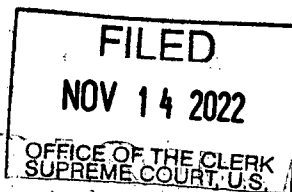


22-6143

No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

OF America

Blake Sandlain

— PETITIONER

(Your Name)

United States of America^{vs.}
~~United States of America~~

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court for the Fourth Circuit

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

PETITION FOR WRIT OF CERTIORARI

BLAKE SANDLAIN

(Your Name)

P.O. Box 1009

(Address)

Welch W.V. 24801

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

When the Eastern District of Michigan failed to allow Petitioner an opportunity to respond to the government Response to his 2255. Did the Eastern District of Michigan make Petitioner 2255 inadequate or ineffective, therefore requiring the Fourth Circuit to allow Petitioner to have access to 28 U.S.C. 2241 Savings Clause?

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

2:14-CR-20283

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OTHER

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 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☒ is unpublished.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 United States district 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☒ is unpublished.

☐ 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☐ is unpublished.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☐ is unpublished.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 August 23, 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: October 28, 2022, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

The Eastern District of Michigan made Petitioner 28 U.S.C. 2255 inadequate or ineffective, and deprived petitioner the protections of the "Great Writ" protected by Article I, Section 9, Cl. 2 of the United States Constitution.

STATEMENT OF THE CASE

Petitioner filed a 2255 containing a charge of Constitutional magnitude. The Eastern District of Michigan ordered that the Government Respond to the 2255, and without allowing Petitioner due process to defend the government Response to the 2255, entered a decision to deny the 2255 on the government Response alone, and ignored the fact that Fed. R. Civ. P 5 (b) made it mandatory to allow a Petitioner to Respond to the government Response to a 28 U.S.C. 2255.

(A)

REASONS FOR GRANTING THE PETITION

In light of this Supreme Court (CV R) in the recent decision of *Southern v Clarke* (No. 20-1712) (4th Cir November 3, 2022) deciding whether Fed. R. Civ. P. 5 (d) procedural requirements are mandatory. Petitioner asserts that this issue concerning Fed. R. Civ. P. 5 (d) is of national importance, as the Eastern District of Michigan failed to adhere to Fed. R. Civ. P. 5 (d) has made Petitioner 2255 inadequate or ineffective, and suspended Petitioner the protections of the "Great writ" protected by Article I, Section 9 (2) of the United States Constitution, when the inadequacies were caused by the Eastern District of Michigan.

This Supreme Court in *Huffman*, 342 U.S. 205 (1953) ruled with service on the United States on or 2255 by the district court, the proceeding ceases to be *ex parte*, and becomes an ordinary adversary proceeding, that allows a Petitioner due process right to refute the government's position. *Huffman* at 342 U.S. 235. In addition, the lower courts seems to support this position as it relates to Fed. R. Civ. P. 5 (d), requiring Petitioner a opportunity to respond to the government response to or 2255 after it's been ordered to respond by the district court. See, *United States v Antoine Deandre McDonald* 1 Fed Appx 198 (4th Cir 2001). (Holding, when the district court orders the government to respond to or 2255, if the Petitioner is not allowed due process to defend the government response to the 2255, the 2255 has to be vacated); *White v United States*, 175 Fed Appx 202 (1st Cir 2006) (citing, Fed R. Civ. P. 5 (d), and concluding a Petitioner is entitled to respond to the government response to or 2255); *Banks v United States*, 461 F.3d 1041 (1st Cir 2006) (citing, Fed R. Civ. P. 5 (d), and concluding that Petitioner is entitled to respond to the government response to or 2255, after it's been ordered by the district court to respond to the 2255).

→ Continue on Attached Page →

The above Rulings seems to be consistent with the (2004) amendments of the Fed. R. Civ. P. 5(d) attached at appendix (D) which states; "The (2004) amendments 'Reserved the discretion of the court to determine whether or not to allow the moving party to file a Reply in a case under 2255, and concluded the moving party has a right to file a Reply."

In Re: Jones 226 F.3d at 333-34 (4th Cir 2000) states that 2255 is inadequate or ineffective, when the situation like the Eastern District of Michigan failed to adhere to Rule 5(d), Jones supra states the writ of habeas corpus has to be resorted to, when it's not the fault of petitioner to avoid the constitutionality of 28 U.S.C. 2255 suspending the "Great writ" protected by the United States Constitution.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Blake Sandlain

Date: NOVEMBER 10, 2022