ of Habeas Corpus, 28 U.S.C. 2254; And

Proceeding In Forma Pauperis, 28 U.S.C. 1915(b)(1).

Fed. R. Civ. P. Rule 60(c)(1).

Fed. R. Civ. P. Rule 60(b)(4).

Fed. R. Civ. P. Rule 60(b)(6).

## TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

### STATUTES AND RULES

Fed. R. Civ. R. 60(c)(1).

Fed. R. Civ. R. 60(b)(4).

Fed. R. Civ. R. 60(b)(6)

28 U.S.C. 1915(b)(1)

28 U.S.C. 2254

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 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 June 25, 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: August 16th, 2019, 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. § 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).



## STATEMENT OF THE CASE

Petitioner filed in the Rhode Island District Court on September 20, 2002 a writ of habeas corpus 28 U.S.C. 2254 petition along with a motion to proceed in forma pauperis ("IFP") the Magistrate Judge Hagopian denied the IFP motion on September 30, 2002. On March 31, 2003 Magistrate Judge Hagopian recommended that petitioners habeas petition be denied and dismissed. On March 4, 2005 Judge Torres adopted the Magistrate Judge's recommendation and denied the petition; judgment in favor of respondent entered the same day.

On September 20, 2002 petitioner's IFP was denied by Magistrate Judge Hagopian. On May 5, 2005 Judge Torres issued a court order directing petitioner to pay the court's filing fee of \$255.00 dollars in order to appeal to the First Circuit Court of Appeals in order for petitioner to access the Court. (pay to appeal or face the failure of no appeal).

In July of 2018, petitioner just discovered that the Rhode Island District Court's denial of petitioner's (IFP), and the Courts issuing a direct court order for petitioner to pay a filing fee of \$255.00 dollars was obtained through fraud by illegally issuing a court order that had no force or effect, because the court knew or should known that taking petitioners money was obtaining money under false pretense and should have resulted in an immediate return of petitioner's money.

## REASONS FOR GRANTING THE PETITION

Certiorari should be granted to resolve a direct conflict involving the interpretation of Federal Rule 60(c)(1). The First Circuit Court of Appeals decision is in conflict with petitioner's 14th amendment right to the Constitution of the United States, and Fifth amendment to the Constitution of the United States: in relevant part; the court of appeals is violating the basic principal that "No person...shall...be deprived of life, liberty, or property, without due process of law.

The Court has received a filing fee in violation 28 U.S.C. 1915 (b)(1); and 28 U.S.C. 2254.

No court rule can create a denial of having access to money that was obtain illegally. Petitioner's has a constitutional right to the return of his property.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Christopher P. Smith", written over a horizontal line.

Date: November 7, 2019