

No. 20-7151

Supreme Court, U.S.

FILED

OCT 22 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Hamid Michael Hejazi — PETITIONER
(Your Name)

vs.
Clifton Harrold, Lane
County Sheriff — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Ninth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Hamid Michael Hejazi
(Your Name)
Inmate ID # 3925882
Lane County Adult Corrections
101 West 5th Avenue
(Address)

Eugene, OR 97401-2695
(City, State, Zip Code)

None
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- 1) Did the U.S. Court of Appeals for the Ninth Circuit err when it denied the certificate of appealability whereas there were in-fact multiple denials/ violations of Constitutional rights issues set before the District Court, where a jurist of reason would find it debatable whether the district court was correct in its procedural ruling, including ^{freedom from} cruel and unusual punishment, right to effective counsel, denial of reasonable bail, due process, and speedy trial -- and all these rights had been violated, and were being violated, when the original petition for writ *Habeas Corpus* was filed, and as amended -- and the state court up until that time had ignored petitioner such that no appeal to the state's appellate court could be made?
- 2) Did the district court err when it dismissed petitioner's *Habeas Corpus* action on the basis of the requirement of exhaustion and so the action being correctly sought, on the basis of the justification tendered by petitioner, "that the state court had ignored their initial petition" not being credible, whereas 28 U.S.C. § 2254(B)(2) allows for the granting of writ when the state's *Habeas Corpus* procedures have been rendered ineffective, which should carry over into § 2241 cases, and under case law federal intervention is justified under "extraordinary circumstances" *Younger v. Harris*, 401 U.S. 37 (1971), and before the District Court there was no issue of minimal delay and Petitioner not giving the state court a meaningful opportunity to address their claims, where *Habeas Corpus* was not even going to be considered by them?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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

RELATED CASES

- Hamid Michael Hejazi v. Clifton Harrold, No. 6:19-cv-01844-HZ, U.S. District Court for the District of Oregon. Order to Dismiss entered on January 12, 2020.
- Hamid Michael Hejazi v. Clifton Harrold, Lane County Sheriff, No. 20-35104, U.S. Court of Appeals for the Ninth Circuit. Order denying Certificate of Appealability entered on August 6, 2020.
 - as well as Order denying reconsideration entered on September 15, 2020.

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APPENDIX A Decision of the U.S. Court of Appeals

APPENDIX B Decision of the U.S. District Court

APPENDIX C Decision of the U.S. Court of Appeals denying
Reconsideration

APPENDIX D (No decision of the State Court in the Habeas
Corpus case exists as the state's
procedures were rendered ineffective
--as already discussed.)

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Younger v. Harris, 401 U.S. 37 (1971) 5

Slack v. McDaniel, 529 U.S. 473, 484 (2000) 6

STATUTES AND RULES

28 U.S.C. § 2254 (B)(II) 5

28 U.S.C. § 2241 6

U.S. Constitution, Amendments 4/5

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

1.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 6, 2020.

**

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

** A motion for reconsideration was denied by the U.S. Court of Appeals on September 15, 2020.

For cases from **state courts**:

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

2.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Verbatim laws unavailable to petitioner in-custody; a brief statement of application provided in-place.

- 1) Provided that review is limited to issues in the Certificate of appealability, and the Certificate was denied, regardless of multiple constitutional issues being at stake and having been violated / and were being violated when the Habeas Corpus action was filed in U.S. District Court, thus the issue on appeal is properly procedural. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).
- 2) Whereas the state ignored Petitioner and the State's Habeas Corpus procedures had been rendered ineffective, thus extraordinary circumstances had arisen, empowering the federal court to intervene. *Younger v. Harris*, 401 U.S. 37 (1971).
- 3) Issues of constitutional rights for defendants, the accused in Criminal prosecutions, comes up in this case, including right to freedom from cruel and unusual punishment, right to effective counsel, denial of reasonable bail, due process, and speedy trial.

• Each may be found in Appendices A and B.

STATEMENT OF THE CASE

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Petitioner filed Petition for writ Habeas Corpus on Nov. 15, 2020, amending this on January 2, 2020, dismissed without prejudice and Certificate of Appealability was declined to be issued on January 12, 2020, on procedural deficiency of the action comming before exhaustion of Petitioner's claims, by presenting them first to the state's highest court before merits are considered, even though the state filed writ Habeas Corpus petition, the Petitioner argued, had been ignored, though duly filed, without valid consideration, barring appeal, and where the appellate and Supreme courts of the state had ignored Petitioner, Petitioner's assertion of complete exhaustion was deemed by the District Court not to be credible--on the grounds that in the time frame between when Petitioner learned that trial might not take place, Oct. 14, 2020, and when the action was filed in Fed. District Court, Nov. 15, 2020, could not have given the Oregon Court System a meaningful opportunity to address their claims, at any level; and so Petitioner's claims were deemed unexhausted for Habeas Corpus review--also, extraordinary circumstances' empowering federal court intervention was deemed unmet, and the "minimal delay" Petitioner was experiencing (as to speedy trial) was attributed to Petitioner's attorney's desire to have Petitioner's competency evaluated. The District Court noted that while Petitioner complained of various rulings by the Lane County Circuit Court, principally they took issue with the court's failure to comply with their speedy trial rights--overlooking and barring other constitutional rights violations complained of, including freedom from cruel and unusual punishment, right to effective counsel, reasonable bail, and due process.

The Court of Appeals declined to issue a certificate of Appealability on the grounds of Petitioner not showing the District Court's decision to be debatable to a jurist of reason.

REASONS FOR GRANTING THE PETITION

This court must recognize how the District Court overlooked and disregarded both the constitutional rights violations complained of by petitioners, including freedom from cruel and unusual punishment, access to counsel, reasonable bail, and due process, only considering Speedy trial (as a means to establish why the exhaustion of state court review was both not meaningfully given, and why the petitioner's assertions of exhaustion due to being ignored and thereby appeal being ~~barred~~ was not credible) but also the court overlooks both statutory authority, allowing for the granting of writ Habeas Corpus where the state Habeas Corpus procedures have been rendered ineffective (28 U.S.C. § 2254(B)(II)), as well as case law, empowering the federal court to intervene in "extraordinary circumstances", in *Younger v. Harris*, 401 U.S. 37 (1971), blatantly met when the ^{state} Court would file but not hear or render any decision on Habeas Corpus -- which by all accounts is a "bloody death trap" for it forces the abused to undergo horrible tortures with no recourse, or, as the law would have it, find themselves in a time of civil-unrest, or civil war, where Habeas Corpus, a vestige of old English law, been suspended, also a terrible thing -- and so naturally of course federal recourse and redress was rightly sought and is of grave national importance, a major rights issue, and not one to be trifled with as the lower court did when they go on in this case to create a rouse, putting off the issue of petitioner's rights as that of merely a "minimum delay", like nobody would otherwise object, like Habeas Corpus being blatantly refused to be considered, on so many rights grounds, was just an issue of being more patient, while the procedures were rendered ineffective

--and 28 U.S.C. § 2241 should also be allowed where the State's Habeas Corpus procedures were being rendered ineffective, which is itself a very extraordinary circumstance. Fitness to proceed competency evaluations are no substitute for Habeas Corpus.

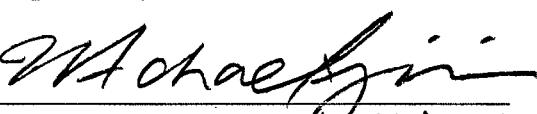
The Court of Appeals simply overlooked all of this as "undebatable" (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)), which is extremely problematic for the reasons just articulated.

This was a special case setting forth unique problems, and so summary dismissal was unjustified, or at the least, the lower court needed to say how or "greater patience" would have resulted in the State Court becoming procedurally effective again-- or else the dismissal was wrong, a very broad rights issue.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Hamid Michael Hlejazi
Date: October 22, 2020

6.

