

No. _____

19-8872

IN THE
SUPREME COURT OF THE UNITED STATES

JAMES Henry Simpson — PETITIONER
(Your Name)

vs.

Harold W. Clarke — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FILED

JUN 09 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

United States Court of Appeals For the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JAMES Henry Simpson
(Your Name)

1821 EASTALINE VALLEY ROAD
(Address)

Craigsville, VA 24430
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Does 28 U.S.C. 2254 (b)(1)(B)(ii) Permit a Petitioner to WAIVE the state exhaustion requirement if circumstances exist that make the state's corrective process ineffective to protect the Petitioner's constitutional rights?

2. Is this court's rulings in the cases *HEDD v. Chappell*, 574 U.S. 1041 and *Duckworth v. Serrano*, 454 U.S. 1, 3, 102 S.Ct 18, 70, L.Ed 2d (1981), legally controlling?

3. IF the chief Justice of a state's Supreme Court is criminally complicit in a Petitioner-

r's wrongful conviction and unlawful imprisonment, would this make the state's corrective process ineffective to protect the petitioner's constitutional rights?

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

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

REDD V. CHAPPELL, 574 U.S. 1041

Duckworth v. Serrano, 454 U.S. 1, 3, 102
S.Ct 18, 70 L.Ed 2d (1981)

STATUTES AND RULES

28 U.S.C. 2254 (b)(1)(ii)

OTHER

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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 _____ 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☒ is unpublished.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☐ is unpublished.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 _____ 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 4-21-20.

☒ 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 _____.

☐ 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

1. The 14th Amendment of The U.S. Constitution
to Due Process and Equal Protection under the
law.

2. 28 U.S.C. 2254 (b)(1)(B)(ii)

STATEMENT OF THE CASE

On the day of 10-21-19, I Filed a "Motion To WAIVE the Exhaustion Requirement" in the U.S. District Court For The Eastern District of Virginia (Richmond Division) Pursuant to 28 U.S.C. § 2254(b)(1)(B)(i) because circumstances exist in the Supreme Court of Virginia that made the state of Virginia's corrective process ineffective to protect my constitutional rights.

The basis of this motion was centered on the fact that:

"On the day of 6-30-17, the chief Judge

OF the Circuit Court For The City of Richmond, VA, CLARENCE N. JENKINS, Forged a Disqualification order For my criminal CASE that contained the FALSE claim of EVERY Judge in Richmond, VA recusing themselves From my CASE.

Chief Judge CLARENCE N. JENKINS based this Forged Disqualification order on a Statute (VA. Code 19.2-153) that has no RELEVANCE to the claim he made in this Disqualification order regarding EVERY Circuit Judge in Richmond recusing themselves From my CASE. This statute (VA. Code 19.2-

153) is the area of the law that permits one Judge of a circuit court to recuse themselves from a case.

The area of the law that permits every Judge of a circuit court to recuse themselves from a case and the Chief Justice to appoint a Judge from a different judicial circuit to preside over the case is found in VA. code 17.1-105(B). This statute (VA. code 17.1-105(B)) mandates that every Judge of that circuit court sign an order recusing themselves from the case and the clerk of that circuit.

court certify the same to the Chief Justice of the Virginia Supreme Court before the Chief Justice can appoint a Judge from a different Judicial circuit to preside over the case. This statute (VA. Code 17.1-105(B)) does not permit the Chief Judge of a circuit court to sign an order "claiming" that every circuit Judge recused themselves from the case.

So the fact that Chief Judge Clarence N. Jenkins based this 6-30-17 Disqualification order on a statute (VA. Code 19.2-153) that has no relevance to the claim he

Made in this 6-30-17 Disqualification order regarding EVERY circuit Judge in Richmond RECUSING themselves From my CASE; And the Fact that EVERY Circuit Judge in Richmond did not sign an order RECUSING themselves From my CASE as mandated by VA. Code 17.1-105(B); Proves, that Chief Judge CLARENCE N. JENKINS Forged the 6-30-17 Disqualification order For my CASE and defrauded the Circuit Court For the City of Richmond, The Virginia Supreme Court and the American Public in Flagrant violation of VA. Code 18.2-168, 18 U.S.C.S. 1018, and my

5th and 14th Amendment constitutional
right to Due Process and Equal Protection
under the law and may 6th Amendment
constitutional right to receive a fair tri-
al.

Also, on the day of 7-18-17, Chief Jus-
tice of the Supreme Court of Virginia, Do-
nald W. LEMONS, Forged an order for may
CASE that contained the false claim
of every Judge in Virginia's 13th Judi-
cial Circuit recusing themselves from
may CASE, as the means of appointing
Judge Thomas B. Hoover to preside ov-

ER may CASE.

The area of the law that allows the Chief Justice to Appoint a Judge from a different Judicial Circuit to Preside over a CASE pending before a Circuit Court under the condition of Every Judge of that Circuit Court recusing themselves from the CASE is found in VA. code 17.1-105(B). This statute (VA. code 17.1-105(B)) mandates that Every Judge of that Circuit Court sign an order recusing themselves from the CASE and the clerk of that Circuit Court certify the

same to the chief Justice of the Supreme Court of Virginia before the chief Justice can appoint a Judge from a different Judicial Circuit to preside over the case.

So the fact that every Judge in Virginia's 13th Judicial Circuit did not sign an order recusing themselves from my case and the clerk of the Circuit Court for the City of Richmond did not certify the same to chief Justice Donald W. Lemons as mandated by VA. Code 17.1-105(B); proves, that chief Justice of the Supreme

Court of Virginia Donald W. Lemons Forged
the 7-18-17 order For my case, (Appointing
Judge Thomas B. Hoover to Preside over my
case) and defrauded the Virginia Supreme
Court, the Circuit Court For the City of Ri-
chmond, and the American Public in flag-
rant violation of VA. code 18.2-168, 18 U.S.C.S.
§ 1018, and my 5th and 14th Amendment con-
stitutional right to Due Process and Equal
Protection under the Law and my 6th Am-
endment constitutional right to receive
a Fair trial.

And giving the Fact that Chief Judge

CLARENCE N. JENKINS Forged the 6-30-17
Disqualification order For my CASE and
Chief Justice DONALD W. LEMONS Forged the
7-18-17 order For my CASE as the MEANS
of Appointing Judge THOMAS B. HOOVER to
Preside OVER my CASE; And the FACT that
Judge THOMAS B. HOOVER knowingly allowed
my CASE to be Prosecuted in the complete
absence of Probable cause and adjudicated
my CASE in the complete absence of sub-
ject matter Jurisdiction and DUE PROCESS
OF LAW; Proves, that Chief Judge CLAREN-
CE N. JENKINS, Chief Justice DONALD W. L-

Emons and Judge Thomas B. Hoover conspired to violate my 5th and 14th Amendment constitutional right to Due Process and Equal Protection under the law and my 6th Amendment constitutional right to receive a Fair trial in Flagrant Violation of 18 U.S.C.S. § 241.

And giving the Fact that the U.S. Court of Appeals for the Fourth Circuit served notice on Chief Justice Donald Willemson that I had a complaint filed against him pending before their court because of his decision to commit the aforementioned

crimes and malicious constitutional rights violations against me; Proved, that Chief Justice Donald W. Lemons and I were at legal conflict and the recusal of Donald W. Lemons from my case is required. SEE *Hill v. Baker*, 137 S.Ct 905 (2017)

And giving the fact that Donald W. Lemons and I were at legal conflict;

And Donald W. Lemons is criminally complicit in my wrongful conviction and unlawful imprisonment;

And the fact that Donald W. Lemons is identified in claim 1 of my Habeas

as the chief culprit who's responsible
for my unlawful detention;

And the Supreme Court of Virginia, under
the leadership of Donald W. Lemons
was used as a weapon to have me wrong-
fully convicted and unlawfully imprisoned
for the crimes I'm currently in prison
for;

And the fact that it is impossible
to gauge the influence that Donald W.
Lemons has over his fellow Justices in
the Virginia Supreme Court; proves, that
the Supreme Court of Virginia under leadership-

in the presence of Chief Justice Donald W. LEMONS is biased toward me and circumstances exist that make the state of Virginia's corrective process ineffective to protect my constitutional rights!!

The District court refused to adjudicate this motion and ruled that the District Court cannot waive the exhaustion requirement found in 28 U.S.C. § 2254(b)(1) under no circumstances.

The District court then directed me to file this action as a petition for HA-

BEAS CORPUS and gave me 20 days to File a Petition For Habeas corpus or this action would be dismissed without Prejudice.

I did not comply with the District Court's directives and on the day of 11-25-19, the District Court dismissed this Action.

On the day of 12-30-19, I Appealed the District Court's decision to dismiss this Action to the U.S. Court of Appeals For the Fourth Circuit.

On the day of 4-20-20, the U.S. Court

rt of Appeals For the Fourth Circuit

Affirmed the District Court's decision
to dismiss this Action.

REASONS FOR GRANTING THE PETITION

Pursuant to Rule 10(a) of the Supreme Court of the United States, this is a case where the U.S. Court of Appeals for the Fourth Circuit has sanctioned a departure from clearly established Federal statute and United States Supreme Court decisions by the lower Federal District Court.

28 U.S.C. § 2254(b)(1)(B)(ii) clearly states that a Habeas Petitioner can waive the state exhaustion requirement if circumstances exist that make the state's correc-

tive Process ineffective to protect the
Petitioner's constitutional rights.

This court affirmed the language in
this statute in the cases of *Duckworth v.*
Jarrano, 454 U.S. 1, 3, 102 S.Ct 18, 70 L.Ed2d (1981)
and *Redd v. Chappell*, 574 U.S. 1041. In fact,
in the case of *Redd v. Chappell*, 574 U.S. 1041,
this court actually informed the Petitioner
that waiving the state exhaustion re-
quirement, pursuant to 28 U.S.C. 2254(b)(4)(B)(i),
was an option he had if circumstances
exist that make the state's corrective
process ineffective to protect his const.

stitutional rights.

So the fact that the District Court ruled that their court cannot waive the exhaustion requirement under no circumstances constitute a flagrant departure from clearly established federal statute found in 28 U.S.C. § 2254(b)(1)(B)(ii) as well as U.S. Supreme Court's decisions found in *Duckworth v. Serrano* and *Hedgcock v. Chappell*.

And the fact that the U.S. court of appeals for the fourth circuit affirmed the district court's ruling illustrates

Now the U.S. Court of Appeals for the Fourth Circuit sanctioned this flagrant departure from clearly established Federal statute and U.S. Supreme Court decisions.

And as a result, this case calls for the U.S. Supreme Court to exercise its supervisory powers to ensure that 28 U.S.C. 2254(b)(1)(B)(ii) is enforced in this case and in all U.S. District Courts at all times.

Also, the rulings of the lower Federal courts in this case would essentially

nullify 28 U.S.C. § 2254(b)(1)(B)(ii) as well as
HEDD v. CHAPPELL and allow states to continue to create circumstances that make their corrective process ineffective to protect the constitutional rights of American citizens.

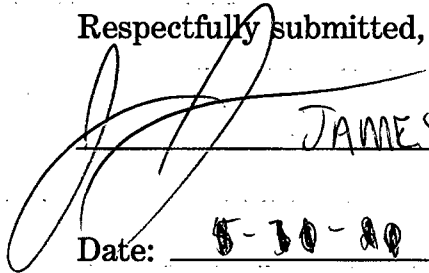
And as a result, it is in the national interest of America for the U.S. Supreme Court to intervene to ensure that that 28 U.S.C. 2254(b)(1)(B)(ii) and HEDD v. CHAPPELL, 574 U.S. 1041 are enforced in all Federal District Courts and states are not allowed to create circumstances that

make their corrective process ineffective to protect the constitutional rights of American citizens.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


JAMES SIMPSON

Date: 5-30-20 6-8-20