

21-6127

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**SUPREME COURT OF THE UNITED STATES**

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*In re*  
Howard Griffith  
*Petitioner*

VS

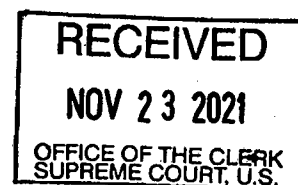
New York  
*Respondent*

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**Petition for Writ of Prohibition  
Petition for Writ of Mandamus  
Supplemental Brief**

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Howard Griffith, pro se  
2903 James Street, # 1R  
Syracuse, NY 13206  
315-849-7004



### **QUESTION PRESENTED**

What is the factual predicate that could not have been previously discovered through the exercise of due diligence until after I was released on bail? (28 USC 2254[e][2][A][ii])

Laura Nassar is considered to be the resident who resides at the false address that coincides with my sex offender registry. (Medicare Notice: October 18, 2021)

## **LIST OF PARTIES**

Howard Griffith, pro se  
Petitioner  
2903 James Street, # 1R  
Syracuse, NY 13206

People of the State of New York  
County of Onondaga  
Respondent  
505 South State Street, 4th Floor  
Syracuse, NY 13202

New York State Attorney General  
Respondent  
28 Liberty Street  
New York, NY 10005

## **TABLE OF CONTENTS**

<b>Questions Presented:</b>	<b>i</b>
<b>List of Parties:</b>	<b>ii</b>
<b>Index to the Appendix:</b>	<b>vi</b>
<b>Concise Statement:</b>	<b>1</b>
<b>Statement of Facts:</b>	<b>1-3</b>
<b>Statement of Law:</b>	<b>3-5</b>
<b>Conclusion:</b>	<b>5-6</b>

## **TABLE OF AUTHORITIES**

### **CASES CITED**

<b>Howard Griffith et al. v New York et al., 5:20-cv-01312 (GLS/ML) "42 USC 1983":</b>	<b>1, 2, 4</b>
<b>People v. Caccavale, 305 NY AD2d 695, 695, 760 N.Y.S.2d 210 (2d Dept. 2003):</b>	<b>2</b>
<b>People v Griffith, 166 NY AD3d 1518 (4th Dept 2018):</b>	<b>vi, 2</b>
<b>People v Charles, 162 NY AD3d 125, 126, 137-140 (2d Dept 2018):</b>	<b>2</b>
<b>Howard Griffith v Onondaga County, SU-2020-005851 "New York Civil Practice Law and Rules</b>	
<b>Article 78 'Proceeding Against Body or Officer' ":</b>	<b>vi, 2</b>
<b>People v Griffith, CR-06189-21:</b>	<b>vi, 3, 6</b>
<b>Trump v New York, 592 US ____ (2020):</b>	<b>4</b>
<b>Griffith v New York State [ ], 21-2133, Second Circuit Court of Appeals:</b>	<b>vi</b>

## **STATUTES**

### **United States Codes**

**18 USC Section 231(a)(3) "Civil Disorder": 1, 4**

**13 USC Section 223 "Refusal, by owners, proprietors, etc., to assist census employees": 1, 4**

**52 USC Section 10303 "Suspension of the use of tests or devices in determining eligibility to vote": 1, 4, 5**

**28 USC 636(b)(1) "Jurisdiction, powers, and temporary assignment": 2, 4, 5**

**28 USC 2254(e)(2)(A)(ii) "State custody; remedies in Federal courts: '[ ]' If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that- [ ] the claim relies on- [ ] a factual predicate that could not have been previously discovered through the exercise of due diligence,' ": i, vi, 1, 3**

### **Criminal Law**

**New York Penal Law Section 130.35(1) "Rape in the First Degree by Forcible Compulsion"  
1, 6**

**New York Criminal Procedure Law Section 450.10(1) "Direct Appeal": 1**

**New York Criminal Procedure Law Section 730: "Temporary Orders of Observation and Orders of Commitment pertain to felony charges: 'Once an individual is found to be an incapacitated person, he/she is committed to O[ffice] [of] M[ental] H[ealth] under CPL 730. Charges are not dismissed. The purpose of hospitalization is to restore the patient to fitness to stand trial. [emphasis added]' ": 3, vi**

### **Sex Offender Registration Act**

**New York Correction Law Section 168-f: "Duty to register and to verify": 1**

**New York Correction Law Section 168-t: "Penalties for Failure to Verify and Register" 1,  
3**

**New York Correction Law Section 168-n "Judicial Determination": 1**

**New York Correction Law Section 168-o(2) "Petition for Relief or Modification": 1**

**New York Correction Law Section 168-r. "Immunity from Liabilities '(1) No official, employee or agency, whether public or private, shall be subject to any civil or criminal liability for damages for any discretionary decision to release relevant and necessary information pursuant to this section, unless it is shown that such official, employee or agency acted with gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.**

**" '(2) Nothing in this section shall be deemed to impose any civil or criminal liability upon or to give rise to a cause of action against any official, employee or agency, whether public or private, for failing to release information as authorized in this section unless it is shown that such official, employee or agency acted with gross negligence or in bad faith.' " : 5**

#### **United States Constitution**

**4th Amendment: 6**

**5th Amendment: 6**

**6th Amendment: 6**

**9th Amendment: 6**

**14th Amendment: 6**

## **INDEX TO THE APPENDIX**

### **Exhibit A: 28 USC 2254(e)(2)(A)(ii)**

- Medicare Notice for Laura Nassar at 2903 James St, Apt 5 [ ]: October 18, 2021
- "Notice of Visit" for the 2020 United States Census RE: 2903 James Street, Apt 5 [ ]
- Affidavit (Supplement) "Howard Griffith v Onondaga County [ ]" Sept. 17, 2020
- Coupon for Laura Nassar at 2903 James Street, Apt 1R [ ] (2020)
- Absentee Vote to 2903 James St, Apt 1R [ ] (2020)
- RE: Mail-in Ballot[ ] Notice for Postal Customer at 2903 James St, Apt 5 [ ] (2020)
- RE: Mail-in Ballot[ ] Notice for Postal Customer at 2903 James St, Apt 1 [ ] (2020)

### **Exhibit B: "People v Griffith, CR-06189-21"**

- Notice to Appear: September 22, 2021
- Order for Temporary Observation (NY CPL 730): June 30, 2021

### **Exhibit C: "People v Griffith, KA-17-01664, 166 NY AD3d 1518 (4th Dept 2018)"**

### **Exhibit D: "Griffith v New York State [ ], 21-2133" Second Circuit Court of Appeals**

- September 22, 2021 ORDER "the appeal will be dismissed effective October 13, 2021 if the Acknowledgement and Notice of Appearance Form is not filed by that date."
- September 22, 2021 ORDER "Appellant's Form D-P was due September 17, 2021... IT IS HEREBY ORDERED that the appeal will be dismissed effective October 13, 2021 if the form is not filed by that date."
- September 22, 2021 ORDER "the appeal is dismissed effective October 13, 2021 unless by that date appellant either pays the fee in full, moves *in forma pauperis* status..."

### **Exhibit E: "Proof of Actual Innocence" CONFIDENTIAL PURSUANT TO NEW YORK CIVIL RIGHTS LAW SECTION 50-b**

## CONCISE STATEMENT

It may be presumed to be that I am guilty for failure to register as a sex offender pursuant to NY Correction Law Section 168-f (a "*Penalty*" pursuant to NY Correction Law Section 168-t) if I cannot satisfy the causes for taking "*Howard Griffith et al. v New York et al. 5:20-cv-01312 (GLS/ML)*". The causes I would have to confirm would be that I have not obstructed, impeded, or interfered with the distribution of the census pursuant to 18 USC Section 231(a)(3) and my landlord can be fined for up to \$500.00 for refusal to assist with counts with regard to the census pursuant to 13 USC Section 223, and the cause was to have been interpreted against New York that the census without the citizenship question needed to have been deemed to have been used as a "*test or device*" to have illegally determined the eligibility to obtain absentee, mail-in ballots, pursuant to 52 USC Section 10303, and that these would have to be eliminated. Evidence which I have obtained at my mailbox dated: October 18, 2021, and ballot proposals that citizens voted against in New York State in the 2021 general election now satisfies the remedy that I may demonstrate this to the United States Supreme Court. (*see* 28 USC 2254[e][2][A][i][ii])

## STATEMENT OF FACTS

On November 9, 2018, the Supreme Court of the State of New York, Appellate Division/Fourth Department provided adjudication that my conviction for Rape 1st, NY Penal Law Section 130.35(1), was unconstitutional, via appeal, pursuant to NY Criminal Procedure Law Section 450.10(1) (direct appeal from a judgment) "*as it applies*" to NY Correction Law Section 168-n (Correction Law Article 168, Sex Offender Registration Act [SORA] "*Judicial Determination*") in an "*appeal from an order that denied his petition pursuant to Correction Law § 168-o (2) seeking a downward modification of his previously-imposed classification as a level three risk under the Sex Offender Registration Act*" when "*defense counsel 'essentially[ ] became a witness*



*against [defendant] and took a position adverse to him,' which denied defendant effective assistance of counsel ('inter alia... **prior to sentencing**, the defendant moved, pro se, to withdraw his plea of guilty, on the ground [ ] that his defense counsel told him that he was going "to blow trial"... Under these circumstances, the defendant's right to counsel was adversely affected when his attorney, **essentially**, became a witness against him and took a position adverse to him. The Supreme Court should have first assigned new counsel to the defendant before deciding the defendant's motion. [emphasis added]' People v. Caccavale, 305 A.D.2d 695, 695, 760 N.Y.S.2d 210 [2d Dept. 2003])" see People v Griffith, 166 AD3d 1518, 1519 (4th Dept 2018) "(see generally People v Charles, 162 A.D.3d 125, 126, 137-140 [2d Dept 2018], **id. at 138**: 'Appellate Division Departments have all decided on the merits,' **id. at 125**: 'It was of concern that defendant had never completed a sex offender treatment program and **had refused to accept responsibility for the offense. [emphasis added]**')," People v Griffith, **id. at 1519**. "and we therefore reverse the order, reinstate the petition, and remit the matter to County Court for a new hearing on the petition," **id. at 1519**.*

Cause was preserved on September 17, 2020, to resume with "Howard Griffith et al. v New York et al., 5:20-cv-01312 (GLS/ML)" when providing a supplement for the record with "Howard Griffith v Onondaga County, SU-2020-005851" demonstrating evidence how absentee, mail-in ballots could be provided for the false address that had been provided for my sex offender registry at 2903 James Street, Apt 5 [ ] and a false name "Laura Nassar" had been provided for a coupon posting my true address at 2903 James Street, Apt 1R [ ]. (see Appendix for Supplemental Brief for Petition for Writ of Certiorari: January 9, 2021: "Memorandum of Law [ ] 28 USC 636[b][1]: January 4, 2021" pages 15-17) (see attachment)

On June 8, 2021, I was placed in custody for failure to register as a sex offender, a Class E Felony and "*Penalty*" pursuant to New York Correction Law Section 168-t because the police needed a reason to place in jail for a psychiatric evaluation, pursuant to NY Criminal Procedure Law Section 730, after recovering from a grand mal seizure. ("People v Griffith, CR-06189-21") I have claimed and demonstrated how this is double jeopardy.

Upon the date that I was released from custody on bail, on October 18, 2021, the Onondaga County Sheriff's Deputies had me update my sex offender registry, with my true address, with their department, to be provided for the New York State Sex Offender Registry. In essence of this update, I obtained a medicare notice for Laura Nassar at my mailbox posting the address of 2903 James Street, Apt 5 [ ], dated October 18, 2021. (*see* 28 USC 2254[e][2][A][ii]) (*see attachment*)

### STATEMENT OF LAW

The "Notice of Visit" for the 2020 United States Census which I had provided to be demonstrated with my sex offender registry references 2903 James Street, Apt 5 [ ], and this is with regard to Census ID: 9CKV-VYX5-89KD. It states: "A U.S. Census Bureau interviewer stopped by today to complete an interview for your household. We need your help to count everyone in the United States by providing basic information about all the people living or staying at this address." The "Approval Expires 11/30/2021". (*see attachment*) I preserved the cause to demonstrate that Laura Nassar was a false resident listed at my true address by demonstrating a receipt for Laura Nassar to have been able to have received coupons at my true address. (*see attachment*) This preserved the cause to demonstrate that Laura Nassar was to be deemed as a false resident who resides at this false address by providing this address for my sex offender registry. Now by providing evidence that Laura Nassar was the false resident to be

demonstrated with the false address, this should be able to confirm how this false address coincided with my true address and now I can be able to demonstrate that I have not obstructed, impeded, or interfered with the distribution of the census pursuant to 18 USC Section 231(a)(3) and that a declaration would need to be provided that my landlord had failed to assist with counts with regards to the census and would need to be fined up to \$500.00 pursuant to 13 USC Section 223.

With my Petition for Rehearing for Petition for Writ of Certiorari, (March 9, 2021) I filed a motion claiming that the census without the citizenship question needed to be deemed as a *"test or device"* to illegally determine the eligibility to obtain absentee, mail-in ballots pursuant to 52 USC 10303, for my interlocutory appeal for preliminary injunction, and I preserved the cause to contest that these would need to be eliminated. The motion demonstrated how my remedies had been exhausted after John Katko of the 24th Congressional District took action against the Onondaga County Board of Elections and decisions were made with regard to "Trump v New York, 592 US \_\_\_\_ (2020)". This preserved the cause to identify the 2,418 votes that could not be identified during judicial proceedings in the 22nd Congressional District. PA, MI, WI, NV, and Phoenix joined in with New York in "Trump v New York [ ]" and the September, 2020, Memorandum of Law in that matter objects how New York could not answer questions with regard to why neighbors and landlords could not have assisted with counts with regard to the census. (see Appendix for Supplemental Brief for Petition for Writ of Certiorari: January 9, 2021: *"Memorandum of Law [ ] 28 USC 636[b][1]: January 4, 2021"* pages 20-24) This was essential to the evidence I provided for the record with "Howard Griffith v Onondaga County [ ]" on September 17, 2020, in order to have been able to have resumed with "Howard Griffith et al. v New York et al. [ ]" on October 22, 2020.

New York citizens just voted against proposals that would ease restrictions on voting laws with regards to redistricting, absentee ballots, and same day voter registration on election day. These were in response to the advertisements by the Republican National Committee in New York State for New York citizens to "Vote No" to these proposals in conclusion that these were "invitation[s] to voter fraud". These provide a remedy to obtain declaration that the census without the citizenship question needs to be deemed as a "*test or device*" to have been illegally used to determine the eligibility to have obtained absentee, mail-in ballots and that these would need to be eliminated. (52 USC 10303) However, in order to obtain declaration that these "*tests or devices*" would need to be eliminated, in order to hold New York liable for the illegal use of these "*tests or devices*", additional remedies would need to have been able to have been satisfied with regard to how the continuing effect of such incidents were not eliminated by the State and the State's error was to provide that there was a reasonable probability of their recurrence in the future, and because New York citizens' voted against these proposals, it may be deemed that the remedy does not exist. (see Appendix for Supplemental Brief for Petition for Writ of Certiorari: January 9, 2021: "*Memorandum of Law [ ] 28 USC 636[b][1]: January 4, 2021*" page 22) Nevertheless, I have preserved the cause to retroactively have the status quo to be considered to have been maintained since October 22, 2020, prior to the 2020 general election, when these absentee, mail-in ballots were used in elections.

## CONCLUSION

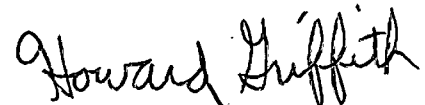
The People have acted with "*gross negligence*" by placing me in custody for failure to register as a sex offender because New York assumed that I could not satisfy these remedies. New York cannot be "*immune from liabilities*" pursuant to NY Correction Law Section 168-r, because in "*bad faith*" New York has illegally authorized a false census to be used as a "*test or device*" for

the illegal use of obtaining absentee, mail-in ballots for the use of voting purposes to have resulted in me being placed in double jeopardy. Due process provides that a preliminary injunction needs to be provided to maintain the status quo from October 22, 2020, in order for it to be decided that I have not obstructed, impeded, or interfered with the distribution of the census; in order for a declaration to be able to be provided that my landlord can be fined up to \$500.00 for failure to assist with counts with regard to the census, and to be able to provide a declaration that absentee, mail-in ballots need to be eliminated. This is essential to providing the remedy that a stay may be placed on "People v Griffith, CR-06189-21" until it can be expunged by dismissing my conviction for Rape 1st, NY Penal Law Section 130.35(1). Because I am being prosecuted for failure to register as a sex offender for a sex offense that has already been ruled as unconstitutional by a Court of Law, in violation of my 4th, 5th, 6th, and 14th Amendment Rights, I should be given back my right to prove that I am "actually innocent". (*see attachments*)

**WHEREFORE**, via due process, I have preserved the cause to demonstrate this evidence to the United States Supreme Court to make these decisions as the United States Supreme Court is the only Court in this country that has the power to make these decisions, in concert with my actions, to help protect the Ninth Amendment Constitutional Rights of citizens in the United States.

Dated:

November 17, 2021



Howard Griffith  
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