

No. **20-7713**

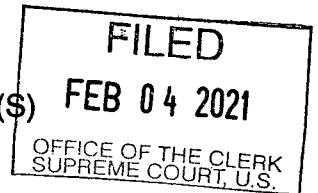
IN THE
SUPREME COURT OF THE UNITED STATES

Anthony Keenan Sharp
(Your Name) PETITIONER

ORIGINAL

vs.

Lawrence Long, et al — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

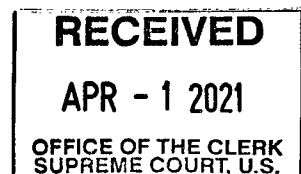
United States Court of Appeals / The Eighth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Anthony Keenan Sharp #43363
(Your Name)
Yankton Community Work Center
178 Mickelson Dr
(Address)

Yankton, South Dakota 57078
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

① Contain within Plaintiff Request For Admission and Plaintiff First Request For Production of Documents

② Did the States Failure to follow and comply with those Procedures as Found under SDCL §§ 19-19-401 et seq. and especially SDCL § 19-19-402 prejudiced Anthony Sharp in his Constitutional Rights to a Fair Proceeding and the Right to effective assistance of Counsel under the 14th Amendment Equal Protection and equal enforcement and due Process Clause, 8th Amendment Right to be free from cruel and unusual punishment (Post conviction actual innocence), 6th Amendment Right to effective assistance of Counsel, 5th Amendment Right to be free from cruel and unusual punishment (Pre-conviction actual innocence) and the right to not incriminate Him self and due Process Clause, 4th Amendment Right to be free from unlawful Search and Seizure of His person or Property (including His intellectual Property) and 1st Amendment right to Freedom of Speech and not be compelled to speak as to His own defense and Prove His innocence, of The Constitution of the United States of America

LIST OF PARTIES

~~AS~~ ☒ 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:

- ①. Bonnie Constain, Deputy State Attorney in her individual capacity
- ②. Jennifer Hynek, Deputy State Attorney in her individual capacity
- ③. Michael Hanson, Attorney in his individual capacity

RELATED CASES

- ①. Parham v. Johnson, 126 F.3d 454, 461 (3d Cir. 1997)
- ②. McQuiggin v. Perkins, 569 U.S. 383
- ③. Gibson v. Regions Fin. Corp 557 F.3d 842, 846 (8th Cir. 2009)
- ④. Johnson v. Douglas County Medical Dept., 725 F.3d 825, 827 (8th Cir. 2013)
- ⑤. Wasserbarger v. Consolidated Management Corp., 502 N.W. 2d 256, 1993 S.D. Lexis 62 (SD 1993)
- ⑥. Johnson v. Avery, 393 U.S. 483, 490 (1969)

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	23
REASONS FOR GRANTING THE WRIT	4
CONCLUSION.....	5

INDEX TO APPENDICES

APPENDIX A	NOTICE OF APPEAL # 20-2501 / Petition For Rehearing / Judgment
APPENDIX B	Administrative Remedy / South Dakota Department OF CORRECTIONS
APPENDIX C	UNITED STATES OF APPEALS FOR THE EIGHTH CIRCUIT # 20-2501
APPENDIX D	SOUTH DAKOTA STATE PENITENTIARY medical ASSESSMENT
APPENDIX E	JURY TRIAL TRANSCRIPT CRT 14-8084
APPENDIX F	Appointment OF Counsel Application
APPENDIX G	QUESTIONS Presented
APPENDIX H	UNITED STATES DISTRICT COURT / DISTRICT OF SOUTH DAKOTA ORDER allowing Plaintiff to Proceed in Forma Pauperis on Appeal

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- Earl V. Fabian, 556 F.3d 717 HN 18
 McQuiggin V. Perkins, 569 U.S. 383
 Sherrad V. Nebraska, 2008 U.S. DIST. LEXIS 55498 HN 7, HN 8
 Conlon V. Long Beach, 676 F. Supp. 1289, 1 Am Disabilities Case (BNA) 1178,
 46 Empl. Prac. (cch) 38056, 53 Fair Empl. Prac. Cas (BNA)
 542 (E.D.N.Y. (1987)).
 Weissgram V. Marley Co. 528 U.S. 440
 Greeno V. Daley, 414 F.3d 645 (7th Cir. 2005)

STATUTES AND RULES

- 2244(d)(1)(B) SDCL 15-6-34(a), 15-6-34(b), SDCL 15-6-36
 28 USCS 2244(c)(1)(d) Admission of Facts and of genuineness of
 documents 15-6-36(a), 15-6-36(b) SDCL
 29 USCS 504
 42 USCS 12102
 42 USCS 12101(a), (b) - 42 USCS, Ch. 126 Disabilities (§§ 12101-
 28 U.S.C. 1915(e)(1) 12213),
 SDCL 21-27-3.3 (4)
 LR 26.1 Filing of Discovery Materials District of South Dakota Civil
 Local Rules.

OTHER

- Los Angeles County V. Davis, 440 U.S. 625, 631 (1979)
 Parham V. Johnson, 126 F.3d 454, 461 (3d Cir. 1997)
 Russell V. United States, 369 U.S. 749
 Americans with Disabilities Act 1.1.E.7
 Montgomery V. Pinchuk 294 F.3d 492, 499 (3d Cir. 2002)

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 _____ 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 December 29, 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: December 29, 2020, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

STATEMENT OF THE CASE

ON MARCH 3, 2016 A Minnehaha County grand Jury Filed a Superseding Indictment Charging Defendant With:

COUNT 1: Aggravated Assault (Domestic) - Choking, in Violation OF SDCL § 22-18-1.1 (b) 25-10-1 a Class 3 Felony

COUNT 2: Interference With Emergency Communication, in Violation SDCL § 49-31-29.2 (2), a class 1 misdemeanor;

COUNT 3: Resisting Arrest, in Violation OF SDCL § 22-11-4, a Class 1 Misdemeanor, and

COUNT 4: Obstructing Officer, Jail or Firefighter, in Violation OF SDCL § 22-11-6, a Class 1 Misdemeanor

A Jury Found Petitioner guilty OF all Four Charges ON March 9th 2016. ON June 13th 2016, the COURT Sentence Petitioner TO Fifteen Year's incarceration, with Five years suspended ON COUNT 1., ON COUNT 2, 3 and 4, Petitioner was sentenced to 360 days incarceration with 173 days suspended. The COURT order COUNT 2, 3 and 4 to RUN CONCURRENTLY with each other, but CONSECUTIVELY with COUNT 1

DURING trial and after Petitioner Anthony K. Sharp made Repeated Complaints and objections to the trial Judge about Trial Counsel Michael Hanson being ineffective.

IN September, 2016 Trial Counsel Michael Hanson Removed himself FROM the case due to the CONFLICT OF INTEREST WITH

STATEMENT OF THE CASE

Anthony Sharp Cause by Michael Hanson's Subpar Representation of Anthony Sharp in Two interconnected, correlated, and relevant court files this case in matter and controversy South Dakota Supreme Court Appeal # 27927 and see also South Dakota Supreme Court Appeal # 28026.

ON the 13th day of July, 2016 Petitioner Anthony K. Sharp, Appealed with the aid of Steven K. Rabuck Appellant counsel

ON the 5th day of June 2017 the Supreme Court of South Dakota issued and Order directing Issuance of Judgment of Affirmance # 27927

ON the 4th day of September 2019 Petitioner Anthony K. Sharp, filed Civil Rights Complain Case 4:19-cv-04164-LLP

ON the 8th day of May 2020 the United States District Court District of South Dakota Order Granting Petitioner's Motion to Proceed In Forma Pauperis and 1915A Screening for Dismissal. Ordered Adjudged, and Decreed dismissing the case without Prejudice.

ON the 10th day of November 2020 United States Court of Appeals For The Eighth Circuit Order by the Court that the Judgment of the District Court is summarily affirmed.

ON the 19th day of November 2020 Petitioner, Petition For Rehearing to the United States of Appeals For the Eighth Circuit

ON the 29th day of December 2020 The Petition For Rehearing by the Panel is denied as untimely

Argument

The United States Court Of Appeals For the Eighth Circuit Did Abuse Its Discretion when they Denied Anthony Keenan Sharp 28 U.S.C. § 1343(a)(3), 42 U.S.C. § 1983 and 28 U.S.C. 1915(e)(1) Civil Rights Complaint by A Prisoner.

Because the violation occurred on March 8-9 2016 and I was not provided with my trial transcripts until (1) year later for me to view therefore my time should not had started to toll until I had all my discovery and Transcripts and I was made aware of the violations through the exercise of due diligence at that time. Moreover, Jena SKORCZEWSKI the transcript typies requested for an extension of time to complete the transcripts that was granted by the Courts in case File CR 15-4360

Cite: 28 U.S.C.S § 2244 (d) (1) (d), ^① Sherrard v. Nebraska, 2008 U.S. Dist. Lexis 55498 HN-7, HN-6, ^② McGuiggin v. Perkins, 569 U.S. 383 HN-5

Secondly I have a right to get legal help from other prisoners unless the prison "Provides" some reasonable alternative to assist inmates in the preparations of Petitions. Johnson v. Avery, 393 U.S. 483, 490 (1969)

Unit Staff Confiscated documents from my writer and typies which impede my progress that I never

Filed grievance about and then a second time unit staff confiscated my documents which at this time I Filed a grievance that is enclosed as Appendix (B)

Further more, Citing: 42 USCS 12101(a) Finding and Purpose

(2) Americans with Disabilities Act 1.1.E.7

(3) 42 USCS 12102- Definition of Disability

(4) 42 USCS 12102(b)- Equal Opportunity For Individuals with Disabilities

Appendix (C) pg (2) Petition For Rehearing- no. 20-2501

South Dakota State Penitentiary Medical Assessment

Appendix (D)

United States Court of Appeals For The Eighth Circuit has Fail to Consider or Follow the Statute of 28 USCS 2244 part 10F2

#7

Rules of Professional Conduct – Attorney Misconduct
South Dakota Codified Laws § 16-18-Appx., Rule 8.4. Misconduct

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentations;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

SDCL § 16-18-26. Prohibited acts – Punishment.

Every attorney at law who:

- (1) Practices any deceit or collusion, or consents to the same with intent to deceive the court or any party;

[author has omitted other subdivisions of statute...]

SDCL § 16-18-28. Treble damages available for certain attorney misconduct.

Any attorney who violates any of the provisions of subdivisions 16-18-26 (1), (2), or (3) shall be liable for treble damages to the party injured, which damages may be recovered in a civil action from such attorney.

Citing USCS Const. Art. VI, Cl 3. Oath of office "judicial Officers"

Constitution of United States, with all powers conferred by it on General Government, and surrendered by States, was voluntary act of people of several States, deliberately done, for their own protection and safety against injustice from one another, and their anxiety to preserve it in full force, in all its powers, and to guard against resistance to or evasion of its authority, on part of State, is proved by provision of Art. VI, Cl 3, which requires members of State legislatures, and all executives and judicial officers, of the several States as well as those of General Government, shall be bound, by oath of affirmation, to support Constitution. *Abelman v. Booth* (1859) 62 US 506, 21 How 506, 16 L Ed 169

SDCL § 3-1-5 Oath of office – Bond

I, Judges Name, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

22-4A-1. Criminal solicitation--Penalty. Any person who, with the intent to promote or facilitate the commission of a crime, commands, hires, requests, or solicits another person to engage in specific conduct which would constitute the commission of such offense or an attempt to commit such offense, is guilty of criminal solicitation.

Criminal solicitation is a:

- (1) Class 1 felony if the offense solicited is a Class A, B, or C felony;
- (2) Class 2 felony if the offense solicited is a Class 1 felony;
- (3) Class 3 felony if the offense solicited is a Class 2 felony;
- (4) Class 4 felony if the offense solicited is a Class 3 felony;
- (5) Class 5 felony if the offense solicited is a Class 4 felony;
- (6) Class 6 felony if the offense solicited is a Class 5 felony; or
- (7) Class 1 misdemeanor if the offense solicited is a Class 6 felony.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 USCS, ch 126. Equal Opportunity For individuals
with Disabilities

18 USC § 1503

18 U.S.C.S § 2

DUE PROCESS OF LAW Secured to Anthony Keenan Sharp under
the Fourth, Fifth, Sixth and Fourteenth amendments of the
United States Constitution and Article VI, Section 2, 7, 12
OF the South Dakota State Constitution and

SDCL § 16-19-31, 16-19-32, 16-19-33, 16-19-34, 16-19-35

SDCL § 22-29-1, 22-29-2, 22-29-5 (1)

SDCL § 22-4A-1, 21-27-16 (6)

SDCL § 19-19-103 (d)

SDCL § 15-14-5, 16-13-33

42 U.S.C. §§ 12101-12213, 504

CONSTITUTIONAL AND STATUTORY PROVISIONS CONTINUED

SOUTH DAKOTA CONSTITUTION

South Dakota Constitution Art VI, § 15 Imprisonment for debt.

South Dakota Constitution Art VI, § 11 Search and seizure.

South Dakota Constitution Art VI, § 9 Self-incrimination- Double jeopardy.

South Dakota Constitution Art VI, § 8 Right to bail – Habeas corpus.

South Dakota Constitution Art VI, § 7 Rights of accused.

South Dakota Constitution Art VI, § 6 Jury trial – Reduced jury – Three-fourths vote.

South Dakota Constitution Art VI, § 5 Freedom of speech – Truth as defense – Jury trial.

South Dakota Constitution Art VI, § 4 Right of petition and peaceable assembly.

South Dakota Constitution Art VI, § 2. Due process – right to work.

South Dakota Constitution Art VI, § 1 Inherent rights.

REASONS FOR GRANTING THE PETITION

Because the South Dakota District Court/South Division and the United States Court of Appeals for the Eighth Circuit applied the incorrect standard of review, this court must grant this certiorari to review the evidence and apply the correct standard to protect Anthony Keenan Sharp's constitutional rights.

① IN SUPPORT thereof Anthony Keenan Sharp Relies on USCS Fed Rules Civ. Proc R 50, Part 1 OF 2 Judgment as a matter of law this certiorari should be treated in accordance with this Rule.

A Private Party may be held liable under 1983 IF that Party is a "willful participant in joint activity with the State or its Agents"

② Statute of Limitation SDCL 21-27-3.3(4)

③ Cite: Americans with Disabilities Act 42 U.S.C.S. § 12101-12213 564

④ PURSUANT to 28 U.S.C.S 1915(e)(1) Appointment of Counsel
Cite: Montgomery v. Pinchak, 294 F.3d 492, 499 (3d Cir 2002)

⑤ Eighth Circuit for United States Court of Appeals has Fail to consider or Follow the Statute of 28 U.S.C.S 2244, Part 1 OF 2

① Entitlement as Matter of Law

CONCLUSION

FOR the Foregoing Reasons, PETITIONER'S claims the standard as a matter of Law Based upon the Foregoing PETITIONER RESPECTFULLY REQUEST that this COURT grant Judgment in FAVOR OF PETITIONER, and QUASH the Judgment from DISTRICT OF SOUTH DAKOTA/EIGHTH CIRCUIT COURTS. The petition for a writ of certiorari should be granted.

Respectfully submitted,

Anthony K. Sharp

Date: 03/26/2021

8

Specific intent to impede Administration of Justice is essential element of Violation of 18 USC § 1503.

United States v. Johnson, 585 F.2d 119 (5th Cir. 1978)

In Prosecution for Violation of 18 USC § 1503 defendants need only have knowledge or notices that success of his fraud would have likely resulted in obstruction of justice, since when defendant intentionally seek to corrupt, foreseeable consequence of which is to obstruct justice, he has violated 18 USC 1503.

Defendants who intentionally undertook act or intended to effectuate arrangement with reasonably foreseeable consequence of obstructing justice violates § 1503 even if his hope was that judicial machinery would not be seriously impaired.

United States v. Nelsunder, 590 F.2d 1269 (4th Cir) cert. denied, 441 U.S. 963, 99 S.Ct. 2410, 60 L.Ed.2d 1068 (1979)

Proper test of Violation of 18 USC § 1503 is whether defendant[s] had knowledge, notice or information

United States v. Solow, 138 F.Supp 812 (D.N.Y) (1956)

9
Fed. R. Civ. P. 50 - governs motions For Judgment as a matter of law in jury trials. It allows the trial court to remove cases or issues from the jury's consideration when the facts are sufficiently clear that the law require a particular result.

Subdivision (d) controls when the verdict loser appeals from the trial court's denial of a motion For Judgment as a matter of law

Notes of Advisory Committee on 1991 amendments
Subdivision (c) The revision of this subdivision aims to facilitate the exercise by the court of its responsibility to assure the fidelity of its judgment to the controlling law, a responsibility imposed by the Due Process Clause of the Fifth Amendment, cf.

Galloway v. United States, 319 U.S. 372 (1943)

However, when reviewing the record, the court may not make credibility determinations or weigh the evidence. I.d. Judgment may be directed when the facts are sufficiently clear such that the law requires a particular result.

Wesgram v. Marley Co. 528 U.S. 440, 448, 120 S.Ct. 1011, 145 L.Ed. 2d 958 (2000)

In deciding whether Judgment as a matter of law [Should be granted], an appellate Court must first excise inadmissible evidence; such evidence "Contributes nothing to a legally sufficient evidentiary basis."

Appendix B

(10) Equal Opportunity For Individuals With Disabilities §§ 12101-12213

29 USCS 504; Does NOT preclude 42 USCS 1983 action for deprivation of Constitutional Rights to Due Process and Equal Protection and Statutory Rights under 29 USCS 504. An action by handicapped employee who alleged that Municipality's Failure to equip municipal building lavatories to Facilitate access by handicapped Cause employee's injuries

Conlon V. Long Beach, 676 F. Supp. 1289, 1 Am Disabilities Case (BNA) 1178 46 Empl. Prac. Dec (rch) 38056, 53 Fair Empl. Prac. Cas (BNA) 542 (E.D.N.Y. (1987))

TO prevail in a case brought under Rehabilitation Act 29 U.S.C. 504, Plaintiff must show that the plaintiff is
(1) A handicapped person under the Act.

Failure to comply with the Statutory OF S.D.C.L. 21-27-3.3(4) does not Amount to a 'Constitutional defect.

This mirrors the Sixth Amendment of the United States Constitution. OUR State Constitution added the provision OF Furnishing a copy OF the information. These Rights "are Fundamental in Character, and the Failure OF the COURT to protect them in a [Civil] action" is a denial OF due Process OF Law. U.S. Const. Fourteenth Amendment, 1; SD CONST. ART. VI, 2

(11)

28 U.S.C.S. § 2244(d) Statute of Limitations

Hepperle v. Ault, 2002 U.S. Dist. Lexis 19812 HN 7

It is settled in the Eighth Circuit (and most others) that the Statute of Limitations in 28 U.S.C.S. § 2244(d) is subject to the doctrine of equitable tolling. However, equitable tolling affords the otherwise time-barred petitioner an exceedingly narrow window of relief.

Equitable tolling is proper only when extraordinary circumstances beyond a prisoner's control make it impossible to file a petition on time.