

(A)

21-7816

No. _____

FILED
APR 25 2022
OFFICE OF THE CLERK
SUPREME COURT OF VIRGINIA

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

John Bagin

(Your Name)

— PETITIONER

vs.

Melissa Layman via The Supreme Court of Virginia

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Supreme Court of Virginia

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

John Bagin #

1355505

20-20 (2A-11)

(Your Name)

Marion Correctional Treatment Center

110 Wright Street

(Address)

Marion, Virginia 24354-3145

(City, State, Zip Code)

(Phone Number)

(B)

QUESTION(S) PRESENTED

- (1) Does the act of Congress 28 U.S.C.S 1658 extend the privilege to Four(4) years to File a cause of action, arising under the Acts of Congress 28 U.S.C.S 455(b)(1), 455(b)(3) and 28 U.S.C.S 2243 within the State of Virginia in Civil actions by Habeas Corpus?
- (2) Does the rule of decision From 28 U.S.C.S 1658 (4 years), nullify the state rule of decision From 8.01-654(a)(1), (1 year), when a civil action is raised under an Act of Congress for the cause of action?
- (3) Does the rule of decision From 28 U.S.C.S 1652, clarify that state code 8.01-654(a)(1) should only be a rule of decision when The United States Constitution's First (1st) Amendment, the Act of Congress 28 U.S.C.S 1658, and The Universal Declaration of Human Rights Article eight (8) does not otherwise provide a rule of decision to be applied to Facts in civil actions?
- (4) When the cause of actions are under Acts of Congress, does the application of the rule of decision From 8.01-654(a)(1) violate the Constitution Provision: No state shall (make) or (enforce) a law that abridges the privileges or immunities of the Citizens of The United States provided by The United States Constitution's Fourteenth (14th) Amendment?
- (5) Does the misapplication of statutory due process, constitute the deprivation of liberty, without due process and equal protection of laws, when the citizens rights depend upon proper application of the Federal statutes?

(C)

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:

RELATED CASES

John Ragin vs. Melissa Layman, Douglas Robelen and Timothy Fisher via Newport News Circuit Court
No: 21-6837 The Supreme Court of The United States.
Judgement entered: March 22, 2022

(1)

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The United States Constitution's Article Six (6) Section Two (2) (pg 6)

(1)

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 A 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 Supreme Court of Virginia held at the Supreme court appears at Appendix B to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

(2)

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ 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 October 15, 2021.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: February 9th 2022, and a copy of the order denying rehearing appears at Appendix B.

☐ 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).

(2)

(3)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The United States Constitution's First (1st) Amendment: Congress shall make no law to abridge the right of the people to petition the government for a redress of grievances (page 5)

The United States Constitution's Fifth (5th) Amendment: No person shall be deprived life liberty or property, without due process of laws. (page 7)

The United States Constitution's Fourteenth (14th) Amendment: No state shall deprive a person's life, liberty, or property without due process of laws nor deprive to anyone within their jurisdiction the equal protection of laws (page 7)

The United States Constitution's Article Six (6) Section Two (2): Judges of every state are bound by the constitution and the laws made in pursuance thereof (Page 6)

28 U.S.C. 1658(a): Except as otherwise provided by law, a civil action arising under an Act of Congress enacted after the date of the enactment of this section may not be commenced later than four (4) years after the cause of action accrues. (Page 6)

Virginia Code 8.01-654(A)(1): A petition for writ of habeas corpus ad subjiciendum, other than a petition challenging a criminal conviction or sentence, shall be brought within one year after the cause of action accrues. (Appendix A)

(4)

STATEMENT OF THE CASE

The petitioner was unconstitutionally convicted in June of 2014. The order endorsed by Timothy Fisher, was contrary to the constitution and without due process of laws. The Supreme Court of The United States decided the states use of False evidence invalidates a conviction by principles of laws in Miller vs Pate 386 U.S. 1 (1967). The Supreme Court of the United States decided counsel nor the court can waive the right to testify and advocate your innocence by the rules of decision in Gallego vs. United States 174 F.3d 1196 (1999). The transcript of record proves the (undisputed) Facts that the state used False evidence and counsel overruled the right to testify, contrary to The United States Constitution's Fourteenth (14th) Amendment.

Petitioner Filed a Habeas Corpus in October of 2015. Timothy Fisher adjudicated the constitutional errors of his decisions made during the trial. His actions overtly violated 28 U.S.C.S 455(b)(1), 455(b)(3) and 28 U.S.C.S 2243. He had personal knowledge of the disputed Facts and expressed his opinion on the merits of all claims. His decision also failed to dispose of the matter as law and justice required. The Supreme Court of The United States decided it constitutes a due process violation to subject a citizen's liberty to a court with a direct or personal interests in the controversy with Tumey vs. Ohio 273 U.S. 510 (1927)

The unconstitutional act was endorsed by Timothy Fisher on August 8th, 2019. The initial writ of Mandamus was Filed within a year and not granted. Petitioner subsequently Filed a Habeas Corpus for the errors and the equitable tolling amounted to less than two years total, which was also not granted by the court.

(5)

STATEMENT OF THE CASE

The Supreme Court of Virginia applied 9.01-654(A)(2) to abridge petitioners right to petition the court to one (1) year. An act of Congress 28 U.S.C.S 1658 provides Four (4) years to file a civil action under acts of Congress like 28 U.S.C.S 455 (b)(3) and 28 U.S.C.S 2243. The United States Constitution's First (1st) Amendment provides the right to petition the court for grievances. Lastly, the national treaties provides the right to an effective remedy for a deprivation of rights, which is declared with The Universal Declaration of Human Rights Article eight (8). Federal statute 28 U.S.C.S 1652 specifies the rule of decision;

Laws of the several states are rules of decisions in civil proceedings, except when the Constitution, Acts of Congress or National treaties otherwise provides a rule of decision.

The rule of decision provided by Marbury vs. Madison 5 U.S 137 (1803) states: All government acts repugnant to the constitution are a nullity and void. This appeal has been filed to invoke the equal protection of laws, for all the aforementioned Federal Constitutional and Federal Statutory rights.

(6)

REASONS FOR GRANTING THE PETITION

The Federal Statutes 28 U.S.C.S 1652 and 28 U.S.C.S 1658 are created by Congress to provide important rights to safeguard life, liberty and property from arbitrary state interference. The laws of the several states lose all efficacy by 28 U.S.C.S 1652, when the Constitution, Acts of Congress and National treaties provides a rule of decision, which governs the facts differently from the state rule of decision. 28 U.S.C.S 1658 provides Four (4) years to enforce the United States Constitution's First (1st) Amendment Rights to petition the government for grievances. Also, it provides Four (4) years when a constitutional right provided by Acts of Congress were deprived, to extend The Universal Declaration of Human Rights Article eight (8), entitlement to an effective remedy. The Supreme Court of The United States established the principle of law with Worth vs. Seldin 422 U.S. 490 (1975): A statute provides an interests, the deprivation of the interests is an unlawful act and an injury in fact to the petitioner and everyone similarly situated.

State public officers are compelled by their duties and obligations mandated by The Supremacy Clause: The United States Constitution's Article Six (6) Section Two (2) mandates: The judges of every state are bound by the Constitution and the laws made pursuant to the Constitution.

REASONS FOR GRANTING THE PETITION

(7)
The rule of decision was enforced by The Supreme Court of the United States since (1892) with the decision in United States vs. Lee 106 U.S. 196 (1892): Public officers are creatures of the law and are bound to obey it. The court's refusal to issue a remedy, the constitution authorizes, is an unlawful act which constitutes a violation of The United States Constitution's Fifth (5th) and Fourteenth (14th) Amendment.

An unlawful act, has always been considered a crime. The most compelling reason to exercise jurisdiction is to prevent the deprivation of liberty, without due process of laws. It is a crime to violate Federal Constitutional and Federal Statutory entitlements, while ordering a procedure to deprive life, liberty, or property. The United States Constitution's Fourteenth (14th) Amendment is a law against it. Anyone who deprives civil rights, without statutory due process provided by Acts of Congress 28 U.S.C. 2243, violates the Fourteenth (14th) Amendment. Public officers are knowingly and intentionally acting unlawfully by withholding the equal protection of laws as established in Ex Parte Commonwealth of Virginia 100 U.S. 339 (1880)

It's always been nationally important to prevent crime in the first stages it's discovered. It's not justice to know of illegal acts and not prevent them as soon as they can be prevented.

Reasons For granting the writ

The public safety and individual rights are Founded on the idea of public officers who uphold the Acts of Congress by their orders and ordinances. Public Officers who violate or break the laws by withholding interests established by statutory due process by their orders and ordinances are correctly defined as criminals.

Public Officers took an oath to Act constitutionally pursuant to 28 U.S.C.S 453. Judicial notice of Webster's dictionary defines a criminal: One who has committed a crime. A crime is a serious offense against a public law. 28 U.S.C.S 455(a)

The United States Constitution's Fourteenth (14th) Amendment is the law of the land and it constitutionally mandates: No state shall deprive life, liberty, or property without due process of laws

Citizens in every state, including Virginia, are concerned and have an interest with Public Officers who uphold their oaths and obligations. Enforcing the laws designed to protect individual rights with acts of Congress. The Supreme Court of the United States of (2022), can decide it is still an obligation to act constitutionally. 28 U.S.C.S 165(a)

(9)

Reasons For granting the writ

There is no option to act unconstitutionally and it is an erroneous decision to act contrary to constitutional mandates. The decisions of the lower courts are erroneous because all governmental acts repugnant to the constitution are nullity and void.

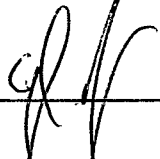
The relevant decision of Marbury vs. Madison 5 U.S 137 (1803) enforces the law against public officers to demonstrate a principle of law. All are subjected to clearly established Federal laws. The Constitution is the supreme authority and public officers have the ministerial duty to conform. Patterns of unlawful orders and defiance to supreme authority can be met with the codes for imprisonment or a felony. The laws against breach of duty and malfeasance. Everyone who's being subjected to unlawful orders that defy the constitution to deprive life, liberty, or property, benefits from granting a remedy. It provides controlling precedent by the current justices to enforce: No unlawful conduct by public officers.

Praying for the stated reasons, the writ is granted, by the superior court, which determines what the law is; Marbury vs. Madison, supra, 5 U.S 137 (1803)

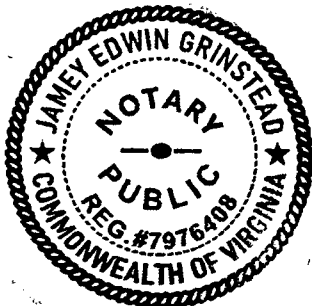
CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 4-20-22



City/County of Smyth
Commonwealth of Virginia
The foregoing instrument was acknowledged
before me this 20 day of April 2022
by Jamey Grinstead
Notary Public
My commission expires: March 31, 2026