

no 20-8079

ORIGINAL

In the
supreme court of the united states

FILED

APR 29 2021

OFFICE OF THE CLERK
SUPREME COURT U.S.

Kevin Martin #169789 petitioner

✓

Kenneth P Cotton respondent

PETITION FOR WRIT OF HABEAS CORPUS

Attorney For petitioner:

KEVIN L Martin #169789

Wabash Valley Correctional Facility

P.O. Box 1111

Carlisle, IN 47838-0000

RECEIVED

APR 29 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

(-1-)

QUESTIONS PRESENTED

1. whether a writ of Appeal deprive Kevin Martin of Equal protection of Law within they jurisdiction by refuse to grant motion to proceed in Foreign purposes
2. whether the court of Appeal abuse of discretion by deprive martin within they jurisdiction a Equal protection right
3. whether the district court abuse of discretion by refuse to provide a injunctive relief because martin was seeking the test result to challenge his conviction.

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:

Indiana State police
public RECORD Request

Judge united states
District court canon
A. Leitchy order

court of appeal
order to Revoke
order

TABLE OF CONTENTS

Opinions Below.....	6	1
Jurisdiction.....	7	
Constitutional and Statutory Provisions Involved.....	8	
Statement of the Case.....	14	
Reasons for Granting the Writ.....	15	
Conclusion.....	16	

INDEX TO APPENDICES

- Appendix A - *complaint -*
- Appendix B - *opinion and order.*
- Appendix C - *memorandum in support of plea)*
- Appendix D - *discovery by Jamestaylor leading out # 2048*
- Appendix E - *report by Keith Vergen*
- Appendix F - *public record request's by Indiana state police -*
- Appendix G - *court of appeal opening case*

TABLE OF AUTHORITIES CITED

CASES:	PAGE NUMBER:
Taylor v Watkins 623 F 3d 483 7th Cir 2010)	8
Haines v Kerner 404 US 519 (1972)	8
Skinner v Switzer 131 S Ct 1289 129. 2011)	8
Edmanson v Leeville concrete co Inc 860 F 2d 1308 (1988)	11
Hunt v Early 233 F 3d 1146 9th Cir 2000)	12
Coleman v Thompson 501 US 722 750 (1991)	13

STATUTES & RULES:	PAGE NUMBER:
1915-g)	8
42 U.S.C. 5. 1983	9
Fed-R-Civ-8-a) 2)	10
public record-act ArizA-)	10
5-14-3.1 Et Seq.	10
5-14-3 2.7-	11
1915-g)	12
rule 59-c)	

OTHER:	PAGE NUMBER:
Kevin Martin v Indiana state police 46col 2009 ct 000183/-	10

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

The Petitioner respectfully prays that this Honorable Court issue a writ of certiorari to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix C7 to the petition and is-

- ☒ reported at Appendix C7 - court of Appeal; or,
☐ has been designated for publication but is not yet reporter; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix C7 to the petition and is-

- ☒ reported at Appendix C7 - court of Appeal; or,
☐ has been designated for publication but is not yet reporter; or,
☐ is unpublished.

☒ For cases from **state courts**:

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

- ☒ reported at public record request; or,
☐ has been designated for publication but is not yet reporter; or,
☐ is unpublished.

The opinion of the court of Appeal court appears at Appendix C7 to the petition and is-

- ☒ reported at Appendix C7 - court of Appeal; or,
☐ has been designated for publication but is not yet reporter; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States court of appeals decided my case was NA.

A copy of that decision appears at Appendix NA. *don't remember properly get lost*

☒ No petition for rehearing was timely filed in my case. NA

☐ A timely petition for rehearing was denied by the United States court of appeals on the following date: NA, 20__, and a copy of the order denying rehearing appears at Appendix NA.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including NA, 20__, on NA, 20__, in Application No. __, and a copy of the order granting said extension appears at Appendix __.

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 DEC-1, 2017.

A copy of that decision appears at Appendix NA.

☒ No petition for rehearing was timely filed in my case. NA

☐ A timely petition for rehearing was denied on the following date: NA, 20__, and a copy of the order denying rehearing appears at Appendix NA.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including NA, 20__, on NA, 20__, in Application No. __, and a copy of the order granting said extension appears at Appendix __.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a). *Martin demonstrate he seeking review under rule 12 and 14.) relevant in part because the state cheated Kevin Martin by withholding document in my case. Seeking review under rule 12.4. in your jurisdiction mean equal-protection HERE*

CONSTITUTIONAL PROVISIONS AND STATUTES

(1-) whether court of appeal deprive Kevin martin of Equal protection of Law within they jurisdiction by refuse to grant motion to proceed in Forma pauperis?

martin demonstrated he imminent danger of a serious physical injury under 1915 g) going blind in his left eyes and his arthritis been lock up mean his joints— and also SEE Taylor v Watkins 623 F3d 483 7th Cir 2010) make it hard to write that is a serious problem HERE if I cant write to defense myself against this conviction?

martin demonstrate this appeal ARE in-good-Faith Formula but must point the sufficient discretion to the account of the special circumstances that often arise in pro, se situation SEE Haines v Kerner 404 US 519 1972.)

martin demonstrate the supreme court granted his certiorari in SEE SKINNER v SWITZER Henry W SKINNER 131 Sct 1289, 179 LEd2d 233, 562 US 521 2011.)

martin demonstrate he a state prisoner's complaint and seeking access to biological evidence for DNA testing that could prove (martin) innocence of murder that had led to his 65-years sentence

held cognizable AS civil right action under 42 U.S.C. § 1983
martin unsuccessfully sought state and Federal post-conviction
relief," martin filed A 42 U.S.C. § 1983 action seeking
injunctive relief against Kenneth P. Cotter to turn
over the test result from the projection found at
the crime scene on 7-19-06.

-background-

At trial Ray A. South Bend police the person
that did the ballistic testing and testified that
the projectiles found in this case were "from the
38 family and consistent with Winchester ammunition
which is typically utilized by revolvers — martin
believes that if they would have had the report
prior to trial, his attorney could have impeached
his testimony by pointing out that when he did the
test, he could not say if it was a from what
type of gun a 38 or 357 but then at trial
he just only mentioned 38 calibre ammunition.

under the Federal rules of civil procedure a complaint need not pin a plaintiff's claims for relief to a precise legal theory Fed. R. Civ. P. 8(a)(2) generally require only a plausible short and plain statement of the plaintiff's claim not an

exposition of his legal argument—Martin not challenge none of the decisions by state court in this murder conviction or Federal court but if obtain this report will prove innocence of murder in this case.

But if the plaintiff's action even if successful, will not demonstrate the invalidity of his conviction or sentence the 1983 action should be allowed to proceed. SEE APPENDICES

E and APPENDICES - D and public record request under

cause Kevin Martin v Indiana state police 46col-2009.ct

0001831) pending Laporte circuit court deal with Martin filed public record act appeal with Indiana

state police under Indiana code 5-14-3-1 et seq and

SEE Indiana code 5-14-3-2 n) speaking for itself. show

pattern by a system keep chain of a false conviction

by (Martin) mean injustice around this court system

review everything under 71003-0607-ma-00012 From

St Joseph Superior court in Indiana South Bend

Indiana, Abuse they power against Martin HERE.

(Martin-)

(2.) whether the court of appeal abuse of discretion by deprive martin within they jurisdiction a Equal protection right.

martin demonstrated - no state shall deprive any person of life - liberty or property without due process of law, nor deny to any person within it's jurisdiction the Equal-protection. of the law to all citizens- SEE Edmonson v Leesville concrete c. inc 860 F2d 1308 5th cir 1998-) comment a clear Error must be review by de novo-) by this court. ban similar access to they jurisdiction to a poor man - who seeking justice been wrongful conviction are a good faith reason (915.9) to review the case.

(3) whether the district court abuse of discretion by refuse to provide a injunctive relief because martin was seeking the test result to challenge his conviction?

martin demonstrate his due process right to use the district court jurisdiction and unconstitutional impediment existed because of lack of information in prison law library may be upheld if the law library arbitrary not provide (martin) material request to re-search his issue before de 1983 civil complaint to obtain the test result see. Hunt v Easley 233 F3d 1146 9th Cir 2000)

Just like people on the outside prisoners have a fundamental constitutional right to use the court system. This right is based on the First, Fifth and Fourteenth Amendment to the constitution.

martin demonstrate on motion Altering or Amending a judgment under rule 59 c.) martin could present newly discovered evidence

BECAUSE A manifest Error of Fact or law happen
HERE— page-3-> SEE Appendix-B- opinion and order
does indeed call into question the validity of his
conviction— martin would show a good cause that
the state withholding the test result but martin
know of no test result that say the victim get
shooting by 38 SEE Appendix-D- and E.) speaking
for itself

SEE coleman v Thompson 501 us 722, 750 (1991)

cause must be something external to the petitioner
something that cannot fairly be attributed to

martin if custody Every 6-month transfer Kevin
martin to different prison and lost his legal material
due them transfer show the corruption to disarrange
martin from litigating his case. Fact.

martin demonstrate and indicated the exculpatory
nature of the test results and connected to martin
innocence and Brady claim and prosecution
misconduct by introduce False Evidence show
prejudice mean of depriving a martin of liberty through
a deliberate deception of court and jury by the presentation
of testimony known to be false— over prejudiced— HERE

STATEMENT OF THE CASE

martin demonstrate he Filed A 1983 in northern district of Indiana seeking A injunctive relief to obtain test result and his discovery under his murder conviction that he never had in his case ?

THE FACT that the state cheated to win this court should review the case. HERE

REASONS FOR GRANTING THE WRIT

martin was deprive of First and Fifth
And 14- Amendment right And seeking
to prove his conviction his Bogus And if
Kevin martin obtain the test result will
back up his allege HERE.

martin was wrongful conviction by state
of Indiana cheated is why I need this
test result in this case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Executed on: April 13, 2021

Respectfully submitted,

K. [Signature]

Petitioner / *pro se*