

Supreme Court, U.S.  
FILED

DEC 31 2021

OFFICE OF THE CLERK

21-6127

---

**SUPREME COURT OF THE UNITED STATES**

---

*In Re*

**Howard Griffith**

---

**Petition for Rehearing**

---

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

**ORIGINAL**

**RECEIVED  
FEB 22 2022**

**OFFICE OF THE CLERK  
SUPREME COURT, U.S.**

**RECEIVED  
FEB 1 2022**

**OFFICE OF THE CLERK  
SUPREME COURT, U.S.**

**LIST OF PARTIES**

**Howard Griffith, Pro Se, Petitioner**  
**2993 James Street, # 1R, Syracuse, NY 13206**

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

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

## RELATED CASES

People of the State of New York/County of Onondaga vs Howard Griffith, 2001-0883-1, 2001-0927: I was convicted for Rape in the First Degree, by forcible compulsion, pursuant to NY Penal Law 130.35(1), on January 10, 2002.

People v Griffith, 166 A.D.3d 1518 (4th Dept. 2018), November 9, 2018: The Supreme Court of the State of New York, Appellate Division/Fourth Department, made an adjudication, via irregularity, to determine that I had been deprived of my right to effective assistance of counsel at the time of my conviction, while determining the merits with regard to questions regarding modification of my sex offender registry, with regard as to whether or not it should be deemed that I had accepted responsibility for my conviction of Rape in the First Degree.

Howard Griffith v New York, 19-5746: Petition for Writ of Certiorari was denied on October 15, 2019, in pursuit of overturning my conviction for Rape in the First Degree [ ]

Howard Griffith v New York, 20-6395: Petition for Writ of Certiorari was denied on January 19, 2021, Petition for Rehearing for Petition for Writ of Certiorari was denied on May 17, 2021.

Howard Griffith v Onondaga County, SU 2020-005851: I had taken a Petition for Mandamus to Compel Law Enforcement on September 16, 2020.

Howard Griffith et al v New York et al, 5:20-cv-1312 (GLS/ML): I had taken an action pursuant to 42 USC 1983, on October 22, 2020, to obtain a declaration that I had not obstructed, delayed, or interfered with the distribution of the census.

People v Griffith, CR-10842-19: I was convicted for "Disorderly Conduct", pursuant to Penal Law 240.20 on October 1, 2019

People v Griffith, CR-06189-21, [HGI-72455-21/001]: I am currently being prosecuted for failure to obey my "duty to register" as a sex offender, pursuant to Correction Law 168-f(3); "*a Class E felony*" pursuant to Correction Law 168-t.

Griffith v New York State [ ], 21-2133: This was an appeal taken from "Howard Griffith et al v New York et al, 5:20-cv-1312 (GLS/ML)", and dismissed on October 14, 2021, for my failure to appear, and mandated on December 28, 2021, for failure to pay fees or move for "Permission to Appeal In Forma Pauperis"

Howard Griffith v Onondaga County Sheriff, SU-2021-010609: This matter was taken on December 30, 2021, to obtain the documents for my due process disciplinary hearing, at the Onondaga County Justice Center, "DR # 21-339708", and demonstrated with my Motion for Extension of Time to Obtain Documents, pursuant to Rule 30.4 of the Supreme Court of the United States, dated: December 31, 2021. Order to Show Cause was signed on February 2, 2022.

## TABLE OF CONTENTS

**List of Parties:** i

**Related Cases:** ii

**Index to the Appendix:** viii

**Petition for Rehearing for Petition for Writ of Mandamus and Prohibition:** 1-15

## TABLE OF AUTHORITIES

### UNITED STATES CODES

42 USC 1983, "Civil Action for Deprivation of Rights": 3

18 USC 231 Civil Disorders (a)(3): *"Whoever commits or attempts to commit any act to obstruct... delay[ ] or adversely affect[ ]... any article or commodity in commerce or the conduct or performance of any federally protected function [distribution of the census]— Shall be fined under this title or imprisoned not more than five years, or both [emphasis added]"*: 4, 14

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

52 USC 10303: *"Suspension of the use of tests or devices in determining eligibility to vote"*: 4, 9, 10, 11, 15

52 USC 10303(c): *"Test or device" defined "The phrase 'test or device' shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class"*: 4

52 USC 10303(d): Required frequency, continuation and probable recurrence of incidents of denial or abridgement to constitute forbidden use of tests or devices: *"For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in subsection (f)(2) if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future [emphasis added]"*: 4, 15

52 USC 10303(a): Action by State or political subdivision for declaratory judgment of no denial or abridgement, "[5] ... Appeals shall lie to the Supreme Court.": 10, 11

28 USC 2241, Power to Grant Writ "*[c] The writ of habeas corpus shall not extend to a prisoner unless— [2] He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States*": 8, 14

28 USC 2254(e)(2)(A)(i)(ii) State custody; remedies in Federal courts "*[e][1] In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence. [2] 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— [A] the claim relies on— [i] a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or [ii] a factual predicate that could not have been previously discovered through the exercise of due diligence [emphasis added]*"": 14, 15

## FEDERAL RULES

Federal Rules Civil Procedure Rule 3, "Commencing an Action": 3

Federal Rules of Appellate Procedure Rule 41, "Mandate: Contents; Issuance and Effective Date; Stay": 11

## NEW YORK CORRECTION LAW ARTICLE 168 SEX OFFENDER REGISTRATION ACT (SORA)

Correction Law 168-f "Duty to register and to verify": 6

Correction Law Section 168-n "Judicial determination": 2, 12, 14

Correction Law 168-n Judicial Determination "*[5] Upon the reversal of a conviction of a sexual offense defined in paragraphs [a] and [b] of subdivision two or three of section one hundred sixty-eight-a of this article, the appellate court shall remand the case to the lower court for entry of an order directing the expungement of any records required to be kept herein.*": 6, 14

Correction Law 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 [emphasis added]*": 1, 7

Correction Law 168-t, Penalties: "*Any sex offender required to register or to verify pursuant to the provisions of this article who fails to register or verify in the manner and within the time periods provided for in this article shall be guilty of a class E felony upon conviction for the first offense*": 3

## CRIMINAL STATUTES

Penal Law 130.35(1), Rape in the first degree: "*A person is guilty of rape in the first degree when he or she engages in sexual intercourse with another person: [1] By forcible compulsion*": 1, 2, 6, 7

Penal Law 240.20, "Disorderly Conduct": 2

Criminal Procedure Law 440.10, "Motion to Vacate Judgment": 13

Criminal Procedure Law 450.10, Appeal by defendant to intermediate appellate court; in what cases authorized as of right "*[1] A judgment other than one including a sentence of death, unless the appeal is based solely upon the ground that a sentence was harsh or excessive when such sentence was predicated upon entry of a plea of guilty and the sentence imposed did not exceed that which was agreed to by the defendant as a condition of the plea and set forth on the record or filed with the court as required by subdivision five of section 220.50 or subdivision four of section 340.20*": 2, 12, 14

Criminal Procedure Law 460.30, Extension of time for taking appeal, "*[1] Upon motion to an intermediate appellate court of a defendant who desires to take an appeal to such court from a judgment, sentence or order of a criminal court but has failed to file a notice of appeal, an application for leave to appeal, or, as the case may be, an affidavit of errors, with such criminal court within the prescribed period, or upon motion to the court of appeals of a defendant who desires to take an appeal to such court from an order of a superior court or of an intermediate appellate court, but has failed to make an application for a certificate granting leave to appeal*

*to the court of appeals, or has failed to file a notice of appeal with the intermediate appellate court, within the prescribed period, such intermediate appellate court or the court of appeals, as the case may be, may order that the time for the taking of such appeal or applying for leave to appeal be extended to a date not more than thirty days subsequent to the determination of such motion, upon the ground that the failure to so file or make application in timely fashion resulted from [a] improper conduct of a public servant...[emphasis added]": 14*

Criminal Procedure Law 730 "Mental Disease or Defect Excluding Fitness to Proceed": 7, 14

Correction Law 168-t, Penalties, *"Any sex offender required to register or to verify pursuant to the provisions of this article who fails to register or verify in the manner and within the time periods provided for in this article shall be guilty of a class E felony upon conviction for the first offense [emphasis added]"*: 3

## NEW YORK CIVIL PRACTICE LAW AND RULES

Civil Practice Law and Rules 5601: Appeals to the court of appeals as of right [b] Constitutional grounds: *"An appeal may be taken to the court of appeals as of right: [1] from an order of the appellate division which finally determines an action where there is directly involved the construction of the constitution of the state or of the United States; and [2] from a judgment of a court of record of original instance which finally determines an action where the only question involved on the appeal is the validity of a statutory provision of the state or of the United States under the constitution of the state or of the United States"* : 1

Civil Practice Law and Rules Article 78, "Proceeding Against Body or Officer": 2, 3, 11, 15

**9 New York Codes of Rules and Regulations** Executive Department Subtitle AA. State Commission of Correction CHAPTER I: *"Minimum Standards and Regulations for Management of County Jails and Penitentiaries Subchapter A.: Minimum Standards and Regulations Part 7006, [emphasis added] 'Discipline' "*: 8, 15

**22 New York Codes of Rules and Regulations** Part 500 Court of Appeals of New York State, Rules and Practice Rule 500.24: Motions for Reargument of Appeals, Motions and Decisions on Certified Questions, *"Timeliness: '[b] Movant shall serve the notice of motion not later than 30 days after the appeal, certified question or motion sought to be reargued has been decided, unless otherwise permitted by the Court' "[emphasis added]"*: 1

## **RULES OF THE SUPREME COURT OF THE UNITED STATES**

Rules of the Supreme Court of the United States, Rule 14: **6, 12**

Rules of the Supreme Court of the United States Rule 14.5: **6**

Rules of the Supreme Court of the United States, Rule 20: **4**

Rules of the Supreme Court of the United States, Rule 30.4: **11, 15**

## **CASES CITED**

People of the State of New York/County of Onondaga vs Howard Griffith, 2001-0883-1: **1**

People v Griffith, 166 A.D.3d 1518 (4th Dept. 2018): **1, 4, 5, 6, 7, 8, 13**

Doe v Pataki, F. Supp 456 (SD NY 1998): **5**

Dotson v Fischer, 613 F. App'x 35, 39 & n. 3 (2d Cir. 2015): **9, 10**

Howard Griffith v New York, 19-5746: **1, 13**

Howard Griffith v New York, 20-6395: **1, 3, 4, 5, 12**

Howard Griffith v Onondaga County, SU 2020-005851: **2, 3, 7**

Howard Griffith et al v New York et al, 5:20-cv-1312 (GLS/ML): **3, 4, 7, 8, 9, 10, 12**

People v Griffith, CR-10842-19: **2, 14**

People v Griffith, CR-06189-21: **6, 14**

Griffith v New York State [ ], 21-2133: **9, 10, 11, 12**

In Re Howard Griffith, 21-6127: **9, 10, 12, 13, 15**

## INDEX TO THE APPENDIX

### **Exhibit A:**

Petition for Rehearing for Petition for Writ of Mandamus and Prohibition: December 31, 2021

### **Exhibit B:**

Motion for Extension of Time pursuant to Rule 30.4 of the Supreme Court of the United States: December 31, 2021. This includes "Howard Griffith v Onondaga County Sheriff, SU-2021-010609"

### **Exhibit C:**

### **DECLARATION PLEDGE OF PUBLIC SUPPORT**

### **Exhibit D:**

Evidence for the "*factual predicate[ ] that could not have been previously discovered through the exercise of due diligence [emphasis added]*" as reflected from the Petition for Rehearing [ ] I had demonstrated in "good faith" on January 25, 2022. This includes the Refusal of the Onondaga County Sheriff's to produce records: January 4, 2022, and the Order to Show Cause granted for the matter re "Howard Griffith v Onondaga County Sheriff's, SU-2021-010609" This also includes a Notice from the Onondaga County Court dated: January 26, 2022, for the matter re "People v Griffith, HGJ-72455-21/001 [CR-06189-21]" to appear on February 4, 2022, for the purpose of taking a plea, and a Notice from the Onondaga County Court dated: February 6, 2022, for the matter re "People v Griffith, HGJ-72455-21/001 [CR-06189-21]" to appear on February 18, 2022, for the purpose of taking a plea, in essence of the adjournment for the February 4, 2022 appearance.

### **Exhibit E:**

The Decision[s]/Order[s] of the Onondaga County Court with Notice[s] for Appeal[s] to have been "taken from each and every part thereof and every intermediate order made therein", and the rejection of the Supreme Court of the State of New York, Appellate Division/Fourth Department: May 6, 2020, rejecting authorization for me to be able to pursue this.

### **Exhibit F:**

Decision/Order of the Onondaga County Court: March 27, 2007, RE: "People of the State of New York v Howard Griffith, 2001-0883-1", and the Letter from the Onondaga County Court "*direct[ing]*" the People to respond to the Motion to Vacate Judgment (February 3, 2022) pursuant to Criminal Procedure Law 440.10: February 7, 2022.

### **Exhibit G:**

Mandate dated: December 28, 2021, of the United States Circuit Court of Appeals for the Second Circuit RE: "Griffith v New York State [ ], 21-2133"

This Court needs to consider how, in good faith, I demonstrated that I intended to pursue back to the NYS Court of Appeals for a Motion for Reconsideration to Grant Leave to Appeal, pursuant to 22 NYCRR 500.24, from the [Order] I was pursuing from, [for] Petition for Rehearing for Petition for Writ of Certiorari, "Howard Griffith v New York, 20-6395". I would have been ready to pursue this after the Court decided it because I only requested the Court to reconsider Certiorari to be "denied without prejudice". I also claimed that the People could not be "immune from liabilities" pursuant to Correction Law 168-r, if I was to be subject to consequences for my failure to register as a sex offender if "*it is shown [the People] acted with gross negligence or in bad faith... for failing to release... relevant information to other employees or officials or to the general public... [emphasis added]*"

Petition for Writ of Certiorari, "Howard Griffith v New York, 20-6395", was taken to pursue overturning my conviction for Rape in the [First] Degree, in pursuance of a Memorandum/Order of the Supreme Court of the State of New York, Appellate Division/Fourth Department: "People v Griffith, 166 A.D.3d 1518 (4th Dept. 2018)". However, the Order was only to provide that I would have the right to have my Petition for [Modification] of my Sex Registry reinstated to the lower court, in reversal of a decision of the Onondaga County Court to deny my Petition. Nevertheless, the Memorandum demonstrated my conviction for Rape [1st], in the matter re "People of the State of New York/County of Onondaga vs Howard Griffith, 2001-0883-1", was unconstitutional. I initially resumed this process, with my intentions to overturn my conviction, to this Court in the matter re "Howard Griffith v New York, 19-5746". This had been pursued after a decision was made by the NYS Court of Appeals denying reconsideration for my "Motion to Grant Leave to Appeal," [pursuant to] CPLR 5601, on June 11, 2019. Certiorari was denied for that matter on October 15, 2019. After that, my remedies had been completed and

unsuccessful, via that process, for my goal of overturning my conviction for Rape 1st. Nevertheless, I still had the remedy to pursue the reinstatement for my Petition for Modification for my Sex Offender Registry. However, when I pursued back to the County Court, the judge determined I had abandoned my Petition [ ] via letter/decision/order: October 25, 2019, at the time further considerations with regard to the "**Memorandum/Order [emphasis added]**" provided by the Appellate Court, had been under the Jurisdiction of this Court. It was determined that I had abandoned my Petition on September 13, 2019.

When that Petition [ ] had been initially denied by the County Court on July 21, 2017, I had pursued with my appeal from the decision/order, pursuant to "*CPL 450.10(1) 'as it applies' to Correction Law Section 168-n*". I pursued an appeal from the letter/decision/order, pursuant to CPL 450.10(1), to have been taken "from each and every part thereof and every intermediate order made therein". However, the [A]ppellate [C]ourt refused to let me pursue this, rejecting my action, because the [C]lerk had claimed that I had already been granted my request for that matter, via my previous appeal re "People v Griffith, [ ]". I pursued a Motion for Leave to Appeal to the NYS Court of Appeals, from the rejection and it was "*dismissed*" on October 22, 2020.

On September 16, 2020, I [pursued] to the Onondaga County Supreme Court, pursuant to CPLR Article 78: "Howard Griffith v Onondaga County, SU 2020-005851". The reason for [taking this] was intended to Compel Law Enforcement. It was, initially, with regard to a [settlement] I had made with the People, on October 1, 2019, to plead guilty for "*Disorderly Conduct*" in satisfaction of their contest that I could have contacted authorities instead of "taking the law into my own hands." (People v Griffith, CR-10842-19) One of my causes for taking that action was with regard to being denied my right to the law library. This involved an arbitration with my landlord because the matter regarding the [settlement] with the People had referenced

the property for our policy, and I still had the remedy to authorize him to control [ ] activity. However, when a false, census address had been provided at my mailbox, being provided for my sex offender registry, I took the civil action because I considered it to have been a crime that my landlord was liable for. I provided it for the People because they were liable for the [settlement] we had made and for my unconstitutional conviction of Rape 1st. However, I never cited the People as a party. Nevertheless, this provided that [ ] they might be subject to civil procedure for failure to release any "*relevant information*" regarding my sex offender registry, because it may have resulted in it being considered to have been in "*gross negligence or in bad faith*."

On October 22, 2020, I took action, via Fed. R. Civ. P. 3, pursuant to 42 USC 1983, to maintain the cause[s] for my actions taken via CPLR Article 78, to be considered as my reason[s] for taking action via 42 USC 1983, as the procedure would require me to support it to have been taken for a different cause to maintain the status quo. I still intended to have my injunction provided to compel law enforcement as "Howard Griffith v Onondaga County [ ]" was provided for "Howard Griffith et al v New York et al, 5:20-cv-1312 (GLS/ML)" as a fundamental ground. However, the cause would have to be different to maintain the status quo, in order to still be able to have it considered that I had properly taken the judicial procedure from the arbitration. I addressed this to the People via Supplemental Brief for "Howard Griffith v New York, 20-6395": November 30, 2020, to make them aware of how they may be subject to becoming an opponent for my civil procedure, because, if I had been incarcerated for failure to register as a sex offender, it could be considered to be a consequence of the "*gross negligence or bad faith*" of the People to have been held in custody and prosecuted. This was because I made them aware that I could not be subject to "*Penalties*" for failure to register as a sex offender, and I made them aware that I would be addressing habeas corpus with "Howard Griffith et al. v New

York et al. [ ]". I demonstrated my intentions to have it declared, via civil procedure, that I had not obstructed, delayed or interfered with the distribution of the census (18 USC 231[a][3]) and my landlord should be liable for failure to assist census employees. (13 USC 223). I also intended to have it declared that the false address was deemed to have been used as a "*test or device*" (52 USC 10303[c]) to determine the eligibility to obtain absentee, mail-in ballots to vote illegally and that these would have to be eliminated from elections. (see 52 USC 10303[d])

After habeas corpus [was considered with] "Howard Griffith et al. v New York et al., [ ]" via [R]eport and [R]ecommendation in the United States [D]istrict [C]ourt of the Northern District of New York, I demonstrated it to this Court, in order for the People and the Court to consider this to be essential to "Howard Griffith v New York, [ ]" because it involved considerations for "People v Griffith, 166 A.D.3d 1518" also. I demonstrated that the statute of limitations to pursue interlocutory appeal from [this] matter would begin the same date that Certiorari was scheduled for conference. Certiorari was denied: January 19, 2021. It was just before this point that I began demonstrating all matters with regard to my sex offender registry to the NYS Attorney General.

With my demonstrations, with regard to the remedy that the People could not be "*immune from liabilities*" regarding demonstrations I made re "Howard Griffith et al v New York et al, [ ]" to this Court, I filed my [amended] complaint with my Petition for Rehearing for Petition for Writ of Certiorari, [ ]. The [ ] complaint was prepared to be taken from a Summary Order that was to be made by the District Court, as I had it prepared in essence of the District Court's R & R to dismiss the initial complaint taken for that matter. The initial complaint was recommended to be dismissed without prejudice "with leave to replead" on December 28, 2020.

I also provided the [amended] complaint with a document I referred to as a [Petition] for Extraordinary Writ (Rule 20) with a separate matter taken to this Court, as the Petition for

Rehearing for Petition for Writ of Certiorari, [ ] was appended to [it]. I defined the People and the Attorney General as parties in the matter. It was returned before May 4, 2021.

Via my Petition for Rehearing for [Petition] for Writ of Certiorari, [ ], I requested the status quo to be maintained for Petition for Writ of Certiorari from January 19, 2021, and I referenced, "Habeas Corpus Dismissed Without Prejudice?" The Summary Order was provided by the District Court on May 4, 2021, dismissing habeas corpus without prejudice and dismissing the initial complaint, without prejudice, "with leave to replead". Petition for Rehearing [ ] was denied: May 17, 2021. A corrected [P]etition for Extraordinary Writ [dated]: May 23, 2021, was taken and filed in this Court with the Petition for Rehearing [ ] appended. That [P]etition was taken to the District Court, appended to the [amended] complaint, with the Petition for Rehearing [ ] appended, on May 26, 2021.

Via [P]etition for Extraordinary Writ, I objected that the District Court [could not consider] habeas corpus in pursuance of the matter being taken in essence of "People v Griffith 166 A.D.3d 1518" as "Doe v Pataki, F.Supp 456 (SD NY 1998)" had been cited with that matter. I objected that this Court would have had to have considered this instead, and I demonstrated how [this] was pursued, via the District Court, via the action that had been taken re "Howard Griffith et al. v New York et al., [ ]" on the same date that the Statute of Limitations had begun to consider this in this Court via "Howard Griffith v New York, 20-6395". Therefore, the merit demonstrated that this had been decided in the wrong court, when the statute of limitations had begun, after both of the matters had been taken. I requested the [P]etition to be denied without prejudice.

A Supplemental Brief for Petition for Extraordinary Writ was served to this Court, the People, the Attorney General, and the District Court on June 7, 2021, in order for the People and the Attorney General to be acknowledged that the District Court would be considering this, and

in order for the District Court to be acknowledged that the People and the Attorney General would be considering this.

Petition for Extraordinary Writ was returned by this Court, once again, and the time was up to correct it on August 2, 2021, pursuant to Rule 14.5 of this Court. Nevertheless, I was taken into custody for failure to register as a sex offender pursuant to Correction Law 168-f(3) on June 8, 2021: "People v Griffith, CR-06189-21", and Supplemental Brief for Petition for Extraordinary Writ was not deemed to have been taken to the District Court until June 9, 2021. This provided the remedy for the People, the Attorney General, and the District Court to reconsider habeas corpus as opposed to the first Summary Order dated: May 4, 2021. Due process provided that the District Court could have considered habeas corpus with regard to the merits of "People v Griffith, 166 AD3d 1518" with regard to habeas corpus providing the remedy that I could not be prosecuted for failure to register as a sex offender because that would be double jeopardy. However, with considerations with regard to "People v Griffith, 166 A.D.3d 1518" being pursued to overturn my conviction for Rape 1st, this would actually expunge the matter re "People v Griffith, CR-06189-21" pursuant to Correction Law 168-n(5), and the District Court did not have the jurisdiction to consider that. With the Petition for Extraordinary Writ; Petition for Rehearing for Petition for Writ of Certiorari, [ ] and Supplemental Brief for Petition for Extraordinary Writ being STRICKEN on August 3, 2021, this demonstrated the merits that habeas corpus being dismissed without prejudice was still decided to be in pursuance of attempting to overturn my conviction of Rape 1st, in essence of "People v Griffith, 166 A.D.3d 1518" as demonstrated as the circumstances in the first Summary Order. Nevertheless, these Petition[s] were recommended by the magistrate judge in that matter to have been "denied without prejudice" if they were intended to be construed as an appeal from the first Order and [ ]

R & R. This provided the remedy that habeas corpus had been re[considered] in the District Court with regard to the intentions I intended to have [considered] by this Court via my Petition for Extraordinary Writ dated May 23, 2021. This was with regard to how habeas corpus could not be considered in the District Court to be [considered] to be in pursuance of my intentions to overturn my underlying conviction for Rape 1st, in essence of "People v Griffith, 166 A.D.3d 1518" as I intended to have my Petition for Extraordinary Writ to be considered to be "denied without prejudice". Also, the remedies with regard to the circumstances I had demonstrated to be considered in this Court that had previously been considered and denied, [now], "actually" existed. This was with regard to how my intentions were intended to have my Petition for Rehearing for Petition for Writ of Certiorari [ ] to be considered to be "denied without prejudice", and now, this had "actually" been recommended.

The remedies with regard to the intentions, previously demonstrated, that were denied by this Court [now] "actually" existed because on June 12, 2021, I was placed in Segregation Housing at the County Justice Center for striking a deputy for not letting me to use the law library, and on June 17, 2021, I was arraigned for criminal prosecution for my actions. These charges were prosecuted with the charge for failure to register as a sex offender on June 30, 2021, to determine I was not fit to stand trial. (see CPL 730.40). This was to provide an Order for me to be taken to [C]entral [N]ew [Y]ork [P]sychiatric [C]enter for Temporary Observation on July 7, 2021.

Because I had been denied my right to the law library, as demonstrated as a cause for taking "Howard Griffith v Onondaga County, [ ]" and as a [reason] for taking "Howard Griffith et al. v New York et al., [ ]" to [maintain] the cause to be able to compel law enforcement with regard to my reason for taking "Howard Griffith v Onondaga County [ ]", this satisfied the remedy that the People couldn't be "*immune from liabilities*" for acting in "*bad faith*". This was because this was

a necessary right to be provided in order to have been able to have pursued with my intentions to pursue back to the NYS Court of Appeals for Reconsideration of my Motion to Grant Leave to Appeal when Petition for Rehearing [ ] was denied on May 17, 2021. My statute of limitations to pursue with Reconsideration to be Grant[ed] Leave to Appeal, was up on June 16, 2021.

Striking the deputy also resulted in being prosecuted, via due process disciplinary hearing, pursuant to 9 NYCRR 7006.8, on July 6, 2021. I explained in that hearing that my actions were taken because the deputy would not let me use the law library. However, I was supposed to have had until July 8, 2021, to have objected that I was denied this right, via appeal, from that hearing. This was necessary for me to have been able to have exhausted my administrative remedies, to satisfy my reasons for pursuing "Howard Griffith et al. v New York et al., [ ]", and because I had been transferred to CNYPC, on July 7, 2021, as a consequence of an order to consider my fitness to stand trial for failure to register as a sex offender; being denied my right to exhaust my remedies was also a consequence of the People's *"bad faith"*. Nevertheless, these satisfied the merits for my remedies for my Petition for Rehearing, [ ], to be considered to have been taken to [be] considered to be "denied without prejudice", and this satisfied the remedies that habeas corpus could have been considered, via appeal taken from "Howard Griffith et al. v New York et al. [ ]", to be considered to be in essence of what may be deemed to have been a consequence of the People's *"bad faith"*. This was because, when I had been taken into custody for failure to register as a sex offender on June 8, 2021, during arraignment, I objected that I was in custody pursuant to 28 USC 2241(c)(2), and I objected that it was "double jeopardy" as I referred [it] to "People v Griffith, 166 A.D.3d 1518". With the remedies being exhausted for the reasons I intended to have my Petition[s] "denied without prejudice" for and with the remedies being satisfied to consider these with regard to the magistrate judge recommending these to be "denied

without prejudice", it was because the senior judge rejected this, ordering the Petition[s] to be STRICKEN, the remedy was now satisfied to begin to pursue this to this Court. This was with regard to how the cause for taking "Howard Griffith et al. v New York et al., [ ]", was to obtain a declaration that the census without the citizenship question needed to have been deemed to have been used as a "test or device" to illegally determine the eligibility to obtain absentee, mail-in ballots and would need to have been eliminated, pursuant to 52 USC 10303. However, after having taken a Notice of Appeal from "Howard Griffith et al. v New York et al., [ ]", the District Court sent my [matter] to the United States [C]ircuit [C]ourt of Appeals for the Second Circuit.

Before taking "In Re Howard Griffith, 21-6127", I received an affirmation from the Attorney General addressed to the Circuit Court of Appeals with regard to the [matter] pending in that court: "Griffith v New York State [ ], 21-2133", requesting to be terminated as a party from that [matter] with regard to claims that the party had never received the [amended] complaint with regard to the reason for taking "Howard Griffith et al. v New York et al., [ ]". Nevertheless, the Attorney General also suggested that if the propriety of affirmance was to be doubted with regard to the Attorney General's claims, the Attorney General suggested that *sua sponte* be vacated, *"dismissing and remanding without prejudice to any dispositive motions that defendant's may file after receiving a copy of the amended complaint."* (Dotson v Fischer, 613 F. App'x 35, 39 & n. 3 [2d Cir. 2015])

I objected to this Court that the Attorney General had received the [amended] complaint, via service of the papers appended to the Petition for Rehearing, [ ]: March 9, 2021, and Petition for Extraordinary Writ: May 23, 2021, served to this Court and opposing parties, as I referenced the Attorney General as a party in both matters. I requested this Court to doubt the propriety of affirmance, along with the satisfaction of the Attorney General's suggestions, to vacate sua

sponte, to be dismissed and remanded "without prejudice" to an additional amended complaint appending any relevant documents that I have procured. (Dotson v Fischer, id. at 39 & n. 3)

When this matter was taken on October 5, 2021, "Griffith v New York State [ ]" was in default, and [an] [O]rder from the Circuit Court dated: September 22, 2021, was provided: "IT IS HEREBY ORDERED that the appeal is dismissed effective October 13, 2021 unless by that date appellant either pays the fee in full, moves for in forma pauperis status in the district court or..."

When [this] matter was taken, I provided the form for this Court that was provided for me by the Circuit Court to be provided for the District Court for "[M]otion for Permission to Appeal In Forma Pauperis". This was to be provided for the appeal to have been taken from the matter re "Howard Griffith et al. v New York et al., [ ]", as the matter involved "voting rights". The [M]otion referenced 52 USC 10303(a)(5): "*Appeals shall lie to the Supreme Court.*"

On December 6, 2021, "In Re Howard Griffith [ ]" was denied. Nevertheless, on December 28, 2021, "Griffith v New York State [ ]" was mandated. With this, I was to demonstrate the new precedent having been established to consider that this Court could doubt the propriety of affirmance with regard to the claims of the Attorney General's affirmation to the Circuit Court of Appeals because the Circuit Court had actually agreed with the Attorney General to have them terminated as a party. The mandate was concluded because the [O]rder, demonstrated above, had not been satisfied. It needs to be considered that I had demonstrated that I intended to pursue with an appeal from the Order[ ] in the matter re "Howard Griffith et al. v New York et al. [ ]", in this matter, as I had demonstrated in my "Questions Presented", and it needs to be considered that the Petition for Rehearing for Petition for Writ of Mandamus and Prohibition: December 31, 2021, is [CONCLU]ded with a demonstration which provides the remedy to obtain a declaration, regarding declarations I intended to obtain, via appeal, taken from the District Court

pursuant to 52 USC 10303(a)(5). However, objections with regard to the merits of how the District Court considered habeas corpus to be dismissed without prejudice could not have been considered in this Court until federal remedies had been exhausted. Nevertheless, it needs to be recognized that when my "[M]otion for Permission to Appeal In Forma Pauperis" dated: September 28, 2021, was filed on October 5, 2021, I had the "ORDER[ ]" attached, regarding "*in forma pauperis*", with regard to "Griffith v New York State [ ]", when that matter was in default. The Petition [ ] dated: December 31, 2021, had the remedy preserved for this Court to provide Mandamus to Compel the [M]otion to the District Court. Also, a "Motion for Permission to Appeal In Forma Pauperis" dated December 29, 2021, was appended to the Petition dated December 31, 2021, demonstrating: "issues on appeal: 'Habeas Corpus Dismissed Without Prejudice' Summary Order: May 4, 2021, and Petition[s] STRICKEN: August 3, 2021, are errors of law." This Petition [ ] had been provided for the District Court and the Circuit Court with attachments.

On December 31, 2021, I also provided a Motion for Extension of Time to Obtain Documents, pursuant to Rule 30.4 of this Court, as I attached judicial documents demonstrating that I was pursuing CPLR Article 78 to obtain the documents for my "Due Process Disciplinary Hearing" dated: July 6, 2021, and I also demonstrated that I was waiting to receive a copy of the Mandate of the Circuit Court dated: December 28, 2021. After I received a copy of the Mandate on January 4, 2022, since I had not yet obtained the documents for my "Due Process Disciplinary Hearing", I decided to pursue a Motion to Stay the Mandate to the Circuit Court of Appeals, pursuant to Fed. R. App. P. 41, on January 6, 2022. On January 9, 2022, I received a copy of my Petition [ ], dated: December 31, 2021, in my mailbox, which had been returned by the Circuit Court, refusing to file it because "Griffith v New York State [ ]" had been closed on December

28, 2021. This provided the remedy that my Motion dated: January 6, 2022, was not to have been considered which satisfies the remedy for this Court to provide Mandamus to Compel the District Court to consider my "Motion[s] for Permission to Appeal In Forma Pauperis". This is necessary to satisfy the remedy for "Griffith v New York State [ ]" to not be considered to have been closed, to satisfy the remedy that this matter had been properly taken from that matter, pursuant to Rule 14, and the remedy has been provided for this Court to consider this because "In Re Howard Griffith, [ ]" was first taken when "Griffith v New York State [ ]" was in default. The Petition [ ] was returned by this Court on January 18, 2022.

Petition for Rehearing for Petition for Writ of Certiorari, "Howard Griffith v New York, 20-6395", reconsidering Certiorari to be "denied without prejudice" was intended to stay that matter from January 19, 2021, and Petition for Extraordinary Writ, being considered to be "denied without prejudice" was intended to object the determinations with the R & R: December 28, 2020, and the Summary Order: May 4, 2021, in the matter re "Howard Griffith et al. v New York et al., [ ]" with regard to how the District Court considered habeas corpus to be dismissed without prejudice. They had both been, initially, taken to this Court, and since the magistrate judge recommended these Petitions to be considered, together, to be "denied without prejudice" and because the senior judge rejected it, these may now be considered in this Court together.

Habeas Corpus Without Prejudice would be able to stay the matter for failure to register as a sex offender. In essence of this, due process would authorize this Court to Order the Supreme Court of the State of New York, Appellate Division/Fourth Department, to grant me my right to appeal the letter/decision/order of the Onondaga County Court dated: October 25, 2019, pursuant to "CPL 450.10(1) 'as it applies' to Correction Law 168-n", to have been taken from "each and every part thereof and every intermediate order made therein." This would be with regard to how

it was a consequence of the People's "*bad faith*" that denied me my right to pursue with my intentions via "Petition for Rehearing for Petition for Writ of Certiorari [ ]" to pursue with Reconsideration for my Motion to Grant Leave to Appeal to the NYS Court of Appeals. Now it may be deemed that I have exhausted my remedies. This will be able to be considered with regard to how I was denied my Right to Appeal that the County Court did not have jurisdiction to consider I had abandoned the Petition that had been reinstated via Order re "People v Griffith, 166 A.D.3d 1518" when considerations with regard to the Memorandum in that matter had been under the Jurisdiction of this Court in the matter re "Howard Griffith v New York, 19-5746".

I contested in my Supplemental Brief "In Re Howard Griffith, 21-6127": November 17, 2021, that because I am being prosecuted for failure to register as a sex offender for a sex offense which has been adjudged as unconstitutional by a Court of Law, I should be given back my right to prove that I am "actually innocent". On March 27, 2007, the Onondaga County Court made a decision/order denying a Motion to Vacate Judgment, pursuant to CPL 440.10, on the same grounds: *"The defendant, Howard Griffith has moved, pro se, pursuant to Article 440 of the Criminal Procedure Law, for an order of this Court setting aside his judgment of conviction upon an Alford plea to the crime of Rape in the First Degree and vacating the determinate sentence imposed of five years in state prison and five years post-release supervision on the grounds of newly discovered evidence and his illegal commitment to Central New York Psychiatric Center following the completion of his sentence."* It may be deemed that [this] was considered by this Court under much more extraordinary circumstances. On February 3, 2022, I demonstrated this to the Onondaga County Court and the People, via Motion [ ] pursuant to CPL 440.10, and I demonstrated that the People had already considered this and waived their right to respond. The Onondaga County Court has directed the People to provide a response by March 25, 2022. The

People already had the authorization to respond to this in this Court, and since the People have waived that right, the People should not be authorized to respond to the County Court. This Motion [ ] should already be deemed to have been considered to have been denied so this can be taken with an appeal pursuant to "*CPL 450.10(1) 'as it applies' to Correction Law 168-n[5]* *[emphasis added]*" to be taken with the appeal from the letter/decision/order being deemed to have been taken "from each and every part thereof and every intermediate order made therein." I addressed it, with my Motion [ ], that I would pursue a request for interlocutory judgment.

Also, I have [pursued] a Motion for Extension of Time to Appeal to the Supreme Court of the State of New York, Appellate Division/Fourth Department, pursuant to CPL 460.30(1): February 10, 2022. This is to be from the Order dated: June 8, 2021, determining I was unfit to stand trial, pursuant to CPL 730. This is to be with regard to my objections to double jeopardy. Also, it was demonstrated how I objected that I was in custody substantive to 28 USC 2241(c)(2). The Petition dated: December 31, 2021, is attached to it as I demonstrated how this Court would have to consider this. This is to be with regard to how an evidentiary hearing should be held by this Court because the evidence for the claim I have developed could not have been previously discovered through the exercise of due diligence (*see* 28 USC 2254[e][2][A][ii]). This would be to consider that I should not have been taken into custody, pursuant to 18 USC 231(a)(3), as it applied to my failure to register as a sex offender. This would be necessary to consider habeas corpus without prejudice to stay "People v Griffith, CR-01869-21", to consider this to be taken with my appeal: "*pursuant to CPL 450.10(1) 'as it applies' to Correction Law 168-n*".

It will also be necessary to consider that New York State passed a bill on January 19, 2022, authorizing mail-in ballots to be used in the 2022 elections as the evidentiary hearing would authorize this Court to investigate why a declaration needs to be provided that these would need

to be eliminated, and this also needs to be considered with my **DECLARATION PLEDGE OF PUBLIC SUPPORT** which was filed in this Court on January 19, 2022, (see Appendix) and addressed with the Petition [ ] that had been returned on February 1, 2022. My opponents need to release *"relevant information"* because New York State uses the census to authorize non-existent [non-minority] beings to abridge *"the right to vote on account of race or color."* (52 USC 10303)

Also, with regard to my Motion [ ], pursuant to Rule 30.4, I attached the [P]etition I was pursuing to obtain my "Due Process Disciplinary Hearing" [ ] documents. While this was being pursued, the Sheriffs provided a refusal to produce these because it was determined that it would interfere with judicial proceedings. It was suggested I address this to [my] attorney to have this addressed to the People. Nevertheless, I demonstrated, in my [P]etition, that there was evidence to consider the Sheriffs had illegally seized my property in violation of my 4th Amendment Right. However, I was not able to produce evidence for the lower court. Nevertheless, I was able to produce evidence with this matter, as "Question 4" of my "Motion to Request Permission to Appeal In Forma Pauperis": [S]eptember 28, 2021, demonstrated how I would have to produce receipts from the first month to the [p]resent [demonstrating] my monetary assets during the time that I had been incarcerated. [For] the first month, I provided a statement demonstrating my transfer of property to CNYPC on July 7, 2021, which demonstrates how the only property I had transferred was a check for \$310. [ ]. This confirms my claim in that [P]etition. Also, because the Sheriff suggests that the People should be addressed with regard to how this interferes with this judicial proceeding, the People should be able to answer any questions for the Court[s] with regard to why [this] cannot be obtained. This demonstrates that the People have an interest in my "[ ] Hearing"; the *"predicate/s/"* that followed after my demonstration to the Court and the [P]eople [in] "good faith" on January 25, 2022, reflect[ ] this. (see Exhibit D)

February 16, 2022

Howard Griffith  
Howard Griffith

21-6127

---

SUPREME COURT OF THE UNITED STATES

---

*In Re*

**Howard Griffith**

---

**Petition for Rehearing for Petition for Writ of Mandamus and Prohibition**

---

**CERTIFICATE OF GOOD FAITH**

I, Howard Griffith, certify that this Petition is limited to intervening circumstances of a substantial or controlling effect and to additional substantial grounds not previously presented, and I certify that this Petition is made in good faith and not for delay.

Dated:

February 16, 2022

Respectfully submitted,

*Howard Griffith*

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

**Additional material  
from this filing is  
available in the  
Clerk's Office.**