

EXHIBIT A

Supreme Court Envelope

12-06-2021

OFFICE OF THE CLERK
SUPREME COURT OF THE UNITED STATES
WASHINGTON, DC 20543-0001
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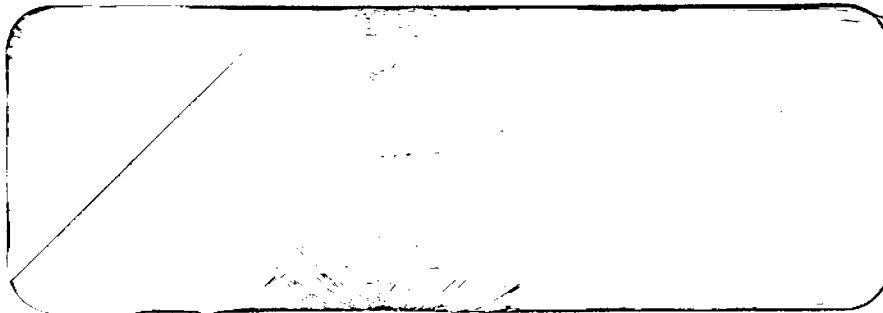
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Jm 12/16/21 #353248



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E-3-15

12/14

02/01

Exhibit B

Mailroom Supervisor's
written statement

SUBJECT: State briefly the problem on which you desire assistance.

Ms. Carrington, could you explain why I didn't get the Dec. 06, 2021
Order from the Sup. Court until Feb. 01, 2022? I need to justify
my date filing of a Habeas Petition.

Thank You

Name: Francis, Larry Gene

No: 353248

Unit: JM

Living Quarters: E-3-15

Work Assignment:

N/A

DISPOSITION: (Inmate will not write in this space) Mr. Francis received the Special from
Supreme Court of the United States in Washington, DC 20543-0001
on 2-1-22. It was received from Alfred on 2-1-22. Alfred
sent it in truck mail which takes 6-8 weeks through this process.
It was post marked 12-6-21. If you need more information
please feel free to contact me. TDCJ-MONTFORD 806 7451021

☆I-60 (Rev. 11-90) Ext. 1126

G. Carrington 2-11-22

IN THE UNITED STATES
SUPREME COURT
WASHINGTON, DC

No. 21-6033

LARRY GENE FRANCIS

v

BOBBY LUMKIN, DIRECTOR
Tx Dept. of CRIMINAL JUSTICE

REQUEST FOR RECONSIDERATION
OF DENIAL OF PETITION FOR
WRIT OF CERTIORARI

TO THE HONORABLE ELENA KAGAN, STEPHEN BREYER, AND
JUSTICES OF THE COURT:

Comes now Larry Gene Francis, Petitioner, and asks
this HONORABLE COURT to reconsider the Dec. 06, 2021
denial of said Petition and, in support hereof, would
respectfully show as follows:

I

FACTS SHOWN IN CERTIORARI PETITION

Petitioner showed in his Petition that the following
facts are indisputable:

1. That his parole was revoked for SISP condition violations when Petitioner was not on SISP parole conditions;
2. That Petitioner's parole Officer Gerald Nixon (Nixon) gave false testimony on at least seven (7) instances in order to cause Petitioner to be found "Guilty" of violating parole;
3. That NO EVIDENCE was presented at the hearing to show that Petitioner was on SISP conditions NOR ANY evidence that Petitioner even violated SISP conditions, but evidence WAS presented that Petitioner was NOT on SISP conditions;
- 4) That Petitioner was found to have violated SISP conditions which resulted in the loss of his liberty after Petitioner had already been found NOT to have violated those same conditions;
- 5) That from the start of this situation the Officials of the Board of Pardons & Paroles (BOARD) have intentionally and systematically hindered Petitioner in his quest to seek justice by denying All requests for records & information that prove Petitioner's innocence of parole violation AS well as intentionally making false statements to Attorney Robert Vieder to influence counsel away from assisting Petitioner;
- 6) That the Board cited State "laws" that allow them to deny Petitioner's request for Exculpatory evidence because the

· requested evidence + information CAN be used to support Petitioner's criminal appeal AND in A suit against the State OR Board;

7) That at all times AND in all forums (State Court, Fed. Dist. Court + 5th Circuit) Petitioner has been diligent in seeking specific documents AND information from the Board which prove his factual innocence of parole violation but has been denied at all levels;

8) That the State's attorney recommended Discovery be conducted in the violation hearing to learn the facts surrounding Petitioner's claims but Discovery was never allowed;

9) That the Board, in denying Petitioner's request for exculpatory evidence per Tx. Gov't Code §552.103, admitted the existence of exculpatory evidence;

10) That Petitioner is factually innocent of parole violation.

II

CONSTITUTIONAL DEPRIVATIONS

Petitioner WAS subjected to Double Jeopardy when he was found to have violated conditions after he had already been found NOT to have violated those same

conditions.

Petitioner was deprived of his right to Due Process of Law when his parole was revoked for alleged condition violations that were not a condition of his parole; when there was no evidence that Petitioner was on SISP parole or had violated SISP conditions of parole; when Nixon testified falsely to every material fact; when the "charges" were brought about by Nixon in retaliation for Petitioner complaining about Nixon's handling of Petitioner's parole; when he was denied exculpatory evidence; when he was denied Discovery/Evidentiary Hearing in all forums below despite State's Attorney admitting no knowledge of facts surrounding the hearing and recommending Discovery; when Petitioner's petitions were all denied even though the facts surrounding the hearing were never disputed by the State; when the Board denied Petitioner's exculpatory evidence request because he was in prison and could use the requested evidence to support his appeal and in a suit against the State; when the Board intentionally lied to Counsel in a successful attempt to influence Counsel

NOT to ASSIST Petitioner.

III

EFFECT OF DENIAL

The effect of denial in this case is to advance the belief that as long as State's comply with a particular "process" (notice, hearing, etc) in parole revocation hearings as outlined by the Supreme Court, that any and all violations of Constitutional rights committed in the hearings will be treated as inconsequential because no other Constitutional rights exist for a parolee facing a violation hearing; that the State can present false evidence & testimony in order to satisfy the "some evidence" standard; that they can refuse to disclose exculpatory evidence if it can be used by the parolee in support of his Appeal; that they can hinder a parolee's attempts to obtain the assistance of counsel, etc, and that they can do all this as long as they give notice, hold a hearing, etc.

IV

ARGUMENT

No State should be allowed to revoke the parole

of a parolee for something that is not a condition of their parole; no State should be allowed to subject a parolee to Double Jeopardy once it is found he did NOT violate conditions of parole; No State should be allowed to revoke parole when the only "evidence" is All shown to be false; no State should be allowed to deny exculpatory evidence or information just because it can be used against them in a suit; no state should be allowed to hinder or interfere with a person's quest for the assistance of counsel. If these were done in the course of a criminal trial they would all be violations of constitutional dimension because the defendant would be at risk of loss of life, liberty or limb. To the parolee, the risk still exists so why should they not be allowed the same constitutional protections? It is because there is no guidance from the Court and the only guidance they are given is to provide "notice and a hearing" and, as in the instant case, that is all they provide and they don't ~~concern~~

concern themselves with other constitutional protections because the Courts haven't told them they have to for parolees facing loss of liberty. In a criminal trial a person wouldn't be locked up for acts not against the law; a not guilty would preclude further prosecution for the same act; no evidence would result in acquittal; false testimony would be stricken; denial of exculpatory evidence would be eschewed; and prosecutors would be disbarred for lying to counsel and hindering defendant's seeking assistance of counsel. To say these protections are not afforded parolees is to discriminate against parolees simply as ex-cons, a class of ex-felons, and to deny ex-felons Equal Protection of the Laws just because they are ex-felons. The United States Constitution says I'm created equal, so why don't I enjoy the Constitutional protections as others do, that the Constitution says I have a right to? Because I am a parolee, an ex-felon, I'm denied those protections by the Courts when the law says only that I can't vote or possess a firearm. The

- laws and statutes don't say I have to give up
- my Constitutional rights to Due Process, Double Jeopardy protections, protection against false testimony or going to jail for something not against the law, but until this Court lays out guidelines more than "notice and a hearing", I don't get to enjoy the rights the Constitution says I do just because I'm a parolee.

Morelsey v Brewer, 92 S.Ct. 2593 (1972) was decided by this Court almost 50 years ago. As Justice Douglas noted in his dissent a "parolee, like a prisoner, is a person entitled to constitutional protection, including Due Process..." (emphasis mine). This makes it clear that parolees should enjoy the full panoply of Constitutional protections, keeping in mind the less stringent "standards" than a criminal trial. Evidence and testimony should not be false or perjured, whatever is admitted; the condition allegedly violated should be a legitimate condition of parole; a "not guilty" finding should preclude further proceedings; the parolee should be allowed evidence.

that is exculpatory; no rules or "laws" should be allowed that deny exculpatory evidence; the Board should not be allowed to hinder or interfere with the parolees attempt(s) to seek justice or obtain the assistance of counsel, etc.

The Hearing Officer wrote plainly "I find offender did NOT violate conditions..." She didn't say she dismissed to rewrite the charge, and the District Court even noted in the Findings the H.O. noted that the charges were "unsustainable" then added the date & time. Since they were already on the "unsustainable" charge that I'd been found not to have committed, it was still "unsustainable." This was/is Double Jeopardy but I'm deprived of this Constitutional protection.

The parole officer was proven to have testified falsely on seven (7) instances, by documents he himself introduced! Documents he submitted proved Petitioner was not on SISP conditions - the very condition Petitioner was alleged to have violated, nor did the documents state anything he said they stated.

- This was blatant Due Process violations, yet the denial of Redress serves only to say that as long as a "minimal due process" of notice, hearing, etc, is given that no other Constitutional Protections are afforded NOR will Redress be given when they are violated.

The 14th Amendment to the U.S. Constitution states "NOR deny ANY person ... the equal protection of its' laws," yet that is not the case because here there WAS/IS NO Equal Protection only because the minimum of notice + a hearing were given, only due to being a parolee.

Not only was no evidence offered to support Nixon's claims, Petitioner's previous parole officer, Myles DAVIS, offered testimony that disproved Nixon's testimony! DAVIS WAS the parole officer whom Nixon named in documents as the one who told Petitioner his conditions of parole and DAVIS' testimony was a direct addrs with Nixons! Yet this additional evidence of Petitioner's innocence is ignored because the Supreme Court has given the impression that parolees do not have any Constitutional protections other than a "notice + hearing". This is a situation that literally faces thousands of

- Americans routinely when facing reincarceration upon parole violations. While "standards" may be more informal, Constitutional protections should never be abrogated because one is a parolee. Constitutional protections are a bedrock of our judicial system and are not meaningless. To say that these protections are not allowed for parolees is to deny an entire class of persons their rights simply because they are parolees. In the instant case it's resulted in a factually innocent person being deprived of his liberty.

Petitioner followed all rules, holdings, etc. of the Courts to his best ability; showed the "presumption of correctness of State Court denial" was faulty because the State recommended Discovery that was never done before the denial; showed diligence in seeking documents proving innocence; the District Court unwittingly even wrote out the very false evidence + testimony from Nixon; showed the refusal of exculpatory evidence that constitutes an admission of the evidence; showed clearly the acts of the Board in hindering Petitioner's quest to seek assistance of

'counsel, etc, but these were ignored + all petitions for relief denied because, AS a parolee, these rights + protections do not exist other than notice, hearing, etc. Even the Notice is insufficient in stating only that on Sept. 14 + 15 Petitioner "failed to comply with electronic monitoring program by getting a bracelet gone alert..." This is the equivalent of charging a defendant by saying "failed to comply with state laws by getting charged with a crime." No possible defense can be mounted, no matter how many days preparation ARE given.

Petitioner asks that this Court, after rehearing, grant Certiorari in this case OR, in the alternative, remand to the Court below with instructions to allow Discovery and/or Evidentiary Hearing in order to allow Petitioner to gather the exculpatory evidence the Board has already admitted they possess that would allow Petitioner to show conclusively that his parole Officer, Gerald Nixon, lied and petitioner was/is factually and legally innocent of parole violation allegations lodged

• Against him in this proceedings

• Respectfully submitted,

Larry Francis

LARRY FRANCIS #353248

Montford Unit

8602 Peach St.

Lubbock, TX 79404

Certificate of Service

I, LARRY FRANCIS, declare under penalty of perjury that the foregoing Request for Out of Time appeal and Request for Rehearing was mailed to the Supreme Court Clerk, U.S. Supreme Court, 1 First St. N.E., Washington, DC, 20543; AND Patrick Todd, Asst. Atty. Gen., P.O. Box 12548, Austin, TX 78711, on this the 20th day of February, 2022, by placing same in the Indigent Supply/Law Library box for placement of postage for First Class mail.

Larry Francis

LARRY FRANCIS #353248

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