

SUPREME COURT  
UNITED STATES OF AMERICA

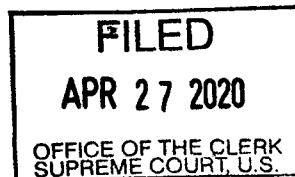
19-8575  
CASE NO. \_\_\_\_\_

In Re: ANDREW ROBINSON

Versus

State of Louisiana  
and  
United States of America  
and  
Warden, Darryl Vannoy,  
Louisiana State Penitentiary

ORIGINAL



Habeas Corpus pursuant to: Rule 20.2 of the United States Supreme Court.

First District Court Case No. 192,090

Second Circuit Court of Appeal, Case No. 52,903 - KH

La. Supreme Court, Case No. 19-KH-00829

State Courts judges can be and must be \_\_\_\_\_ prosecuted under the criminal laws.

### ISSUES FOR REVIEW

- 1). Does State and Federal law allow jurisdiction claims to be made at anytime?
- 2). Does State and Federal law say jurisdiction claims go under habeas corpus?
- 3). Do I have a 14th Amend. Equal Protection of law right to be protected under State and Federal law that say a jurisdiction claim can be made at anytime and it goes under habeas corpus?
- 4). Does AEDPA violate my right to access the courts under the 1st Amend. of the U.S. Constitution and U.S. Supreme Court controlling jurisprudence?
- 5). Does the Federal courts have a duty to ensure a Federal forum for state prisoners to bring jurisdiction claims?
- 6). Does equitable tolling apply to jurisdiction claims?
- 7). Does a court have a duty to set aside an illegal law and rule on the merits of a jurisdiction claim, when the illegal law would bar a valid jurisdiction claim from being heard and a U.S. Constitutional challenge was made against the illegal law?
- 8). Do I have a 14th Amend Equal Protection of law right to be protected under Federal jurisprudence that say I do not have to show cause or prejudice for not bringing my jurisdiction claim sooner?
- 9). Does a higher court have a duty to report lower court judges for intentionally refusing to obey and apply the law, which actions violate the law, oaths of office and my 14th Amend. Equal Protection of law to be protected under the laws.

(See facts, law, arguments and evidence in claims 1, 2, and 3).

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REASON FOR NOT FILING IN THE U.S.D.C.

There is no adequate remedy in the State and Federal Courts in Louisiana due to State and Federal court judges corrupting of the judicial system, the unconstitutionality of AEDPA, the intentionally violating State and federal controlling jurisprudence, violating oath of offices and my U.S. Constitutional rights, the working in collusion, committing fraud as court, and active participation in what state and Federal officials know and to be a cover-up of my valid jurisdiction claim.

I ask that all officials, (State and Federal, be reported to proper agencies for criminal prosecutors under) 18 U.S.C. 241, and 242 in Federal Courts and for malfeasance in state courts

All facts, laws and documented evidence requires criminal prosecutions to keep integrity in the courts and to stop corruption.

Even Judges cloaked with absolute civil immunity for centuries could be punished for willful deprivations of constitutional rights on the strength of 18 U.S.C. 242; Gravel, 92 S.Ct. 2614; O' Shea, 94 S. Ct. 669, Imbler, 96 S.Ct. 934.

Evidence was sufficient to support conspiracy to "oppress", threaten or intimidate certain people in free exercise pf rights: Posey, 416 F.2d. 545, (24, 18 U.S.C. 241.

State Courts judges actions show and prove they all refused to obey the controlling jurisprudence that a jurisdiction claim can be made at anytime and it goes under Habeas Corpus, which violated the law, their oath of offices and my 14th Amend., equal protected under the controlling jurisprudence that say a jurisdiction claim can be made at anytime and it goes under habeas corpus.

La. Const. Art. 10 Sec. 30, oath of office; I do solemnly affirm that I will support the constitution and laws of the United States and the constitution and laws of the State and I will fairly and impartially discharge and perform all duties incumbent upon me.

District and prosecuting attorney and judges intentional interference with execution of any law would constitute failure to perform duty required under oath of office and would constitute malfeasance. Perez, 464 So.2d 737; Harris, 79 So.3d 1248; La. Const. Art. 10 Sec. 30.

All judges in all 3 counts that heard my jurisdiction claim refused to apply the controlling jurisprudence to me. See 3rd argument for all controlling jurisprudence.

My case should be heard in this court because the U.S. District Habeas Corpus have refused to allow the valid jurisdiction claim to be heard . . . They refused to apply federal law that say a jurisdiction claim can never be barnd . . . the federal judges have refused to allow equitable tolling to apply in our cases and also refused to rule on my U.S. constitutional challenge to AEDPA.

My case should have been resolved in the lower State courts. The courts have caused undue burdens and hardships by forcing me to go to the higher courts when all facts, laws, arguments and evidence is in my favor.

The U.S.D.C. judges have refused to obey and apply the laws that say a jurisdiction claim can never be barred and the laws that say I do not have to show cause or prejudice for not making my jurisdiction claim sooner. (See laws and arguments in 2nd argument: equitable tolling.)

In case No. #19-287-Sect. G1 Pollis Hernandez the federal judge refused to obey the controlling jurisprudence.

In case No. #16-739-BAJ-EWD Jackie Washington, the federal judge refused to obey the controlling jurisprudence.

Claims that the State judiciary itself has purposely violated the equal protection clause are different . . . There is a need in such cases to ensure that an independent means of obtaining review by a federal court is available; . . . a federal forum must be available. Rose v. Mitchell, 99 S.Ct. 2993.

The corrupting of the judicial system in Louisiana extends from the State District Courts all the way to the federal courts.

State courts cannot always be trusted to do what federal law and the (U.S.) Constitution demand, the Supreme Court recognized this and held: The duty arose from a distinct distrust of State courts which this court perceived as attempting to evade federal habeas review. Ex rel. Daniel, 50 S.Ct. 401.

The federal courts were interposed between the States and the people as guardians, "To protect peoples rights". Reed v. Ross, 104 S.Ct. 2901.

The facts, claims and evidence clearly prove criminal acts being committed by State courts judges and then federal judges.

Fraud on court: A scheme to interfere with judicial machinery performing task of impartial adjudication as by preventing opposing party from fairly presenting his case.

Collusion: an act or argument between 2 or more people to defraud a person of his/her rights by forms of law.

Existence of conspiracy may be demonstrated by direct or circumstantial proof including inferences or conduct of participants. 18 U.S.C. § 371.

Defendants knowledge and membership in conspiracy may be proven by acts on his part which furthered goal of conspiracy. 18 U.S.C. § 371.

I proved State courts judges violated the State controlling jurisprudence that say a jurisdiction claim can be made at anytime and it goes under habeas corpus which violated the law, oath of offices and my 14th Amendment equal protection of law right to be protected under the controlling jurisprudence that say a jurisdiction claim can be made at anytime and it goes under habeas corpus. I proved they violated the U.S. Constitution's First Amendment and U.S. Supreme Court controlling jurisprudence by refusing to rule on my U.S. Constitutional challenge and imposing State law bars to keep from ruling on my jurisdiction claim.

#### QUESTIONS FOR REVIEW

- 1). Does the federal officials have a duty to ensure there is a federal forum for State prisoners to bring a jurisdiction claim?
- 2). Does State and federal jurisprudence allow a valid jurisdiction claim to be made at anytime?
- 3). Does a judge have a duty to report judges for violating laws, oath of offices and people's rights?
- 4). Can a jurisdiction claim be barred?
- 5). Does state and federal law require a jurisdiction claim to be heard?
- 6). Do I have a 14th Amendment Equal Protection of law right to be protected under the controlling jurisprudence that say a jurisdiction claim can be made at anytime and it goes under habeas corpus?
- 7). Does equitable tolling apply to jurisdiction claims?

8). Does AEDPA violate my First Amendment rights to the United States Constitution and United States Supreme Court controlling jurisprudence that guarantees the right to access to the courts to have a case heard and ruled on?

9). Does federal officials have a duty to ensure a federal forum to hear jurisdiction claims?

10). Does a judge have a duty to obey and apply the law?

The following pages are my U.S. Constitutional challenge to AEDPA then law and arguments showing equitable tolling applies to my case and then my jurisdiction claim.

"First Amendment" is my U.S. Constitutional challenge to AEDPA 2244, 2244(B)(3)(A); 2244(B); 2244(B)(3)(C); 2244(B)(2); 2244(B)(1)(3), 2244(A); 2244(B)(B)(1); 2244(2)(A), (B)(1) (ii), 3(A)(B)(C)(D)(E), 4, 4(C), 2244(D),(D)(1), (A)(B)(C)(D)(2), and all other laws under AEDPA that deny me the right to access the courts under the First Amendment of the United States Constitution and United States Supreme Court controlling jurisprudence are unconstitutional and cannot be enforced.

First Amendment of the United States Constitution states in part: right to petition government for redress of grievances (this right cannot be abridged . . . abridge to lessen or diminish).

Substantive right to access the courts: the right of access to the courts is basic to our system of government and it is well established today that it is one of the fundamental rights protected by the Constitution. Chambers, 28 S.Ct. 34.

The Supreme Court found in the First Amendment a second constitutional basis for this right of access, "certainly the right to petition extends to all Departments of Government.

California, 92 S.Ct. 609.

Article VI CL. 2 of the United States Constitution states in part: This Constitution and federal law shall be the law of the land.

There is no avenue of escape from the paramount authority of the United States and all laws, state and federal, that conflict with our constitution shall have no effect. Article VI CL 2, U.S. Const.

The constitution does indeed require a court to disregard a duly enacted statute only if it be in opposition to the constitution. Dickerson, 120 S.Ct. 2326.

I've shown all laws and rules under AEDPA that denies me the right to access the courts under the First Amendment and United States Supreme controlling jurisprudence to have my jurisdictional claim heard and ruled on are unconstitutional and must be set aside and to then rule on my jurisdictional claim.

Determining the constitutionality of a law that inflicts an injury of constitutional rights lies with the judicial department. Zivotofsky, 132 S.Ct. 1421; Windsor, 133 S.Ct. 2675.

Congress in 1867 instituted the writ of habeas corpus for State prisoners to file in federal courts. Murray, 106 S.Ct. 2639.

All laws and rules under AEDPA that denies me the rights to access the courts under the First Amendment and United States Supreme Court jurisprudence to have my jurisdiction claim heard and ruled on, denies me the privileges and immunities extended by the Constitution of the United States to seek redress in the federal habeas courts thereby, depriving petitioner of rights guaranteed by the United States Constitution. (Note also violates my 14th Amendment Equal Protection of law

right to be protected under the First Amendment and United State Supreme Court jurisprudence to access the court(s) to have my jurisdiction claim heard and ruled on.)

Wherefore, this court should rule in petitioner's favor by saying all laws cited on page 5, under AEDPA and all other laws and rules under AEDPA that deny me the First Amendment right to access the courts to have my jurisdiction claim heard and ruled on are unconstitutional and to then rule on my jurisdictional claim or in the alternative set AEDPA, laws cited on page 5, aside and to then rule on my jurisdictional claim.

#### SECOND ARGUMENT: EQUITABLE TOLLING

I have proved egregious misconduct and malfunctions in the State Judicial System, committed by State Court officials actions by their refusing to obey the laws that say a jurisdiction claim can be made at anytime and it goes under habeas corpus and refusing to apply the laws to me . . . State officials actions and documented evidence prove state officials intentionally violated the controlling jurisprudence that say a jurisdiction claim can be made at anytime and it goes under habeas corpus which violated the law, oaths of office, and my 14th Amendment equal protection of law right to be protected under the controlling jurisprudence that says a jurisdiction claim can be made at anytime and it goes under habeas corpus.

Sometimes, "Professional Misconduct" could amount to egregious behavior and create an extraordinary circumstance that warrants equitable tolling. Holland, 130 S.Ct. 2549.

Federal Habeas Review exists as a safeguard against extreme malfeasance in the state criminal justice systems. Woods, 135 S.Ct. 1372 (2015).

Jurisdictional defects can never be waived or forfeited or defaulted and a defendant does not have to prove cause or prejudice. Harris, 149 F.3d 1304; Crosby, 338 So.2d 584.

I have proved a jurisdiction claim and that state superior courts controlling jurisprudence says a jurisdiction claim can be made at anytime . . . Federal law says a jurisdiction claim can be made anytime. AEDPA and federal law does allow my jurisdiction claim.

We have made clear that a courts equity powers must be made on a case by case basis.

Baggett v. Bullitt, 377 U.S. 360, 84 S.Ct. 1316.

The flexibility inherent in equitable procedure enables courts to meet "new situations" that "demand intervention" and to accord all relief necessary, Holland, 130 S.Ct. 2549; Baggett, 84 S.Ct. 1316. (See Argument for all facts and laws).

The doctrine of equitable tolling preserves a plaintiff's claims when strict application of the statute of limitations would be inequitable. Lambert, 44 F.3d 296; AEDPA allows late claims under equitable tolling. Davis, 158 F.3d 806.

Petitioner has diligent pursued his claims since it became known and state officials have hampered his rights to have his jurisdiction claim heard and ruled on. State law clearly says, a jurisdiction claim can be made at anytime and it goes under habeas corpus. (See 3rd argument for all laws).

My case does fit under equitable tolling. My case does require intervention due to the "State Judges" misconduct and malfunctions in the State Courts of violating the laws. (See arguments for facts and laws).

Notably, jurisdiction defects, by contrast cannot be procedurally barred. In short, because jurisdictional claims may not be defaulted a person need not show cause to justify failure to raise such claim. Kelly, 29 F.3d 1107.

The purpose of the Great Writ is as a swift and imperative remedy in "all cases of illegal

restraint or confinement." Brown v. Poole, 337 F.3d 1155 (2003); Blackledge, 97 S.Ct. 1621;

Fay, 83 S.Ct. 822.

"The Writ of Habeas Corpus is a safeguard against imprisonment of those held in violation of the law." Harrington, 131 S.Ct. 770.

By finding a defect in the indictment the federal court has served to find the matter null.

Crandell, 924 So.2d 122, citing U.S. 5th Cir. C.O.A. (3-10-06).

Prisoner will not be discharged on habeas corpus unless the court that passed the sentence

"lacked jurisdiction" and its proceedings must be seen as null/void. Fay, 83 S.Ct. 822.

Without allowing exceptions a petitioner could inappropriately be denied the writ

altogether "risking an injury to an important interest in human liberty." Harris, 209 F.3d 325.

Sufficiency of a state indictment is not ordinary a matter for federal habeas relief unless indictment is shown to be fundamentally defective as to have deprived convicting court of jurisdiction to try case. Hamilton, 772 F.2d 171; Branch, 631 F.2d 1229.

THIRD ARGUMENT: Habeas corpus pursuant to La.C.Cr.P. art. 362 (1),(2),(3),(4) and Crosby, 338 So.2d 584.

Louisiana Supreme Court held, he does not contest his conviction or sentence so, this is not an application for post conviction. Sinclair, 701 So.2d 457; Bartie, 501 So.2d 260.

Petitioner does not contest the conviction and sentence.

Petitioner does challenge the courts jurisdiction to hold a trial when the state never had a legal, valid indictment, returned by a legally, valid constituted/empaneled grand jury.

Louisiana Supreme Court held, where there is no dispute over the facts and they show the sentence is null, the case will be disposed of on writ of habeas corpus. Louis, 94 So. 446.

Where a conviction and sentence for a felony with no information or indictment are absolute nullities the person convicted should be released on writ of habeas corpus. Dutton, 77 So. 791.

Louisiana Courts held, nothing precludes review of jurisdictional defects, i. e., even those conceding accused guilt do not permit his conviction of the crime such as lack of jurisdiction. Crosby, 338 So.2d 584; La. C.Cr.P. art. 362(1).

It's clear a jurisdiction claim can be made at anytime and it goes under habeas corpus as mandated by state superior courts.

#### STATE HABEAS CORPUS

La. C.Cr.P. art. 362, if the person in custody is being held by virtue of a court order relief shall be granted only on the following grounds:

- 1). The court exceeded its jurisdiction.
- 2). The original custody was legal but, by some act, omission or event that has since occurred the custody has become unlawful.
- 3). The order for custody is deficient in some legal requisite.
- 4). The order for custody although legal in form imposes an illegal custody.

The court lacked jurisdiction to hold a trial because the state "never" has a legal, valid indictment returned by a legally, validly constituted grand jury therefore, the order for custody, although legal in form, imposes an illegal custody.

Arguments, facts and law show the State did not have a legal, valid indictment returned by a legally, validly constituted/empaneled grand jury.

The procedures used under Article 413(B) to indict me were illegal and therefore,

unconstitutional.

The procedures of the court calling and appointing the grand jury foreperson were illegal and cannot be enforced.

The procedures under Article 413(B) was illegal and the State re-wrote Article 413(B). (See, Exhibits E, F, and G).

#### **PRESUMPTION OF LAW**

A legal presumption a court is required to make when certain facts are established and no contradictions are produced by law, argument or evidence.

The State cannot produce evidence, cite law or make argument to contradict the facts, law, arguments and evidence in this pleading.

The procedures under 413(B) did violate my United States Constitutional Rights, 13th Amendment right not to be enslaved without due process of law, 14th Amendment right to due process, 14th Amendment right to equal protection of the law.

My rights were violated under color of law.

An indictment is the means by which a court obtains jurisdiction. La. Const. Art. 1 § 15. An indictment is the foundation of a court's jurisdiction, La. Const. Art. 1 § 15.

La. Const. Art. 1 § 15 protects a person from receiving a life sentence without an indictment.

The State never had a legal, valid indictment returned by a legally, validly constituted/empaneled grand jury therefore, the court never had jurisdiction to hold a trial.

By the procedures under 413(B) that were used to indict being illegal and therefore unconstitutional made the grand jury to no longer be a grand jury, and an indictment to no longer

be an indictment . . . Only a defect so fundamental that it causes a grand jury to no longer be a grand jury or an indictment to no longer be an indictment gives rise to the right not to be tried. U.S., 109 S.Ct. 1494.

It is fundamental that a defendant cannot be forced to go on trial on an indictment handed down by an unconstitutionally empaneled grand jury, specifically, when the judge calls and appoints the grand jury foreperson. Johnson v. Puckett, 929 F.2d 1067 (5th Cir.); La. Const. Art. 3 § 12(A).

The jurisdiction of the court was never legal nor valid because the law 413(B) was illegal and therefore, unconstitutional. (See Exhibits F and G).

There can be no punishment or conviction without a sufficient accusation, in absence thereof a court has no jurisdiction and if it assumes jurisdiction a trial and conviction are null. Dutton, 77 So. 791.

When a court lack jurisdiction any judgment rendered by it is void and unenforceable. Boles v. Hooker, 346 F.2d 285; Siviglia, 686 F.2d 832.

Wherefore, Petitioner, asks this court to order my release or in the alternative, appoint an attorney so this issue can be resolved.

The State judges can be prosecuted under 18 USC 241 and 242 in federal court and for malfeasance in State Court.

I ask this court to report all State Court Judges to proper agencies for prosecutions.

The Magistrate has committed fraud on court; fraud on court, a scheme to interfere with judicial machinery performing task of impartial adjudication as by preventing opposing party from fairly presenting his case.

Wherefore, I ask this court to rule on my jurisdiction claim and order my release . . . All laws and arguments show a jurisdiction claim can be made at anytime and it goes under habeas corpus . . . Federal and State law clearly says a jurisdiction claim can never be barred or defaulted. (See page 7,8,9 and 10).

Respectfully submitted,

*Andrew Robinson*  
Andrew Robinson #128119  
Camp D Eagle 4  
La. State Prison  
Angola, La. 70712

CERTIFICATE OF SERVICE

I, sent original copy to: Justice Ginsburg c/o: Clerk, U.S. Supreme Court first class postage pre-paid on this 24<sup>th</sup> day of April 2020 and copies to: U.S. Attorney General's Office and one to the First Judicial District District Attorney Office.

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