

No. 19-8347

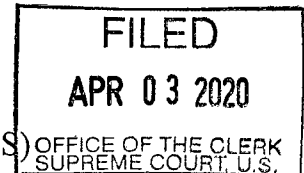
ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

JOSEPH ANTHONY DANIELS - PETITIONER
(Your Name)

VS.

COMMONWEALTH OF VIRGINIA - RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI

SUPREME COURT OF VIRGINIA

(NAME OF COURT THAT LAST RULED ON THE MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joseph A. Daniels, pro se
(Your Name)

901 Corrections Way
(Address)

Jarratt, Virginia 23870
(City, State, Zip Code)

434-535-7000
(Phone Number)

QUESTION(S) PRESENTED

1. Did the Supreme Court of Virginia have jurisdiction to adjudicate the claims of Daniels' Motion to Vacate, based upon extrinsic fraud, and could be attacked in any court at any time?
2. Was Daniels denied his Fifth and Fourteenth Amendments to the United States Constitution's right to due process when the Supreme Court of Virginia and the Circuit Court of Henrico, Virginia refused to adjudicate Daniels' Motion to Vacate. Void Judgment?
3. Did the affidavit for search warrant in Daniels' case establish probable cause for search of his property, which led to Daniels arrest, conviction and sentence?

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 subject of this petition is as follows:

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APPENDIX C	<i>Petitioner's January 23, 2020 correspondence to the Chief Judge of the Circuit Court of Henrico County, Virginia</i>
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APPENDIX G	<i>Virginia Supreme Court Order denying Petitioner's Motion to Vacate void Judgment, filed with the Court on February 5, 2020</i>

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Terry v. Commonwealth, 2018 WL 1633489 9

STATUTES AND RULES

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:** N/A

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☐ is unpublished.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 _____ 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 G 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:** N/A

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 March 16, 2020.
A copy of that decision appears at Appendix G.

☐ 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

Fifth Amendment to the United States Constitution:
"No person shall... be deprived of life, liberty,
or property, without due process of law."

Fourteenth Amendment to the United States
Constitution: "No State shall... deprive any person
of life, liberty, or property, without due process of
law; nor deny to any person within its jurisdiction
the equal protection of the laws."

Constitution of Virginia, Article 6, section 1:
"The Supreme Court shall, by virtue of this
Constitution, have original jurisdiction in cases
of habeas corpus."

Terry v. Commonwealth of Virginia, 2018 WL 1633489:
"This Court [Supreme Court of Virginia] previously
likened motions to vacate a conviction to petitions
of habeas corpus..."

STATEMENT OF THE CASE

On March 26, 2009, Daniels was convicted, by jury, of two (2) counts of robbery in the Circuit Court of the County of Henrico, Virginia, Case numbers, CR08-3438-00F and CR08-3439-00F.

The jury recommended twenty (20) years on CR08-3438 and twenty-five (25) years on CR08-3439-00F.

On June 30, 2009, the Honorable Burnett Miller, Judge, accepted the jury's recommendation and sentenced Daniels to forty-five (45) years, active term, to be served in the Virginia Department of Corrections.

Daniels exhausted all appeal and habeas corpus remedies in state court. Daniels also filed a § 2254 habeas petition in the U.S. District Court for the Eastern District of Virginia, Richmond Division, which was denied on July 7, 2012.

Daniels then filed a Petition for Certiorari in the United States Supreme Court, which the Court denied on April 29, 2013.

On December 27, 2019, Daniels filed a Motion to Vacate Void Judgment with the Circuit Court of Henrico County, Virginia, challenging that his convictions and sentence, based on the judgments, were procured by extrinsic fraud and are void.

Daniels, also, on December 27, 2019, forwarded Henrico County Commonwealth's Attorney, Shannon L. Taylor, a true copy of the motion to vacate void judgment that was filed with the Circuit Court.

The motion to the Circuit Court was forwarded, certified mail, return receipt number 70191640000049894680, which also contained the Court's filing fee, money order number 26305521941.

The motion forwarded to the Commonwealth's Attorney was also by certified mail, return receipt number, 70191640000049894697.

On the date of January 10, 2020, Daniels wrote the Clerk of the Circuit Court, seeking verification of the Court's receipt of the Motion. The Court, on January 17, 2020 responded that it had not received the Motion. See Appendix A.

Having forwarded the Motion to the Court, certified mail, and being in suspicion of the Court's response because of giving Daniels a case number, absent a motion of unknown content, Daniels, on January 22, 2020, wrote the Court, providing it with the Motion's estimated date of arrival, December 30, 2019.

Daniels also notified the Court that he would be writing the Chief Judge regarding the matter.

Daniels again received the Court's response, on February 3, 2020, stating that it had not received the motion forwarded the Court on December 27, 2019. See Appendix B.

On January 23, 2020, Daniels wrote the Chief Judge of the Circuit Court, reminding him of the Court's responsibility with regard to filings with the Court.

The Court responded on February 5, 2020, by forwarding Daniels his original correspondence, along with a USPS Tracking result reflecting that the Motion was in transit to the Court as of January 3, 2020. See Appendix C.

On February 4, 2020, Daniels wrote the Supreme Court of Virginia, explaining that the Circuit Court was denying him his right to due process by refusing to file his motion to vacate. Daniels included the Motion, attached with his correspondence, when writing the Court.

Daniels went on to petition the Supreme Court of Virginia, asking the Court to adjudicate his claims, or either order the Henrico Circuit Court to file his motion to vacate.

On February 7, 2020, the Virginia Supreme Court responded stating that the Court did not have jurisdiction to adjudicate Daniels' claims. See Appendix D.

Daniels, on February 13, 2020, forwarded the Circuit Court the USPS Tracking results received, asking the Court if it had filed the Motion to Vacate forwarded the Court, as of January 3, 2020. The Circuit Court responded, on February 20, 2020, that "No motion for void judgment has been received by the Clerk's office." See Appendix E.

Being that the Henrico County Circuit Court of Virginia denies ever receiving Daniels' Motion to Vacate Void Judgment, Daniels, on February 27, 2020, refiled the Motion with the Circuit Court, through Greenville Correctional Center's Mailroom, within the institution where Daniels is incarcerated.

Daniels, on or about March 2, 2020, again forwarded the Circuit Court of Henrico County, Virginia, a letter seeking verification of its receipt of the newly filed Motion to Vacate Void Judgment.

The Circuit Court responded, on March 9, 2020, stating, "The Clerk's Office is not in receipt of a motion for void judgment at the time of this letter." See Appendix F.

On March 16, 2020, the Supreme Court of Virginia Forwarded Daniels an Order dismissing Petitioner's Motion to Vacate, Filed in the Court on February 5, 2020. See Appendix G.

REASONS FOR GRANTING THE PETITION

The Fifth Amendment to the United States Constitution provides, "No person shall be held to answer for a capital, or otherwise infamous crime... nor be deprived of life, liberty, or property, without due process of law..."

"... nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws." Fourteenth Amendment to the United States Constitution.

Petitioner, Daniels, contends that the State of Virginia violated his United States, Fifth and Fourteenth Amendment's, right to due process, when the Supreme Court of Virginia, and by extension, the Circuit Court of Henrico County, Virginia, refused to adjudicate Daniels' Motion to Vacate.

The Circuit Court was fully aware that the detective in Daniels case did not have probable cause for search or arrest warrants issued, therefore, the Circuit Court denied ever receiving Daniels' Motion to Vacate, because going forward the Circuit Court assumes the Supreme Court of Virginia would not have jurisdiction to adjudicate the claims of the Motion, thereby, stymying any further proceeding.

This action taken by the Circuit Court violated Daniels' Constitutional right to due process, and if allowed to stand would be a grave miscarriage of justice.

The Supreme Court of Virginia Violated Daniels' Fifth and Fourteenth Amendment's right to due process when it refused to adjudicate the claims of his motion to vacate when the Court previously likened motions to vacate to writs of habeas corpus.

In claiming jurisdiction over motions to vacate a criminal conviction, the Supreme Court of Virginia, in *Terry v. Commonwealth of Virginia*, 2018 WL 1633489 states: "This Court previously likened motions to vacate a conviction to petitions of habeas corpus, noting that *4[a] petition for habeas corpus and an appeal from a judgment granting the writ both test the legality of the incarceration rather than the guilt or innocence of the prisoner. See *Lacey v. Palmer*, 93 Va. 159, 163, 24 S.E. 930, 931 (1896). The same is true of the motions to vacate filed in these cases and the appeals from the judgments dismissing those motions.

We are of opinion that the proceedings conducted on the motions to vacate were civil in nature... and these appeals are properly before this Court."

Daniels contends that the Supreme Court of Virginia erred in failing to adjudicate his claims within his motion to vacate, when the Court likened motions to vacate a conviction to petitions for writs of habeas corpus, where both writs test the legality of the incarceration.

"The Supreme Court shall, by virtue of this Constitution, have original jurisdiction in cases of habeas corpus..." Article 6, section 1 of the Constitution of Virginia.

Though Article 6, section 1, of the Constitution reads that the Supreme Court of Virginia "have original jurisdiction in cases of habeas corpus", its language in [claiming jurisdiction over motions to vacate, when likened to habeas corpus suggest original jurisdiction over such motions when filed with the Court.

Based upon the foregoing, the Supreme Court of Virginia should have adjudicated the claims within Petitioner's motion to vacate void judgment, based upon extrinsic fraud, thereby, making Petitioners incarceration illegal. To address such claims, Petitioner's writ of certiorari should be granted, as prayed.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

Joseph A. Daniels

Date: April 1, 2020