

No.

In the
Supreme Court of the United States

WILLIE LEE CONNER,
Petitioner,

v.

SHARON FOLKS, WARDEN,
LOXLEY COMMUNITY WORK CENTER,
Respondent.

**On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Eleventh Circuit**

**MOTION FOR LEAVE TO FILE
PETITION FOR A WRIT OF CERTIORARI**

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COMES NOW Petitioner Willie Conner and hereby respectfully moves for permission to file the attached Petition for Writ of Certiorari.

Petitioner originally filed this Petition on December 1, 2021; this Court received it December 3, 2021. On December 23, 2021, the Clerk of this Court returned all copies of the Petition and our \$300.00 check which we submitted as a filing fee, along with a letter explaining that "The denial of authorization by a court of appeals to file a second or successive petition for a writ of habeas corpus may not be reviewed on certiorari. See 28 USC Section 2244(b)(3)(E)."

The Clerk apparently construed our Petition as an attempt to appeal the Eleventh Circuit's denial of authorization to file a second petition for a writ of habeas corpus. In fact, Petitioner was not appealing the Eleventh Circuit's denial. Rather, Petitioner was and is challenging the constitutionality of 28 USC Section 2244(b)(3)(E), which prohibits a second habeas petition without permission from the court of appeals.

Article I Section 9 provides that "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the Public Safety may require it." Petitioner contends that this language is absolute and does not permit Congress to carve out an exception limiting this right to instances in which a circuit court of appeals allows a second habeas petition, any more than Congress can limit the Sixth Amendment right to trial by jury to instances in which a circuit court approves.

Petitioner contends that 28 USC Section 2244(b)(3)(E) is unconstitutional on its face, and also that it is unconstitutional as applied, because (1) as the Petition demonstrates, the circuit courts routinely deny requests for permission to file second habeas petitions; and (2) in the case at hand Petitioner Willie Conner filed his first habeas

petition pro se on different issues many years ago with the assistance of a fellow prisoner and did not understand what it was or that it effectively barred him from filing later habeas petitions.

The right of persons to seek redress of grievances by challenging the constitutionality of statutes in court has been clearly established at least since *Martin v. Hunter's Lessee*, 14 U.S. 304 (1816).

As the Petition demonstrates, Petitioner Willie Conner clearly has standing to challenge the constitutionality of 28 USC Section 2244(b)(3)(E) because:

(1) He is a prisoner serving a life sentence for the offense of stealing a nail gun. He is innocent of the armed robbery charge of which he was convicted, because he used no force or threat of force, and because a nail gun is not a dangerous weapon.

(2) There is good reason to believe that, were it not for the prohibition found in 28 USC Section 2244(b)(3)(E), a federal court would grant his habeas petition.

WHEREFORE, Petitioner Willie Conner respectfully moves this Court for leave to file the attached Petition for Writ of Certiorari.

Respectfully submitted,

s/Roy S. Moore

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