20-7009

No. _____

In The

Supreme Court of the United States

Mark Rudolph Arsenio Reed, In Pro Se

Petitioner,

V

Robert Toole, Warden/Regional Director

Georgia Department of Corrections et,al.

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

PETITION FOR REHEARING/RECONSIDERATION

Mark Rudolph Arsenio Reed
GDC 1000664635
GEORGIA STATE PRISON
300 1st Avenue, South
Reidsville, GA 30453
In Pro Se

DATE: April 21, 2021

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LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all the parties to the proceeding in the court whose judgement is the subject of this petition is as follows:

The petitioner Mark R.A. Reed is the petitioner listed in the action No. 20-10802 before the Eleventh Circuit. Robert Toole is Warden / Regional Director named as respondent to in action No. 20-10802. Megan Hill and Paula K. Smith were
respondents on behalf of the state of Georgia in the habeas action No. 1:18-cv-03970-AT before the magistrate court in the United States District Court, Northern District of Georgia. They were not parties before the District Court nor the United States Court of Appeals.

20-7009
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In The
Supreme Court of the United States

Mark Rudolph Arsenio Reed, In Pro Se,
Petitioner,

v.

Robert Toole, Warden, Regional Director ., et al.,
Respondents.

Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Eleventh Circuit

PETITION FOR REHEARING/RECONSIDERATION

Pursuant to Rule 44, petitioner Mark R. A. Reed respectfully petitions this Court to reconsider petitioners petition to this court to issue a writ of certiorari to review the order of the United States Court of Appeals for the Eleventh Circuit denying a Certificate of Appealability ("COA") to review the denial of his petition for a writ of habeas corpus relief before the Northern Federal District Court of Georgia in his Georgia State criminal case.

Grounds For Rehearing /Reconsideration

Petitioner Mark Reed brings this petition for rehearing /reconsideration before this court stating the following facts:

Every person is entitled to an opportunity to be heard in a court of law upon every question involving his rights or interests, before he is affected by any judicial decision on the question. *Earle v McVeigh*, 91 US 503, 23 L Ed 398.

Mr. Reed stands alone before this court in the regards

that Mr. Reed's allegations (defenses) have never been adjudicated before the trial court, a state appellate court, the magistrate court, district court, the lower court.

Mr. Reed asserts that the evidence of the record provided in the Petitions Appendix A-J and the applicable law presented, amounts to, proves and establishes *'Legal Innocence'* on behalf of the petitioner.

Mr. Reed asserts the defense of Legal Innocence. Mr. Reed alleges distinctly that the trial court is without subject matter jurisdiction to enter and pronounce judgement of conviction in this case, that in addition, the trial court, by existing state law, does not have subject matter jurisdiction to rule upon the grounds alleged in the motion for new trial[1], to which are now the principle allegations before the federal courts under 28 U.S.C. §2254. Each court has adopted that ruling and unauthorized findings of fact.

> An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any

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[1] " A motion for new trial is not the proper method to attack the sufficiency of an indictment and does not provide a basis for the court of appeals to review the indictment". *Boswell* v. State, 114 Ga. 40, 42 (1)(1901); *Thompson* v. *State*, 58 Ga. App. 452, 453 (1938); *McKay* v. *State*, 234 Ga. App. 556, 557(14)(1998),*Taylor v. State,* 303 Ga. 583 (2018)

proceeding in any court where the validity of the judgment comes into issue. (See *Rose v. Himely* (1808) 4 Cranch 241, 2 L Ed 608; *Pennoyer v. Neff* (1877) 95 US 714, 24 L Ed 565; *Thompson* v. *Whitman* (1873) 18 Wall 457, 211 L Ed 897; *Windsor* v. McVeigh (1876) 93 US 274, 23 L Ed 914; *McDonald* v. *Mabee* (1917) 243 US 90, 37 Sct 343, 61 L Ed 608. U.S. V. *Holtzman*, 762 F.2d 720 (9th Cir. 1985)

The respondents do not oppose the material allegations. Respondents have waived opposition in the lower state courts and before this court. The only legal and qualified address in this matter from the respondents is a series of admissions stipulations placed on the record by the state prosecutor admitting on the record, to the principle allegations of Mr. Reed's. No one legally opposes Mr. Reed.

This court has held that a ruling or judgement from court with no subject matter jurisdiction cannot be of any validation or subsequent use in any court concerning the same subject and litigants, Armstrong v Manzo, 380 U.S. 545, 551, 552. And that, until that matter is properly adjudicated the issue is still open. That leaves this court in power and jurisdiction to adjudicate Mr. Reeds allegations, for the first time.

Mr. Reed has been deprived the right to be heard on the true merits of his allegations.

Mr. Reed has been deprived the right to be heard on these allegations in the state trial court, which infringed upon and foreclosed against him, diminishing his right to be heard on his claims and allegations on direct appeal.

Mr. Reed has been denied the right to counsel during a critical stage, and the availability of that effective assistance of counsel to perfect the record for appeal, (..as is for many Georgia prisoners, similarly situated, suffering this same deprivation of counsel, deprived access to the court, and violation of constitutional rights).

The state habeas court, magistrate court, district court and lower courts have not adjudicated the true merits of Mr. Reed's defenses, nor the federal questions of unconstitutional violations of Mr. Reed's rights, from the trial court throughout all post conviction proceedings.

Oral Amendment Of The Indictment Voids The Indictment , Violates 14th Amendment Due Process Of The Law

Georgia state law establishes that an indictment cannot be amended after return from the grand jury, by adding to or striking from its allegations, *Gentry v. State,* 63 Ga. App. 275 (1940), , (drawing its authority from federal law, citing *Stirone v. United States,* 361 U.S. 212), *Ingram* v. *State*, 211 Ga. App. 252, *Goldsmith* v. *State*, 58 S.E. 486 (1907) in doing so, the indictment becomes void.

After the jury had been sworn, during opening statements, the prosecutor William Clark addressed the

jury prior to the introduction of the indictment, to inform them that the date in the indictment is not correct. Further instructing the jury not to be listening for anything concerning the date in the indictment. See (Pet. App. G, doc. Pg. 63, lines 17-24). This action of the officer of the court is an oral amendment. The actions of William Clark is an 'Admission in Judicio', that serves to strike the date from the trial. The law states that as a result of this amendment the indictment is void, and that a conviction upon that indictment is illegal.

At the moment of the oral amendment the indictment, the indictment became void. The law does not give way to the fact of everything that proceed from the mouth of the prosecutor prior to that moment during the opening statements, provided enough information and evidence by which to sustain the conviction of the petitioner. For everything that extends from that moment forward throughout the trial, became immaterial by operation of law. This requires reversal. This constitutes Legal Innocence.

Mr. Reed alleges that the indictment is void. Mr. Reed doesn't challenge the face of the indictment. Mr. Reed challenges the conduct of the officer of the court, orally amending the indictment, and the condition of the

indictment as a result of his actions,.. rendering the indictment void. The examination of the face of the indictment does not reveal the violation of Mr. Reeds right to due process of the law, nor does it reflect the modification that was conducted orally which is evidenced upon the record, outside of the body of evidence.

The court cannot proceed upon the trial with the use of the date provided by the grand jury, as Mr. Clark made an admission against the states interest, for the state no longer alleges that any of the seven counts occurred on the date stated in the indictment. The state no longer alleges that it has brought forward and commenced prosecution within any statutory time period. The state no longer alleges that the criminal allegations occurred prior to the suing out of the indictment by the grand jury.

As a result of this oral admission, the state nor the indictment alleges any exceptions.

The Oral Amendment Made By Prosecutor Does Violate Petitioners 6th Amendment Right To Notice.

Mr. Reeds defense was surprised and prejudiced. The defense was handicapped by the amendment, and the states failure to give prior notice. As a result, the indictment does not state sufficient facts;

- Does not distinguish what time period, in existence,

that each independent charge alleges?

- Does state if the charges in the indictment are from the same set of operative facts?
- Does not distinguish if the charges in the indictment have various or multiple dates of occurrence?
- Does not distinguish what time period, in existence, that each independent charge alleges?
- Does not distinguish if the charges in the indictment have various or multiple dates of occurrence?
- Does not state if any of the charges are alleged to have occurred over a broad or short period of time?
- Since a date had to be proven, which offense is to be attributed to that unknown time period?
- The indictment does not allege any exceptions.
- Does not state if any of the charges are alleged to have occurred over a broad or short period of time?
- Since a date had to be proven, which offense is to be attributed to that unknown time period?
- The indictment does not allege nor show that the indictment was returned before or after the alleged criminal acts,? Or within limits of prosecution ? All are relevant questions concerning the averment of time, (day, month and year) that cannot be answered with use of any evidence or testimony adduced upon the trial.

The omission of the date cannot be supplied by intendment or implication, and the charge must be made directly, and not inferentially, or by way of recital, *United States v. Cruishank*, 92 U.S. 542, p. 558 (1875). The state must show indictment alleged date before return or conviction is illegal,

Minhinnett v. *State*, 106 Ga. 141 (1898). The amendment made by the state violates the 6th amendment of the U.S. Constitution right to notice, *United States v Cohen*, 255 U.S. 81 (1921) This circumstance requires reversal.

Petitioners Rights To Post Conviction Review And Direct Appeal Have Been Unconstitutionally Foreclosed Against Him By The Trial Court

A state defendant has a right to challenge issues of constitutional rights violations for subjects that do not require examination of the body of evidence pursuant to O.C.G.A. 17-9-61(a)-(b) Motion In Arrest.

In line with the fact that a demurer attacks the legality of an indictment, it is permissible to raise this ground after verdict by a motion in arrest of judgement even if there was no earlier objection. *Ponder v State* , 121 Ga. App. 788 (1970).

The unconstitutional amendment of the indictment did not occur prior to trial for a demurrer to be imposed. The amendment occurred upon the trial setting, during opening statements and prior to the introduction of evidence. Thereby, the only medium to challenge and present the correct allegations is by motion in arrest.

"Having granted a right of appeal to all convicted criminal defendants, the state is forbidden by due process and equal protection concern from arbitrarily excluding any party from exercising that right. *Evitts v. Lucey*, 46

U.S. 387, 393 (1985).

Indigent Defendants Are The Deprived Class

Mr. Reed has been denied that right when he was not appointed post conviction/ appellate counsel right after trial.

The motion in arrest of judgement must be filed within the same term of court as judgement. The court assumes the initial responsibility for arranging and providing appointed legal assistance for indigent defendants.

As an indigent, like so many others similarly situated, Mr. Reed after trial, was not at liberty to conduct any legal affairs relating to his conviction. The law establishes that for a criminal defendant to represent himself in a criminal case, he must first waive his right to counsel. The waiver must be on the record, and the court must determine that the waiver must be knowing and intelligent. *Faretta v. California*, 422 U.S. 806 (1975).

Mr. Reed nor any other indigent defendant has any recognizable access to the court while awaiting appointment of counsel, and without a waiver on the record.

As similarly situated in *Bound v. Smith,* 430 U.S. 817, 822... thee abuse occurred pre-filing, and its denying defendants effective and meaningful access to the courts. The states actions foreclose indigent defendants from filing a motion to arrest judgement

and rendered ineffective any state court remedy petitioner/defendants may have had.

The class that is being burdened by the deprivation of constitutional rights systematically imposed by court process or the lack thereof, are "indigent defendants" those that are at a financial disadvantage and counsel has to be appointed.

When Mr. Reed was not appointed counsel during the same term of court as conviction. Mr. Reed was permanently foreclosed from raising a void indictment allegation (*Legal Innocence*)... And any subsequent appointed counsel is also foreclosed, for those allegations cannot be introduced to the trial court for motion for new trial nor direct appeal. This violates Mr. Reed's U.S. Constitutional 6th amendment right to effective assistance of counsel on appeal, 14th amendment right to due process of the law, plus, 14th amendment right to equal protection of the law, indigent defendants are the targeted class, throughout the state of Georgia.

This conduct violates Mr. Reeds First amendment constitutional right to petition the court. The law is.. In order to pass constitutional muster, the access allowed must be more than mere formality, *Bounds v Smith*, 430 U.S. 817 at 822. The court assumes the initial responsibility for arranging and providing appointed

legal assistance for indigent defendants.

It is then the state that has violated Mr. Reeds First Amendment right to access the court. This circumstance requires reversal.

"Because the fundamental importance of assistance of counsel does not cease as the prosecutorial process moves from the trial to the appellate stage, the presumption of prejudice must extend as well to the denial of counsel on appeal, *Penson v. Ohio*, 488 U.S. 75, 88 (1988)."

The Sixth And Fourteenth Amendments Guarantee The Effective Assistance Of Counsel Throughout Critical Stage, This Has Been Violated By The State Trial Court

Although the sentencing court was made aware of the intent to pursue post conviction review, like so many other indigent defendants similarly situated, in Mr. Reed's case he was sentenced on October 11, 2011, however, post conviction appellate counsel Gerard Kleinrock, on January 18, 2012, sent Mr. Reed notice of his being appointed as counsel for appeal. (Pet. App. H-1) Mr. Kleinrock works for the Public Defender's Office, 'whom represented the states witness in the same case. Mr. Reed wrote a letter to the court and explained the conflict of interest. Mrs. Teri Smith, was not appointed until August 23, 2012, both appointments well after the term of court as judgement rendered.(Pet. App. H-2)

This manner of appointing counsel violates the U.S. Const. Amend. XIV and VI because it does not afford due process of the law by untimely appointing post conviction/ appellate counsel, nor does it provide equal protection to indigent defendants such as Mr. Reed, when those outside of the indigent class have no circumstances of being restricted by the same manner of court operations that does impede and restrict access to properly petitioning the courts.

The term of court complained of in Mr. Reed's case ended the first Monday of November 2011, as set forth by the Georgia legislature. The law constitutes the motion in arrest judgement as a critical stage.

At the close of the business day on the last day of the term court, which was the first Monday of November, 2011, in Mr. Reed's case, like so many other indigent defendants suffering similar circumstances, Mr. Reed is disadvantaged, as other indigent defendants have been and are being disadvantaged by a court procedure that deprives him of the effective assistance of counsel by suppressing the availability of filing a motion in arrest (O.C.G.A.17-9-61) through limiting the availability of appellate counsel. This is "Structural Error" by which the law provides one outcome. This circumstance requires

reversal.

A Void Order Is Void Ab Initio And Does Not Have To Be Declared Void By A Judge.

The lower courts, district courts, magistrates R&R and the state habeas courts finding relies upon the same state courts factual findings, unsupported by any evidence, unsupported by any applicable law, and unauthorized in accordance with state and federal law.

Mr. Reed, untrained in law, did file a motion for new trial, in the trial court, including the following enumerations of error: fatal variance; statute of limitations; constructive amendment to the indictment; impermissible amendment to the indictment; courts actions restricted defendant access to the court to file motion in arrest etc. However, Georgia state law dictates that the motion for new trial is not an appropriate vehicle by which to challenge the aforementioned claims of error. That the court under a motion for new trial does not have the subject matter jurisdiction by which to adjudicate those claims, *State v Graves,* 322 Ga. App. 798 (hn. (1)-(2), fn. 3-4) (2013).

Instead of the trial court dismissing those claims for being filed in the wrong court, for the trial court not having the authority to review those claims in a motion or

new trial, the court elected to draft an 'order' appearing to have adjudicated the merits of those claims, (see Order denying 'Motion for New Trial Pet. App. F.) Mr. Reed contends as the law demonstrates, the ruling of that court is without jurisdiction.

Mr. Reed did file the same enumerations of error, in addition alleging constitutional violations, before the state supreme court on direct appeal. Instead of that appellate court following the law and dismissing those enumerations, that court also elected to fashion a final order, appearing to have adjudicated those same enumerations of error, (see Final Order denying appeal Pet. App. D-2). In holding, the state law establishes:

A motion for new trial is not the proper method to attack the sufficiency of an indictment and does not provide a basis for the court of appeals to review the indictment". *Boswell* v. State, 114 Ga. 40, 42 (1)(1901); *Thompson* v. *State*, 58 Ga. App. 452, 453 (1938); *McKay* v. *State*, 234 Ga. App. 556, 557(14)(1998)... This issue, along with the other aforementioned,.. are debatable among jurist.

> When a final judgment "carr[ies] the evidence of its own infirmity," the Court may consider the record and the pleadings in determining whether the judgment is void. A void order is void ab initio and does not have to be declared void by a judge. The law is established by this court in *Valley v. Northern Fire & Marine Ins. Co.*,

254 U.S. 348, (1920). Pursuant to the Valley court decision, a void order does not have to be reversed by any court to be a void order. Courts have also held that, since a void order is not a final order, but is in effect no order at all, it cannot even be appealed. Courts have held that a void decision is not in essence a decision at all, and never becomes final. Consistent with this holding, in 1991, this Court stated that, "Since such jurisdictional defect deprives not only the initial court but also the appellate court of its power over the case or controversy, to permit the appellate court to ignore it. ...[Would be an] unlawful action by the appellate court itself." *Freytag v. Commissioner*, 501 U.S. 868 (1991), *United States v Walker,* 109 U.S. 258 (1983). Following the same principle, it would be an unlawful action for a court to rely on an order issued by a judge who did not have subject-matter jurisdiction and therefore the order he issued was Void Ab Initio.

In accordance with he AEDPA provisions and the holdings of this court, a writ of Habeas corpus should have issued from the magistrate court, a COA should have issued from the district court and lower court. Cronic dictates that the circumstances evidenced by the Appendix show that Mr. Reed is entitled to a reversal.

Special Prayer For Relief

The magistrate court, district court and lower court have not thoroughly investigated the true merits of Mr. Reeds petitions, and have not applied the law as this court provides. The rulings of each state court and all the lower federal courts, could qualify Mr. Reed for at minimum, a thorough review from this court, if following the basic guide of the rules of court rule 10 (a)-(b)-(c). Each ruling is clearly wrong, and does not follow any recognized standards of review.

Adopting the ruling of a court with clearly no subject matter jurisdiction, is a clear and bold departure from every qualified standard of law.

The decisions of the aforementioned courts are in direct conflict with the precedent handed down from this court.

The decisions of the highest state court is in direct conflict with any other state supreme court on the subject presented before the court.

The rulings and conduct of the lower reviewing courts show a clear flagrant departure from the accepted and usual course of judicial proceedings.

The rulings and determinations made by the lower court of appeals is completely in conflict with every other federal court of appeals. A void judgment is one which,

from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree. Judgment shown by evidence to be invalid for want of jurisdiction is a void judgment or at all events has all attributes of a void judgment.

The rulings from the lower courts and state courts are an unconstitutional injustice.

The Petitioner in this matter before this court is earnestly seeking a qualified review of all of the provable 1st Amendment, 6th amendment, and 14th amendment constitutional violations.

The allegations in this petitioning of this court have not been adjudicated. The petitioner is seeking from this court at minimum, a Certificate of Appealability. There is enough that has been disregarded by the previous courts, to qualify the petitioner for reversal. There is no qualified opposition from the respondents, the lower federal courts, nor the sate habeas court.

Petitioner does assert before this court, the defense of Legal Innocence.

This case has the right format by which to make a binding ruling to address the departure from the AEDPA standards that determine the manner of review for cases

that come before the magistrate courts. Although some circuits have arrived at accepting any ruling from a state court as an adjudication on the merits, by which federal courts defer to those state court rulings, which in many cases never reaching the merits or any of the substantial details of the pleadings, .. if it is the adoption of that same standard by the Eleventh Circuit, then in this matter before the court there is n insurmountable amount of law that negates that application as being in uniform with the AEDPA provision §2254 (d)(1)-(2). To take a ruling no matter how bizarre, how inappropriate or lacking in specificity , and fashion a denial based upon those inadequate findings and reasoning's, or even adopt the same, in contravention of statutes and precedent that instructs otherwise, demonstrates an open disregard for the law. That most certainly does not define "adjudication on the merits"

'Constitutional Guarantee' is promulgated throughout law in rulings, commentary, books and other forms of illustrations, lectures.. However, there cannot logically be any constitutional guarantees in law, if no one applies and strictly enforces [t]hat of which is stated as a guarantee for the citizens under the U.S. constitution. If constitutional guarantee is not, without discrimination, available to all, then those guarantees are only marginal.

Georgia defendants are met with a pressing situation where their defenses are not being heard in the state courts. Defenses against the indictments.

Demurrers are available to challenge what is readily apparent upon the face of the indictment, and before trial. However, changes and alterations made upon the trial are challenged in a motion in arrest after judgment.

The problem that goes along with having a constitutional violation exist or occur during the trial arena, is not having counsel to introduce those violations before the appropriate court setting. Once an indigent defendant is sentenced, if that defendant intends to pursue post conviction relief or an appeal, then that defendant is further awaiting re-appointment of appellate counsel.

Appellate counsel is appointed after sentencing anywhere from (4) months, to maybe (2) years. By the time of appointment, defendant is forever foreclosed of presenting those violations, with the meaningful help of trained counsel. At the trial and appellate stage the defendant has his hands tied, not being able to make challenges concerning his or her conviction. For at the trial and appeal stage a defendant is required by law to make a waiver of counsel on the record. However, the defendant is not scheduled to re-appear back in the court

arena without the filing of an action by counsel.

The option to be able to challenge and present certain defenses expires as the term of court expires on the last day of that same term, the close of the business day. At that moment additional constitutional violations arise. A defendant is now faced with a first amendment claim for not being able to access the court, .. without counsel; a sixth amendment claim of deprivation of effective assistance of counsel; (2) fourteenth amendment claims for not being provided due process of the law for not having access o the court nor being timely appointed counsel, and as an indigent, not being afforded equal protection of he law. Although subsequent habeas petitions can be later filed, however, this initial constitutional violation is not dismissed as though it didn't happen. The petitioner characterizes it as systematic, because it keeps reoccurring in common.

This court has the evidence of how the state of Georgia views the importance of this circumstance, by an examination of this case in whole. This case reflects the complication with those others that are similarly situated, ..that their claims in the state courts are met with the folding of arms.. It take the overseeing power of this court to bring about change and enforce that of which is guaranteed.

Rule 10. Considerations Governing Review on Certiorari

Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers: (a)-

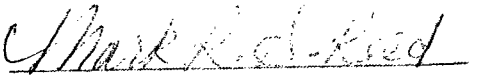
a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power; (b) -a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals; (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

CONCLUSION

For the foregoing reasons, Petitioner Mark R.A. Reed respectfully request this court to reconsider its decision entered on March 22, 2021, that this court grant certiorari to the United State Court of appeals for the Eleventh Circuit, vacating the Eleventh Circuits judgement, and remand with instructions for the lower court to issue a Certificate of Appealability.

Mark R. A. Reed
Georgia State Prison
GDC 1000664635
300 1st Avenue , South
Reidsville, Georgia 30453

Dated: April 21, 2021



(Signature)

APPENDIX. A

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves a state criminal defendants constitutional rights under the First, Sixth, and Fourteenth Amendments, and is governed by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), codified in relevant part at 28 U.S.C. § 2254, 28 U.S.C. §2253

The First Amendment to the United States Constitution provides in pertinent part the following:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, to petition the Government for a redress of grievances.

U.S. const.amend. I

The Sixth Amendment to the United States Constitution provides:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the

nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

U.S. Const. Amend. VI

The Fourteenth Amendment to the United States Constitution provides:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const.Amend. XIV
28 U.S.C. § 2253 provides, in pertinent part:

(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

> (A)the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court

* * *
(2) A certificate of appealability may issue under paragraph (1)
only if the applicant has made a substantial showing of the denial of a constitutional right.

28 U.S.C. §2254

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgement of State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claims-

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts....

APPENDIX A-1-

Order of the United States Supreme Court
denying cert review March 22, 2021