

20-7620

No. (To BE ASSIGNED)

U.S. 9th Cir. 20-35989, U.S. Dist. Ct. Or. 3:20-cv-00871-MK

Supreme Court, U.S.
FILED

MAR 22 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Andrew Guy Moret — PETITIONER
(Your Name)

vs.

Patrick Garrett, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. 9th Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Andrew Guy Moret
(Your Name)

SRCU 777 Stanton Blvd
(Address)

Ontario, OR 97914
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Does a criminal conviction halt or defeat a pending pretrial Habeas Corpus Action?

(Rephrased: If someone files a *pretrial* Habeas Corpus Petition, and then they are convicted, does that conviction prevent them from continuing their *pretrial* Habeas Corpus proceedings from State to Federal court?)

2. Does the *successive-writ* doctrine bar a Petitioner from filing a *post* conviction Habeas Corpus Petition with the same issues previously adjudged in an earlier *pretrial* petition?

(Rephrased: When someone goes from a *pretrial* detainee to a convict can they renew former *pretrial* Habeas Corpus claims in *post* conviction proceedings?)

LIST OF PARTIES

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

[X] 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:

Patrick Garrett, Erwin, Garcia, Lindsey, McKey, Bailey,
State of Oregon, Gutbezahl, Elison, OPDS, WCT, OSH.
(Defendants represented by Or. Atty. General)

RELATED CASES

Moret v. Garrett, 139 S.Ct. 2015 (Mem) Cert. denied (2019) (APPENDIX F)
Collins v. Foster, 698 P.2d 953, 299 Or. 90 (Or. 1985)

Please see the Electronic Case Filing system (Fed ECF),
the Oregon Case Mgmt. System (OCMS),
and the Appellate Case Mgmt. System Oregon (ACMS)
for this case's proceedings in each court, ONLINE.

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OTHER

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| Successive-writ doctrine (1987), Government of laws doctrine (16c), [Ref. only] | |
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| Fundamental - miscarriage-of-justice exception (1986), [Reference only] | |
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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 C 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 14th, 2021.

☐ 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: February 10th, 2021, and a copy of the order denying rehearing appears at Appendix (B). (Sealed in plastic)

☐ 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).

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution VI Amendment, Right to speedy trial

U.S. Constitution XIV Amendment, Right to due process - State

U.S. Constitution V Amendment, Right to due process, Federal

Oregon Constitution Article I, Section 10, Justice without delay

Oregon Constitution Article I, Section 14, Bailable offences

18 USC § 3161, § 3181[?]

ORS 136.290

STATEMENT OF THE CASE

In October of 2018 I filed a *pretrial* Petition for Habeas Corpus in Washington County, Oregon (18cv52383).

In November of 2018 that Petition was prejudicially denied by the same judge presiding over my criminal trial.

I Appealed to the Oregon Court of Appeals (A169563).

While that appeal was pending, in February of 2019, I was wrongfully convicted and sentenced to LIFE with the possibility of parole after 25 years.

While serving my sentence in prison, the Oregon Court of Appeals AFFIRMED WITHOUT OPINION my *pretrial* Habeas Corpus Appeal as previously mentioned.

I immediately sought Oregon Supreme Court Review (S067218).

After several months taking the case "under-advisement", the Oregon Supreme Court denied review.

I then immediately filed a Federal Habeas Corpus Petition carrying over my State claims as well as adding "futility in state proceedings", (see: 3:20-cv-00871-MK.) in the District Court Oregon, Portland Division.

The Federal Magistrate opined that I "hadn't exhausted State Remedies", and the District Judge's opinion coincided. Appendix (C).

I appealed to the 9th Circuit (20-35989), and they denied me a certificate of appealability with an opinion. Appendix (A).

I petitioned for rehearing/reconsideration and the 9th Circuit denied it with a perfumed envelope and letter. Appendix (B) (sealed in plastic). This perfumed/scented envelope and letter were sent to me while I was in solitary confinement at Snake River Correctional Inst. It smells like my Grandmother's perfume used to, and the staff agrees (SRCI staff).

This is why I come to you, my dear sweet judges, of the greatest court in our country, for justice. And, this Habeas Corpus carries over from the last time I was here, see: *Moret v. Garrett*, 139 S.Ct. 2015(Mem)(2019).

I will forever seek justice, because I'm not guilty of my conviction for murder, see: *United States v. Marceleno*, 819 F.3d 1267(10th Cir. 2016).

REASONS FOR GRANTING THE PETITION

1. I'm not guilty and I want to go home, true; but this is way beyond me. The State of Oregon has been denying such people's rights for years now with no end in sight. And, if the government doesn't have to follow the law, no one has to follow the law.

2. What's Oregon's problem? Well, "She flies with her own wings" and it's easy to see; she's flying off the handle. Oregon's willful disregard for the law appears to be rubbing off on the U.S. District Ct. in Oregon. But, why the 9th Circuit was unable to recognize the problem here is beyond me. Then, I get this scented letter from the 9th Cir., and I'm thinking, "hmmm... something isn't right." Appendix (B) (sealed in plastic).

3. I asked for Oregon Supreme Court review, after my conviction, even though I was requesting, that they review my 'pretrial' issues. Fact: the highest state court was given a chance to rule on the merits of my petition. How did I *not* exhaust State remedies?

4. On the macro-level, a decision giving clarity here would let all others potentially filing habeas corpus petitions know that, they should wait to file until they are in post-conviction proceedings lest they lose their claims to the successive-writ doctrine. This would free up numerous courts. Unless the Federal U.S. District Court and the 9th Circuit ruled in error, people should be made aware that if you are convicted while your *pretrial* State Habeas is pending, those claims won't carry over into Federal court. If the lower courts *did* rule in error, this court should correct them.

5. I fear that the State and Federal courts ruled in error to deny me habeas relief because of the seriousness of my charge (murder). And, that would be understandable unless you take into account "State v. Harberts, Or. 2000". The Oregon Supreme Ct. let Harberts, a child-rapist-killer, off scott-free for speedy trial issues similar to my own. This is entirely insulting because I didn't even hurt a little girl, *nor* would I ever. Oregon's justice system is backwards and upside-down and it's rubbing-off on the U.S. Dist. Ct. - District of Oregon.


6. If I alleged a "futility in State proceedings" in my Federal Habeas Corpus Petition, that should've registered with the U.S. Dist. Ct. I fear, if the U.S. Supreme Court doesn't give an opinion here, I will be left bereft of justice, and so will others in my position, and others encountering this situation.

7. My Grandfather was a Tuskegee Airman who received the congressional Medal of honor posthumously for his service in WWII. And; I would seek to return honor to my family after my disgraceful incarceration. I beg the court. "Nevertheless the LORD raised up judges, which delivered them out of the hand of those that spoiled them."
"JUDGES 2:16, NKJV"

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Andrew Jay Meek

Date: March 22nd, 2021