

20-6762 ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

James W. Knipfer,
Petitioner pro se,
v.

FILED
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OFFICE OF THE CLERK
SUPREME COURT U.S.

Wisconsin Attorney General.

PETITION FOR A WRIT OF
CERTIORARI

James W. Knipfer #235937
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Stanley, Wi 54768-6500

QUESTIONS PRESENTED

I, James W. Knipfer, am a State of Wisconsin Prisoner who has been attempting to appeal my illegal convictions. The violations by Judges and Government officials keep mounting. First there was a mentally ill Judge who made numerous erroneous rulings. He died from his disease. Then there was a Public Defender/Appellate Lawyer who stole the master record from the courthouse, causing great delays. Then a series of new Judges who were very confused about jurisdiction and refused to consult the record for verification of errors I brought to their attention. Next, the Assistant A/Gs who argued theories of law that were not relevant, mistated dates, confused names and records with some one not I. Then the County D/As who refused to comply with record requests that clearly favored my position. I have endured a series of lower courts refusing to do their jobs, REVIEW MY CASE. My Constitutional Rights have been shattered. I have diligently and properly followed the rules and proceeded to Federal Court on a Writ Of Habeas Corpus. The Federal Court dismissed and denied a COA.

The QUESTIONS PRESENTED in this Petition are:

- I. CAN THERE BE A "PERPETUAL JURY", "PHANTOM JURY", "FOREVER JURY" or a "JURY on a JUDGES' WHIM", in the UNITED STATES?
- II. DID THE 7th CIRCUIT CASE LAW PRESENTED PROPERLY INVOKE JURISDICTION IN THE TRIAL COURT?
- III. WHEN THE LOWER COURTS FAIL TO REVIEW A CASE IS IT PROPER FOR THEM TO DISMISS BY DEFAULT AND BLAME THE PETITIONER FOR NOT DEVELOPING THE ISSUES?

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James W. Knipfer respectfully petitions this Supreme Court for a Writ of Certiorari to resolve the confusion and in-actions of the lower courts. The lower courts are defying 7th Circuit mandates and not addressing the core issues presented, even complaining about reading too much of the record. There simply cannot be a "Perpetual" or "Phantom" Jury in United States Law.

OPINIONS BELOW

In September of 2017, I filed a Motion To Vacate in the Columbia County Circuit Court, claiming Judicial Misconduct. The Motion was denied by Judge W. Andrew Voigt. Then in July of 2018 I filed a similar Motion, including a full explanation of why that court had Jurisdiction per 7th Circuit Case Law and mandates. That Motion was denied ARBITRARILY, by Judge Voigt. I appealed and the Court of Appeals denied to even review the issues, stating they feel they are reading too much of the record. Those circuit court Motions were 3 pages and 4 pages long! The Wisconsin Supreme Court denied any review. I then filed a timely Habeas Corpus Petition with the Western District Federal Court. Judge Barbra Crabb wrote me a letter asking questions that were clearly answered in my petition. I responded with a 3 page document and Judge Crabb dismissed my petition several days later. Judge Crabb also vehemently told me that I cannot apply for a COA, so I could appeal to the 7th Circuit. I did ask the 7th Circuit for Special Permission to proceed on appeal, on May 25th, 2020.

JURISDICTION

The Western District Court entered its decision on 5-19-2020, and demanded that I cannot apply for a Certificate of Appealability. Thus, this Petition timely invokes this Court's Jurisdiction under 28 U.S.C. §2254.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Allen v. State: Holds that once a Jury alters any verdict there is no verdict.

Coulthard v. State: A Jury was recalled 2 years later, but did not alter or change any verdicts.

Brown v. Payton: A state court unreasonably applies clearly established precedent if it identifies the correct governing legal principle but unreasonably applies that principle to the facts of the case.

Jordan v. Hepp: Standard of review (reasonableness)

Morales v. Johnson: When no state court has squarely addressed the merits of a habeas claim, review is under pre AEDPA standards.

Taylor v. Grounds: A federal court may conclude that a state court decision was based on an unreasonable determination of the facts, only if rests upon factfinding that ignores the clear and convincing weight of evidence.

Williams v. Taylor: A state courts' decision is contrary to clearly established federal law if it reaches a legal conclusion in direct conflict with a prior decision of the supreme court or reaches a different conclusion than the supreme court based on materially indistinguishable facts.

U.S.C. §2254 Unreasonable determination of the facts,
hence, no determination at all.

U.S.C. §2254 (e) Clear and convincing Standard.

Wisconsin Const: 5th, 6th, & 14th Amendments, granting basic rights to a fair procedure, right to be heard double jeopardy protections.

STATEMENT OF THE CASE

This action is derived from a 1992 Columbia County Case. The trial was held in January of 1993. There was no direct appeal because the Appointed Appellate Attorney stole the record from the courthouse. The Board of Atty Responsibility took up the matter and reinstated my appellate rights, stating "...there are numerous issues Knipfer can appeal on..." thus granting a green light to appeal, as long as I proceeded pro se. I filed a 974:06 "Habeas Corpus". The trial court denied it. The court of appeals said there was little or nothing to review because the trial court did not do its job. Petition denied but not REMANDED. The Wisconsin Supreme Court denied review. I filed a Federal habeas Corpus and it was dismissed because they said I missed the AEDPA deadline by a few days. I filed a Motion for Reconsideration and appended a copy of the court docket, showing I had a pending Motion, which stopped the AEDPA clock. The court denied and said I had to file for a Certificate of Appealability, case dismissed. Now comes contemporaneous case law and mandates from the 7th Circuit Court of Appeals, mandating that all courts must do their jobs. Piece meal litigation is forbidden. Under these latest cases, the trial court has a duty to "address the issues squarely, and rely on the record, not falsehoods presented by a party." I filed a Motion To Vacate pursuant to the case law submitted. The trial court denied that Motion believing it did not have jurisdiction. I then realized that the trial court was missing 13 years worth, of the record, therefore, unable to render a proper ruling. I filed a second Motion To Vacate. The trial court denied that Motion stating there was no new issues presented. The trial court never addressed any issues in the first Motion. In the second Motion I explained why the trial court had jurisdiction, thus that Motion was one page longer than the first Motion. Now, once again I am before this court with the same recurring problem, over a 25 year period, the lower courts are not reading the record.

I appealed and the Appellate Court complained they are reading too much of the record and denied review. I filed a Petition for Review with the Wisconsin Supreme Court and it was denied. Next I filed for Habeas Corpus relief with the Western District Court. Judge Crabb wrote me a letter asking questions that should have been quite obviously answered had she read the Petition. I responded to her letter politely and she denied my Petition. Judge Crabb went on to vehemently scold me and tell me I cannot apply for a COA, to move on the 7th Circuit (where the issues presented might have been resolved since I used 7th Circuit case law to invoke jurisdiction in the trial court.) Judge Crabb dated her denial 5-19-2020. I did file a Motion with the 7th Circuit asking for leave to proceed under Special Circumstances. I have ~~not~~ not heard back as of this writing. I now timely am Petitioning this Supreme Court for a Writ of Certiorari in hopes of resolving my 3 decades long ordeals.

REASONS FOR GRANTING THE WRIT

This Court should summarily grant relief. After almost 30 years, the lower courts made it clear , they do not want to adjudicate this case. The lower courts have chosen to use "catch phrases" instead of reading and revealing the truth. This court should be all about the truth & Manifest Injustice. There is no place in the Judicial System for GHOSTS and PHANTOMS. Dead people really cannot speak to a court. Mentally ill Judges can be corrected in a very respectful manner. I believe this case warrants serious review by this court and some very serious precedents set to guide the lower courts for this case and all others after me.

I. CAN THERE BE A "PERPETUAL JURY", "PHANTOM JURY", "FOREVER JURY" or a "JURY on a JUDGES' WHIM", in the UNITED STATES?

There are cases where a Jury was returned to the court, but these Juries did not change any verdicts. Some were re-sworn, mine was not. (See State v. Coulthard, 171 Wis. 2d 573, 492 N.W. 2d 329 Ct. App. 1992.) The case law is clear, when any Jury alters its VERDICT, the VERDICT must be disregarded. In this case the criteria was met, and the original Jury was dismissed. 5 days later, the now "PHANTOM JURY" was re-called and they altered a VERDICT, then once again, were thanked and dismissed by the Judge, thus in violation of (Allen v. State, 85 Wis. 22, 54 N.W. 999 (1893).)

The Government offered numerous explanations of why but none of them make sense or are legal or coincide with the record.

When does a Jury stop being a Jury? Can they be re-called in 10 days, a year or 20 years? Can they be spoken to while in their graves, as Judge Schultz allowed at the Trial? The very basis of our Judicial System is a Fair and Impartial Jury, as is guaranteed by the Constitution's 5th, 6th, and 14th Amendments. This case broke the System irreversibly. Now the Government claims its all okay because I received a SENTENCE REDUCTION. No where in the record does it show I received a SENTENCE REDUCTION period, let alone the "words" that I received a SENTENCE REDUCTION because Judge Schultz mistakenly recalled a non-existent Jury and let them alter their VERDICT on at least one charge. Once that PHANTOM JURY altered its VERDICT on one charge, all charges must be VACATED, per the Constitution.

I ASSERT there is no such thing as a "PHANTOM JURY" and you should too. Relief should be granted as asked for.

II. DID THE 7th CIRCUIT CASE LAW PRESENTED PROPERLY
INVOKE JURISDICTION IN THE TRIAL COURT?

I filed a MOTION TO VACATE citing Judicial Misconduct in the Trial Court in September of 2017. (See Exhibit) The Judge politely stated he did not think he had Jurisdiction and dismissed. Then in July of 2018, I filed a similar Motion. In this Motion I clearly explained why the Trial Court had Jurisdiction and I relied on 2017 7th Circuit Case Law. Those cases were right on point and clearly addressed the issues I raised: Judicial Misconduct, The Government lying, The lack of proof in the record, etc. This time the Judge made the most egregious statement. He said, "...seeing no new issues, I dismiss." This statement infers he THOUGHT he had Jurisdiction, and yet he dismissed the first Motion because THOUGHT he DID NOT have Jurisdiction. This confusion warrants relief in itself. (See Exhibit

When taken as a whole, the body of the case law, being so spot on, directed the lower courts to RELY on the RECORD, not "THE GOVERNMENT". Here, the Trial Court RELIED on DEFYING LEGAL LOGIC, even though it was right in front of him. (See Morales v. Johnson, 659 F.3d 588, 2011 U.S. App. (7th Cir.) LEXIS 19272.)

I ASSERT the Trial Court had proper Jurisdiction, and should have held a HEARING to resolve the matters, and the APPELLATE COURT should have REMANDED the case back to the Trial Court. Equally, the Wisconsin Supreme Court should have caught the error and did not. Then the Federal Western District Court totally missed the Jurisdictional ISSUE. It all equates to a irreversible violation of my Constitutional Rights to a Fair Procedure, under the 5th, 6th, and 14th Amendments. Relief should be granted as asked for.

III. WHEN THE LOWER COURTS FAIL TO REVIEW A CASE IS IT PROPER FOR THEM TO DISMISS BY DEFAULT AND BLAME THE PETITIONER FOR NOT DEVELOPING THE ISSUES?

The most recent catch phrase used by the lower courts is that "KNIPFER has not developed his issues". The truth is the lower courts have repeatedly failed to properly review the issues and make "FINDINGS OF FACTS and CONCLUSIONS OF LAW".

Thus, it is the lower courts who have not developed the issues. Now even the Federal Court relies on a catch phrase, "DEFAULT". Yet, the courts have not pointed to a particular FAULT or DEFAULT. When the lower courts fail to do their job, it disrupts the entire system. When a Litigant points out to a court, an error in the record, and that court ignores it, we have Judicial Mayhem. But when a court is SHOWN 8 times or more, where a violation or error or mistake is and again ignores it, we have a total collapse of Judicial Reliability.

I ASSERT this Supreme Court should take a special interest in this case and provide Guidance, Directives, and Sanctions so as to repair the broken system and restore my Constitutional Rights. I ASSERT I have a right to be heard and I have a right to a Reliable Judiciary per our Constitution. Relief should be granted as asked for.

CONCLUSION

I have never received a "REAL APPEAL". The government has stated that I did not submit Wisconsin case law, of course I did. The government tried to bar me under ESCALONA, but I never had a "DIRECT APPEAL" because the public defender stole the record. LOOP v. State bars ESCALONA from applying to my case, but the government doesn't want you to know that. The government chooses to ignore the true facts of the case. The government has made so many false claims, it makes me dizzy. I don't think this Court will be fooled by them, this time.

I just re-read everything I have, my briefs, the government's briefs, and the court rulings. I am more confident than ever that I have dotted my Is and crossed my Ts "as a litigant". The state and its agents have misrepresented many things in the record. I am proud that I properly cited the record and di not resort to submitting falsehoods to this Supreme Court, or any other court. I do incorporate the entire record, as I always have.

I believe this Supreme Court has the AUTHORITY & THE WISDOM to properly adjudicate my issues. This WRIT is PROPER and will produce a very PRAGMATIC REVIEW.

Respectfully submitted,

James W. Knobf -----
PRO SE
James W. Knobf
12-15-2020

I swear under penalty of perjury that the foregoing is true correct and based on my reading of the entire record, to the best of my knowledge.

Dated this 23rd day of June, 2020