

IN THE
UNITED STATES SUPREME COURT

Case No 180182

Gregory Richardson,
Petitioner

v

Superintendent of Piedmont Regional Jail
Respondent

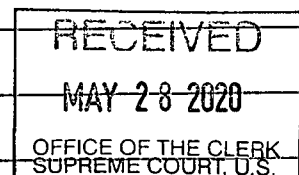
UPON A PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 USC §§ 2241, 2244, TO THE CHIEF

JUSTICE AND JUSTICES OF THE UNITED STATES SUPREME
COURT

Gregory Richardson
Virginia Center for Behavioral Rehabilitation
4901 E. Patrick Henry Hwy
Burkeville, Va 23922

May 10, 2020



QUESTION(S) PRESENTED

1. Did State Court provide an adequate post deprivation remedy when failing to entertain habeas request for a delayed appeal?
2. Did Virginia Supreme Court err when denying challenge to 1994 Statutory Rape (amended to rape) where conviction used to civil commit and recommit And determining that challenge is time barred when case never heard on merits
3. Did Virginia Supreme Court err when denying habeas corpus that duration of detention prejudice to Annual Reviews by detentions at jail?
4. Does due process require review of detention be more periodic than Annual? And Virginia Supreme Court err by not reaching a decision
5. Does Annual Review provide due process protection and evidentiary safeguard. And Virginia Supreme Court
6. Did the Annual Review Court err by not considering him for Conditional Release?
7. Was Court Appointed Counsel ineffective by seeking only conditional release rather than full release. Virginia Supreme Court errored by applying Strickland
8. Did Court Appointed Counsel render ineffective assistance when failing to explain the burden on Commonwealth to prove Richardson remains a SUP? Virginia Supreme Court errored when applying Strickland.
9. Did Court Appointed Counsel render ineffective assistance when: failing to object to Commonwealth's Expert's report being admitted! Failing to object Expert being admitted as an expert because report was not reported by Expert analysis. Treatment was not acceptable treatment to make expert opinion on behaviors, matters of threat to reoffend, SUP behaviors, and more. Failed to object to second opinion for defense being called as witness for Commonwealth and admitting his report disfavorable to defense when at interview, his opinion was favorable. Counsel simply allowed Commonwealth to have its way. Virginia Supreme Court errored the petition substitute the appeal.
10. Did Annual Review Court possess Subject Matter Jurisdiction because arrest presented a 12 month review cycle?
Virginia Supreme Court errored that petition was a substitute for an appeal that Court did not grant or discuss request for belated appeal

QUESTION(S) PRESENTED

11. Did Virginia Supreme Court err by not allowing petitioner to challenge all prior criminal convictions used to give a dis favorable impression as a Sexual Violent Predator and remains a SUP, and claiming claims are time barred
12. Did the Criminal Court lack subject matter jurisdiction because unique case was not a case and controversy, Courts life to decide where individual detainee's mind is attacked for continued commitment that adversely effect behaviors that Courts never heard before? And Virginia Supreme Court erred when not giving full consideration
13. Did State Legislature abuse its power where allowing criminal prosecution in Va. Code 37.2-919, And Virginia Supreme Court erred by not deciding issue of same claim back merits.
14. Was evidence sufficient to determine Richardson remains a SUP and Virginia Supreme Court erred by determine it
15. Was Richardson any longer serving a Sexually Violent Offense when feloniously convicted of indecent exposure and transferred to custody of Virginia Department of Correction. *Townes v. Commonwealth* Virginia Supreme Court failed to reach a decision
16. Did Virginia Supreme Court err when determining that habeas does not lie when as a result of transfers to jail and charges dismissed or nolle prosequi, it prejudiced duration of detention and Annual Review hearings and created a mess. Court found more convenient to ignore.
17. Did rationale violate due process when Annual Review Court failed to specify reason or evidence relied upon to determine Richardson remains a SUP

JURISDICTIONAL STATE

This is a petition for writ of habeas corpus pursuant to 28 USC 2241 and 2244. The Honorable Chief Justices and Justice have jurisdiction to hear the petition.

REASONS FOR NOT PURSUING PETITION IN LOWER COURT

Petitioner has exhausted state court remedy. (See Appendix 1)

Petitioner did file a timely petition under 28 USC §§ 2241 and 2244 in the United States District Court for the Eastern District of Virginia (Charlottesville Division). The Court has not responded.

All lower Courts are operating in a secret cohesion to deprive petitioner ANY relief to which he is unlawfully detained from a series of acts by state agents and agencies.

Courts communicate through their actions in orchestrating the scheme of detentions and treatments of petitioner's complaints.

STATUTORY CASES AND PROVISIONS OF LAW

Detention is unlawful to Kansas v. Hendricks, 521 US 346

Kansas v. Crane, Jones v. Cunningham 371 US 236 (1963), Utah v. Young 445 US 480 (1980)

United States Constitution Art 1 § 9, Art 11 (1)

Virginia Constitution Art 1 Sect 1, 3, 8, 9, and 11, Va. Const Art 11 Section 14 and 15.

42 USC 1983

STATEMENT OF CLAIM

Petitioner states that he is a civilly committed person detained at the Virginia Center for Behavioral Rehabilitation.

On or about July 21, 2017 he appeared at the Richmond City Circuit Court for his 3rd Annual Review hearing. At the time of the hearing he was being held at the Piedmont Regional Jail for a criminal charge of Indecent Exposure.

Petitioner was represented by Court appointed Attorney Jonathan O'Connor. The facts of this case are extremely complex due to the arbitrariness of the procedures adopted and illicit motives.

The Commonwealth was represented by Attorney General Assistant Jill Ryan. At the Annual Review Ms. Ryan was allowed to admit Dr. Mario Dennis, a forensic expert as an expert witness. Prior to this hearing Dr. Dennis prepared a report and recommendation for petitioner yearly progress. The report relied upon several factors:

- 1) Observation Notes from certain staff assigned to work on housing units petitioner reside. These staff are called RSAs or now SSITs. They are not licensed.
- 2) Richardson's prior criminal charges
- 3) Report stating he violated condition of parole in 2005
- 4) Family history, elements of 1994 conviction, and
- 5) Comments from therapists.

At the hearing Dr. Dennis testified to certain matters that Richardson filed complaints alot and was uncooperative with staff in resolving complaints; That Richardson complaining about the staffing saying that only obese, old, unattractive females were assigned to work around him; That he desire coitus.

Mr. Connor did not cross examine Dr. Dennis in depth to ascertain the truth of his information, his expertise related to

his report and recommendation, nor when testifying preserve contemporaneous objections for what were Dr. Dennis' personal views regarding: Richardson's complaint filing, attitude towards staff during resolution process of complaints; concerns raised about staffing scheme; desire for coitus or conjugal visits.

Dr. Dennis was allowed to freely offer his one-sided opinions and taken as an expert finding and true.

The Commonwealth also called Dr. King to testify.

Dr. King was originally supposed to be Richardson's second opinion. Dr. King met with Richardson and at the interview gave Richardson a more favorable opinion and said if he had done the initial evaluation Richardson would not be committed.

Mr. O'Connor informed Richardson that if Dr. King's report was not favorable he would strike it from being admitted.

At the hearing, Dr. King was admitted without object from Mr. O'Connor. In fact, Mr. O'Connor never sent Richardson Dr. King's report and recommendation, nor the Static 99 r to be used.

Dr. King was also allowed to freely testify about Richardson's criminal history, violation of parole in 2005, documented behaviors while at VCBE. None of were mentioned in the interview and denied right to prepare.

Mr. O'Connor did not object to his personalized views offering no associate threat towards reoffending, the truth and accuracy of the information.

Mr. O'Connor failed to object due to preponderance of the evidence that violated the Probative Value because the prejudice to client outweighed weighed the reliability to the Court.

Mr. O'Connor did not acclimate himself with the State 991 and cross examine nor object to its usage. He did not request a continuance so that he could prepare a defense against the possible surprise of experts opinion more personal than factual or scientifically researched behavioral patterns.

Richardson asked to testify to clarify erroneous information Dr. Dennis purported, provide Court some insight into his thoughts, feeling, and state of mental health, intelligence, and correctness - information.

Mr. O'Connor did not assist this by asking relevant questions the Court may been influenced by experts testimonies, and have seen client as disturbed from what Dr. Dennis purported.

Both experts concurred that if Richardson earned phase 2 he could earn conditional release.

The Court without specifying it rationale determined Richardson remains a Sexually Violent Predator.

The Criminal charges pending were dropped and Richardson returned to VCBR August 22, 2017.

Richardson wrote to Mr. O'Connor and requested he appeal. Mr. Connor did not respond. Richardson's then girl friend called Mr. O'Connor and asked he appeal. Mr. O'Connor told her that Richardson had to appeal and that a decision from the Virginia Court of Appeal reversing a conviction would come back up.

The 30 day time to appeal elapsed.

In or about September or October, or November Richardson, after another resident shared information about the improper use and non-applicability of Static 99r, served notice to the Commonwealth of an Independent Motion To Vacate due to Intrinsic and Extrinsic Fraud, of the Annual Review, in December.

After filing this, Richardson was moved from a certain housing unit and assigned to double bunk in a cell with Lamont Turner, a VCBE known for making sexual advances toward staff and other residents, his verbal and physical aggression, and fighting.

Turner had forewarned his therapist (Dr. Schlank - Also Director of Clinical Service) of his intent to harm who ever she put in the cell with him.

In spite of this Richardson was put in the cell with Turner and on or about November 20, 2017 Turner smashed Richardson's television, dvd player, and cds in the floor and stomped them because Dr. Schlank would not assign him to a single room, or to a different pod.

When trying to get into the cell to stop Turner Richardson attempted to penetrate staff barrier and was charged with 2 counts of assault and battery.

Petitioner filed a petition for writ of habeas corpus in the Virginia Supreme Court. Under Virginia's law, a person must state all claims known to him that make their detention unlawful at the time of filing the petition.

Because of this Richardson challenged:

1. Petitioner sought a belated appeal, because court appointed attorney refused to file a
2. Petitioner challenge 1994 conviction for rape because offense is catalyst to civil commitment and all associate suffer detention is used. In addition to bail determination, housing status of jail, all to perpetuate harm.
3. Petition challenged detention in jail because detention also precluded freedom from civil commitment by: Preventing participation in treatment; Prejudice 2018 Annual Review, Detention without bond was cruel and unusual
4. Annual Review violate due process by not being more periodic than annual
5. Annual Review lacked due process protection and evidentiary safeguards
6. Court erred by not considering him for conditional release.
7. Counsel was ineffective by seeking only to have expert testify how client could obtain conditional release
8. Counsel was ineffective by not informing client of the burden on Commonwealth to prove Richardson remains a SUP
9. Counsel was ineffective when failing to object to admission of Dr. Dennis report and recommendation; Failure to object to Dr. Dennis admitted as an expert because report was not reliable expert analysis, and treatment was not acceptable treatment to make an expert opinion; Fail to object to Dr. King's unfavorable report and because Dr. King denied client a second opinion by becoming witness for Commonwealth after interviewing Richardson and giving a more favorable impression; Failure to display any knowledge of SUPA, due process, and simply

allowed Commonwealth have its way.

10. Court lacked subject matter jurisdiction because arrest and detention presented a 12 month review cycle.
11. Petition challenged all prior criminal convictions because they gave a false and misleading depiction of him towards being deemed a sexually violent predator.
12. Criminal court lacked subject matter jurisdiction because situation was not a case and controversy court could decide due to undemocratic detention, deprivations of liberties, abusive treatment towards stigmatizing petitioner's mind for exhibitionism disorder to have case for on going commitment and suffering. Mode of proceeding could not legally be adopted.
13. General Assembly abused its power when approving criminal prosecution. 37.2-919
14. The evidence was insufficient to determine Richardson remain a SUP.
15. Due to previous conviction and sentence over a year for Indecent Exposure Richardson was no longer detain upon a predated sexually violent offense. Townes vs Commonwealth.
16. Detention unlawful, arbitrary and capricious because statute nor General Assembly provided a remedy for when a criminal conviction is vacated on appeal, charges dropped and individual lost (over 2 years) significant time from treatment.
17. Court rational violated due process by not specifying the reasons or evidence relied upon.

18 The Annual Review procedure is unconstitutional because it should be more periodic than Annual.

REASONS FOR GRANTING PETITION,

I. ANNUAL REVIEW LACKS DUE PROCESS PROTECTIONS

Petitioner states that the Annual Review lacked due process protections and evidentiary safeguard and the state lacks an adequate post deprivation remedy.

The Commonwealth case simply relies upon subjecting petitioner to arbitrary and capricious treatment and environment to evince certain bad conduct then use such as grounds for recommitment.

Also petitioner states he was deprived assistance of counsel. This is unprecedented.

The Supreme Court of Virginia erred when applying *Strickland v. Washington* in this civil case because this does not accord individual the same rights in a criminal case.

This falls more under the rights accorded parolees in parole revocation hearings. See *Vitek v. Young* citing *Morrissey v. Brewer*.

If *Strickland* can apply, the Court erred when not conducting an evidentiary hearing and see counsel's assistance was egregious to *Gonic v. United States*, 466 U.S. 648 (1984).

The Court's rationale was constitutionally insufficient by failing to specify the reason for its decision.

"Richardson remains to be a sexually violent predator," is not enough.

II DETENTION AT JAIL WITHOUT BOND WAS CRUEL AND UNUSUAL PUNISHMENT AND VIOLATED DUE PROCESS

The detention at the jail violated due process to the 8th and 14th amendments.

The detention enabled UCR to seize all of petitioner's properties including: All things related to the Annual Review, as well as acquired information regarding impermissibility of State 99c.

The detention prejudiced criminal trial and made a conviction inevitable to disabuse all harm caused by no bond detention. It prejudiced the 12 month cycle (Annual Review); It cause irreparable harm where if acquitted or nolo prosequi Richardson could not get back time lost in treatment towards his release.

III RICHARDSON WAS DEPRIVED DUE PROCESS RIGHT TO AN EXPERT WITNESS

The right to an expert to oppose the Commonwealth's expert's opinion regarding dangerousness from complaint filing, expressing an opinion about staffing scheme, desiring status, and treatment scheme. See e.g., *Ake v. Oklahoma*, 470 U.S. 68 (1985).

IV THE ANNUAL REVIEW COURT LACKED SUBJECT MATTER JURISDICTION BECAUSE CONVICTION AND SENTENCE FOR INDECENT EXPOSURE RICHARDSON WAS NO LONGER SERVING A PREDICATED SEXUALLY OFFENSE

The Virginia Supreme Court held in TOWNES V. COMMONWEALTH, 269 Va. 234, 609 S.E.2d 1 (2005) that an individual who the Commonwealth petitioned to be declared a Sexually Violent Predator could not be made a candidate because at the time of filing the petition the individual had completed serving time on a criminal conviction he acquired while incarcerated for sexual offense. Petitioner states that the same should apply to him. The Virginia Supreme Court did not decide this issue, and respondent did not oppose it in its motion to dismiss.

After serving sentence there was no reevaluation to determine current mental state and the Department of Behavioral Health lost custody when Richardson was convicted. Hence the Annual Review Court did not have subject matter jurisdiction.

IV PETITIONER WAS UNCONSTITUTIONALLY CHARGED WITH DEFAULTS CAUSED BY STATE DENIAL OF RIGHT TO ACCESS TO COURT.

In deciding several grounds raised, the Court determined that petitioner failed raise certain claims in a holistic fashion was due to denial of an adequate law library, duress, distress, and pain from writing. See e.g., Rompilla V. Beard, 545 U.S. 374, especially to challenge aspects of Annual Reviews, Static 99, and more.

VI CIVIL COMMITMENT INVOLVES UNCONSTITUTIONAL TREATMENT AND VIRGINIA SUPREME COURT LIMITED SCOPE OF THE WRIT.

Civil commitment is an unlawful restraint on liberties assured under human rights regulations. However, the treatment is arbitrary and capricious to: 1) keep petitioner stagnated in a penal mind of

abnormal behaviors, thoughts and feelings to learn news or rely upon abnormal coping vices, to create treatment needs and use for recommitment. In Jones v. Cunningham, 371 U.S. 236 (1963) the Court cited Rex v. Delamain, 3 Burr. 1434, 97 Eng. Reg. 913 (K.B. 1763) in showing how habeas corpus can be used for release from harm.

The Virginia Supreme Court was inconsistent when denying habeas relief to petitioners' claim that challenge civil commitment's unlawful restraints on liberties - for bad purpose. The Court determined that habeas corpus can not lie unless a favorable determination could not affect the lawfulness of his custody. Virginia Parole Bd v. Watkins, 255 Va. 419, 420-21 (1998). However, in Corall v. Johnson, 278 Va. 683, "Code § 8.01-654 extends the availability of writ of habeas corpus to prisoners who claim they are detained without lawful authority and does not limit the availability of the writ to situations in which a ruling in the petitioners favor will result in his or her immediate release.

Petitioners' orders can not be written. (Denial visits, denial right to receive visit to meet minor grandsons, taken of money, taken of properties, idleness and boredom, unlawful restraint of free exercise; deprivation of properties without due process, denial of right to travel; denial right to work, unlawful use of GTL telephone to inhibit freedom to communicate; inadequate staffing, penal treatment scheme, and more, and NOTHING favorable) Toucha v. Louisiana, 504 U.S. 71, 80 (1992) Freedom from bodily restraints.

IV. DENIAL OF DUE PROCESS TO A POST DEPRIVATION REMEDY

Petitioner states that he was systematically deprived writ of habeas corpus, and right to an appeal of the Annual Review.

By sabotaging habeas claim for a belated appeal due to attorney refusal to file an appeal, the Virginia Supreme Court set up for denying various aspects of the Annual Review by determining

habeas corpus cannot be substitute for an appeal. It was not because technically, there is no right to appeal an Annual Review. Just like there is no right to appeal a probation revocation.

Annual Reviews and civil commitment functions more like prison Segregation hearings.

Hence petitioner state he was deprived his freedom without due process, nor post deprivation redress.

VII. PETITIONER IS IN CUSTODY DUE FAILURE BY CONGRESS TO REGULATE THE JUDICIARY.

The United States Supreme Court usurped its functions and powers when in *Kansas v. Hendricks* 521 U.S. 346 (1997) and *Kansas v. Crane* 534 U.S. 407 (2002) upholding civil commitment and establishing its legitimacy. Such was judicial legislation.

Congress may not delegate to courts or any tribunal powers which are strictly and exclusively legislative. *Wayman v. Southard*, (1825) 23 U.S. 1, 10 Wheat. 1, 6 L. Ed. 253. As a result of the decision, petitioner's sentence has extended to a 25 years detention and unimaginable suffering. It has led to arbitrary procedures because states like Virginia circumvent both *Kansas* cases and punishes. Rather than Virginia Legislatures speaking first and the Supreme Court deciding the constitutionality of the Act, it seeks to evolve around this Court's rulings. Yet, its ~~disregard~~ treatment scheme is desultory to the reasonable relation, and missions to deprive petitioner of life, liberties, and properties to derogate his mind to permanent abnormalities. This has never happened before and is the federal government's tending support to Virginia's scheme of detaining petitioner.

CONCLUSION

The State is concealing its intent to use civil commitment to extend prison sentence because since 1995 the state through its custodial agencies and agents have detained me in the most hostile, anti social environments, to learn the ways of the wild.

Congress supported this when enacting the Prison Litigation Reform Act, and Anti Terrorist Effective Death Penalty Act.

The Fourth Judicial Circuit colluded to deprive me federal redress of grievances and 28 USC 2253 relief relying upon the above mentioned statutes.

It is my belief that this is a scheme to punish me for a 1992 jury acquittal of charges that a Richmond City Circuit Court judge hinted he would have convicted.

My federal claims are sent to U.S. District Court Judge Robert E. Payne who would likely go along with this because under the federal sentencing guidelines he did enhance a black defendants' sentences based upon "acquitted conduct" to life.

While Senator Kyle opined the PLRA was to curb the tide of frivolous lawsuits by prisoners, the arbitrary acts by the state toward enlarging my sentences are all relegated to the courts for me to obtain relief.

No federal or state agency will help me. Everything is put on the courts yet the courts do not want them.

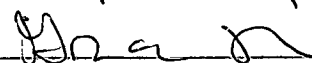
The guarantee of due process is that no person can be deprived of life, liberty or property without due process. Due process is not a rigmarole as courts treat my claims, nor a mere perfunctory.

The lower courts sits ONLY to help the state scheme, and

guide it. It inform the state of its errors to amend based upon my claims but NEVER grant me relief. Example may be, Virginia's SOPA use to make person who's being pursued for civil commitment evaluation private. However, if the 2nd opinions report was unfavorable the Commonwealth could subpoena it. I challenged my civil commitment and raised the fraudulence in the statute because how could the state know a report was unfavorable unless an expert shared it. Thus showing experts do not honor privacy and ethical duties. That portion was changed. Now Commonwealth receives all reports.

The Commonwealth anticipates my appeals, habeas corpus, and even applying to this Court. He sees I am capable of stating claims, have a fair intelligence, and if unobstructing can file claims and state violations. So, they sabotage the process, and use made up procedures. No statutory laws support so that I can not state a claim against. I am under constant duress and compelled with arbitrary procedures so that it's too arduous a task to file in the expected ways appeals, habeas corpus, writ of certiorari, etc are considered. This case expose this.

Respectfully Submitted



September 21, 2020

Gregory Richardson
Virginia Center for Behavioral Rehab
4901 E. Patrick Henry Hwy
Burkeville, Va 23002

Mr. Scott Harris. Clerk
SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON DC 20543-0001
RE: In Re Richardson No 180182

Dear Mr. Scott:

Enclosed please find the requested Questions Presented.

As to providing a copy. I am proceeding prose. Rule 12(a) requires that I only file an original petition and motion. I can not make copies. I do not have access to a copier for the appendix provided.

I did attempt to exhaust relief in U.S. District Courts. The courts have made it clear that they are for Virginia and against my litigation.

Please provide copy to Mark Herring, Attorney General of Virginia at 202 N 9th St, Richmond, Va 23219

Sincerely

Gregory Richardson

