

No. _____

21 - 5547

IN THE
SUPREME COURT OF THE UNITED STATES

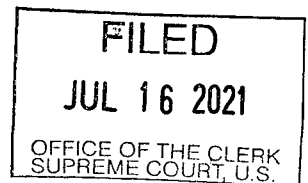
YIMOE SIDHA
(Your Name)

ORIGINAL

— PETITIONER

vs.

DONALD B. SEALING et al. — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

YIMOE SIDHA #448394-0389307
(Your Name)

18601 Roxbury Road
(Address)

Hagerstown, MD 21746
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Does Petitioner have a constitutional and State Statutory Right "to the effective assistance of Counsel" on his first Petition-for Post Conviction Relief, which Petitioner as prose filed, pursuant to (formerly Article 27/654A) request for Post-Conviction Hearing pursuant to Ann. Code of Md. Rule 4-401 thru 4-408?
2. If the State's Attorney Office acknowledged the fact that Petitioner Siddha did file a timely petition for Post-Conviction Relief; received by their office on July 26, 2018. Then was not the "personal mailbox" rule, Hackney, which every Court and even the Supreme Court of the United States that if submitted by an inmate confined in an institution, a document is timely filed if it is deposited in the institution's internal mail system on or before the last day for filing and is accompanied by a notarized statement or declaration in compliance with 28 USC. §1746... has been paid would also apply to Mr. Siddha's Petition for Post-Conviction Relief?
3. Why would not the 4th Circuit agree with Mr. Siddha when in Milton McCray, they sent his Post-Conviction back to Baltimore City; he got his Post Conviction even though he got zero money, yet, Maryland cites McCray v. Maryland in Courts and Judicial Proceedings under Clerk Duties. McCray himself labelled his 42 U.S.C. §1983 suit as "Negligence" but the 4th Circuit said it was an egregious violation of his right to "Access The Courts" (First Amend. Violator), Mr. Siddha said

What the 4th Circuit said → to wit → the Clerk denied Mr. Siddha Court Access, clarified "to the extent that" McCray authorized a 42 U.S.C. §1983 for negligence claims" they (the same 4th Circuit who decided McCray) said the stare decisis of the "denial of Access to the Courts" is actionable under 42 U.S.C. §1983. All Bill of Rights violations are automatically actionable under 42 U.S.C. §1983?

4. The Supreme Court just recently ruled in the *Lucio Perez* case, who was held up in a church for 3 years to avoid deportation, because he missed a mailing order, a court date, that Immigration Enforcement have to send Notice to Perez (April 2021). Defendant Gregory Hilton as court clerk should fall under this same ruling because Mr. Siddha's Breeding Notice was indeed a matter of Justice or nothing. Did the District Court of Maryland and the 4th Circuit drop the ball when it came to the law on "Notification" concerning "Breeding Notice"?

5. The John or Jane Doe, clerk, has been identified as being Scott A. Boyer, defendant who refused to file Plaintiff Siddha 42 U.S.C. §1983, as a lower court to address a constitutional and state violation, was defendant Boyer in violation to Mr. Siddha's civil rights; because the Court should deter ministerial functionaries from refusing to file court papers?

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:

Donald B. Sealing, II, Clerk of Court for Carroll County;
Gregory Hilton, Clerk of Court for Maryland Court of
Special Appeals; Scott A. Royer, Clerk of Court for
Anne Arundel County

RELATED CASES

Siddha v. Sealing et al, NO. 1:19-cv-00131-GLR, U.S.
District Court for the District of Maryland, at Baltimore.
Judgment entered March 30, 2020.

Siddha v. Sealing et al, NO. 20-6593, U.S. Court of
Appeals for the Fourth Circuit.
Judgment entered July 8, 2021.

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CASES

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- Pierson v. Ray*, 386 U.S. Supra at 554-555, 87 S. Ct. 1213, 18 L. Ed. 2d 288.
- Washington v. Official Court Stenographer*, 251 F. Supp. 945 (E.D. Pa. 1966) (1972 U.S. App. LEXIS 8)
- Whirl v. Kern*, 407 F. 2d 781 (5th Cir.) cert. denied, 396 U.S. 901 S. Ct. 210, 24 L. Ed. 2d 177 (1969)
- McCray v. Maryland*, 456 F. 2d 1, 1972 U.S. App. LEXIS 11018

STATUTES AND RULES

- Md. Ann. Code, Art. 171 (1957)
- Md. Rule 4-403
- All Bills of Rights violations are actionable automatically under U.S.C. § 1983
- Maryland Constitution, Art. 2, sec 9

OTHER

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 _____ 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 July 8, 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: _____, 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. § 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

Prisoners have a fundamental right to access and use the court system, just like people on the outside. This right is based on the First, Fifth, Sixth, and Fourteenth Amendments to the Constitution. Under the First Amendment, you have the right to "petition" the government for redress of grievances, and under the Fifth and Fourteenth Amendments, you have a right to "due process of law." Put together, these provisions mean that you must have opportunity to go to court if you think your rights have been violated. This right is referred to as the "right of access to the courts."

Nevertheless, Maryland General Assembly granted to all inmates the statutory right to counsel for a hearing and a statutory right to a post-conviction hearing. Md. Ann. Code Art. 27, § 645A. Even though this right has a statutory basis, as opposed to a constitutional basis, the Supreme Court has held that, once the legislature has provided a statutory right to counsel, the state may not deny due process of law and fundamental fairness. Due process of law and fundamental fairness are denied when there is no provision to ensure that statutorily counsel is competent.

Court clerks are not entitled to judicial immunity in prisoner's civil rights action against them where clerk's duties were ministerial rather than "quasi-judicial" because clerk do not exercise discretion in exercising their duties. In respect to filing papers, a clerk of court has no discretion that merits insulation by a grant of absolute immunity; the Act is mandatory. Md. Ann. Code Art. 17, 1(1957).

STATEMENT OF THE CASE

On June 7, 2016, Mr. Siddha entered a plea of guilty to Robbery with a Dangerous Weapon, First Degree Assault and Use of a Handgun in a Crime of Violence, before the Hon. Judge Thomas E. Starobfield; a sentence imposed of twenty-five (25) years without parole for the Robbery with a Deadly Weapon count, a concurrent twenty-five (25) year sentence for First Degree Assault and a concurrent five (5) year term for use of a Handgun in a Crime of Violence.

The Courts and States Attorney Office recognized that the Post-Conviction Relief was in fact a "nonfrivolous claim". However, recognition does not apply the law; in fact, clerks on every level stopped Mr. Siddha from being able to assert a "nonfrivolous claim".

In Mr. Siddha's Post-Conviction Relief timely filed, he provided the legal standards for ineffective Assistance of Counsel, both State and Federal law bounds defense attorneys ineffective assistance of counsel at sentencing when he/she fails to present appropriate mitigation evidence; esp., such as Mr. Siddha was being seen by and treated under psychologist and psychiatrist care. Treating psychiatrist and physicians may also have a statutorily defined role in a patients due process in legal proceedings.

The answer to why counsel would allow Mr. Siddha to plead guilty to a handgun violation that was a toy. Without a Post-Conviction hearing, Mr. Siddha's illegal sentence would stand. ~~Creating a miscarriage to justice and denial of State and Federal rights.~~

The Clerk must follow Rule 4-403 which requires that the Clerk is to notify Anita Lettau, under the Maryland Public Defender Act to effective assistance of counsel in the process of attacking any injustices. Being that Mr. Siddha notified everybody at the same instant that the Clerk (Selling) trashed his petition, it became the State's Attorney duty to report the Clerk's misconduct in office; this covered by Rules 18-202.15 (Clerks); 18-102.15 (Judges); and the Maryland Lawyers' Rules of Professional Conduct 8.3 (Anita Lettau and State's Attorney).

Clerk, Gregory Hilton misused his functionaries duties to slither around the fact that he deliberately chose to mail the Briefing Notice to some remote location known only to him as a means to orchestrate grounds for dismissal of the appeal (correct illegal sentence); thereby, denying Mr. Siddha access to the courts via ministerial functionaries artifice. The subject matter of the appeal is of no concern to the Clerk of the Court. His only concern is his onus to perform his ministerial functions to file the papers and return a Session Briefing Notice to (from whence it came) the Appellant; and not to some secretly chosen location.

REASONS FOR GRANTING THE PETITION

1. Petitioner, as pro se, followed the law to the letter, filing a Post-Conviction Relief with the Clerk of the Court for Carroll County. The clerk receives documents for filing with the Court and has authority to reject any submitted filing that does not comply with that court; however, Clerk Sealing never gave an explanation to the whereabouts of Mr. Siddha's petition. He just left office as clerk ... leaving Petitioner without redress. The law of the land states that if a petition is submitted by an inmate confined in an institution, a document is timely filed if it is deposited in the institutional internal mail system ... in compliance with 28 U.S.C. § 1746, and Proof Service.
2. Unless this Honorable Court grant the Petition, the State Court nor appeal recognizes Mr. Siddha's already timely filed Post-Conviction Relief. To deny Mr. Siddha's fundamental right is equivalent to saying that citizens with mental health issues and toy guns are free game. That's not what Congress nor the Constitution meant by due process.
3. The "Law" granting Mr. Siddha the "Right" to seek Post-Conviction Relief (Crim. Proc. § 7-101 et. seq.) is being abridged by every facet of Maryland Institutions; i.e., Anita Letau holds an office in Governor Hogan's Cabinet that [he] delegated to Paul B. De Wolfe ([he] Public Defender Office). The law fell short when Mr. Siddha tried applying it.
4. For years Mr. Siddha set back and watch every inmate who file a Post-Conviction Relief, or any other petition, at least get received by the Court, Petitioner has been stalled for years with no access to Court; therefore, pray this Review and Reasons for granting the petition.

With the aid of appointed counsel Mr. Siddha could retrieve some of the pieces to Scott A. Poyer's puzzle; Gregory Hilton's home; and Donald B. Sealing, II's clandestine agenda. *McCoy v. Maryland*, 456 F.2d 116 (4th Cir. 1972).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Yimoe Siddha, Esq.

Date: July 15, 2021