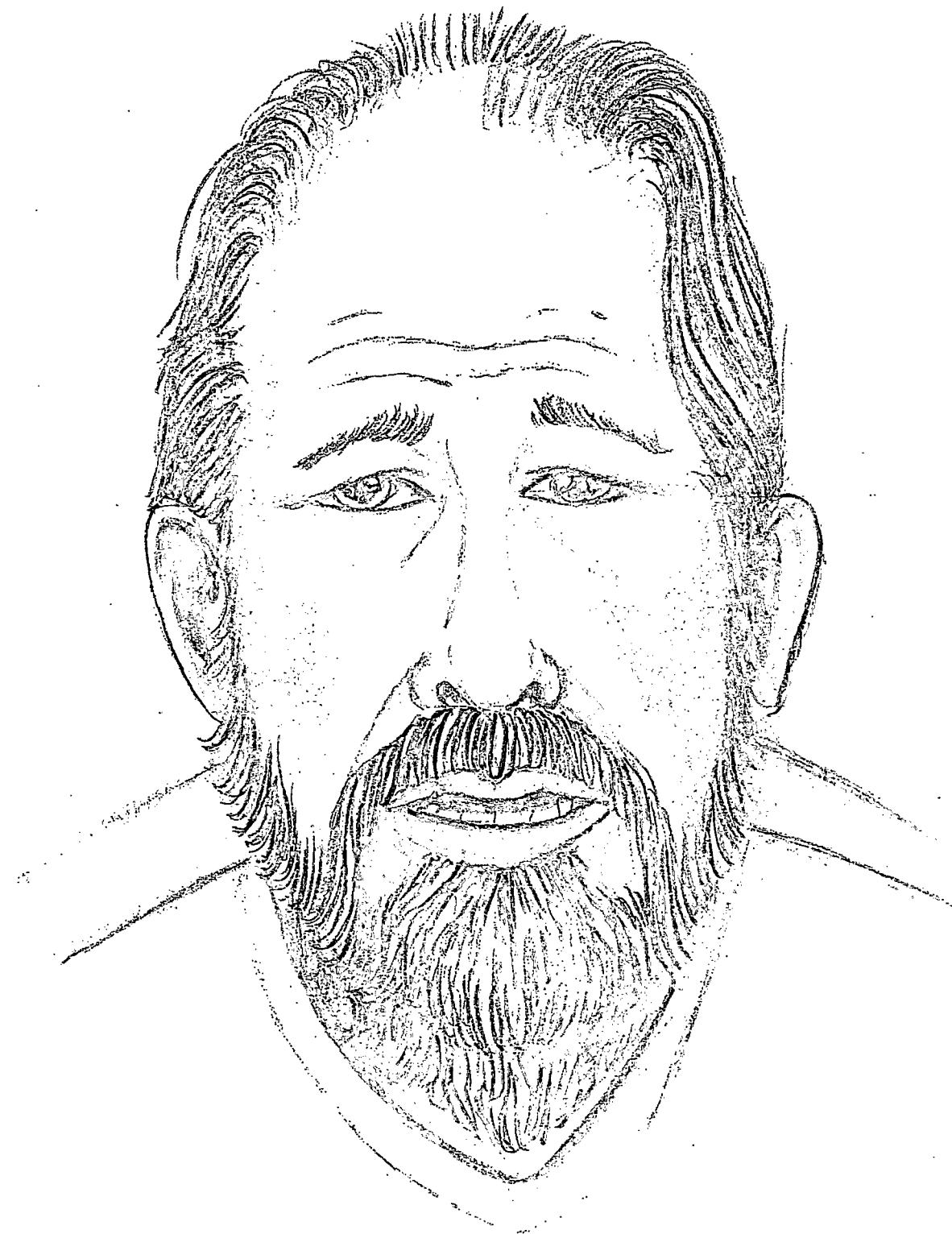


RECTED COPY

APPENDICES - Cover Sheet



United States Court of Appeals
for the Fifth Circuit



No. 20-60878

A True Copy
Certified order issued Nov 25, 2020

IN RE: JOHN PEYTON ALEXANDER, II,

Judy W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit
Movant.

Motion for an order authorizing
the United States District Court for the
Southern District of Mississippi to consider
a successive 28 U.S.C. § 2254 application

Before DAVIS, HAYNES, and HIGGINSON, *Circuit Judges*.

PER CURIAM:

John Peyton Alexander, II, Mississippi prisoner # 30021, has moved for authorization to file a successive 28 U.S.C. § 2254 application to challenge the sentence imposed for his conviction of murder. He contends that his sentence has expired. Alexander argues that he is serving a non-life sentence in light of a 1979 executive order that reduced his sentence and that, under the earned-time-allowance law in effect at the time of his conviction, he has earned enough time credits to be released. He also maintains that applying the version of the earned-time-allowance law that became effective after his conviction violates the Ex Post Facto Clause. Alexander contends that his proposed application is not successive because, when he asserted the

Appendix A-1

No. 20-60878

same claims in a prior motion for authorization, this court suggested that the motion should be denied as unnecessary.¹

This court may authorize the filing of a successive § 2254 application if the prisoner makes a *prima facie* showing that (1) his claims rely on a new and previously unavailable rule of constitutional law that was made retroactive to cases on collateral review by the Supreme Court; or (2) the factual predicate for the claim could not have been previously discovered through the exercise of due diligence, and the facts underlying the claim, if proven, would establish by clear and convincing evidence that, but for constitutional error, no reasonable trier would not have found the prisoner guilty of the underlying crime. 28 U.S.C. § 2244(b)(2), (b)(3)(C).

Alexander has not made the required showing to obtain authorization to file a successive § 2254 application. *See* § 2244(b)(2), (b)(3)(C). To the extent he seeks *en banc* review of the denials of his previous motions for authorization, such relief is unavailable. *See* § 2244(b)(3)(E). We reiterate that, contrary to Alexander's mistaken belief, this court did not previously hold that he could file a successive § 2254 application presenting the instant challenges to this sentence. *In re Alexander*, No. 19-60562 (5th Cir. Dec. 18, 2019) (unpublished). Given that this motion for leave is duplicative of his previous two unsuccessful motions, Alexander is again warned that the further filing of repetitive and frivolous motions in this court may result in the imposition of sanctions, including dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction.

¹ Alexander misunderstands the order's notation about Judge Higginson's view as the ruling of the court; in any event, the majority of the court did not join Judge Higginson, accordingly, his determination is not controlling.

No. 20-60878

Thus, IT IS ORDERED that the motion for authorization and all other outstanding requests for relief are DENIED, and a SANCTION WARNING IS ISSUED.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

JOHN PEYTON ALEXANDER, II, # 30021

PETITIONER

VERSUS

CIVIL ACTION NO. 3:19cv398-CWR

PELICIA HALL

RESPONDENT

ORDER DENYING MOTION TO AMEND

BEFORE THE COURT is pro se Petitioner John Peyton Alexander, II's Motion for Harmony Intervention [14], which the Court construes as a motion to amend. Alexander is incarcerated with the Mississippi Department of Corrections. On July 23, 2019, the Court transferred this case to the Fifth Circuit Court of Appeals. On December 18, the Fifth Circuit denied Alexander leave to pursue this successive habeas action. On March 10, 2020, he filed the instant motion, asking for permission to file an amended petition in this case. The Court has considered Petitioner's submission and the relevant legal authority.

The motion to amend is denied. This case was transferred to the Fifth Circuit, and it denied Petitioner leave to proceed with this action. The case is therefore closed.

IT IS THEREFORE ORDERED AND ADJUDGED that pro se Petitioner John Peyton Alexander, II's Motion for Harmony Intervention [14], which the Court construes as a motion to amend, should be, and is hereby, **DENIED**.

SO ORDERED AND ADJUDGED, this the 20th day of March, 2020.

s/ Carlton W. Reeves

UNITED STATES DISTRICT JUDGE

APPENDIX A-4

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-60562



In re: JOHN PEYTON ALEXANDER, II,

A True Copy
Certified order issued Dec 18, 2019

Movant.

Tyke W. Guyce
Clerk, U.S. Court of Appeals, Fifth Circuit

Motion for an order authorizing
the United States District Court for the
Southern District of Mississippi to consider
a successive 28 U.S.C. § 2254 application

Before JONES, HIGGINSON, and OLDHAM, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the movant's motion for authorization to file a successive habeas corpus petition is DENIED.

IT IS FURTHER ORDERED that the movant's motion for certification of constitutional question under sub sect 2403 and transfer to the U.S. Supreme Court is DENIED.

IT IS FURTHER ORDERED that the movant's motion for ruling on motion for certification of constitutional question under sub sect 2403 and transfer to the U.S. Supreme Court is DENIED AS MOOT.

APPENDIX A-5

Judge Higginson would order that the motion for authorization should be denied as unnecessary. *See James v. Walsh*, 308 F.3d 162, 168 (2d Cir. 2002).

APPENDIX A-6

FILED

OCT 03 2017

Serial: 215134

IN THE SUPREME COURT OF MISSISSIPPI

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

No. 2014-M-01740

**JOHN PEYTON ALEXANDER, II A/K/A
JOHN PEYTON ALEXANDER, II**

Petitioner

v.

STATE OF MISSISSIPPI

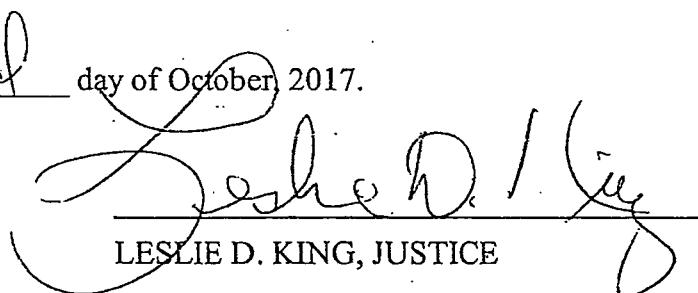
Respondent

ORDER

This matter is before the undersigned Justice on the Petition for a Rehearing filed pro se by Petitioner. By order dated August 30, 2017, Petitioner's Petition for Writ of Habeas Corpus was denied by a panel of this Court. Petitioner asks for reconsideration of this decision. After due consideration, the undersigned Justice finds that the Petition for a Rehearing is not well taken and should be denied. M.R.A.P. 27(h).

IT IS THEREFORE ORDERED that the Petition for a Rehearing filed pro se by Petitioner is denied.

SO ORDERED, this the 3rd day of October 2017.


LESLIE D. KING, JUSTICE

APPENDIX B-7

THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF
HINDS COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

CAUSE NO. 0-261

VS

James Alexander II

JURY VERDICT AND SENTENCING OF THE DEFENDANT BY THE COURT

Now comes the District Attorney who prosecuted for and on
behalf of the State of Mississippi and the Defendant, James
Alexander II, in his own proper person, in custody
and by counsel, being called to answer a charge of

murder, being arraigned upon the charge in the
indictment duly entered a plea of Not Guilty thereto.
Thereupon came a jury of W. Paul A. Purvis and
other good and lawful citizens, who being duly empanelled,
sworn and charged to well and truly try the issue joined and a
true verdict to render according to the law and the evidence
bearing all the evidence and arguments of counsel, and
upon the instructions of the Court, retired and presently
and open court the following verdict, to wit:

Verdict of the Jury that the defendant is guilty as charged

wherefore ordered and adjudged that the Defendant,

James Alexander II, for such his crime of

murder, to which he has been found

guilty charged, be and hereby is sentenced to serve a term

of 20 years in the Mississippi Penitentiary

SO ORDERED AND ADJUDGED is this the 7 day of May

Michael Moore
CIRCUIT JUDGE

1707
Appendix C-8

Mississippi
Executive Department
Jackson

EXECUTIVE ORDER NO. 217

WHEREAS, the Superintendent of the Mississippi State Penitentiary is authorized and empowered to assign inmates of the Penitentiary to duty at the Governor's Mansion; and

WHEREAS, from time to time the Superintendent does assign certain inmates to perform duty at the Governor's Mansion; and

WHEREAS, the State's policy therefor is to encourage rehabilitation and a sense of public responsibility on the part of inmates, and a furtherance of said policy is accomplished through such duty assignments; and

WHEREAS, those inmates who satisfactorily perform and who have heretofore satisfactorily performed the aforesaid duty should be compensated, and the best way to compensate them therefor is to grant a commutation and reduction of sentence commensurate with the work performed by them:

NOW, THEREFORE, I, Cliff Finch, Governor of the State of Mississippi, pursuant to the authority vested in me by Article 5, Section 124, Mississippi Constitution of 1890, do hereby order as follows:

Any inmate of Mississippi State Penitentiary assigned by the Superintendent thereof to duty at the Governor's Mansion who has satisfactorily performed work thereat, as reflected by the work day schedule maintained by the Superintendent, is hereby granted thirty (30) days of earned time for the first full day he satisfactorily completed on said assignment and ten (10) days earned time for each subsequent day he completed satisfactorily on said assignment, and such allowance of earned time shall reduce the statutory time required for said inmate to become eligible for consideration for parole.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE at the Capitol in the City of Jackson this 16th day of March in the year of our Lord nineteen hundred and seventy-six, and of the Independence of the United States of America the two hundredth.


Cliff Finch
GOVERNOR

BY THE GOVERNOR:


Nester Badine
SECRETARY OF STATE

Appendix C-9

Mississippi Department of Corrections

Inmate Time Sheet

Offender: ALEXANDER, JOHN P 30021

Housing: EAST MISS. CCF, EMCF UNIT 1, POD C, BED 102L

Computation Date: 10/02/2015 09:54

Date Printed: 11/14/2019 07:06

Sentences:

DATE	CAUSE/COUNT	OFFENSE	COMMITTED	COUNTY	SERVE	HOUSE	PROBATION HAB	DEFERRED	OVERRIDE	CONCURRENT	CONSECUTIVE
05/07/76	0-261/1	0999:HOMICIDE/MURDER	10/04/75	Hinds	LIFE			N			

First Time Offender

Pre Trial/Pre Sentence Jail Time:

FROM	TO	DAYS
10/04/75	05/07/76	216

Total Jail Time: 216

Override:

Computation Details:

DATE	DESCRIPTION
05/07/76	0-261/1 0999:HOMICIDE/MURDER LIFE
04/03/79	Executive Order 04/03/79 : 30D #217
12/20/79	Executive Order 12/20/79 : 30D #217
<u>08/27/84</u>	<u>Released On Parole 08/27/84</u>
09/23/86	Return From Parole 09/23/86 : 757D

Summary:

Begin Date	House Arrest Date	Parole Date	ERS Date	Tentative Discharge	Max Discharge	End Date
10/04/1975		<u>10/01/1985</u>				
Total Term To Serve: LIFE		Total Earned Time: 0D		Earned Time Lost: 0D	Total MET Earned: 0D	Total Trusty Time Earned: 0D

Comments:

APPENDIX C-10

Article I Section 9 Clause 2
U.S. CONSTITUTION

The Privilege of THE Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

APPENDIX D-11

Article I Section 10 Clause 1
U.S. CONSTITUTION

No State shall... pass any Bill of Attainder,
ex post facto law, or law impairing the obligation
of Contracts, or grant any Title of Nobility.

Appendix D-12

Amendment XIV SECTION 1
U. S. CONSTITUTION

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.

Cornell Law School

U.S. Code > Title 28 > Part VI > Chapter 153 > § 2241

28 U.S. Code § 2241 - Power to grant writ

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof, and any circuit judge may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or

(3) He is in custody in violation of the Constitution or laws or treaties of the United States; or

(4) He, being a citizen of a foreign state and domiciled therein is in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations; or

(5) It is necessary to bring him into court to testify or for trial.

(d) Where an application for a writ of habeas corpus is made by a person in custody under the judgment and sentence of a State court of a State which contains two or more Federal judicial districts, the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the State court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

(e)

(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer,

Appendix E-14

treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

(June 25, 1948, ch. 646, 62 Stat. 964; May 24, 1949, ch. 139, § 112, 63 Stat. 105; Pub. L. 89-590, Sept. 19, 1966, 80 Stat. 811; Pub. L. 109-148, div. A, title X, § 1005(e)(1), Dec. 30, 2005, 119 Stat. 2741; Pub. L. 109-163, div. A, title XIV, § 1405(e)(1), Jan. 6, 2006, 119 Stat. 3477; Pub. L. 109-366, § 7(a), Oct. 17, 2006, 120 Stat. 2635; Pub. L. 110-181, div. A, title X, § 1063(f), Jan. 28, 2008, 122 Stat. 323.)

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APPENDIX E-15

28 USCS § 2403

Current through PL 115-230, approved 8/2/18

United States Code Service - Titles 1 through 54 > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE > PART VI. PARTICULAR PROCEEDINGS > CHAPTER 161. UNITED STATES AS PARTY GENERALLY

§ 2403. Intervention by United States or a State; constitutional question

(a) In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

(b) In any action, suit, or proceeding in a court of the United States to which a State or any agency, officer, or employee thereof is not a party, wherein the constitutionality of any statute of that State affecting the public interest is drawn in question, the court shall certify such fact to the attorney general of the State, and shall permit the State to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The State shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

History

(June 25, 1948, ch 646, 62 Stat. 971; Aug. 12, 1976, P.L. 94-381, § 5, 90 Stat. 1120.)

Prior law and revision:

Based on title 28, U.S.C., 1940 ed., § 401 (Aug. 24, 1937, ch 754, § 1, 50 Stat. 751).

Word "action" was added before "suit or proceeding", in view of Rule 2 of the Federal Rules of Civil Procedure.

Since this section applies to all Federal courts, the word "suit" was not required to be deleted by such rule.

"Court of the United States" is defined in section 451 of this title. Direct appeal from decisions invalidating Acts of Congress is provided by section 1252 of this title.

Changes were made in phraseology.

UNITED STATES CODE SERVICE

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End of Document

Appendix E-16

28 USCS § 2244

Current through PL 115-338, approved 12/20/18, with a gap of 115-334.

United States Code Service - Titles 1 through 54 > TITLE 28. JUDICIARY AND JUDICIAL PROCEDURE > PART VI. PARTICULAR PROCEEDINGS > CHAPTER 153. HABEAS CORPUS

§ 2244. Finality of determination

(a) No circuit or district judge shall be required to entertain an application for a writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of a court of the United States if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus, except as provided in section 2255 [28 USCS § 2255].

(b)

(1) A claim presented in a second or successive habeas corpus application under section 2254 [28 USCS § 2254] that was presented in a prior application shall be dismissed.

(2) A claim presented in a second or successive habeas corpus application under section 2254 [28 USCS § 2254] that was not presented in a prior application shall be dismissed unless—

(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)

(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a *prima facie* showing that the application satisfies the requirements of this subsection.

(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.

Appendix E-17

(c) In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, a prior judgment of the Supreme Court of the United States on an appeal or review by a writ of certiorari at the instance of the prisoner of the decision of such State court, shall be conclusive as to all issues of fact or law with respect to an asserted denial of a Federal right which constitutes ground for discharge in a habeas corpus proceeding, actually adjudicated by the Supreme Court therein, unless the applicant for the writ of habeas corpus shall plead and the court shall find the existence of a material and controlling fact which did not appear in the record of the proceeding in the Supreme Court and the court shall further find that the applicant for the writ of habeas corpus could not have caused such fact to appear in such record by the exercise of reasonable diligence.

(d)(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

History

(June 25, 1948, ch 646, 62 Stat. 965; Nov. 2, 1966, P.L. 89-711, § 1, 80 Stat. 1104; April 24, 1996, P.L. 104-132, Title I, §§ 101, 106, 110 Stat. 1217, 1220.)

Prior law and revision:

This section makes no material change in existing practice. Notwithstanding the opportunity open to litigants to abuse the writ, the courts have consistently refused to entertain successive "nuisance" applications for habeas corpus. It is derived from H. R. 4232 introduced in the first session of the Seventy-ninth Congress by Chairman Hatton Sumners of the Committee on the Judiciary and referred to that Committee.

The practice of suing out successive, repetitious, and unfounded writs of habeas corpus imposes an unnecessary burden on the courts. See *Dorsey v. Gill* (1945) 148 F.2d 857, cert den 325 U.S. 890, 89 L.Ed. 2003, 65 S.Ct. 1580, in which Miller, J., notes that "petitions for the writ are used not only as they should be to protect unfortunate persons against miscarriages of justice, but also as a device for harassing court, custodial, and enforcement officers with a multiplicity of repetitious, meritless requests for relief. The most extreme example is that of a person who, between July 1, 1939, and April 1944, presented in the District Court 50 petitions for writs of habeas corpus; another person has presented 27 petitions; a third, 24; a fourth, 22; a fifth, 20. One hundred nineteen persons have presented 597 petitions—an average of 5."

This section was enacted as amended by the Senate with the following explanation:

"The amendment to section 2244 is proposed by the Judicial Conference of Senior Circuit Judges. The original language of the section denies to Federal judges the power to entertain an application for a writ of habeas corpus where the legality of the detention has been determined on a prior application for such a writ, and the later

Appendix E-18

28 USCS § 2244

application presents no new grounds. The amendment proposed to modify this provision so that, while a judge need not entertain such a later application for the writ under such circumstances, he is not prohibited from doing so if in his discretion he thinks the ends of justice require its consideration.

"In view of the amendment which will permit a second application to be considered when the ends of justice require it, the original provision of the section, authorizing the judge who heard the original application to grant a rehearing thereof, is omitted by the amendment as unnecessary. Accordingly, the reference to rehearing in the catch line of the section is omitted."

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Appendix E-19

Miss. Code ANN § 47-5-139 (Supp. 1995)

"Commutation of time for good conduct to be deducted from a maximum term and/or parole eligibility time shall be granted by the classification committee of the correctional system.

"(2) The classification committee shall group all inmates into one (1) of four (4) separate and distinct classes with good time to be earned as follows:

"a.) Offenders in Class I shall be allowed to earn up to thirty (30) days reduction for each month served.

"b.) Offenders in Class II shall be allowed to earn up to twenty (20) days reduction for each month served.

"c.) Offenders in Class III shall be allowed to earn up to eight (8) days reduction for each month served.

"d.) Offenders in Class IV shall not be allowed to earn any earned time."


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TOC: Mississippi Code of 1972 Annotated, Constitution, Court Rules & ALS, Combined > / . . . / > OFFENDERS
 > **§ 47-5-139. Certain inmates ineligible for earned time allowance; commutation to be based on total term of sentences; forfeiture of earned time in event of escape**

Citation: **miss code ann 47-5-139**

Miss. Code Ann. § 47-5-139

MISSISSIPPI CODE of 1972 ANNOTATED
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*** Current through the 2017 Regular and 1st Extraordinary Sessions ***

TITLE 47. PRISONS AND PRISONERS; PROBATION AND PAROLE
CHAPTER 5. CORRECTIONAL SYSTEM
OFFENDERS

GO TO MISSISSIPPI STATUTES ARCHIVE DIRECTORY

Miss. Code Ann. § 47-5-139 (2017)

§ 47-5-139. Certain inmates ineligible for earned time allowance; commutation to be based on total term of sentences; forfeiture of earned time in event of escape

(1) An inmate shall not be eligible for the earned time allowance if:

(a) The inmate was sentenced to life imprisonment; but an inmate, except an inmate sentenced to life imprisonment for capital murder, who has reached the age of sixty-five (65) or older and who has served at least fifteen (15) years may petition the sentencing court for conditional release;

(b) The inmate was convicted as a habitual offender under Sections 99-19-81 through 99-19-87;

(c) The inmate has forfeited his earned time allowance by order of the commissioner;

(d) The inmate was convicted of a sex crime; or

(e) The inmate has not served the mandatory time required for parole eligibility for a conviction of robbery or attempted robbery with a deadly weapon.

(2) An offender under two (2) or more consecutive sentences shall be allowed commutation based upon the total term of the sentences.

(3) All earned time shall be forfeited by the inmate in the event of escape and/or aiding and

APPENDIX F-21

abetting an escape. The commissioner may restore all or part of the earned time if the escapee returns to the institution voluntarily, without expense to the state, and without act of violence while a fugitive from the facility.

(4) Any officer or employee who shall willfully violate the provisions of this section and be convicted therefor shall be removed from office or employment. SOURCES: Codes, 1942, § 7944; Laws, 1964, ch. 378, § 24; Laws, 1971, ch. 524, § 12; Laws, 1973, ch. 357, § 1; Laws, 1974, ch. 539, § 29; Laws, 1975, ch. 485, §§ 2, 5; Laws, 1976, ch. 389; Laws, 1976, ch. 440, § 67; Laws, 1977, ch. 479, § 3; reenacted, Laws, 1981, ch. 465, § 74; Laws, 1981, ch. 502, § 10; Laws, 1982, ch. 431, § 2; reenacted, Laws, 1984, ch. 471, § 66; reenacted, Laws, 1986, ch. 413, § 66; Laws, 1992, ch. 520, § 2; Laws, 1994 Ex Sess, ch. 25, § 6; Laws, 1995, ch. 596, § 5, eff from and after June 30, 1995.

NOTES: CROSS REFERENCES. --Penalty of life imprisonment without parole for sale of specified quantities of certain drugs, see § 41-29-139.

Classification committee, see §§ 47-5-99 et seq.

Proceedings before classification committee on demotion of offenders or forfeiture of earned time, see § 47-5-104.

Handbook explaining earned time procedure, see § 47-5-140.

Meritorious earned time, see § 47-5-142.

Eligibility for earned time credit for inmates participating in joint state-county public service work programs, see § 47-5-413.

Earned time credit for inmates participating in joint state-county work program, see § 47-5-461.

Utilization of powers which tend to reduce prison system population, including earned time allowances, prior to declaration of a prison system overcrowding state of emergency, see § 47-5-705.

Procedures for revocation of conditional advancement of parole eligibility date during period of prison overcrowding, see § 47-5-723.

Relationship between earned time allowances and advancement of parole eligibility dates during periods of prison overcrowding, see § 47-5-727.

JUDICIAL DECISIONS

- 1. In general; construction
- 2. Constitutional issues
- 3. Multiple sentences
- 4. Eligibility for release.
- 5. Changes in regulation or in interpretation of regulation
- 6. Conditional release.
- 7. Miscellaneous

1. IN GENERAL; CONSTRUCTION.

Appendix F-22

STATE OF MISSISSIPPI

COUNTY OF HINDS

TO WHOM IT MAY CONCERN:

I, John P. Alexander, having been convicted of the crime of murder in the Circuit Court of the First Judicial District of Hinds County, Mississippi do hereby certify that I have been fully advised of my right to remain in the Hinds County Detention Center pending my appeal of said conviction to the Supreme Court of the State of Mississippi.

I hereby waive my right to remain in the Hinds County Detention Center pending appeal of my conviction to the Supreme Court of the State of Mississippi and request that I be transferred to the Mississippi State Penitentiary at Parchman, Mississippi.

Witness my signature this the 7th day of August, 1977.

John P. Alexander
John P. Alexander

Witness:

John Moore
Attorney for Defendant

*Original to
John Moore*

S. J. Wallace J.D.

Appendix G-23

John A. Yander
MDOC#50021

IC 102

Discharge Plan: Patient will be discharged when he is able to employ appropriate coping skills to manage mood instability, and no longer require psychotropic medications. Per patient's request, It should be noted in the discharge plan that patient is expected to take Haldol shots for remainder of life, will remain on treatment plan indefinitely.

Patient Strengths: Patient's strengths are identified as being flexible with situation changes, being "easily redirected," able to verbalize needs and wants, and having a 29 year uninterrupted history of medication compliance with Haldol decanoate shot "Which has brought about long-term remission, having maintained continuous treatment for approximately the last 44 years, from beginning of entry into prison, 1977, and has accepted responsibility for crime."

Patient Weaknesses: Patient's weakness is identified as having a "disease to please people," which has further alienated estranged family members.

Problem #1: Patient reports that he needs assistance with rebuilding his family relationships, due to the estrangement affecting his mood, and his family's reaction to his crime.

Goal: Short Term Goal: In 60 days, patient will be able to identify problems and strengths in at least one identified familial relationship, including his own role in it.

Long Term Goal: In 180 days, patient will develop the necessary skills for effective, and open communication.

Measurable Objectives: Patient will verbalize at least 3 appropriate communication skills that will assist him in improving his relationships with identified family members, over the next 30-60 days.

Interventions: Psychotropic medications will be prescribed, but per patient's request, no new psychotropic medications be added to current psychotropic medication regime "as long as I am medication compliant with current medications." In addition, 30-day Access to Care will be completed, individual sessions will be offered/scheduled to address issues regarding symptoms of mood, and individual will work with case manager to gain contact with siblings.

Patient Responsibilities: Patient will remain compliant with prescribed psychotropic medications, and will attend all psychiatric/MHP scheduled appointments.

Participating in Treatment Team:
Patient, Psychiatric provider, MHP

Signature:

John Peyton Alexander, II

JBA Rec'd 12/04/2019

Appendix G-24

Mississippi Department of Corrections

Parchman, Mississippi 38738



(601) 745-6611

January 27, 1997

To Whom It May Concern:

Re: John P. Alexander, #30021 - Unit 23

John has been under my care since I came to the Department as the Mississippi Department of Corrections Psychiatrist in July, 1989. Prior to his entry into the system John had been diagnosed as suffering from a disorder and had been under treatment for that during his entire stay here in the prison. For several years now John has been treated with monthly injections of Haldol Decanoate. This is a long acting form of Haldol which is an anti-psychotic medication. The medication is suspended in oil which means that it is slowly absorbed and provides a therapeutic level of Haldol for a month at a time. John has been very faithful in taking his medication as ordered. He has done extremely well on this medication and as long as he continues to take his medicine I would anticipate that he will do fine wherever he is. One potential consequence of the medication is some possible liver damage however, we have monitored John for this problem and he has no evidence of liver damage up to this point. He is comfortable taking the medicine and I feel certain that he would continue to take the medication if he were back in the community.

If I can provide any additional information concerning inmate Alexander's condition or questions concerning the medication that he is taking, I will be glad to do so.

Sincerely,

Stanley C. Russell *(dct)*

Stanley C. Russell, M.D.
Staff Psychiatrist & MDOC Medical Director

SCR:dct

pc: file

Appendix G-25

Parchman Farm - Parchman

The Mississippi State Penitentiary at Parchman has inspired many songs, including "Parchman Farm Blues" by singer-guitarist Booker "Bukka" White, who was once an inmate here, and "Parchman Farm" by jazz singer-pianist Mose Allison. Folklorists from the Library of Congress and other institutions also came to Parchman beginning in the 1930s to document the pre-blues musical forms of field hollers and work songs, which survived here due to the prison's relative isolation from modern cultural influences.

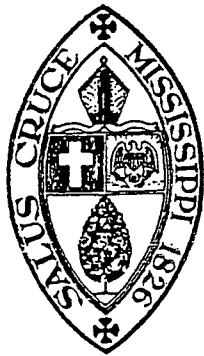
Parchman Farm In 1900 the state of Mississippi began buying parcels of land near this site for a penitentiary and soon accumulated about 16,000 acres, over half of which had been owned by the Parchman family. For decades the prison operated essentially as a for-profit cotton plantation; prisoners grew their own food, made their own clothing, raised livestock, and even served as armed guards or "trusty shooters." The harsh working and living conditions made "Parchman Farm" notorious, but the state was later able to improve Parchman's image by implementing prison reforms.

Folklorists Alan Lomax, his father John A. Lomax, Herbert Halpert, and William Ferris found Parchman to be a rich repository of older musical traditions. Prisoners had little access to radio or records and, to help pace their labors and pass the day, often joined in work songs that had survived from earlier decades. Alan Lomax observed that such songs "revived flagging spirits, restored energy to failing bodies, [and] brought laughter to silent misery." The Lomaxes first visited Parchman in 1933 and returned numerous times to record blues, work songs, spirituals, and personal interviews with inmates. The unaccompanied vocals by female inmates recorded in the prison's sewing room in 1936 and 1939 have been cited by blues scholar Samuel Charters as an invaluable document of the way blues must have sounded in its earliest stages. Other notable recordings include a 1939 session with bluesman Booker "Bukka" White and a 1959 recording of James Carter's gospel song "Po Lazarus," which later appeared on the Grammy-winning soundtrack to the film *O Brother, Where Art Thou?*

White also recorded several memorable songs about his imprisonment, including "When Can I Change My Clothes" and "Parchman Farm Blues" in 1940, shortly after his release from Parchman. Other blues artists who served sentences here include R. L. Burnside, John "Big Bad Smitty" Smith, Terry "Big T" Williams, and, reportedly, Aleck "Rice" Miller (Sonny Boy Williamson No. 2), while songs with Parchman themes were recorded by Charley Patton, Wade Walton, and others. Mose Allison, who grew up in nearby Tippo, first recorded his "Parchman Farm" in 1957, and many artists including John Mayall and Johnny Winter later recorded it. Former rockabilly singer Wendell Cannon organized a prison band program here in 1960 and took groups consisting of trusty inmates to perform across the state for several decades. Blues artists who participated in the band program included David (Malone) Kimbrough, Jr., and Mark "Muleman" Massey.

content © Mississippi Blues Commission

Appendix G-26



The Episcopal Diocese of Mississippi

Post Office Box 23107
Jackson, Mississippi 39225-3107

John Maury Allin
Episcopal Diocesan House
118 North Congress Street
Jackson, Mississippi 39201-2604

Toll-free: 866-550-0872
Telephone: (601) 948-5954
Faximile: (601) 354-3401
Electronic Mail: allinhouse@dioms.org

The Bishop

The Rt. Rev. Duncan M. Gray, III, D.D.
Diocesan

The Diocesan Staff

The Rev. Canon David H. Johnson
Canon to the Ordinary

Canon Kathryn Wair Weathersby
Canon for Administration and Finance

The Rev. Canon Yamily Bass-Choate
Canon for Hispanic Ministries

The Rev. Canon Charles L. Culpepper
Canon for Youth and College Ministries

The Rev. Carol B. Stewart
Deacon for Servant Ministries and Outreach
Assistant to the Bishop for the Diaconate

Mrs. Catherine H. Johns
Secretary to the Bishop

Ms. Liley P. Gilbert
Bookkeeper

Mrs. Lauren Wilkes Autonberry
Coordinator of Communications
Editor, The Mississippi Episcopalian

Ms. V. A. Patterson
Archivist

Mr. Edgar Glover
Sexton

In the Church of Saint Vincent
Episcopal Diocese of Mississippi
Parchman, Mississippi

WHEREAS, John Peyton Alexander, II is a beloved child of God, created in the Lord God's own image; and,

WHEREAS, John is a good person, as evidenced by God's declaration of said goodness at the dawn of creation; his faith in Jesus Christ; and his subsequent acts of goodness; and

WHEREAS, from a child, John has known the Holy Scriptures, which are able to make one wise unto salvation through faith which is in Christ Jesus; and,

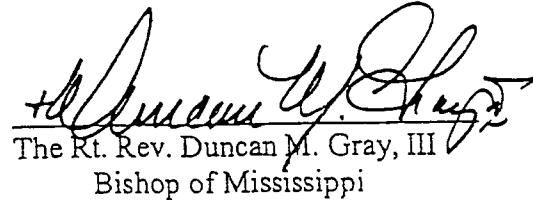
WHEREAS, in his ministry at Parchman, John is enduring afflictions, doing the work of an evangelist, in order to make full proof of his ministry, and

WHEREAS, John Peyton Alexander, II is a voice of one crying in the wilderness;

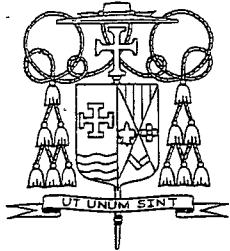
THEREFORE, BE IT RESOLVED that John Peyton Alexander, II who also writes under the name, John Apple, is hereby commissioned as Poet-in-Residence at Parchman: in order to preach the Gospel of Jesus Christ, to be constant in season and out of season; to approve, reprove and exhort with all long suffering and doctrine: in order that he may come to the full stature of the measure of Christ.

BE IT FURTHER RECOGNIZED that goodness and mercy shall follow John all the days of his life; and John Peyton Alexander, II will dwell in the house of the Lord for ever.

Signed and sealed this the 2nd day of July, in the year of our Lord, 2004.


The Rt. Rev. Duncan M. Gray, III
Bishop of Mississippi

Appendix G-27



CATHOLIC DIOCESE OF JACKSON

237 AMITE STREET • P.O. BOX 2248
JACKSON, MISSISSIPPI 39225-2248

January 6, 2011

OFFICE OF THE BISHOP

601-969-1880
FAX 601-960-8455
joseph.latino@jacksondiocese.org

Mr. John Peyton Alexander II
MDOC# 30021
Unit 26-A, E246
Parchman Ms. 38738-1057

Dear Mr. Alexander:

Please see attachment for your appointment as Minister of Music and Ambassador for Christ at Parchman.

With prayerful best wishes, I am

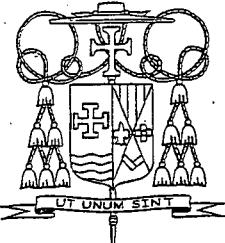
Sincerely yours in Christ,

Joseph N. Latino
Joseph N. Latino
Bishop of Jackson

JNL:cw

Enclosure

Appendix G-28



CATHOLIC DIOCESE OF JACKSON

237 AMITE STREET • P.O. BOX 2248
JACKSON, MISSISSIPPI 39225-2248

In the Church of the Penitent Thief

OFFICE OF THE BISHOP

601-969-1880
FAX 601-960-8455
joseph.latino@jacksondiocese.org

Parchman, Mississippi

WHEREAS, John Peyton Alexander, II is a beloved child-of-God, created in the Lord God's own image; and,

WHEREAS, John is a good person: as evidenced by God's declaration of said goodness at the dawn of Creation; his faith in Jesus Christ; and his subsequent acts of goodness; and,

WHEREAS, from a child John has known the Holy Scriptures, which are able to make us wise unto salvation through faith which is in Christ Jesus: for the meeting of our needs, and for our Lord's own purposes; and,

WHEREAS, John's music gives us glimpses of the glory to which we aspire; and,

WHEREAS, in his efforts to be all things to all people, John has become honest, authentic and transparent; and,

WHEREAS, John is a disciple whom Jesus loves, and who loves Jesus!

THEREFORE, BE IT RESOLVED that John Peyton Alexander, II is hereby appointed as Minister of Music in the Church, and commissioned as Ambassador for Christ, chosen by the Lord as though God does beseech us by him: and we do pray in Christ's stead that the world will be reconciled to God, in Jerusalem, and in all Palestine, and unto the ends of the Earth.

BE IT FURTHER RECOGNIZED that goodness and mercy shall follow John all the days of his life; and John Peyton Alexander, II will dwell in the house of the Lord forever.

BE IT FURTHER RECOGNIZED that John Peyton Alexander, II is afforded all rights, privileges and dignities in keeping with his station as a citizen of the Kingdom of God.

SIGNED AND SEALED this, the 6th day of January, in the year of our Lord 2011.

+ Joseph N. Latino
Most Reverend Joseph N. Latino
Bishop of Jackson

Appendix G-29

Mississippi
Executive Department
Jackson

EXECUTIVE ORDER NO. 280

WHEREAS, on April 14 through 16, 1979, the Cities of Jackson and Flomod, Mississippi, were hit by severe flooding which caused great destruction of public and private property; and

WHEREAS, certain inmates at Mississippi State Penitentiary volunteered their assistance to the Penitentiary, Federal, State and municipal authorities to alleviate the emergency conditions; and

WHEREAS, these inmates performed services to the Federal, State and Local governments which was a laborious task resulting in the restoration of levees, facilities, removal of debris and the saving of public funds; and

WHEREAS, the State's policy therefor is to encourage rehabilitation and a sense of public responsibility on the part of inmates and provide for the urgent need for assistance during an emergency situation; and

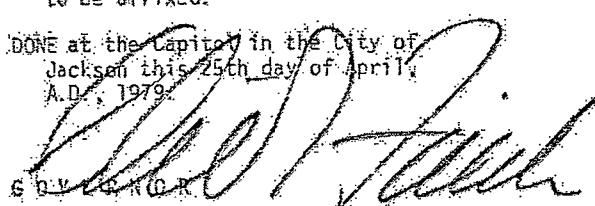
WHEREAS, these inmates who satisfactorily performed the aforesaid services should be compensated, and the best way to compensate them therefor is to grant a commutation and reduction of sentence commensurate with the volunteer work performed by them.

NOW, THEREFORE, I, Cliff Finch, Governor of the State of Mississippi, pursuant to the authority vested in me by Article 5, Section 124, Mississippi Constitution of 1890, do hereby order as follows:

Any inmate of Mississippi State Penitentiary who volunteered and satisfactorily performed work under the above emergency conditions, as reflected by the work day schedule maintained by the Warden, is hereby granted thirty (30) days good time for every day he or she satisfactorily completed on said project, and such allowance of good time shall reduce the statutory time required for said inmate to become eligible for consideration for release.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE at the Capitol in the City of Jackson this 25th day of April
A.D. 1979.



BY THE GOVERNOR:



Cliff Finch

SECRETARY OF STATE

Appendix I-31

STATE OF MISSISSIPPI

Office of the Governor



EXECUTIVE ORDER NO. 747

WHEREAS, during the month of February, 1994, freezing rain and sleet produced by a severe winter storm caused massive damage to the northern part of the State of Mississippi. The list of inmates who volunteered to participate in the cleanup work detail is attached to this Executive Order and made a part hereof.

WHEREAS, these inmates satisfactorily performed services for the citizens of Mississippi, and the State's policy is to encourage rehabilitation and a sense of public responsibility on the part of inmates, and to provide urgently needed assistance during emergency situations.

NOW, THEREFORE, I, Kirk Fordice, Governor of the State of Mississippi, under and by virtue of the authority vested in me by the Constitution and applicable statutes of this State, do hereby grant to the individuals named on the attached list, as reflected by the work schedule maintained by the Commissioner of the Mississippi Department of Corrections, fifteen days executive good time for each day worked, not to exceed one hundred eighty (180) days. Persons under sentence for life are prohibited from having time applied toward parole eligibility.

All executive good time granted by this Order will count toward parole and/or discharge.

This executive good time is granted at the request of the Department of Corrections and is based upon the recommendation of the Commissioner of the Department of Corrections.

I authorize and direct you, upon receipt of this order, to take notice and be governed accordingly.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Mississippi to be affixed.

DONE at the Capitol in the City of Jackson, the 12th day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America, the two hundred and eighteenth.

BY THE GOVERNOR

SECRETARY OF STATE

Appendix I-32

December 9, 2020

SAINT Juan Diego Cuauhtlatoatzin
(Our Lady of Guadalupe)

Supreme Court of THE U.S.

ATTN: JACOB C. TRAVERS
Washington D.C. 20543

RE: In re: Alexander

"a king who cultivates the field is an advantage to the land."
— Ecclesiastes 5:9 (NASB)

Enclosed for filing, please find "99 YEARS AND ONE BLACK SUNDAY," my PETITION for An Extraordinary Writ of Habeas Corpus. Photocopies are being sent to the Solicitor General of THE U.S. and to THE MDOC Special Assistant Attorney General.

Thank you for your time & ATTENTION.

Enc.

cc: U.S. Solicitor General

SAAG Darrell Baughn

respectfully submitted,

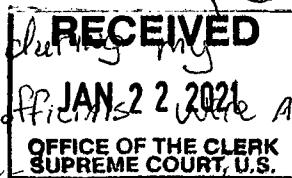
John Peyton Alexander, II

John PEYTON Alexander, II No. 30021

10641 Hwy 80 West - EMRF

Meridian MS 39307-9256

P.S. This petition is my last metaphorical rodeo. I still pray for you by mentioning your name every morning during my daily meditation-time. Would THAT all government officials be as helpful & professional as Jacob C. Travers. Thank



Appendix J-33

Gangs running prisons

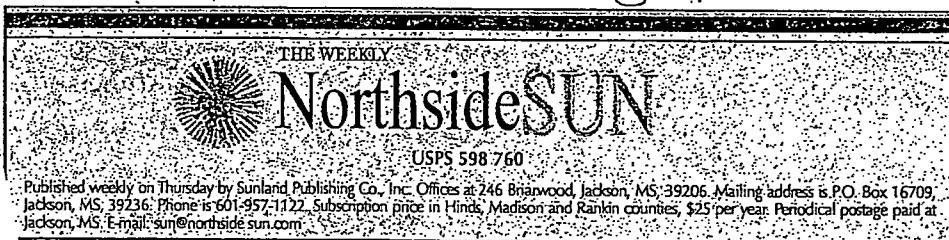
A dirty little secret is finally coming to light in our state: Mississippi's prisons are run by gangs. The Marshall Project, a non-profit group dedicated to reforming the criminal justice system through journalism, reports the warden of Wilkinson County Correctional System in Woodville, Mississippi, admitted that gangs are running that prison. This corroborates testimony in a recent federal trial that gangs are running the East Mississippi Correctional Facility.

The Marshall Project obtained an audit of the Wilkinson prison, which revealed that warden Joey Bradley responded to staffing shortage by turning to the gangs' leaders to maintain control of the prison. The report states: *"Bradley's response to this problem, according to the audit: 'He speaks with the gang lords/leaders and asks them to control their men. If they do not control the individuals on the unit, the warden will place the unit on lockdown ... Using gangs this way is just how Mississippi prisons operate,' the warden said. 'It ain't right, but it's the truth.' He told the auditors that the head of the criminal investigations division at the Mississippi Department of Corrections, who was not named, had encouraged him to partner with the gang leaders."*

The private prison companies are making money by halving staff and letting the gangs keep order in return for the contraband franchise. One recent gang killing inside the Wilkinson prison was caught on camera. No one has been prosecuted.

This is a despicable practice unworthy of a civilized state. It is unconscionable for our state leaders to allow this to carry on. Even worse, by partnering with gangs, the government is legitimizing the gangs' power and gives gangs the ability to exercise control both inside and out of prison. The ultimate cost of this travesty will be far more than the cost of properly staffing and running our prisons in the first place.

July 4, 2019



Appendix J-34

Generational appreciation

Dear Editor:

An Open Letter to the Members of My Parents' Generation

Many of you came into this world in poverty during the economic crisis known as the Great Depression. At that time, the world had not yet seen the scientific advances which my generation takes for granted.

You were prepared by the Great Depression for the next crisis: World War II.

I can only imagine the depth of the suffering and sacrifices many of you endured: not only in the European and Pacific Theaters, but also on the home front.

Through this struggle, you saved the world for democracy; and you came back to the states to rear families.

After the War, in a real way, the world was your oyster. You had overcome, and you enjoyed the fruits of your labors.

Many of you were able to travel all over the world. On the basis of your triumph in World War II, Americans were respected around the globe.

Many of you went on to make economic fortunes. You enjoyed the best of scientific advances: big automobiles, home appliances, modern conveniences, battery operated toys for your children.

You made sure that the schools taught your children the ideals of democracy for which you fought, and for which many had died.

And when your children rebelled against you as "The Establishment," you bore it with dignity and patience. The ingratitude of my generation did not quench the tolerance and forbearance of parental love.

Through the Marshall Plan, you rebuilt the countries which you defeated. Through the Great Society, you provided for the less fortunate. You brought about prison reform, choosing to be kind to people who had hurt you.

When one of your presidents forsook the ideals of democracy, you put principle above filial loyalty and removed him from office.

When the Iranian students took over the American Embassy in Tehran, you were humbled; and you bore it with poise and patience. You put the value of human life above the value of your pride; and all of the hostages came home alive.

In the Cold War, you looked your adversary in the eye, and did not blink. And in the last 10 years, with the collapse of the communist regime in Eastern Europe, your generation once again saved the world for democracy.

The story of your generation is a story of triumph and tragedy: of exhilarating victories, and of defeats where you did lose many things of tremendous value.

Some of you may look on your life's work with a sense of mission; many of your children look on your lives' work with a sense of gratitude.

The torch has now passed to our generation. You have filled your unforgiving minute with 60 seconds' worth of distance run.

The children of your generation have the reins now. We have made some faltering starts; but you have taught us well: not only by what you have said, but by what you have done!

Jesus of Nazareth left the future of the Christian Church in the care and keeping of a small number of people. He prepared them well. They were able to carry on.

So will we be.

Well done, good and faithful servants!

John Peyton Alexander II

Dec. 1998

Northside Sun

APPENDIX
J-35