

No. 19-8223

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Timothy Wayne Connors — PETITIONER
(Your Name)

vs.

Warden Jerry Howell, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of the State of Nevada
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

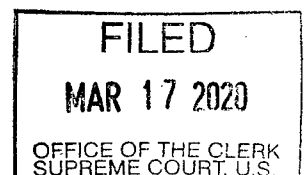
PETITION FOR WRIT OF CERTIORARI

Timothy Wayne Connors
(Your Name)

P.O. Box 7007 - WSCC
(Address)

Carson City, Nevada 89702
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

Question #1

Has this Court not held that factors beyond the control of the defense, attributable to the State, establish cause for a procedural default and/or is entitled to tolling?

Question #2

How does a prisoner seeking to regain their Liberty establish that a fundamental step within the review process was hindered or denied by another party without a due process hearing?

Question #3

Can the Denial of Due Process, an act capable of repetition and evading review, serve the ends of Justice without at a minimum, allowing for a showing of cause?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

Timothy W. Connors,
vs Appellant,
Warden, Southern Desert
Correctional Center, Jerry
Howell; Southern Desert
Correctional Center; and
Nevada Department of
Corrections, Respondents

RELATED CASES

Connors v. State Case No. C99435a

Nevada Supreme Court Case Nos

27113 - Direct Appeal / Denied

46025 - Mandamus / Granted in Part

48403 - Mandamus / Granted

50035 - Attempt Nev. S.Ct. - assume jurisdiction - Denied

51247 - Appeal Denied 1999 Writ - Granted / Remanded

61749 - Appeal Remanded 1999 Writ - Denied

79840 - Appeal Denied Federal Court 2nd Writ - Denied

Connors v. Williams, et al. 2:15-cv-01351-JAD-CWH

Federal 52254 Writ
District of Nevada

Connors v. Howell, et al. A-19-793261-W State Writ Ordered by Federal Court

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Second Notice of Appeal and letter - A-19-793261-W

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State Writ Habeas Corpus - A-19-793261-W

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Order Granting Stay - Federal Writ Case NO. 2:15-cv-01351-JAD-CWH

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

See attached page which follows

14 US Supreme Court Cases addressing issues/questions
presented

STATUTES AND RULES

OTHER

- 1 Baggett v. Bullitt, 377 U.S. 360, 375, 84 S.Ct. 1316,
12 L.Ed.2d 377 (1964)
- 2 Bounds v. Smith, 430 U.S. 817, 821, 97 S.Ct. 1491,
52 L.Ed.2d 72 (1977)
- 3 Brown v. Allen, 344 U.S. 443, 73 S.Ct. 297,
97 L.Ed. 469 (1953)
- 4 Coleman v. Thompson, 501 U.S. 720, 753, 111 S.Ct. 2546,
115 L.Ed.2d 640 (1991)
- 5 Edwards v. Carpenter, 529 U.S. 452, 120 S.Ct. 1587,
146 L.Ed.2d 518 (2000)
- 6 Holland v. Florida, 560 U.S. 631, 130 S.Ct. 2549,
177 L.Ed.2d 132 (2010)
- 7 In re Winship, 397 U.S. 362, 90 S.Ct. 1068,
25 L.Ed.2d 368 (1970)
- 8 Johnson v. Avery, 393 U.S. 483, 485, 89 S.Ct. 747,
21 L.Ed.2d 718 (1969)
- 9 Lozada v. Deeds, 498 U.S. 430, 111 S.Ct. 860,
110 L.Ed.2d 956 (1991)
- 10 McCoy v. Louisiana, 200 L.Ed.2d 821, 2018 Lexis 2802
- 11 Murray v. Carrier, 477 U.S. 496, 106 S.Ct. 2639,
91 L.Ed.2d 397 (1986)
- 12 Pace v. DiGiuliano, 544 U.S. 408, 418, 125 S.Ct. 1807,
161 L.Ed.2d 669 (2005)
- 13 United States v. Fry, 456 U.S. 152, 170, 102 S.Ct. 1584 (1982)
- 14 Wainwright v. Sykes, 433 U.S. 72, 97 S.Ct. 2497,
53 L.Ed.2d 594 (1977)

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 _____ 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 H 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 C 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 _____.

☐ 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 15 Nov 2019.
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: 19 Dec 2019, and a copy of the order denying rehearing appears at Appendix A.

☐ 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

1st Amendment access to the courts

14th Amendment Due Process procedures and rights

STATEMENT OF THE CASE

In December 1990, petitioner killed another man in a gunfight. In June of 1991, the case was dismissed due to a faulty autopsy. On 2 March 1992, petitioner was arrested in court and charges re-instated. In 1993, the State through Abbie Silver, AS then D.D.A. Abbie Louge, filed the death penalty. In mid 1994, petitioner was found guilty of 1st Degree Murder and Robbery with a deadly weapon and sentenced to two Counts of life without parole and two counts of 15 years.

The Appeal of the conviction was timely and denied in 1998. In 1999, Petitioner timely filed his state post-conviction writ of Habeas Corpus attacking his conviction citing among other things both the misconduct of Abbie Silver and the act of trial counsel admitting guilt to the jury prior to the case in chief.

After two Mandamus rulings, in 2007 evidentiary hearings took place wherein trial counsel was shown to not have understood the act of going up essential elements of underlying felony in a felony murder case. Regardless, the petition was denied, yet Reversed and remanded in 2009.

On Remand, new evidence was allowed and writ denied in 2012. Appeal was taken and also denied in 2015. Petitioner timely filed 28 USC § 2254 writ in 2015, case no. 2:15-cv-01351-JAO-CWH. On 21 December 2018, Federal District Court Granted Stay to exhaust various claims, including the one addressed in McCoy v. Louisiana. Petitioner filed a proper person motion writ in the state court to exhaust the federal issues, case no. A-19-793261-W.

On 20 June 2019, District Court orally denied petition. On 7th of August 2019, petitioner under the advice of federal counsel, submitted for filing his First Notice of Appeal. On 20 August 2019, the State of Nevada removed petitioner from the general population at SDEC and seized all of petitioner's legal work.

While held in segregation, petitioner learnt of the court issuing a written ruling on 5 August 2019 that had never been served on the petitioner. This occurred on 19 September 2019. In Nevada, no appeals may be had on oral rulings and petitioners have 30 days to file notice of appeal once served with written rulings.

Petitioner immediately dispatched his second notice of appeal with a brief statement of facts to support timeline of his claims. Regardless, the prison mail logs will show that the order of the District Court was never issued by prison staff to the petitioner and a simple hearing would have established these facts.

The Nevada Supreme Court denied the appeal, without briefing, as untimely and without allowing the petitioner to show cause for the delay, a delay which is in part a state created impediment to the timely filing. That Court also denied the petition for rehearing without cause. This petition follows.

REASONS FOR GRANTING THE PETITION

This petition should be granted because the conduct which this Court has attempted to address in the past of other States as well as Nevada, continues to occur. Most of these acts are capable of repetition and ending review because the act itself is final and subject only to the discretionary review of this Court.

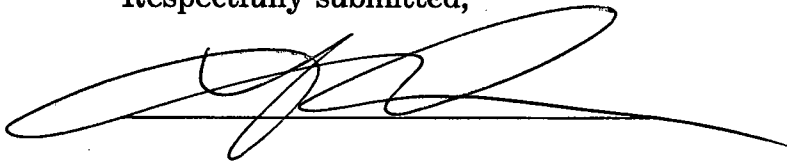
Additionally, setting forth the principles and guidelines necessary to allow prisoners to establish cause within the structure of a formal setting will not only bring the States into unity on the subject, but will also bring in line the various rulings of this Court which have gradually strung together the access to the Court claims with Due Process and the necessity to show cause thus functionally creating a cost saving to judicial economy and clearing dockets of unnecessary litigation.

Regardless, the denial of due process in not allowing an appellant or petitioner at the time of the act, to show cause, is in and of itself a blatant denial of Due process and a clear strike in the face of justice that should be so morally offensive as to in and of itself establish a fracture in the rule of law which so many claim is the foundation of this nation.

CONCLUSION

Petitioner Request this grant the petition and remand for evidentiary hearing to allow a showing of cause, or at least an opportunity to do so.
The petition for a writ of certiorari should be granted.

Respectfully submitted,

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Date: 15 March 2020


IN THE SUPREME COURT OF THE STATE OF NEVADA

TIMOTHY W. CONNORS,
Appellant,
vs.
WARDEN, SOUTHERN DESERT
CORRECTIONAL CENTER, JERRY
HOWELL; SOUTHERN DESERT
CORRECTIONAL CENTER; AND
NEVADA DEPARTMENT OF
CORRECTIONS,
Respondents.

No. 79840

FILED


NOV 15 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from the district court order denying a postconviction petition for writ of habeas corpus and request for evidentiary hearing. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Our review of this appeal reveals a jurisdictional defect. Specifically, the district court entered its order denying appellant's petition on August 1, 2019. The district court served notice of entry of that order on appellant on August 5, 2019. Appellant did not file the notice of appeal, however, until October 2, 2019, well after the expiration of the appeal period prescribed by NRS 34.575. "[A]n untimely notice of appeal fails to vest jurisdiction in this court." *Lozada v. State*, 110 Nev. 349, 352, 871 P.2d 944,


19-46914

946 (1994). Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.¹

Pickering, J.
Pickering

Parraguirre, J.
Parraguirre

Cadish, J.
Cadish

cc: Hon. Valerie Adair, District Judge
Timothy W. Connors
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk

¹Given this dismissal, this court takes no action in regard to the documents filed on November 4 and 5, 2019.

**Additional material
from this filing is
available in the
Clerk's Office.**