No. 21-5074

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

SAMUEL A. RIDDER — PETITIONER
(Your Name)

FILED
JUN 24 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

vs.

TIM SHOOP — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Sixth Circuit Federal Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Samuel A. Ridder
(Your Name)

15802 St. Rt. 104 North, P.O. Box 5500
(Address)

Chillicothe, Ohio 45601
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Did the Sixth Circuit misconstrue the Certificate of Appealability as a merits brief?

2. Did the Sixth Circuit err as to forfeiture of the claim regarding alleged bias of the trial judge.

3. Did the Sixth Circuit err as to forfeiture of the claim regarding prosecutorial misconduct?

4. Did the Sixth Circuit err as to its determination of the claim regarding ineffective assistance of counsel?

5. Did the Sixth Circuit err as to its determination of the claim regarding ineffective assistance of appellate counsel?

LIST OF PARTIES

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

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

RELATED CASES

STATE v. RIDDER, Case No. B-1306452, Hamilton Cty., Ohio (Jul. 27, 2015).

STATE v. RIDDER, 2016-Ohio-5195, App. No. C-150460 (Aug. 3, 2016).

STATE v. RIDDER, 147 Ohio St.3d 1508, No. 2016-1371 (Jan. 25, 2017).

In re Disqualification of Hon. Megan Shanahan, S.Ct. Case No. 18-AP-025, (Ohio, Mar. 5, 2018).

SAMUEL A. RIDDER v. WARDEN, Chillicothe Corr. Inst., 2020 U.S. Dist. LEXIS 77027, Case No. 1:18-cv-61 (May 1, 2020).

SAMUEL RIDDER v. TIM SHOOP, Warden, 2020 U.S. App. LEXIS 32830, Case No. 20-3525 (Oct. 16, 2020), 6th Cir.

TABLE OF AUTHORITIES

TABLE OF CONTENTS

INDEX TO APPENDICES

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

[X] For cases from **federal courts:**

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

[X] reported at RIDDER V. Shoop, 2020 U.S. App. LEXIS 32830; 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[ ] is unpublished.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

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 16, 2020.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: January 8, & 25, 2021, and a copy of the order denying rehearing appears at Appendix D & E.

[ ] 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

USCS Constitution Amendment Five

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

USCS Constitution Amendment Fourteen

Sec. 1. [Citizens of the United States.] All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; 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.

STATEMENT OF THE CASE

While living in Kentucky, the Petitioner, Ridder, returned home from work one day, and his live-in girlfriend, Jarvis, informed him that the current baby-sitter had been touching her daughter inappropriately. She had bannished the baby-sitter, and Ridder thought that to be the end of the matter. Later, the family, including Ridder, Jarvis, her two children, and the child they had together, moved to Ohio.

In the intervening period of time, Ridder and Jarvis were exploiting drugs. And for some time, Ridder wanted to be free of the stench. But, Jarvis had other plans. So, she took all of the children and sought out a domestic-violence shelter. Then, it was only after Ridder filed a missing persons report with the police, for the child they had together, that allegations arose against Ridder regarding inappropriate sexual conduct with Jarvis' daughter.

On July 23, 2015, and after a jury trial, Petitioner was sentenced to Life in Prison, without the possibilty of parole, for four counts of Rape, and 18-months for one count of Gross Sexual Imposition.

On August 3, 2016, after a timely appeal, the Court of Appeals affirmed the judgment of the trial court.

On November 4, 2016, Ridder filed a 26(B) Application for Reopening. However, prison officials forestalled the brief's timely advent, provoking procedural default. As the Court of Appeals denied on January 13, 2017, for want of punctuality.

Nonetheless, Petitioner did not receive notice of Appellate Court's denial of 26(B), except by delayed notice after his specific request to the Clerk of Court in June and July of 2017.

On January 25, 2017, the Ohio Supreme Court declined to accept jurisdiction of timely direct appeal.

On August 3, August 28, November 20, and December 29, 2017, the Clerk of the Supreme Court of Ohio refused to file delayed appeal of 26(B). As required by Rule 7.01(A)(4).

On January 25, 2018, Petitioner timely filed Petition for habeas corpus in the Federal District Court.

On March 5, 2018, the Ohio Supreme Court denied Petitioner's Affidavit for Disqualification of Hon. Megan Shanahan.

On May 14, 2019, a Federal Magistrate Judge issued a Report and Recommendation to deny writ of habeas corpus.

On May 1, 2020, a Federal District Judge adopted the Magistrate Judge's Report and Recommendation to deny habeas.

On June 1, 2020, Petitioner timely applied for a Certificate of Appealability. And on October 16, 2020, the Federal Sixth Circuit denied the application for COA.

On October 29, 2020, Petitioner timely petitioned for an en banc rehearing in the Sixth Circuit. And, on January 8, 2021, a panel declined to rehear the matter. Then, on January 25, 2021, the en banc court denied rehearing.

Now, the Petitioner appeals to this Supreme Court of the United States.

REASONS FOR GRANTING THE PETITION

Albeit, the Petitioner was accused and convicted of four counts of rape, and one count of gross sexual imposition, the findings of the trial court belie trial evidence of a different perpetrator. Starkly, this case has no physical evidence. What's more, the Petitioner filed a missing persons report with the local police, after his girlfriend took her children and disappeared. It was only after the missing persons report that allegations came to be against Petitioner. It is among such a backdrop, according to which, the case hinges on the jury's assessment of the credibility of witnesses. And, Petitioner's arguments arise primarily from prosecution's misconduct swaying the jury, besides ineffective trial and appellate counsel.

STANDARD FOR THE FEDERAL SIXTH CIRCUIT

"Until the prisoner secures a COA, the Court of Appeals may not rule on the merits of his case." Buck v. Davis, 137 S.Ct. 759, 773 (2017), citing Miller-El v. Cockrell, 537 U.S. 322, 336 (2003).

"At the COA stage, the only question is whether the applicant has shown that 'jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.'" Id., at 773.

ANYTHING BUT FORFEITURE

The Honorable Judge Bush, of the Federal Sixth Circuit, is under the illusion that, "Ridder forfeited his claim regarding alleged bias of the trial judge by raising it for the first time in his objections to the magistrate judge's report." (Appendix A, Pg. 3) Judge Bush continues, "By failing to raise any challenge to the district court's resolution of his claims regarding prosecutorial misconduct, insufficiency of the evidence, and improper sentencing, he has forfeited those claims." (Appendix A, Pg. 3)

Claim regarding bias of the trial judge.

The discrepency of Judge Bush's logic is found tangible in Ridder's Petition for Habeas Corpus, where he pronounced judicial bias, (APPENDIX O, Pg. 11, 13) and particularized his argument in Traverse. (APPENDIX N, Pg. 26-27)

In this instance, the District Court made no application of AEDPA to Petitioner's judicial bias claim, but instead remained mute. Then at the time of review, Judge Bush commanded a view that Ridder forfeited this claim by raising it for the first time in an objection. Nevertheless, Ridder did initially and persistently serve this claim to the District Court. Consequently, Ridder invoked a rehearing of Judge Bush's ruling with the en banc court, and accounted for the fact of the matter. Empty of any comment, the en banc court rubber-stamped approval of ruling.

The underlying claim of judicial bias consists of the trial judge becoming part of the accusatory process, violating Ridder's right to a fair trial.

Due process requires that a judge possess neither actual nor apparent bias. Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 884 (2009); see also In re Murchinson, 349 U.S. 133, 136-39 (1955).

"To state a due process claim that a judge was biased, defendant must show either that actual bias existed, or that an appearance of bias created a conclusive presumption of actual bias." United States v. Lowe, 106 F.3d 1489, 1504 (10th Cir. 2006). Presumptive bias occurs when a judge may not be biased but has the appearance of bias such that "the probability of actual bias ... is to high to be constitutionaly tolerable." Richardson v. Quarterman, 537 F.3d 466, quoting Withrow v. Larkin, 421 U.S. 35 (1975).

Constitutional violation requires reversal only if appearance was prejudicial. Aetna Life Ins. Co. v. Lavoie, 475 U.S. 813.

In Ridder's case, a component of the trial judge becoming part of the accusatory procees entails the judge's permissive introduction of religious practices of Ridder into the trial.

Notably, the Supreme Court explained that religious freedom is one of the constitution's most guarded values, and its a very fine line before we enter the business of evaluating the relative merits of various religious claims. Torcaso v. Watkins, 367 U.S.

488, 491-92 (1961).

While not probative of the material issues, the prosecutor used religiously oriented questions to appeal to the jury's predilections. And, in congruency with this, the trial judge prepared key-witness for questioning, by raising the subject of Christmas as a happy time. While knowing that prosecution had linked Christmas as a religious topic against Ridder, in that Ridder was mean toward Christmas.

Here, the trial judge can be seen to be part of accusatory process, and have personal extrajudicial bias, in working in connection with prosecution and the religious connection that favors Christmas. Liteky v. United States, 510 U.S. 540, 551-55 (1994) (extrajudicial source not required for finding of personal bias; events occurring in course of current proceedings may constitute basis for recusal if they establish deep-seated favoritism or antagonism that makes fair judgment impossible); In re Murchinson, 349 U.S. 133, 137 (1955) (partiality is present when judge becomes part of the accusatory process).

Quite apart from the constitutional violations argued in this judicial bias claim are the added constitutional violations, both from the District Court remaining silent and the Circuit Court changing the factual procedure followed. In which case, Ridder's right to be heard, under the first amendment right to free speech was subverted. And, undermining fundamental process.

All of this supports that Ridder has shown that reasonable jurists may conclude that the District Court had jurisdiction for his judicial bias claim presented in Petition and Traverse. This is because, "federal courts have a strict duty to exercise the jurisdiction that is conferred upon them by Congress." Langston v. Charter Twp. of Redford, 623 Fed. Appx. 749, 756 (6th Cir. 2015)(unreported) citing Harman v. Forssenius, 380 U.S. 528, 534 (1965).

All of the above supports the weight that Ridder has shown jurists of reason could debate, or even agree, that the petition should have been resolved in a different manner, and/or that the issues were adeqate to deserve encouragement to proceed further. Miller-El v. Cockrell, 537 U.S. 322, 336 (2003).

Claim regarding prosecutorial misconduct.

Once again, Judge Bush miscues Petitioner's presentation. The prosecutorial misconduct is among the list of claims in the Application for COA, on pages 1 and 2. Several times over throughout the Application for COA, prosecutorial misconduct is presented. Begining with the ineffective assistance of appellate counsel claim, with which the prosecutor misconduct is woven and depicted on on pages 4 and 5 of Application. Then again in ground two prosecution misconduct[1], and in ground three ineffective assistance of counsel, on pages 8 and 9 of Application.

[1] argument present, although mislabeled as ground three.

Closing out the Application for COA, Petitioner extended Slack v. Mcdaniel, 529 U.S. 473, 484 (2000), and Fed.R.App.P. 22(b) to his claims. He explained that he has shown: 1) that reasonable jurists would find the District Court's "assessment of the constitutional claims debatable or wrong," or 2) that reasonable jurists would find it debatable whether the petition states a valid claim of the denial of a constitutional right." and debatable whether the District Court was correct in its procedural ruling."

Thus, although Petitioner's argument regarding prosecutorial misconduct is not as proficient as an attorney, and is scattered throughout his Application for COA, the argument challenging the District Court's resolution of Application was in fact present.

The underlying claim of prosecutorial misconduct consists of profusely more instances than argued by trial or appellate counsel. Petitioner compares appellate counsel's minimal charges of misconduct of five leading questions, two instances of vouching, and two instances of denigration of defense, to the following: misrepresented facts, including added prejudicial key-testimony not testified to; appealing to jury's prejudices by injecting religious practices of Petitioner; instructing the jury to find Petitioner guilty; nearly a dozen instances of vouching; false testimony; impermissible testimony, resulting in telling the jury what result to reach; presenting hearsay through detective

which could only be relevant to prove the truth of the matter asserted; and many more leading questions. (APPENDIX L, Pg. 5)

Judge Bush explains that, "Ridder fails to specify which comments and remarks the state court or the district court failed to consider in reaching its determination. (Appendix A, Pg. 6)

If proved, the prosecutorial misconduct listed by Ridder does not require the "specific "comments and remarks" of all the misconduct listed, at this stage in applying for a COA. As the Supreme Court stated, "This threshold inquiry does not require full consideration of the factual or legal basis adduced in support of the claims. In fact, the statute forbids it." Miller-El v. Cockrell, 537 U.S., at 336.

Ridder insists that, even though he did not specify which comments and remarks the prosecutor made in his Application for COA, that he did follow the Fed.R. of Civ.P. 8(a)(2), which requires "a short and plain statement of the claim showing that the pleader is entitled to relief.' As the Court held in Twombly, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed. 2d 929, the pleading standard Rule 8 announces does not require 'detailed factual allegations,' but it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." Ashcroft v. Iqubal, 556 U.S. 662, 667-78 (2009).

At least some of the accusations by Ridder contained sufficient factual enhancement beyond labels and conclusions, as highlighted here: appealing to jury's prejudices, by injecting

religious practices of Petitioner; and instructing the jury to find Petitioner guilty. (Appendix L, Pg.5)

Then in Ridder's Petition for Rehearing of Application for COA to the en banc court, Ridder bolstered his "plain statements" required by Fed.R. Civ.P. 8(a)(2). Erickson v. Pardus, 551 U.S. 89, 94 (2007) (petitioner bolstered his claim making more specific allegations in later filings).

The following citations from trial were presented to the en banc court to bolster Ridder's claim of prosecutorial misconduct:

1 Vouching no less than twenty times in regard venue at closing, when venue was the main defense:

> "We proved venue." "We got the venue." "Venue is not an issue in this case. This happened in Ohio. I can assure you ... Venue is not an issue. Its just not." "There is no question about venue." (T.p. 1198, 1233)

2 Other instances of vouching:

> "Come on that's not credible, that's not believable... Nothing that woman said is credible." (T.p. 1244, 1246)
>
> "The experts... We have over 62 years of experience." "Detective Macaluso did his job. He looked into it as best as he could... He did his job." (T.p. 1235, 1258-59)
>
> "Simon wasn't lying. Sianna wasn't lying. They remember things slightly differently. We all agreed discrepencies are okay." "For two years she is telling this consistent story." (T.p. 1230-31, 1252, but the facts show inconsistancy)

3 Prosecutor says, "there is no reason for Kami to make this up." Yet, Ridder filed a missing persons report with the police, giving her motive to get police off her tail, as she was heavily addicted to drugs. (T.p. 1068, 1238)

4 Denigrates defense counsel, then later does what she accused defense of doing:

> "I can't think of a better example than that of defense trying to get you to not look at all the evidence." "So this Caitlin thing, don't let that distract you." (T.p. 1232-33, compare 1258)

5 Equating "physical abuse" with "sexual abuse." (T.p. 1127-33)

6 Mischaracterized testimony; explaining Ridder put his girlfriend's head through a wall, repeatedly emphasises such. Yet, testimony confirms no such thing happened. (T.p. 568, 1244); Prosecutor explains Ridder did this "every night," but testimony does not back this assertion. (T.p. 1253); Prosecutor proffers that "Sometimes he wiggles it in... she made up that he wiggled his penis in her mouth?" However, there is no such testimony. (T.p. 1253)

7 Instructs the jury to find Ridder guilty:

"Its time to fill out these guilty forms." (T.p. 1259)

The Supreme Court expressed its concerns of improper prosecutor arguments, and were implicated by vouching for the credibility of witnesses, personal opinion of the accused, and error of exhorting the jury to "do its job." United States v. Young, 470 U.S. 1, 7-9, 18-19 (1985).

Ridder's case is very much like Hodge v. Hurley, 426 F.3d 368, 378-85 (6th Cir. 2005), where the Sixth Circuit reversed reversed the conviction, based on the Supreme Court's holding in Young, finding prosecutorial misconduct affected the jury's

assessment of the credibility of the witnesses, and trial counsel's failure to object to any of the prosecutor's closing remarks. Hodge, 426 F.3d, at 385. And likewise, Ridder's trial counsel failed to object to any of prosecutor's closing arguments.

The Young Court explained that, "each case necessarilly turns on its own facts," and when reviewing for plain error "a reviewing court cannot properly evaluate a case except by reviewing the entire record." Young, 470 U.S., at 16.

The Supreme Court distinguished Donnelly v. DeChristoforo, 416 U.S. 637 (1974), from Miller v. Pate, 386 U.S. 1. The Court 1) reaffirmed that "the Fourteenth Amendment cannot tolerate a state criminal conviction obtained by the knowing use of false evidence," and 2) "In Miller, manipulation of the evidence by prosecution was likely to have an important effect on the jury's determination." Donnelly, 416 U.S., at 646-47.

In the application of Donnelly to Ridder's case, some of the prosecutorial misconduct implicating review includes several misrepresented facts, including added prejudicial key-testimony . . . not testified to, appealing to the jury's prejudices by injeting religious practices of Petitioner. Several examples of which are already detailed above.

Ridder's case is distinguished from Donnelly, because he actually has specific instances of manipulation that affected the jury's assessment of the credibility of witnesses. Some of which detailed above.

Once again, all of the above supplies that Ridder has shown jurists of reason could debate, or even agree, that petition should have been resolved in a different manner, and/or that the issues were adequate to deserve encouragement to proceed further, on prosecutorial misconduct claim. Miller-El, 537 U.S., at 536.

Claims regarding sufficiency and sentencing.

Petitioner concedes that he has forfeited his claims of the insufficiency of the evidence, and improper sentencing. Indeed, he does not include them whatsoever in his Application for COA. However, he does maintain and reiterate that he did in fact challenge the District Court's resolution of prosecutorial misconduct, as detailed earlier. And now, he challenges the Circuit Court's resolution of prosecutorial misconduct.

APPLICATION FOR COA TREATED AS MERITS

Ineffective assistance of counsel claim, and
Ineffective assistance of appellate counsel claim.

As to the ineffective assistance of counsel claim, Judge Bush explains that "Ridder fails to specify which comments and remarks the state court or the district court failed to consider in reaching its determination." (Appendix A, Pg. 6) Then for the ineffective assistance of appellate counsel claim he says, "Even assuming that Ridder established good cause for the delay

in filing his Rule 26(B) motion, he failed to establish actual prejudice because appellate counsel was not ineffective for failing to raise the claims that, for the reasons stated above and in the state appellate court's decision, were meritless." (Appendix A, Pg. 6)

The ineffective assistance of counsel claim is intrinsically woven together with the prosecutorial misconduct claim. Couple that with the ineffective assistance of appellate counsel, all of which compounds the constitutional violations.

As portrayed in the earlier prosecutorial misconduct claim, Ridder presented sufficient plain statements, under Fed.R.Civ.P. 8(a)(2), that show more than an unadorned the-defendant-unlawfully-harmed-me accusation. Ashcroft, 556 U.S., at 667-78. Among which were that the prosecutor: instructed the jury to find the Petitioner guilty; appealing to jury's prejudices by injecting religious practices of Petitioner; presenting false testimony; and misrepresented facts: (Appendix L, Pg. 5; Appendix M, Pg. 7)

For clarity, if this list was not sufficient under § 2253, for a limited-nature inquiry, Buck, 137 S.Ct., at 774, then Ridder supplemented his argument to the en banc court, some of which were the following prosecutor remarks:

1 "I believe the state has shown and proved beyond a reasonable doubt the defendant is guilty of this. There is no doubt..." (T.p. 1200-01)

2 "Simon wasn't lying. Sianna wasn't lying." (T.p. 1230)

3 "Come on that's not credible, that's not believable!! Nothing that woman said is credible."(T.p. 1244, 1246)

4 "I can assure you... venue is not an issue. Its just not." "There is no question about venue." (T.p. 1233)

5 "Detective Macaluso did his job." (T.p. 1258)

6 "Its time to fill out these guilty verdict forms." (T.p. 1259)

(Appendix M, Pg. 8)

Additional instances brought before the en banc court were previously mentioned in prosecutorial argument in this current Petition, (This Petition, Pg. 13-14) All of these specifics were sent to bolster Ridder's statements under Fed.R.Civ.P. 8(a)(2). Erickson v. Pardus, 551 U.S. 89. 94 (2007) (Petitioner bolstered his claim making more specific allegations in later filings).

Having established questionable practices of the prosecution, based on the Supreme Court's holding in United States v. Young, 470 U.S. 1, 7-9, 18-19 (1985). It is unprofessional conduct for the prosecutor to express her personal belief or opinion as to the truth or falsity of any testimony, evidence, guilt of the defendant, or to exhort jury to "do its job."

Additionally, the Supreme Court said, Manipulation can affect the jury: Donnelly v. DeCristofro, 416 U.S. 637, 647 (1974).

Instead Judge Bush looked to the Ohio appellate court's decision, which said the claim was meritless.

However, the COA standard is not that of merits. Rather, that if "jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists of reason could conclude the issues presented are adequate to deserve encouragement to proceed further." Buck, 137 S.Ct., at 773.

For the procedural defaults, Ridder presented evidence that prison officials hindered his access to the courts, preventing his 26(B) from being timely received, and that the notice of Ohio appellate court's decision did not arrive to Ridder in a timely manner, in order to appeal. (Appendix L, Pg. 2-6) Then, Judge Bush assumming Ridder established cause for the delay in filing 26(B), but said that he failed to establish prejudice because the appellate counsel was not ineffective for failing to raise the claims which were meritless. (Appendix A, Pg. 6)

However, as noted in this Petition, under the prosecutorial claim, Ridder has shown enough material that, jurists of reason would find the District Court, and now the Sixth Circuit's also, "assessment of the constitutional claims debatable or wrong," or that reasonable jurists would find it debatable whether the petition states a valid claim of the denial of a constitutional right," and "whether the District [and Circuit] court[s] [were]

correct in their procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

As the Supreme Court said, "When a court of appeals sidesteps [the COA] process by first deciding the merits of an appeal, and then justifying its denial of a COA based on its adjudication of the actual merits, it is in essence deciding an appeal without jurisdiction." Buck v. Davis, 137 S.Ct. 759, 773 (2017), citing Miller-El v. Cockrell, 537 U.S. 322, 336-37 (2003).

In Ridder's case, Judge Bush did such a review, by looking to the "merits" of the Ohio appellate court. Which is departing so far from the accepted and usual course of judicial procedings, as to call for an exercise of this Court's supervisory power.

CONCLUSION

The Petition for a writ of certiorari should be granted, in order to correct the Circuit Court's departure from the accepted and usual course of judicial proceedings, by the exercise of this Court's supervisory power.

The Petition for a writ of certiorari should also be granted, as the Circuit Court has decided federal questions in a way that conflicts with relevant decisions of this Court.

Respectfully submitted,

Samuel A. Ridder, Petitioner-Pro se

Date: 6-24-21