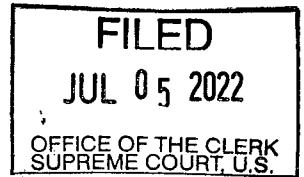


No. 22 - 5292

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

ISIAH TRUJILLO — PETITIONER
(Your Name)

ATTORNEY GENERAL OF THE STATE OF VS.
NEW MEXICO; SUPREME COURT OF NEW MEXICO — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Isiah Trujillo

(Your Name)

10 McGrigor Range Rd.

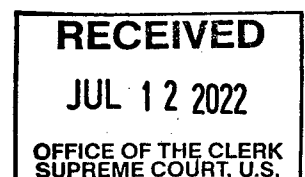
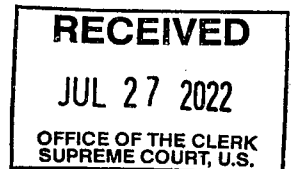
(Address)

Chaparral, New Mexico, 88081

(City, State, Zip Code)

N/A

(Phone Number)



QUESTION(S) PRESENTED

1. Whether the Supreme Court of the United States can ^{"set"} guidelines regarding the material term "state courts" that is imbedded within the provisions of 28 U.S.C.A. § 2254 and the Rules, Statutes Governing Section 2254 cases in the United States District Courts?

Has this material term created an uncertain ambiguity on the factum with regards to the testor aspect of the terms "exhaust remedies in State Courts"?

2. Whether the United States District Court for the State of New Mexico Judge Kea Wriggs acted with judicial bias that would be consistent with the reasonable person standard applied. Was this action evident at the genesis of the federal proceeding (habeas corpus § 2254)?
3. Did the New State prison Petitioner is housed at, violate my Due Process Rights to access the courts that created a liberty interest?

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

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Brady v. Maryland (Sup. Ct 1964)	6.
Case v. Hatch (10 th Cir. 2013)	10.

STATUTES AND RULES	
Rule 5-802(B)(7) NMRA	4. OF 10 pages TOTAL
Rule 5-802 (5)(4) NMRA	5.
N.M.S.A § 41-4-1 thru 16	5.
28 U.S.C. § 2254(d)(e)	7.
28 U.S.C § 2254(d)(1)	7.

OTHER	
American Diabetes Association	10.
American Psychology-Law Society (2009)	10.
American Psychological Association (2018)	10.
5 th Amendment Right	10.

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4-13(10) pages
REASONS FOR GRANTING THE WRIT	14
CONCLUSION.....	15

INDEX TO APPENDICES

APPENDIX A	Decision of the United States Court of Appeals for the Tenth Circuit (15 pages)
APPENDIX B	Decision of the United States District Court for the District of New Mexico (11 pages)
APPENDIX C	Decision of the United States District Court for the District of New Mexico (1 page)
APPENDIX D	Decision of the United States District Court for the District of New Mexico Magistrate Court (18 pages)
APPENDIX E	
APPENDIX F	

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 _____ 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 _____ 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was April 6, 2022.

☐ 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 _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Appendix A: 28 U.S.C. § 2254, 28 U.S.C. 2253(c)(1)(A),
AEDPA, 28 U.S.C. § 2254(d)(1), (d)(2), 28 U.S.C.
§ 2254(b)(1)(A)

Appendix B: ~~28 U.S.C. § 2254~~ (d), (e)(1), (e)(2)(A)(i-ii), Rules
Governing § 2254 Cases, Rule 8(c)

Appendix C: 28 U.S.C. § 2253(c)

Appendix D: 28 U.S.C. § 2254 (e)(2); Rules Governing §
2254, Rule 8(c), 28 U.S.C.A. foll. § 2254

STATEMENT OF THE CASE

Throughout all Petitioner's filings, there was an effort to include all attempts at evidence that was not part of [my] criminal trial, but, it should have.

NOTE: With respect, I would like to speak in 1st person, this is my case, my experience, my freedom I fight for.

All the Federal Courts have noted the process from the State Court to arrive at this point in their evaluation of my 92254 Habeas Petition. However, there has always been a disconnect with what I was trying to accomplish.

The synopsis on the matter is this; Under Rule 5-802(B)(7) NMRA (New Mexico's State Habeas Rule) which states in part "... a concise statement of the facts and law upon the application is based ... ". I tried to obtain the facts in my case from the LOPD (Law Office of the Public Defender) and my attorney without the court, to no avail.

After following and complying with the Rules for requesting the courts involvement to ORDER the LOPD to give the discovery to me for the use in my State Habeas. TO NO AVAIL

Because the 5th Judicial District did not respond, I filed with the New Mexico Supreme Court, in which relief was granted. (the Court did respond with (2) months remaining by DENING all motions)

4. OF 10 (STATEMENT OF THE CASE) TOTAL in this section

After obtaining the requested discovery, I realized that there was no evidence that I had requested while I was in the county jail, (18 months) from my attorney.

Thus, I became only interested in the specific details that was relevant to prove my case. I filed a series of motions under the Rule 5-802(5)(4) (Discovery for Pro-Se Petitioners) indicating how urgent the circumstance was with regard to the (1) year filing deadline set by AEDPA and how important it was to get the needed answers to properly file a complete State Habeas. To No Avail.

With only (2) months left before the (1) year deadline and no apparent process under the State Habeas Rules to allow further time to determine the State Court failure (such as a Stay or Abay Rule) I filed a Writ of Mandamus to compel the District Judge to follow the law.

I included additional State Court processes that I had comprised of New Mexico State Statute NMSA §41-4-1-16 (N.M. Tort Claims Act) and followed the New Mexico Rules of Civil Procedure. I did this before the (1) year deadline had expired.

NOTE: I filed (2) Tort Claims and went through the entire State process e.g. District Court (5th Judicial), Court of Appeals and Supreme Court of N. Mex.

From the start of this Habeas proceeding was the fact that I was after undisclosed evidence that my attorney failed to obtain and the D.A. fail to produce, therefore, this was in essence a Brady claim from the start.

If one looks at the Writ of Mandamus filing one will see the effort to obtain this evidence with State Court processes. Furthermore, if one look at the 1st filing [Doc. II] it explains what I was truly attempting to do. That was to have the Federal Court review what was done and ORDER the New Mexico Supreme Court to ORDER the 5th Judicial District Court Judge to allow me the evidence that is rightfully mine by the Constitution under the guidelines of Brady v. Maryland.

However, that's not what happened, I was told not once but twice by the United States District Court to amend my Federal Habeas to the point that it didn't resemble my original § 2254 filing [Doc. II].

Because of these amendments [Doc. II] became a side note which is apparent in all of the decisions by the Federal Courts (see Appendixes A, B, C, and D). Even with regards to answering the States response, there is hardly any mention of my original work no matter how many times I asked them to take notice.

6.0F10

ce the United States District Court for New Mexico determination on 28 U.S.C. § 2254(d), (e) they have into account the State Court proceedings in which to claim produced the necessary requirements of material facts to warrant an evidentiary ascertain the truth. In addition the decisions that I requested a review of the totality of the case, however, all the courts circumvent the readings.

I claim that I was forced into this by the taking my habeas claims to match the States of the courts re-characterization of my claims (Brady included), then not recognizing those part of my due-diligents and proceedings in courts.

Under Cullen v. Pinholster the Supreme Court and States reasoned that § 2254(d)(1) "refers" to a state-court adjudication that a decision that was contrary to, or "involved" a state application of, established law. This making language requires an examination of a court decision at the time it was made, and record under review is limited to the record at that same time e.g. - the record before

7.0F10

the state court. Then the District Court in its adopting of the Magistrates Proposed Findings (Appendix D) only included the States evaluation of what I presented as evidence to combat the determination that the detective was presumed correct with his statement of "he appears to be ...". Thus, I claim that the courts have only adopted the police and their cure all for liability "appears" statement for justification. (at least I didn't get shot (60) times, but I did get (60) years for "appears".)

There was no review of the State Court decisions by the Federal Court before applying the AEDPA's standard. Furthermore, there was not even a "look through" of the unexplained decision on the last State Court decision which would have been the Writ of Mandamus in which there was no disclosed reason for the N. Mex Supreme Courts Judgment. The Supreme Court of the United States Granted Cert. to Wilson v. Warden, Georgia Diagnostic Prison on this matter.

Now, what is not clear, is what constitutes as adjudicated in "State Courts". I could not find any guidelines or prongs to complete before consideration is taken. All my research on this matter has only revealed the Federal Courts very narrow view on what they have allowed to be "State Courts".

As I stated earlier, within the (1) year I had to file my 9254 I filed proper motions requesting what should have been given to me, my evidence, the Safehouse interview, S.A.N.E. exam, e-mails, receipts, interviews by my attorney logs, police blotters, memos, DNA ect., and I got nothing from the LCPD, D.A. and the 5th Judicial Court. I then got from what evidence was acquired by the Wnt of Mandamus which contained nothing relevant to warrant a State Evident any Hearing. I filed (2) State Torts against the police for (1st) violating my civil rights and the former company I worked for, for discrimination (2nd) before I filed my 9254.

Those tort claims had State Court hearings in the 5th Judicial District (same as my criminal case) in which the Defendants did not state that what I stated on the complaint was incorrect or false. The Defendants only filed on technicalities e.g. process conditions which were out of my control and I claim would qualify as an unreasonable determination by the Courts which was not based on the merits and fact presented. I followed through with the entire New Mexico Court process to fulfill the requirements of the 9254 Rules and Statutes, but no such review was ever done.

I did find a Tenth Circuit case, which would have provided a vehicle to review what was presented with all the filings in this Federal Habeas. To no avail.

In Case v. Hatch (10th Cir. 2013) the Tenth Circuit held that in 1985 proceeding involving state prisoners, federal courts (1) start with the body of evidence produced at trial, (2) add or subtract the evidence that would have been admitted or excluded due to the alleged constitutional violation, a (3) then determine whether it is clear and convincing, in light of the evidence as a whole, that no reasonable fact-finder would have convicted me.

I provided testimony in open court to the issues I raised in my State Court proceedings as well as in the collateral proceedings to produce the evidence as a whole; further-more, I did come forward with reliable evidence which was not available at trial with my due-diligence e.g. the accepted data regarding my incapacitated condition at my interrogation from the American Diabetes Association, which would have supported my expert witness, police-induced confessions: Risk Factors and Recommendations by Saul M. Kassir from American Psychology-Law Society (2009), General Acceptance of Confessions Research: Opinions of the Scientific Community again by Saul M. Kassir (and others) from the American Psychological Association (2018) which would have protected my 5th Amendment Right, but for, my attorneys ineffective assistance of counsel for failing to investigate among other failures to meet the evidence as a whole.

10.05.10

In the next statements as they relate to the questions I have asked for review, I choose to inform the court that all three are intertwined with one another that compounded my effort to obtain relief.

On or around December (late) 2019 Judge Kea Wriggs left her New Mexico State Judge position to become a United States District Court for the State of New Mexico in early January 2020. She took my case on Jan. 6, 2020.

My claim and question comes from the fact that Judge Kea Wriggs was a 5th Judicial District Court Judge. My criminal case Judge Lisa B. Riley was a 5th Judicial District Judge also. The both of them have been Judges in the same district for many years and were colleagues and shared a common legacy.

I have faith that a "reasonable person" would see the conflict with the former statement, and along with procedural failures committed by Judge Kea Wriggs that gave more than the legal deference to the State and Judge Lisa B. Riley, that judicial bias could be proven and shown to have prejudiced me as they relate to my filings.

This fact was stated in my in forma pauperis application to the Tenth Cir. Court of Appeals. 11.01 = 10

During that process the prison I am housed at had refused to submit the required documents that were mandatory by the Court of Appeals (10th Cir.). I took issue with the staff and warned of the fact that they were interfering with my Appeal.

I sent the Clerk of the Court what documents I did have with an explanation of the events that took place. With the documents I sent were the attachments with the details of the judicial bias and other issues,

I then received days later a new form to fill out, however, it had been open outside of my presence and cheap copies were place of the original. I was undress, but I confronted the people who could have access to the legal mail (I did speak to the Mgr of the mailroom and she confirmed that it was copies, it was not her). I was then targeted a placed in administrative seg without cause. I was threaten by officers and just recently I was fired from my prison job without cause. All this while I was trying to submit my COA.

The form I filled out no longer was a PLPA form and did not need the prison for anything. However, I know that since I didn't use the original form my attachment were not reviewed with my submission

My submission was done under duress and I so noted it on the filing. This was clear when I read Judge Baldock opinion on my filing calling it "petitioner's application is unintelligible".

Out of all the statements made through this Federal process that statement hurts the most.

I have followed a internal procedures to make a claim against this conduct, but, the prison still hasn't allowed the New Mexico Corrections Dept. See my complaints therefore, I am unable to file a tort. The staff is aware of this on going issue, to no avail.

Thus, without going into detail I claim that this conduct would be tantamount to violating my civil Due Process as it relates to my right to access the court free of duress.

I have also requested help on this matter from the Attorney General's office, they were aware because I was sending filings to the parties, to no avail.

Lastly, I through the States Freedom of information act found addition evidence for my claims e.g. the City of Carlsbad N.M. informed me of missing tangible evidence that the trier of fact would go in my favor.

REASONS FOR GRANTING THE PETITION

This petition should be GRANTED so that all Federal Courts have a more defined set of guidelines to assess state prisoners effort to acquire relevant evidence through the various State Court proceedings.

I don't think that the lower courts are erroneous, per se, I do believe that the lower courts are fixated on only the court(state) that convicted you. But the wording in the Rules and Statutes do not state that with any specificity, in fact the wording invites a plural rational determination because the term is referenced as "State court(s)", not just one but multiple State Courts.

I know I tried to place this argument in my filings in an attempt to have the court recognize that I was following the Rules and Statutes. Furthermore, I would also say that there is no real stare decisis both pre and post AEDPA, and is anything from calm. In fact in a 2020 opinion, Justice Brett Kavanaugh mapped a seven-prong test for apply stare decisis, in which could set the stage for how new set of guidelines to help the courts determine if petitioner have reached the threshold to allow the evidence to be applied to their §2254 since more than likely existed before the trial but found after through due-diligents. Being allowed to file an Appeal to the Tenth Circuit with all relevant material could continue the development of this innovative concept.

Moreover, this effort to obtain this evidence could not allow a Petitioner the opportunity to file a second Federal Habeas which will add to the complexity and chance of ever getting a true platform to prove that you are indeed innocent and your liberty has been taken by the government's gift to the State's deference and overreach with this type of ambiguous terminology, which has and will continue keeping American citizens with Constitutional rights from defending their freedom from the brokenness of our Judicial system.

CONCLUSION

Please give me some tools to fight which will help every American who is and has been illegally incarcerated. The petition for a writ of certiorari should be granted.

Respectfully submitted,
Isiah Trujillo NMCD # 83338
Isiah Trujillo

Date: July 6, 2022