

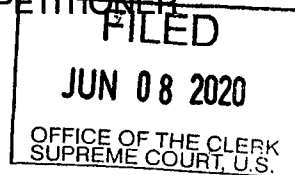
No. 20-6267

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Graham Schiff
(Your Name)

— PETITIONER



vs.
Warden Susan Malagar
Attorney General Brian Frosh

— RESPONDENT(S)

HADEAS CORPUS (28 U.S.C. § 2241)
ON PETITION FOR A WRIT OF HABEAS CORPUS TO

Circuit Court For Montgomery County, Maryland
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF HABEAS CORPUS

Graham Schiff

(Your Name)

MCCF
22880 Whelan Lane

(Address)

Boyd5, Maryland 20841

(City, State, Zip Code)

—
(Phone Number)

QUESTION(S) PRESENTED

Is Federal intervention (via 28 U.S.C. § 2241) in this state criminal proceeding appropriate given the petitioner's showing of both "bad faith and harassment by state officials" and state law to be applied in the criminal proceeding that is "flagrantly and patently violative of express constitutional prohibitions"?

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JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 2241.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- First Amendment: Freedom of Speech
- Fifth Amendment: Due Process of the law.
- Sixth Amendment: Effective Assistance of Counsel.
- 14th Amendment: Bill of Rights made applicable to state courts

STATEMENT OF THE CASE

The petitioner, Graham Schiff is the defendant in an ongoing criminal proceeding in the Circuit Court for Montgomery County, Maryland. He is charged with "Stalking" and Harassment under MD Law. The so-called case "victim" is an Assistant State's Attorney in Montgomery County.

The way in which Schiff is charged in this case is so severely illegal and unconstitutional, it warrants federal intervention by this court authorized by 28 U.S.C. §2241 to maintain the integrity of federal law.

Schiff is being maliciously prosecuted by the state as a mafia-esque retaliation after he filed motions proving Ms. Getty fabricated evidence Schiff in a prior proceeding, and made insulting comments about her via e-mails he sent while representing himself pro se.

This case represents one of the worst abuses of an individual's civil rights by state court officials in American history. As will be demonstrated, the state refuses to dismiss this case despite showings by the petitioner that these charges are patently unconstitutional and hold no legal grounds.

REASONS FOR GRANTING THE PETITION

The petitioner is being detained in violation of his constitutional rights, pursuant to two illegal charges that as charged, are patently unconstitutional. The petitioner has demonstrated that the reasons for this are based on bad faith and harassment by state officials. Failure to grant this petition would undermine Federal law, and imply that state court officials have free reign to fabricate fake charges that ignore constitutional provisions and prohibitions as established under law by this court. This petition should be granted as a matter of law.

Petition For Writ of Habeas Corpus (28 U.S.C. § 2241) | Page 1
In The Supreme Court of the United States

In re: Graham Schiff

This petition for a writ of habeas corpus is being filed pursuant to 28 U.S.C. § 2241 in regards to Case # 136389C in The Circuit Court For Montgomery County, Maryland, State of Maryland vs. Graham Schiff. This petition is on the grounds that the petitioner is being detained illegally, in violation of his constitutional rights. In compliance with Rule 20.4(a): This petition is not being filed in U.S. District Court (District of Maryland) for multiple reasons. First and foremost, the petitioner has attempted to file two habeas corpus petitions for this case in U.S. District Court, neither of which were placed on the docket. However, this court should still not transfer this petition to U.S. District Court because of the unique, unprecedented constitutional issues presented in this petition. Furthermore, even though the State of Maryland and District of Maryland court systems are different entities, because the accuser in this case is a State of Maryland employee, being a State Attorney, this petition should be considered by a court outside of Maryland, to avoid any implication of bias in any form.

As established by Robinson v. Thomas (4th Cir. 2017), federal intervention in an ongoing criminal proceeding in a state court is inappropriate unless "there is a showing of 'bad faith or harassment by state officials' or where the state law to be applied in the proceeding is flagrantly and patently violative of express constitutional prohibitions." Every single one of those criteria are taking place in this case, requiring this court to exercise § 2241 jurisdiction over this case. The abuse of the petitioner by the state is blatant and personal.

Schiff is charged with "Stalking" under MD Code Criminal Law 3-802 and Harassment under 3-803 of that same code. The so-called "victim" in this case is Montgomery County Assistant State's Attorney, Katherine Getty. Ms. Getty prosecuted Schiff in a case in April 2017, where she fabricated evidence against Schiff in violation of the law. That case is currently under Habeas review in U.S. District Court (please see: Civil Action PX-20-1144). Schiff represented himself pro se during trial in that case.

During the period between May and July 2019, while continuing to represent himself pro se in that case, Schiff sent a number of e-mails to Ms. Getty and ~~another~~ another county ASA about the case. On 7/19/19, he was arrested on the charges of "Stalking" and "Peace Order; Failure to Comply", on the premise that by making degrading comments about Ms. Getty via e-mail, he violated Section 1 of Maryland's Stalking law by engaging in "a malicious course of conduct where he pursued Getty and intended to put her in fear of a rape or sexual offense". This charge was later amended to Section 2 of that law, on the premise that Schiff engaged in "a malicious course of conduct where he pursued Getty and intended to or reasonably should have known his conduct would cause serious emotional distress to [Getty]."

The way in which Schiff is charged with "Stalking" in this case is blatantly illegal and contrary to both state and federal law. This charge is directly and intentionally violative of express constitutional prohibitions.

In the Scope of section for this law, it states that, "The provisions of this section do not apply to conduct that is: (3) authorized, required, or protected by local, State, or federal law." It should be noted for the court, that if this element of the Scope of section were not present in this law, it would be unconstitutional on its face because it would allow defendants charged with Stalking to be charged for conduct that is protected by the Bill of Rights of the U.S. Constitution. Yet, that is exactly how Schiff is charged in this case, thus making the state law to be applied in this proceeding to be flagrantly and patently violative of express constitutional prohibitions. Due to this, federal intervention is absolutely appropriate.

The conduct constituting Schiff's "Stalking" charge, all of which is written material, is constitutionally protected conduct under: First Amendment right to freedom of speech, Fifth Amendment right to work product (via right to due process of the law), and Sixth Amendment right to Effective Assistance of Counsel, as Schiff was representing himself at the time of this writing. All these rights apply to state court via the 14th Amendment, and charging Schiff for exercising these protected constitutional rights thus violate his Fifth Amendment right to due process, as charging an individual for exercising protected rights directly violates their constitutional right to due process. Based on these facts, Schiff is being detained illegally in violation of his first, fifth, sixth, and 14th amendment rights, requiring Habeas relief.

The state (constituting the prosecution and court) know full well this charge is illegal and unconstitutional as a matter of both state and federal law, yet refuse to dismiss it, despite all these legal grounds being presented via motions in state proceedings. The state tries to rebut Schiff's arguments by claiming his speech about a public official while acting as pro se counsel, is not protected constitutionally or by the aforementioned Scope of section for a Maryland Stalking charge, which as mentioned, cannot apply to conduct, "authorized, required, or protected by local, state, or federal law." These arguments are contrary to both state and federal law.

As established by this court, speech concerning a matter of "Public Concern" as measured by the "Public Concern Test", is protected free speech under the first amendment as a matter of law. Ms. Getty is a state official, and Schiff was e-mailing her concerning a court case in Maryland state court, that is, The Circuit Court For Montgomery County. As such, Schiff making benign insults about Ms. Getty, which were not threatening in any way, shape, or form, cannot become criminalized speech, under any circumstances. Even if this speech was not protected by the first amendment, because Schiff was acting as a pro se attorney at the time, his speech is still protected under Fifth Amendment Work Product speech, and Sixth Amendment Effective Counsel Rights. The state is purposely pursuing an illegal Stalking charge against Schiff, demonstrating both bad faith and harassment of Schiff, requiring Federal 28 U.S.C. 2241 intervention in this case.

A showing of bad faith and harassment by the state in this case, hardly stops there. Before this case was remanded for a new trial, a trial took place on 3/9/20 and 3/11/20. The prosecution knowingly lied under oath to establish its case against Schiff, while prosecuting him on totally unconstitutional charges. During that trial, the prosecutor stated Schiff had violated a Peace Order Getty filed against him (which expired 1/26/20) by insulting Getty in letters to judges in February 2020, stating it would expire in July of 2020. The prosecutor also used as evidence against Schiff, the false claim that another ASA Schiff e-mailed about Getty, worked on her same prosecution unit to establish that Schiff knew Getty would see said e-mails, despite the fact they work on different prosecution units.

It should go without saying that if (as demonstrated) the state is knowingly prosecuting Schiff on illegal charges, and literally making up fake evidence to do it, they are acting in bad faith and harassing Schiff, requiring federal intervention under 28 U.S.C. 2241. As established by *Robinson v. Thomas* (4th Cir. 2017), the petitioner has more than demonstrated every criteria which warrants federal intervention in an ongoing state criminal proceeding. The absolute mafiazation of a county court in this case, absolutely warrants The Supreme Court of the United States to intervene under 28 U.S.C. 2241. Schiff is quite literally being held hostage via illegal incarceration, by corrupt state officials in this case.

The same facts which warrant federal habeas relief on the charge of Stalking, also apply to the charge of Harassment, A Course of Conduct (Harassment). Schiff is charged with Harassment based on an e-mail he sent to a county ASA on 7/18/19, one day after Getty filed a civil peace order against Schiff, which prohibited him from further contact with her. In this e-mail Schiff commented about Getty's peace order, and then called her a "Mentally unstable histrionic retard". This is protected speech under all the same constitutional provisions previously mentioned. Schiff is charged with Harassment on the premise that by sending that e-mail he "maliciously engaged in a course of conduct that alarmed or seriously annoyed Getty, ① with the intent to harass, alarm, or annoy [Getty] ② after receiving a reasonable warning or request to stop by or on behalf of the other; and ③ Without a legal purpose."

The state law as applied to this charge of Harassment in this case, like the Stalking charge, is flagrantly and patently violative of express constitutional prohibitions which protect freedom of speech, work product, and effective counsel, any of which being criminalized violate Schiff's right to due process of law. Based on these facts, Schiff is being detained illegally in violation of his first, fifth, sixth, and 14th amendment rights, requiring habeas relief.

Cover Letter To Clerk

10/2/20

Clerk,

My name is Graham Schiff, I am an inmate at the Montgomery County Correctional Facility in Boyds, Maryland. Enclosed is a Petition for Writ of Habeas Corpus authorized by 28 U.S.C. 2241 via Rule 20. The case being petitioned for is Case # 136380C, in the Circuit Court for Montgomery County.

This petition is in full compliance with Rule 20. The reasons for not making application to U.S. District Court are on Page 1/7 of petition (Rule 20.4A). The relief sought is on Page 7/7. The declaration of service (Rule 20.5) is enclosed, the respondent and counsel for other respondent is Attorney General Brian Frosh, so he is only one served.

This petition follows the form prescribed by Rule 14 (Rule 20.2) as much as it is applicable. Not every form for a writ of certiorari was used, because this is for habeas corpus under 28 U.S.C. 2241. I am a pro se petitioner, and made a good faith attempt to follow every rule for filing. Please accept this petition for filing.

Yours Truly,

Graham Schiff

Address: Graham Schiff

MCCF

22880 Whelan Lane

Boyd, MD 20841

RECEIVED

OCT 15 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Throughout this petition, the petitioner, Graham Schiff, the defendant in Case #136380C in The Circuit Court For Montgomery County, Maryland has more than met the criteria for Federal Habeas intervention in an ongoing criminal proceeding under 28 U.S.C. §2241. As such, based on the facts presented in this petition, Schiff asks The Supreme Court of the United States to issue a Writ of Habeas Corpus authorized by 28 U.S.C. §2241, and grant the following relief:

Grant injunctive relief and stay any further proceedings for this case prior to the trial date on December 7th, 2020.

And/or

Grant an expedited consideration of this petition prior to 12/7/20.

And/or

Dismiss this case with prejudice.

And/or

Any other relief this court deems necessary or appropriate based on the facts presented in this petition.

All the requested relief is appropriate because Schiff will suffer irreparable harm if this case is allowed to proceed, and it is in the public interest to stay further proceedings in a case where a court system has literally been weaponized against an innocent defendant, Graham Schiff.

Graham Schiff, Petitioner

CONCLUSION

Habeas Corpus
The petition for a writ of certiorari should be granted.

Respectfully submitted,

Graham Schiff

Date: 10/2/20