

IN THE UNITED STATES SUPREME COURT
WASHINGTON. D.C.

WILLIE GEORGE MOORE,
Petitioner, Pro se

USCA 11#19-11423-G

vs.

STATE OF GEORGIA
Defendant.

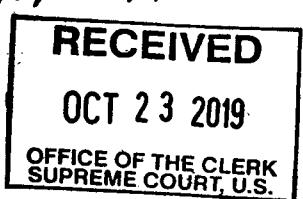


MOTION FOR CLERK TO FILE OUT-OF-TIME
FOR PETITION.

COME NOW, Petitioner, WILLIE GEORGE MOORE, IN THE
ABOVE STYL^E CASE, MAKE THIS HIS MOTION FOR THE CLERK
TO FILE FOR OUT-OF-TIME ON BEHALF OF PETITIONER
PETITION FOR THE FOLLOWING REASON.

(1.) PETITIONER'S DENIAL OR DISMISSAL FROM THE COURT OF
APPEALS FOR THE ELEVENTH CIRCUIT ON A SUCCESSIVE
OR SECOND PETITION WHICH WAS DENIED AND FINAL ON
MAY, 8TH, 2019. THEREFORE PETITIONER SENT OUT BY MAIL
TO THE UNITED STATES SUPREME COURT ON THE DATE
OF JUNE, 24TH, 2019. A REQUEST TO THE CLERK
OFFICE A REQUEST FOR FORMS TO FILE AN APPEAL
OF THAT DENIAL FROM THE LOWER COURT, BUT
PETITIONER DID NOT RECEIVE A RESPOND FROM THE
CLERK OFFICE ON HIS REQUEST. IT MAY HAVE
BEEN A POSTAL PROBLEM OR SOMETHING ELSE BUT
PETITIONER WAITED FOR A RESPOND IN A PROPER
AMOUNT OF TIME WHICH WENT INTO THE 7TH MONTH.

(1.)



3. Petition for now make mention to The Cleric of The Unified States Supreme Court for A. Out-
Time publican on his Petition for Petition for
ASR NOT to be penalize for A. Work in Cite-
Custardine beyond his control as his Similar
to The Criminals in his Petition ..

Petition for his ATTRACted INSTITUTIONAL
Malignant of leaders sent out to The
United States Supreme Court Cleric of the
and others receive responses.

CONCLUSION

WHEREFORE, PETITIONER PRAYS THAT THE
UNITED STATES SUPREME COURT WILL GRANT him
his OUT-OF-TIME motion allowing his
PETITION OF HIS WRIT OF CERTIORARI TO BE
REVIEWED.

RESPECTFULLY SUBMITTED.
Willie George Moore

This 13th day of October, 2014

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-11423-G

IN RE: WILLIE MOORE,

Petitioner.

Application for Leave to File a Second or Successive
Habeas Corpus Petition, 28 U.S.C. § 2244(b)

Before: WILSON, JORDAN and JULIE CARNES, Circuit Judges.

BY THE PANEL:

Pursuant to 28 U.S.C. § 2244(b)(3)(A), Willie Moore has filed an application seeking an order authorizing the district court to consider a second or successive petition for a writ of habeas corpus. Such authorization may be granted only if:

(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

28 U.S.C. § 2244(b)(2). "The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that

the application satisfies the requirements of this subsection.” *Id.* § 2244(b)(3)(C); *see also Jordan v. Sec'y, Dep't of Corrs.*, 485 F.3d 1351, 1357-58 (11th Cir. 2007) (explaining that this Court’s determination that an applicant has made a *prima facie* showing that the statutory criteria have been met is simply a threshold determination).

A claim presented in a second or successive habeas application under § 2254 that was presented in a prior application “shall be dismissed.” *See* 28 U.S.C. § 2244(b)(1); *In re Hill*, 777 F.3d 1214, 1222 (11th Cir. 2015) (interpreting “application” within the meaning of § 2244(b)(1) to include the original § 2554 petition). A claim is the same, for purposes of § 2244(b)(1), when the basic gravamen of the legal argument is the same. *In re Everett*, 797 F.3d 1282, 1288 (11th Cir. 2015).

In his application, Moore indicates that he wishes to raise five claims in a second or successive § 2254 petition.

First, he asserts that his conviction was obtained by an unconstitutional identification because investigators questioned him, without informing him of his right to counsel, in a room with a two-way mirror while, without his knowledge, the victim identified him through the glass. He also argues that the victim failed to give a physical description of the perpetrator and identified another man as the perpetrator. He asserts that his claim relies on new evidence discovered after his trial that the victim and another suspect knew each other prior to the robbery.

Second, he asserts that his conviction was obtained by prosecutorial misconduct because the prosecution (1) introduced co-conspirator testimony without a reliable, independent witness to support the co-conspirator’s allegations, (2) intentionally failed to subpoena the first suspect in the case who had a prior conviction for armed robbery with a sawed-off shotgun, (3) withheld

evidence of the victim's prior convictions, (4) pulled his shirt down to show the jury his chest, (5) accused him of being a threat to the victim if he was not convicted, and (6) introduced similar transaction evidence of his prior convictions without an independent witness to lay the foundation. For this claim, he relies on the new evidence that the first suspect had a prior conviction for armed robbery, which he found out after his trial.

Third, he asserts that his conviction was obtained by insufficient evidence because the victim did not give a sufficient description of the perpetrator, certain trial testimony was unreliable, the video recording of the store on the day of the robbery did not indicate that a robbery had taken place, and certain evidence, such as a recording of the 911 call and a stolen two-dollar bill found in his car, was unavailable at trial. He contends that this claim is based on the newly discovered evidence that the witnesses did not see a robbery, the victim told witnesses to leave before the police arrived, and the victim and first suspect left town without notifying the police.

Fourth, he asserts that he received ineffective assistance of counsel because his counsel failed to subpoena the first suspect, object to the instances of prosecutorial misconduct, introduce important evidence as to a state witness, and question the defense witnesses before trial.

Fifth, he asserts that his *Miranda*¹ rights were violated because he was questioned by investigators without waiving his rights and without counsel. For all of his claims, he relies on *McQuiggin v. Perkins*, 569 U.S. 383 (2013). He concedes that each claim was presented in a prior federal petition.

We lack jurisdiction to consider Moore's claims because, as he concedes, he raised them all in his original § 2254 petition. *See* 28 U.S.C. § 2244(b)(1); *In re Hill*, 777 F.3d at 1222.

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

Accordingly, Moore's application for leave to file a second or successive motion is hereby
DISMISSED.

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