

19-7614 No. 14

IN THE
SUPREME COURT OF THE UNITED STATES

Jason Seth Perry -- PETITIONER
(Your Name)

VS.
Indiana Attorney General
Richard Brown, Keith Botts -- RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Jason Seth Perry
(Your Name)

Wabash Valley Correctional Facility, P.O. Box 1111
(Address)

Carlisle, Indiana 47838
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Whether the Courts violated Rule 2(a) Governing Section 2254 cases?
2. Whether withholding an officer's statement until the habeas corpus stage is a violation of Brady?
3. Whether withholding video evidence for personal view at the hearing is a violation of Brady?
4. Whether withholding video evidence of the dayroom previous to going upstairs is a violation of Brady?
5. Whether a state law criminal action should be reviewed on a civil proceeding that involves loss of freedom upon state law sentencing in state court?
6. Whether denying the motion for a speedy trial after granting it is violation of due process?
7. Whether denying Petitioner Rules Governing Section 2254 cases that he labeled as criminal rules as the local rules state is an abuse of discretion and violation of the constitution?
8. Whether withholding the video evidence requested until the hearing and not allowing Petitioner to view the recordings on paper and the chance to call other witnesses or evidence is a violation of the Fourteenth Amendment?
9. Whether withholding video evidence and completely denying video evidence is a violation of the Constitution?
10. Whether the U.S. Court Of Appeals abused its discretion in denying Petitioner Motion To Proceed In Forma Pauperis and dismissing case because he was unable to pay the \$505.00 docketing fee?

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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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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<i>Brady v. Maryland</i> , 373 U.S. 83, 83 S.Ct. 1194 (1963).	5
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<i>Bridges v. Chambers</i> , 425 F.3d 1048 (7 th Cir. 2005).	5
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<i>Graham v. Portuondo</i> , 506 F.3d 105 (2d Cir. 2007).	5

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 A to the petition and is

☒ reported at USCA No. 19-2306; 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 1:18-cv-02125-JRS-MPB; 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.

**1.
JURISDICTION**

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was

September 18th, 2019 - IFP Denied - October 2nd, 2019 - Final Judgment

☒ 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: _____, 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 _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Fourteenth Amendment "Right To Due Process"
2. Rule 2(a) "Rules Governing Section 2254" Cases
3. 28 U.S.C. § 1915(b)
4. Rule 22 (b)(1), (2)
5. Rule 11 "Rules Governing § 2254 Cases"
6. Rule 8(c) "Rules Governing Section 2254 Cases"

STATEMENT OF THE CASE

Petitioner requested video evidence of the dayroom where officers were pushing Petitioner but was denied that evidence. Petitioner requested all of his witnesses but did not request officer Ross' statement which is not stated in the screening report or hearing report and did not come into this case until Petitioner went to federal court. The dayroom video evidence Petitioner was denied will prove his point of officers provoking Petitioner and then slamming him again on camera as he was walking back to his cell after the incident which was left out of the conduct report and the argument in the habeas corpus. Petitioner was not allowed to review his video summary prior to the hearing to dispute this video evidence.

The Court allowed the wrong respondent to answer my habeas corpus in violation of Rule 2(a) Governing Section 2254 cases. The respondent was Keith Butts and Keith Butts is a private prison named GEO who has thrown attorneys and is not a state government facility in contract to be represented by the Indiana Attorney General. The respondent changed again to Richard Brown who is the Warden of an I.D.O.C. facility I was not housed at when this incident happened.

Petitioner was granted a speedy trial but this did not take place until 6 months later.

Petitioner specifically stated to the U.S. District Court that he needed the criminal rules for habeas corpus cases he has in the U.S. District Court. The local Rules have a section labeled criminal rules which that has a section for 2254 cases and 2255 cases. I was proceeding under a 2254 habeas corpus case but was denied saying the case is fully briefed in January 2019 but did not get ruled on until June 27th 2019.

Petitioner had a hearing but was denied counsel as is his right for evidentiary hearings.

REASONS FOR GRANTING THE PETITION

1. Petitioner was denied video evidence of the day room seconds prior to the incident which shows Petitioner being provoked and pushed putting the officers on edge to any sudden move. This is a violation of the 14th Amendment. *Wolf v. McDonnell*, 418 U.S. 589, 566, 84 S.Ct. 29363 (1974).
2. Petitioner did not request officer Ross' statement and this statement was not listed on the screening report or disciplinary hearing report. However, this statement and exhibit came about in the argument in the U.S. District Court. This is a violation of *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963).
3. Petitioner was not allowed to review his video summary prior to the hearing to dispute this video evidence. This is what the claim was on being denied my right to a 24 hour notice and is what the GEO official was talking about in the disciplinary hearing. This is a violation of *Pannell v. McBride*, 306 F.3d 499, 503 (7th Cir. 2002).
4. The denial of day room video evidence seconds prior to the incident is a violation of the 14th Amendment. *Bryan v. Duckworth*, 88 F.3d 431, 434 (7th Cir. 1996).
5. The Court allowed the respondents to change 3 times on me with only 1 of them being the actual respondent (Keith Butts) but he never answered the habeas corpus as he is a private non-state agency and the respondent that answered was the Indiana Attorney General who GEO officials at New Castle Correctional Facility do not have a contract with as do the I.D.O.C. state prisons. This is a violation of Rule 2(a) "Rules Governing Section 2254 Cases" and Rule 5 "Rules Governing Section 2254 Cases". Richard Brown somehow became the next respondent on my habeas corpus and the final respondent when the incident did not even happen at his facility or any I.D.O.C. facility because it happened at a privately owned facility named GEO or "The GEO Group". This is also a violation of Rule 2(a) "Rules Governing Section 2254 Cases". *Bridges v. Chambers*, 425 F.3d 1048 (7th Cir. 2005).
6. Petitioner was granted a speedy trial or speedy hearing on September 11th, 2018 but this hearing did not take place until June 27th, 2019 (over 9 months later). This is a violation of the 14th Amendment. Rule 8(c) "Rules Governing Section 2254 Cases".
7. Petitioner specifically asked for criminal rules governing habeas corpus petitions as the local Rules state in the criminal rules section about 2254 cases so I requested that but was denied. This is a violation of due process.
8. This case was not held true pursuant to Rule 11 "Rules Governing Section 2254 Cases". *West v. Schmitter*, 485 F.3d 393, 394-95 (7th Cir. 2007). Rule 22(b)(1), (2), Fed. R.App. P..
9. I was denied my Motion To Proceed In Forma Pauperis in violation of 28 U.S.C. § 1915(b).
10. I was also denied counsel for Rule 8(c). *Swazey v. Shillingor*, 23 F.3d 332 (10th Cir. 1994); *Graham v. Portondo*, 506 F.3d 105 (2d Cir. 2007).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jason Seth Percy

Date: 12/04/19