

No.

22-5420 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

AUG 15 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI
TO THE FOURTH CIRCUIT COURT OF APPEALS

LAWRENCE E. MATTISON; Petitioner

vs.

COMMONWEALTH OF VIRGINIA; Respondent

Petition for Writ of Certiorari

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QUESTIONS PRESENTED

Plaintiff presented case precedent to the 4th Circuit court of Appeals which called for the 4th circuit to protect the Federal 14th Amendment. Case Law was presented which proves that conversion of a Petition for Habeas corpus into a Petition for Writ of error coram non judice against the Virginia Supreme court is appropriate.

Plaintiff presented case Law which proved that protecting the 14th Amendment is far more important than the rules governing 28 USC§2254 petitions.

THE QUESTION(s) are:

1. Whether the 4th Circuit Court of Appeals made an error of Law when is failed to protect the 14th Amendment.
2. Whether the 4th Circuit contradicted its own authority when converting Petitioner's respondent from the "Commonwealth of Virginia".
3. Whether the 4th circuit contradicted its own authority when failing to give notice of their intent to convert giving petitioner time to amend or withdrawal.

RELATED CASES

Lawrence Mattison v. Commonwealth of Virginia, U.S. S. Ct. case No. 17-8868

Lawrence Mattison v. Bob McCabe (former Superintendent) Va. case No. 161511

LIST OF PARTIES

1. **Petitioner** is Lawrence E. Mattison, represented *pro se* and lives in Virginia @ 466 Fort Worth Street. Hampton, Virginia 23669. (757) 265-8788
2. **Respondent** is The Commonwealth of Virginia through the Solicitor General in the Office of the Virginia Attorney General @ 202 North Ninth Street. Richmond, Virginia 23219. (804) 786-2071

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IN THE
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PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The Order of the 4th Circuit Appellate court Denying Review of Federal 14th Amendment (App. 12a infra) is Unpublished/ Unreported. The Final Order of the Eastern District of Virginia ("E.D. Va.") (App. 1a infra) is Unpublished/Unreported.

JURISDICTION

The decision of the 4th Court of Appeals denying Review of Federal 14th Amendment was issued May 24, 2022, see App 14a. The Jurisdiction of this Court is invoked under 28 U.S.C. §1254(1) and 28 U.S.C. §1651.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Pertinent Constitutional and statutory provisions are:

- (1) Fourteenth Amendment to the U.S. Constitution
Amendment XIV....nor shall any State deprive any person of life, liberty, or property, without due process of law..... 14th Amendment as ratified July 9, 1868

STATEMENT OF THE CASE

This case comes on Petition for Writ of Certiorari against the 4th circuit appeals court because of a contradiction created by the 4th Federal Circuit. The 4th circuit's contradiction is contrary to the Federal 14th Amendment's due process clause and contrary to case law precedent of this court. The 4th circuit was asked a settled question related to the High calling of protecting the 14th Amendment vs. 28 U.S.C. §2254 petitions. The contradiction created by the 4th circuit was to hold §2254 cases above the 14th Amendment's due process protections.

Case law created a settled issue that Federal Circuits have authority to convert State court cases solely involving Federal interests in order to protect due process, the 4th circuit has used such arguments for conversion. see *Burton v. Wilmington Parking Authority*, 365 U.S. 715, 81 S.Ct. 856, 6 L.Ed.2d 45 (1961), the 4th stated: "... a Fourteenth Amendment inquiry must be whether there is a sufficiently close nexus between the State and the challenged action of the regulated entity so that the action of the latter may be fairly treated as that of the State itself. *Id* What is clear is that the Virginia Supreme Court had no intention of protecting due process in this case. Instead, the Federal 4th converted petitioner's respondent then failed to acknowledge the due process violation and their authority to convert to a writ of error coram non judice against the Virginia Supreme Court under their own 'void ab initio' exception for interfering with Federal interests.

REASON(S) FOR GRANTING THE PETITION

A reason for this writ is that a Judge takes an oath of office to faithfully and impartially discharge and perform all the duties incumbent under the Constitution and laws of the United States. This Petition should be GRANTED, a GVR Order should issue to the 4th circuit to look into the merits of Petitioner's 14th Amendment claim, review the due process claim and whether conversion would protect the 14th Amendment, then convert petitioner's case to a writ of error under Virginia's own void ab initio exception. See 28 U.S.C. §1651.

ARGUMENT

1. Whether the 4th Circuit Court of Appeals made an error of Law when is failed to protect the 14th Amendment.

The settled question put to the 4th circuit was whether the creation of or amendments to a Writ of Habeas corpus of a State court conviction abolish a Federal Court's power to convert Petitioner's Habeas writ into a Writ of Error Coram non Judice in petitioner's Circumstances without the need to re-file. Protecting the Federal 14th Amendment's Due process clause was settled, even when unlawful State convictions are at issue. This court has acknowledged that a Writ of error of Law engulfed the entire Federal 14th Amendment's due process clause but the creation of the Habeas Writ only engulfed a small portion of the Federal 14th Amendment. *see Fay v. Noia*, 83 S.Ct. 822@ 829. ("therefore the court acknowledge that every available remedy for the vindication of due process rights a higher calling than the "great writ" ITSELF. Vindication of due process is precisely its historic office.") Id. (citation omitted). The Virginia Supreme Court has always maintained: "An order is void ab initio if entered by a court in the absence of jurisdiction of the subject matter or over the parties, if the character of the order is such that the court had no power to render it, or if the mode of procedure used by the court was one that the court could "not lawfully adopt." *Evans v. Smyth-Wythe Airport Comm'n*, 255 Va. 69, 73, 495 S.E.2d 825, 828 (1998)(quoting *Anthony v. Kasey*, 83 Va. 338, 340, 5 S.E. 176, 177 (1887)). "The lack of jurisdiction to enter an order under any of these circumstances renders the order a complete nullity and it may be "impeached directly or collaterally by all persons, anywhere, at any time, or

in any manner.” Barnes v. Am. Fertilizer Co., 144 Va. 692, 705, 130 S.E. 902, 906 (1925).

2. Whether the 4th Circuit contradicted its own authority when converting Petitioner’s respondent from the “Commonwealth of Virginia”.

In KIRBY v. WARDEN, MARYLAND PENITENTIARY , 296 F.2d 151, 152, 153 (4TH Cir 1961) the 4th cited Cicien v. La Gay, 357 U.S. 504, 78 S.Ct. 1297, 2 L.Ed.2d 1523 (1958) claiming: Federal courts do not exercise a general supervisory authority over state courts, and they have no jurisdiction to correct errors less than fundamental in a constitutional sense.(emphasis) (quotation omitted) Here, the 4th circuit converted My Respondent knowing subject-matter jurisdiction of the Virginia trial court was at issue and I was not incarcerated when this issue was presented to the 4th circuit, therefore knowing 4th Amendment due process was at issue.

3. Whether the 4th circuit contradicted its own authority when failing to give notice of their intent to convert giving petitioner time to amend or withdrawal.

The 4th has also cited this court’s decision in Castro v. United States, 540 U.S. 375-377, 383, 124 S.Ct. 786, 157 L.Ed.2d 778 (2003) claimg: the Supreme Court held that a pro se litigant must be warned before a motion is re-characterized as his first federal habeas motion, and the district court must furthermore “provide the litigant an opportunity to withdraw the motion or to amend it so that it contains all the § 2255 claims he believes he has.” Here, the 4th Circuit converted my respondent in my §2254 claim without notice which puts their final order in conflict with case precedent and the Federal 14th Amendment. Case law dictates I should have been

given an opportunity to clarify my initial petition as a Writ of Error of Law Not a Habeas Corpus. (emphasis)

CONCLUSION

This Petition for Writ of error of Law should be GRANTED based on the Federal 14th Amendment, a GVR order should issue to the 4th circuit requiring a review of Petitioner's 14th Amendment claim.

Respectfully submitted to the United States Supreme Court by,


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On August 15, 2022