

IN THE
Supreme Court of the
United States

JASON EARL WHITE

VS

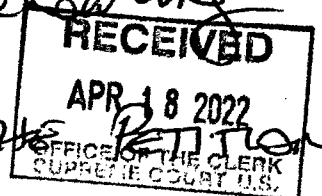
Lumpkin

MOTION TO DIRECT THE CLERK
TO FILE WHITE'S PRO SE
PETITION FOR A WRIT OF CERTIORARI
OUT OF TIME

TO: THE HONORABLE JUSTICES OF
THE UNITED STATES SUPREME COURT

JASON EARL WHITE, PETITIONER PRO SE, MOVES
leave of this Court, TO FILE HIS PETITION FOR A
WRIT OF CERTIORARI OUT OF TIME, AND FOR
GOOD CAUSE WHITE ASSERT THE FOLLOWING:

1. The reason for return of the pro se
petition for untimeliness is that the 5TH
Circuit's ruling on the motion for rehearing
was entered October 26, 2021. Thus the petition
was due January 24, 2022.



2. This petition was prepared by inmate assistance without Petitioner's file. (See: Original Motion for an Extension of Time to file Beyond the 90 Day Rule).

3. This Petition was filed by Petitioner not being aware of the date of Final Action by the 5th Circuit. What is of importance, however, is the Final Action by the Fifth Circuit was not until November 17, 2021 when jurisdiction was relinquished and Mandate issued.

4. The Clerk is counting time from October 26, 2021 when Rehearing was denied. Therefore the Petition was due to be filed by January 24, 2022.

5. Petitioner filed his Petition by placing it in the mail February 9, 2022.

6. October 26, 2021 to November 17, 2021 adds twenty-two (22) days to the process being completed in the 5th Circuit Court of Appeals.

7. Petitioner seeks leave to file belated Petition. But, his petition was within 90 days of the final action taken by the Fifth Circuit. At A BARE AND FORGIVING minimum equities ARE NOT offended by allowing the time requested. The Relevant ~~balance~~ for measuring whether leave to file is appropriate ultimately lies in the discretion of the Justices to exercise their supervisory authority.

8. Petitioner presents A CASE that has been a model for the failings of habeas corpus in the State of Texas to such a degree as it can be concluded the GREAT writ has been suspended.

9. Petitioner was found guilty and sentenced to 40 years. In that trial the prosecutor and Presiding Judge ignored the law and allowed a jury verdict that could not reflect unanimity among jurors. That error was intentionally injected in that trial.

10. Injection of ^{the} REVERSIBLE error into THAT trial was intentional. The prosecutor, after successful appeal, went to trial on a Re-indictment and Received a new judgment for Petitioner, 65 years confinement.

11. A sentence after successful appeal cannot be greater than the sentence rendered on original trial. That sentence is, by definition, excessive and ~~the~~ vindictive. Supreme Court precedent is clear since North Carolina v Pearce.

12. The issue was not raised in the second trial. The issue was not raised in the successful appeal because it did need to be because it did not exist. Second appeal did not raise the issue. Petition for Discretionary Review did not raise the issue.

13. On habeas corpus ⁽⁵⁾ Petitioner raised the issue in the trial Court, in the Court of Last Resort the Texas Court of Criminal Appeals, the United States District Court for the Northern District of Texas, Fort Worth Division and finally in the Fifth Circuit Court of Appeals. Not a single Court where this clear incident of vindictive prosecution would even grant a hearing to review that issue.

14. Petitioner seeks this Court's exercise of its discretion to review a case by exercising its supervisory powers. Supervisory powers, recognized since McNabb v United States, 318 US 332 (1943). Petitioner seeks this Court's review of every stage in the habeas corpus process never granting even a single hearing

(6)
to decide how in the world this Court's
well-settled precedent is not being
followed.

15. In Texas, by all appearances,
when a Defendant, becomes an Appellant
he may very well lose his appeal. But
that same Appellant, when he WINS
his appeal, actually loses worse
because courts in Texas, and the
Northern District of Texas, and in
the Fifth Circuit, CARE NOT to correct
prosecutions that are even intended to
disregard this Court's precedent.

16. This Petitioner seeks this Court's
exercise of Supervisory Powers, to Review
the level of apathy achieved by an entire

system of habeas corpus Review where NOT a single Court sees fit to even grant a hearing on a non-frivolous writ that challenges "vindictive" prosecutions, even when the vindictiveness is on the face of the record of the case being challenged!

(17) Given the clear disregard of this Court's precedent, and the clear effective/constructive denial of habeas corpus review at all levels, Petitioner asserts granting an out of time Review would not be offensive to this Court's Rules, given the circumstances of this Petition being filed.

18. The filing was within 90 days of the final action by the Circuit Court. Invited to do so, Petitioner filed this motion.

No. _____

IN THE
SUPREME COURT of the United States

JASON EARL WHITE, PETITIONER
VS.

UNITED STATES of AMERICA, RESPONDENT

MOTION FOR EXTENSION OF TIME & FOR LEAVE
TO FILE BEYOND 90 DAY RULE AND
PROCEED IN FORMA PAUPERIS

PETITIONER PROCEEDED IN FORMA PAUPERIS FROM
HIS MOTION FOR REHEARING IN THE TEXAS COURT OF
CRIMINAL APPEAL WITH THE ASSISTANCE OF THE
SAME (NON-LAWYER) WRIT WRITER HEREIN.

PETITIONER PROCEEDED IN FORMA PAUPERIS, PRO
SE, IN THE 28 USC § 2254 PROCEEDINGS IN THE
U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT
OF TEXAS, FORT WORTH DIVISION, AS WELL AS,
ON APPLICATION FOR A CERTIFICATE OF APPEAL
ABILITY TO THE FIFTH CIRCUIT COURT OF APPEALS.

PETITIONER'S (NON-LAWYER) ASSISTANCE HAS BEEN
ACCOMPLISHED IN A TIMELY MANNER AT ALL
STAGES OF THESE PROCEEDINGS AND PURSUANT
TO USE OF AND PREPARATION OF ALL PLEADINGS
IN ALL PROCEEDINGS PURSUANT TO ALL REQUIRED
FORMS. ALL PAPERS WERE COMPUTER GENERATED.

RECEIVED
MAR 7 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITIONER'S ASSISTANT WAS FORMERLY EMPLOYED BY HOONEY, SMITH & CONRAD, A HOUSTON LAW FIRM ORIGINALLY RETAINED BY CHERYL COOK, PETITIONER'S AUNT, WHO WAS NOT FINANCIALLY ABLE TO PURSUE THE FIRM BEYOND THE ORIGINAL PROCEEDINGS FILE PURSUANT TO ART. 11.07 TEXAS CODE CRIMINAL PROCEDURE. ASSISTANCE THEREAFTER CAME FROM A NON-LAWYER WHO ASSISTED PETITIONER BELIEVING PETITIONER'S ISSUES WERE VIABLE AND NON-FRIVOLOUS AND DETERMINATIVE OF PETITIONER'S CURRENT ILLEGAL INCARCERATION.

PETITIONER'S ASSISTANT UTILIZED LAW FIRM EQUIPMENT, COMPUTER RESEARCH CAPACITY, SUPPLIES & COPYING EQUIPMENT IN HIS EFFORTS TO HAVE THOSE ISSUES REVIEWED.

PETITIONER'S ASSISTANT WAS ASKED TO QUIT PROVIDING THE AFOREMENTIONED ASSISTANCE. THE ASSISTANT REFUSED TO QUIT HIS ASSISTANCE OF PETITIONER BELIEVING PETITIONER WAS INNOCENT, FALSELY ACCUSED AND RAILROADED INTO PRISON, AND ASSISTANT COULD NOT SLEEP NIGHTS KNOWING PETITIONER DESERVED ASSISTANCE EVEN BY ASSISTANT, A NON-LAWYER PARALEGAL.

PETITIONER'S ASSISTANT WAS FIRED, AND

UNFORTUNATELY, THE FIRING CAME DURING THE PENDENCY OF THE PREPARATION OF THIS APPLICATION. PREPARATION OF THE THIS APPLICATION WAS DELAYED DUE TO THE FAILURE OF A BORROWED INTEL CORE I7 7TH GENERATION LAP TOP COMPUTER.

THE EQUIPMENT FAILED ON NUMEROUS OCCASSIONS AS ASSISTANT ATTEMPTED TO COMPLETE THE COURT'S "FORM" FOR FILING IN FORMA PAUPERIS AN APPLICATION FOR CERTIORARI WHEN DURING ATTEMPTS TO COMPLETE THE FORM THE SIZE OF THE CHARACTERS WOULD INCREASE TO FOUR TIMES THEIR SIZE. WHEN THAT PROBLEM WOULD CURE EVENTUALLY THE FORM WOULD "DUMP" COMPLETELY.

NUMEROUS EFFORTS WERE MADE WITH "ALMOST" COMPLETION BEING REACHED ON SEVERAL OCCASSIONS ONLY TO REALIZE FAILURE EACH TIME.

PETITIONER'S ASSISTANT, IN THE PROCESS, HAD A COVID SCARE AT HIS HOME WHEN HIS BROTHER BECAME SICK. ASSISTANT HAD TO MOVE HIS EFFORTS TO A SECLUDED LOCATION AWAY FROM HIS BROTHER WHERE

ASSISTANT GOT SICK AND COULD NOT WORK FOR DAYS. THIS WAS THE REAL AND FINAL BLOW TO COMPLETION WITHIN THE 90 DAYS. COMPUTER PROBLEMS HAVE PERSISTED. ALL EFFORTS WERE MADE.

ASSISTANT FINALLY CHOSE TO HAND WRITE THE APPLICATION, AND WITH PETITIONER'S PERMISSION, SIGN THE APPLICATION AND MOTION FOR LEAVE TO FILE IN FORMA PAUPERIS FOR HIM.

ALL EFFORTS HAVE BEEN MADE TO FILE AS SOON AS POSSIBLE WITHIN THE 90 DAY RULE FOR TIMELY FILING. THOSE EFFORTS WERE THWARTED TO A DEGREE WHEN CHERYL COOK, ON PETITIONER'S BEHALF ATTEMPTED TO OBTAIN PETITIONER'S FILE FROM THE LAW FIRM SITE ORIGINALLY RETAINED. SHE WAS ADVISED "THERE IS NO FILE" AS IT WAS THE VICTIM OF A RANSOMWARE HACKING INITIALLY AND LATER LOST DUE ASSISTANT'S CAR BEING STOLEN AND THE FILE WAS IN THE STOLEN CAR. THE FILE IS ENORMOUS, COMPRISED OF TRIAL TRANSCRIPTS FROM TWO TRIALS TWO DIRECT APPEALS, CASE AUTHORITY FROM THOSE APPEALS AND THIS HACKER'S

CORPUS PROCEEDING FROM ART. 11.07
TEX. CT. CRIM. APP ORIGINAL APPLICATION,
REVIEW BY THE COURT OF CRIMINAL
APPEALS, REVIEW ON RETHEMING,
28 USC 2254 PETITION filed in the
NORTHERN DISTRICT of TEXAS, FORT WORTH
DIVISION, AND COA REVIEW IN THE
FIFTH CIRCUIT. THE ASSISTANT WAS
FIRED WHILE ON CHRISTMAS VACATION
WITH LESS THAN 30 DAYS TO FILE THIS
PETITION. ALL EFFORTS WERE MADE.

WHEN CHERYL COOK ASKED THE
FIRM FOR THE FILE, AND AFTER SHE
WAS ADVISED THERE WAS NO FILE,
SHE WAS LATER ADVISED THE LAW FIRM
HAD DECIDED IT WOULD PREPARE THE
CERTIORARI PETITION "FROM SCRATCH",
THAT IT WOULD WORK "ALL WEEKEND"
TO COMPLETE THE APPLICATION TIMELY.
THE FIRM FAILED IN ITS PROMISE
AND WOULD JUSTIFY "NOT FILING" AS
PROMISED, BECAUSE THERE WERE INSUFFICIENT
GROUNDS FOR REVIEW. IT IS "UNKNOWN"
HOW SUCH CONCLUSION CAN BE REACHED
HAVING ADVISED "THERE WAS NO FILE"
TO REVIEW OR MAKE AVAILABLE WHEN
REQUESTED.

THIS, PETITIONER'S INSTANT APPLICATION IS PREPARED FROM NOTES IN ASSISTANT'S POSSESSION, USED BY ASSISTANT AND DELIVERED TO ASSISTANT BY THE LAW FIRM, WITH OTHER OF ASSISTANT'S PROPERTY ON HIS DISMISSAL FROM "THE FIRM".

PETITIONER IS GUESSING AS TO THE DEADLINE FOR FILING BUT ASSUMING THE FILING DEADLINE HAS PASSED. HOWEVER, PETITIONER ASSERTS THE FOREGOING FACTS TAKEN AS A WHOLE ARE SUFFICIENT EXTRAORDINARY CIRCUMSTANCES TO GRANT LEAVE TO FILE THIS APPLICATION FOR CERTIORARI AND LEAVE TO FILE IN FORMA PAUPERIS.

IN SUPPORT OF LEAVE TO FILE IN FORMA PAUPERIS PETITIONER SHOWS:

BECAUSE OF PETITIONER'S POVERTY HE HAS BEEN UNABLE TO PAY COSTS, GIVE SURETY THEREFOR, AND AS SUCH HAS BEEN ASSISTED WITHOUT COUNSEL, SINCE THIS CASE WAS REVIEWED BY THE TEXAS COURT OF CRIMINAL APPEALS ON REHEARING OF THE DENIAL OF HABEAS CORPUS RELIEF, THROUGH REVIEW OF HIS 28 USC 2254 IN FEDERAL DISTRICT COURT, supra.

through Review by the Fifth Circuit Court of APPEALS AND DENIAL OF CERTIFICATE OF APPEALABILITY. I AM PROCEEDING PRO SE, WITH THE ASSISTANCE OF A. NON-LAWYER PARALEGAL IN THIS PROCEEDING DUE TO MY POVERTY, AND IN FURTHER SUPPORT PETITIONER PROVIDES THE FOLLOWING:

PETITIONER IS UNMARRIED, UNEMPLOYED AND HAS BEEN ILLEGALLY CONFINED AND RESTRAINED OF HIS LIBERTY CONTINUOUSLY FOR APPROXIMATELY 20 YEARS. FURTHER PETITIONER SHOWS:

1.

- PETITIONER HAS NO INCOME FROM EMPLOYMENT.
- HE HAS NO INCOME FROM REAL PROPERTY;
- HE HAS NO INCOME FROM INTERESTS OR DIVIDENDS
- HE RECEIVED ONE GIFT - THE MONEY NEEDED TO RETAIN LOONEY, SMITH & CONRAD, PC, BUT THAT FIRM NO LONGER REPRESENTS PETITIONER;
- HE HAS NO INCOME FROM ALIMONY;
- HE HAS NO INCOME FROM CHILD SUPPORT;
- HE HAS NO RETIREMENT INCOME;
- HE HAS NO DISABILITY INCOME;
- HE HAS NO UNEMPLOYMENT INCOME;
- HE HAS NO PUBLIC ASSISTANCE; AND THEREFORE
- * HE HAS A TOTAL OF \$0 MONTHLY INCOME

II.

- PETITIONER HAS HAD NO EMPLOYMENT FOR 20 YRS;
- PETITIONER HAS NO SPOUSAL EMPLOYMENT;
- PETITIONER HAS NO CASH;
- PETITIONER HAS NO CHECKING OR SAVINGS ACCOUNT;
- PETITIONER HAS NO HOME, NO VEHICLE, OR OTHER ASSETS;
- NO ONE OWES PETITIONER;
- NO ONE RELIES ON PETITIONER FOR SUPPORT;
- PETITIONER HAS NO MONTHLY EXPENSES, TO WIT:
 - RENT \$0
 - REAL ESTATE TAXES \$0
 - INSURANCE EXPENSES \$0
 - UTILITIES \$0
 - HOME MAINTENANCE \$0
 - FOOD \$0
 - CLOTHES \$0
 - LAUNDRY \$0
 - MEDICAL CARE \$0
 - EXPENSES DEDUCTED FROM WAGES \$0
 - TAXES DEDUCTED FROM WAGES \$0
 - INSTALLMENT PAYMENTS \$0
 - REGULAR BUSINESS EXPENSES \$0
 - NO "OTHER" EXPENSES, THEREFORE ...
- * PETITIONER HAS A TOTAL OF \$0 MONTHLY EXPENSES

III.

- PETITIONER EXPECTS NO MAJOR CHANGES IN:
 - INCOME
 - EXPENSES
 - ASSETS OR LIABILITIES DURING THE NEXT 12 MONTHS;

- Petitioner cannot, so he will not
 - BE paying a lawyer for this case
 - Petitioner's Aunt Cheryl COOK PAID from HER benefits from a will \$155,000 to Loney, Smith & Conrad
 11767 Katy Freeway, Suite 740
 Houston, Texas 77079
 (281) 597-8818 (Office)
 (281) 597-8284 (Fax)
 info@loneyconrad.com
- Petitioner will not be paying the paralegal ("Assistant") herein and Assistant will be paying the expenses and costs for his services rendered, costs of filing rehearing in the Texas Court of Criminal Appeals, costs for filing 20 USC 2254 writ and appeal to the 5th Circuit and the costs of filing this form and application pro se
- The "other" information supporting the instant Motion is that I have been locked up since 2002 to present. My mother and aunt send money when they can to my inmate account for essentials but that is "as they can" basis, and I can Affirm:

Petitioner, with permission to Assistant to sign, declares under penalty of perjury that the foregoing is true and correct.

Entered this 7th day of February, 2022

Jason Earl White

signed: w/Permission

Further, Petitioner presents:

"Assistant", Brent Liedtke, declares under penalty of perjury:

- The foregoing is true and correct; and
- I am 70 years of age and live on social security at present, and when I receive them from the American Bar Association Retiree fund, modest retirement benefits from my 401k.
- I paralegaled this case from when Ms. Cheryl Cook retained the case. I help people who cannot pay, and she could not pay future legal fees after Jason's wife was Deceased in state court. I assisted other inmates when I was in prison. I was wrongfully imprisoned so I know the ropes, the

feelings of helplessness that came with fighting the system from prison. I served 16 years. All witnesses against me in trial have recanted in writing except the main witness who was caught with 100 pounds of Phenytoic Acid, who because of his record, was facing 30 years to life, received 72 months confinement but never served a day in prison, but I digress:

- I was told by Leoney, Smith & Conrad to quit working for others in my spare time. I explained my problem with sleeping knowing I had left an innocent man in prison without the assistance I could offer;
- Leoney, Smith & Conrad are all living in incredible homes, married to well employed - income spouses (except Leoney) and all are living "charmed" lives due to their wealth.
- I worked for Leoney for years & we disagreed about much, including this, and he fired me; No problem because he can believe what he likes;
- But this writ is prepared without a file and I left the file in that office ... Files were stolen when my car was stolen, but not that file...

- The file never left Looney's office
 - It is enormous: Boxes of transcripts and appellate Research and briefing done by the collection of ineffective lawyers we were challenging
 - I could not have fitted that file into my car
 - I do not know why, but we are preparing this complex case without a file, with the assistance of other non-lawyers, but we cannot have full compliance with what is required of this form, and
 - Texas Court of Criminal Appeals first decided this case without written opinion, and we moved Rehearing and Denial was accompanied by a granting of Rehearing to enter a written opinion. and
 - The Fifth Circuit, likewise, denied Cert on 28 USC 2254 writ application without a written opinion; THEREFORE
 - This writ application is filed without a file and without knowing when Jason EARL White is denied federal Habeas Corpus
- under penalty of perjury
- Dan Fiedler
BRENT LEDER
"ASSISTANT PRO BONO"