No. 19-8127

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

CASEY RAFAEL TYLER — PETITIONER
(Your Name)

vs.

ERIK A. HOOKS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE 4th CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Casey Rafael Tyler #1124017
(Your Name)

1001 Veazey Road
(Address)

Butner, N.C. 27509
(City, State, Zip Code)

919-575-3070
(Phone Number)

QUESTION(S) PRESENTED

Wolff v. McDonnell, 418 U.S. 558 (1974), established prisoners' right to present documentary evidence at disciplinary hearings. Since then, lower courts have held that video serveillance was not covered by Wolff, though they 'now hold' that it is ; will be henceforth.

Did the Wolff right to present documentary evidence encompass the right to present video evidence, or is this a new legal context ?

If Wolff did encompass video evidence, would the hearing officer be duty-bound to personally examine that evidence at the hearing ?

How does anybody know with certainty which forms of documentary evidence Wolff did or did not authorize for prisoners ?

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:

RELATED CASES

Tyler v. Hooks, No. 17-cv-833, U.S. District Court for the Middle District of North Carolina. Judgment entered June 8, 2018.

Tyler v. Hooks, No. 18-6701, U.S. Court of Appeals for the Fourth Circuit. Judgment entered December 17, 2019.

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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 945 F.3d 159; 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[ ] is unpublished.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,
[X] is unpublished.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 December 17, 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: January 24, 2020, and a copy of the order denying rehearing appears at Appendix D.

[ ] 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Clearly established Federal law under § 2254(d)(1) is the governing legal principle or principles set forth by the Supreme Court at the time the state court renders its decision. Lockyer v. Andrade, 538 U.S. 63, 71-72 (2003).

A decision is contrary to clearly established federal law if the state court applies a rule different from the governing law set forth in Our cases, or if it decides a case differently than We have done on a set of materially indistinguishable facts. Bell v. Cone, 535 U.S. 685, 694 (2002).

A federal habeas court may overturn a state court's application of clearly established federal law only if it is so erroneous that there is no possibility fairminded jurists could disagree that the state court's decision conflicts with this Court's precedents. Nevada v. Jackson, 569 U.S. 505, 508-09 (2013).

Where a state court's decision is unaccompanied by an explanation, the habeas petitioner's burden still must be met by showing there was no reasonable basis for the state court to deny relief. Harrington v. Richter, 562 U.S. 86, 98 (2011).

STATEMENT OF THE CASE

State prisoner, Casey Rafael Tyler, was charged with falsely accusing a prison guard of sexual assault. In his defense, Tyler asked that the video of the assault be presented at his disciplinary hearing.

An investigating officer at the same prison claimed in a written statement that the video evidence 'NEITHER TOOK AWAY NOR ADDED TO' the misconduct report against Tyler, though this officer did not actually claim to have viewed this video personally.

Apparently relying on the investigator's written account of the video, the hearing officer — who also did not personally view the video — found Tyler guilty of lying about having been sexually assaulted by a prison guard.

The 4th Circuit [1] reversed, finding 'a total absence of evidence' in the record to support Tyler's conviction, but [2] found no due process violation where the hearing officer failed to personally view Tyler's requested video evidence, because, according to the 4th Circuit, the right of prisoners to 'compel' the hearing officer to personally examine requested 'video serveillance' evidence was not 'clearly established' by the holding in Wolff v. McDonnell, 418 U.S. 558 (1974). The 4th Circuit now 'extends' the legal principles in Wolff to encompass this right. Tyler contends his right to present video evidence was inherent within Wolff all along.

REASONS FOR GRANTING THE PETITION

When this Court speaks, 'it is the duty of other courts to respect that understanding of the governing rule of law' (quoting Rivers v. Railway Express, Inc., 511 U.S. 298, 312-13 (1994)), but rather than respect the simple rule of allowing prisoners to 'present documentary evidence' in their defense, Wolff, 418 U.S. at 566, the 4th Circuit questions it — *what about 'this form' of documentary evidence?* — casting doubt where there was none only to take credit for establishing now what was there all along. Worse, they do this without pointing to any change in any area of life whatsoever to justify the initial disbelief — or the sudden change of heart — that Wolff covered or should cover video evidence.

This kind of capricious adjudicating destablizes the entire judiciary. A court saying a hat is empty only to pull a rabbit out of it in the same act has shown us the lamest magic trick in the book: the 4th Circuit presents... behold! — the right previously unconceived of to present an old 'form' of the same type of evidence Wolff clearly conceived of the right to present! Pardon me if I'm unimpressed by the no-difference between video evidence & documentary evidence.

In 1974, when Wolff was decided, just 3 forms of documentary evidence existed: (1) written record (2) audio record (3) video. The whole world knows this & knew it then, too. It cannot be said that the Wolff court was unaware of video serveillance in prison &, therefore — or for any reason — (oops!) didn't mean for its holding to 'extend' to it. The 4th Circuit's vainglorious claim to have 'extended' Wolff to a 'new legal context' (see Appendix A, page 13) 45 years after Wolff was decided is as late to catch up with reality as it is simply untrue. The 'legal context' here is prison disciplinary procedures. This is not 'new' under Wolff. It is Wolff-2.0: the fundamentals of redundancy, by the 4th Circuit.

The 4th Circuit recognized a prisoner's right to present video evidence,' for the first time in this circuit,' in Lennear v. Wilson, 937 F.3d 257 (CA4 2019), see Append. E, pg 24, without ANYONE - court or litigant - denying that the right was a given under Wolff. Not 4 months later this same court said, here, that Wolff did not 'extend to video evidence' specifically. Appendix A, pg 13. But this hypocrisy proves too much.

Of course the Supreme Court never specified 'video' evidence in Wolff: with only 3 forms of documentary evidence known to Man, one would've thought it too obvious to mention that a video was one of them. The 4th Circuit's word-search opinion to the contrary (1) usurps the Supreme Court by narrowing down, to then personally re-expand, the Wolff holding, (2) challenges, ⁞ then defines, the very meaning of 'documentary evidence,' ⁞, worse, (3) forces the Supreme Court to descend to particulars any time it wishes to 'clearly' establish a legal 'rule.'

But caught in a Catch-22 is the 4th Circuit this time:

If video was not covered by Wolff merely because Wolff never used the word 'video,' then NO FORM of documentary evidence was covered by Wolff as Wolff never mentioned any. By the 4th Circuit's own logic, then, Wolff didn't establish a prisoner's right to present so much as a piece of paper in his defense as this Court has never held that the Wolff rights 'extend to [a piece of paper]' verbatim. This sort of nit-picking with the Wolff holding does not 'respect [the] understanding of the governing rule of law,' Rivers v. Railway Express, Inc., supra, ⁞ the 4th Circuit's 'new legal context' that the Supreme Court should issue a Bill of Particulars next time logically leaves it in the lurch this time.

In Lennear, we find that 'our sister circuits universally have' held videos to be covered under Wolff. Append. E, pg 14. Four months later (surprise!) 'courts across the country' rejected

that same proposition, says the 4th Circuit seriously, Append. A, pg 14, with some of them on both sides of this issue. The 4th Circuit's bipolar treatment of this case after Lennear is impossible to justify though she were to put up her excuses.

Indeed, to clean up this mess the 4th Circuit likens this case to Young v. Lynch, 846 F.2d 960 (CA4 1988) in which an inmate facing drug charges had his request for the alleged drug to be presented at his disciplinary hearing denied because Wolff 'does not explicitly confer' the right to present 'real' or 'physical' evidence. Id. at 962-63. Append. A, pg 15. But the fatal flaw in citing Young is that Young's requested evidence was neither (1) Testimonial nor (2) Documentary — the only two types of evidence Wolff did explicitly confer the right to present — whereas a video IS documentary ½ this was the only type of evidence requested, denied, ½ at issue here. So, Young is inapposite, ½ the 4th Circuit's impromtu game of Scrabble comes to an unsophisticated end here as the arguments supporting this petition spell out a clear WINNER for Casey Rafael Tyler.

+ + ◆ + +

I mention word games because the lower courts have turned this issue into one, word-searching for specifics in a legal precedent that set out to clearly establish nothing more than legal 'rules' or 'principles' of prison disciplinary 'procedures,' which it clearly did. See Wolff, 418 U.S. at 572 ('It is our view, however, that the procedures we have now required in prison disciplinary proceedings represent a reasonable accommodation between the interests of the inmates and the needs of the institution.'). So it wasn't the procedures established in Wolff that 'reasonable jurists' disagreed about here, but whether 'the universe of documentary evidence... encompasses' videos. Append. A, pg 13. This question cannot beget a 'reasonable' disagreement among reasonable jurists, ½ there was no reason for even asking it in the first place. You had me at 'universe.'

Time is Limited for the Supreme Court to decide if inmates who relied on the plain language of Wolff, when trying to present video evidence in their defense, were or were not right to do so, because once the last federal appeals court finally recognizes the right at issue here, this Court will not get another chance to say who was right since 1974, ½ the question will become the first unsolved – ½ unsolvable – Supreme Court mystery. And there are certainly more honorable ways to become Legend than by being the result of one too many passed upon pro se prisoner petitions.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Casey Rafael Tyler #1124017

Date: March 19th, 2020