

No. 22-7447

IN THE
SUPREME COURT OF THE UNITED STATES

ANTONIO D.MCCASTER – PETITIONER

VS.

RON NEAL, Warden – RESPONDENT

PETITION FOR REHEARING ON PETITION FOR A WRIT OF
HABEAS CORPUS

COMES NOW the Petitioner: Antonio D. McCaster (Who is presently incarcerated at the Indiana State Prison with D. O. C. # 242978), proceeding, pro se, in accordance with the United States' Supreme Court Rule 44, and in good faith submits this PETITION FOR REHEARING ON PETITION FOR A WRIT OF HABEAS CORPUS., And in doing so states as follows:

1). The date of the Petitioner's Petition For A Writ of Habeas Corpus, along with the Petitioner's Appendix Volumes 1 and 2, in support of the entire representation within said petition., That was filed on Dec. 28, 2022, and placed on the docketed May 3, 2023, as no. 22-7447.

2). Do to the fact of the Petitioner's Petition for a Writ of Habeas Corpus was denied on May 30, 2023., Without the Respondent and/or his Attorney submitting a brief in opposition of said petition, disputing the Statutory provisions involved that caused the constitutional provisions to be involved , and/or the statements made within the statement of the case, Stated within the Petition filed herein.

3). Do to the fact that the Petition for a Writ of Habeas Corpus filed herein., Is an independent civil action and a form of collateral attack to determine not the guilt or innocence of the person held in custody, but whether the custody is unlawful under the U.S. constitution. Common grounds for relief under the Writ include a conviction based on illegally obtained evidence.

4). Do to the fact that said Petition filed herein, presents the fact of the Petitioner being held in custody illegally and unlawfully., Pertaining to the 2013, conviction under cause no. 79D02-1302-FA-2, in the case of the State v. McCaster that was based on illegal obtained evidence (perjured testimony/false testimony, as to the events of the drug transaction). That was stated by a Judge, after a Post-conviction relief evidentiary hearing was held on 4/8/16, in the case of McCaster v. State, cause no. 79D02-1503-PC-3., As to when the Tippecanoe County Superior Court no. 2, "Judge: Steven P. Meyer", on 4/20/16, signed, issued, and stated within App: F, pg. 135, within sec. (E), in pertinent part., "McCaster asserts his trial counsel should objected to the deputy prosecutor's use of "perjured" testimony from police officers regarding their accounts of the drug transaction. As stated above, the court dose conclude that the testimony of the police officers' eye witness accounts of the events of the crime amounted to perjury." But said Judge, failed to reverse the unlawful conviction obtained through the use of illegal evidence (perjured testimony/false testimony, as to the events of the drug transaction). When in fact said Judge clearly had the knowledge and understanding before, during, and after making said statement., That the only individual that did tell the actual alleged events of the drug

transaction within the Affidavit of Probable cause and the Original and Amended charging information of counts 1 and 2., That cause probable cause for the arrest and trial., Also within the Trial by jury that helped the state to obtain the 2013, conviction under cause no. 79D02-1302-FA-2, was former Det., to whom was demoted and referred to as officer: Jason E. Walters and was the only office that testified during the Post-conviction relief evidentiary hearing was held on 4/8/16. In support of the fact that said conviction should have been reverse even if prosecution had no knowledge of the false evidence (illegal evidence), refer to the case of Mooney v. Holohan, 294 U.S. 103, 55 S. ct. 340, 79 L.E.d 791 (1935).

5). Do to the fact that the physical evidence (to- wit: the video and audio recording) that was used by the state in helping to obtain the convicted on 9/11/13, under cause no. 79D02-1302-FA-2, was in fact deemed inactive 5/23/12, in accordance with the Incident/Investigation Report that was drafted up by former Det., to whom now is referred to as officer: Jason E. Walter on 5/17/12., That was admitted for that record during the April 8, 2016, post-conviction relief evidentiary hearing held under cause no. 79D02-1503-PC-3, as collectively as our exhibit C., with "No" objection from the prosecution. In which said document give chain of custody for the physical evidence to- wit: the video and audio recording and was given to the Prosecution office on 12/12/12, by the Lafayette Police department. That also proves that said evidence could not be used do to the fact of said document stating clearly "case status: Pending/inactive 5/23/2012.in which further proves that the state used illegal evidence to obtain the 2013, conviction, under cause no. 79D02-1302-FA-2. (Refer to attach copy of the Incident/ Investigation Report that was drafted up by former Det., to whom now is referred to as officer: Jason E. Walter.)

6). Do to the fact that the Statutory provision of Ind. State Statute of Ind. Code § 35-44-1-2-1(a) (1). Perjury Prosecution of Violation., That have been involved within the petition filed herein, was already proven by the Tippecanoe County Superior Court no. 2, "Judge: Steven P. Meyer"., As to when said Judge stated within App: F, pg. 135, within sec. (E), in pertinent part., "McCaster asserts his trial counsel should objected to the deputy prosecutor's use of "perjured" testimony from police officers regarding their accounts of the drug transaction. As stated above, the court dose conclude that the testimony of the police officers' eye witness accounts of the events of the crime amounted to perjury."

7). Do to the fact of the Tippecanoe County Superior Court no. 2, "Judge: Steven P. Meyer" stating within App: F, pg. 135, within sec. (E), in pertinent part., "As stated above, the court dose conclude that the testimony of the police officers' eye witness accounts of the events of the crime amounted to perjury." Does prove that the statements made as the events of the crime made within the Affidavit of Probable cause and the Original and Amended charging information of counts 1 and 2, as well as the testimony within the Trial by jury were in violation of the Ind. State Statute of Ind. Code § 35-44-1-2-1(a) (1). Perjury Prosecution of Violation. in which does further establish that the Petitioner is being held in custody unlawful under the U.S. constitution. Do to the illegally obtained evidence (perjured testimony/false testimony, as to the events of the drug transaction)., That was used by the state in helping to obtain the conviction on 9/11/13, under cause no. 79D02-1302-FA-2 in the case of the State v McCaster.

8). Do to the fact that the Statutory provision of Ind. State Statute of Ind. Code § 35-42-3-2 (a). Kidnapping., That have been involved within the petition filed herein., That will be proven beyond a reasonable doubt, if and/or when this Honorable court "GRANTS" the type of relief that is being sought within the Motion as well as the petition filed herein. Because the Street Crime officer: Michael A. Barthelemy, did knowingly and intentionally, illegally remove the Petitioner from one place to another by fraud, by claiming that the Petitioner had a active arrest warrant out for his arrest., But said officer clearly had the knowledge and understanding before, during, and after arresting the Petitioner., That in accordance with the criminal police data base , that the entire case in reference to the arrest warrant had been sealed and never unsealed., As well as do to the officer's "bachelor's degree in criminal justice", should have given him the understanding as to the fact that when a case had been sealed and never unsealed., That "NO" further actions could or should be taken until said case has been unsealed. As well as the fact that "NO" documents from a case file that has been sealed (in other words case sealed), could "NO" documents could be copied let along obtained pertaining to said case. In which also should have given said officer the understanding that a copy the warrant pertaining to said case could not be obtained in order to serve it. (inference to said statement made refer to the case of the United States v. Yarrington, 838 F. Supp. 2d 832.)

I, Antonio D. McCaster, declare under the penalty of perjury that the foregoing is true and correct.

RELIEF BEING SOUGHT

Petitioner respectfully and good faith request for this Honor court to take "Jurisdiction" of the proceedings under cause nos. 79D02-1503-PC-3, 79D02-1611-MI-224, and, 79D02-2008-PC-19, that accumulated from the underlying felony cause no. 79D02-1302-FA-2., And remand both post-conviction relief and civil proceedings, back to the Trial Courts within Tippecanoe County Superior court no.2, and issue an order, ordering the Trial court to held all of the proceeding(s) fair and just. Do to the fact that when said proceedings were held they were not held properly and just in accordance to the law of the land. Also issue an order for the Trial Courts to appoint co-counsel for the Petitioner., Do to the fact of his recourses are limited to finding all of the witnesses that intends on issuing subpoena(s) for, do to his incarceration. As well as allow the Petitioner the chance to amend his Petition, his complaint and/or submit any motions that needs to be filed. But if the Petitioner shall not establish his issues, claims, and/or grounds within his petitions or complaint, then that Honorable court shall have the Petitioner prosecuted for the crimes of perjury, fraud upon the court, for violating the Ind. Code § 35-43-5-3. Deception, as well as for being an Habitual Offender.

This PETITION FOR REHEARING ON PETITION FOR A WRIT OF HABEAS CORPUS should be "GRANTED".

As well as any and all other relief that this Honorable court so deems necessary.

I, Antonio D. McCaster, declare under the penalty of perjury that the foregoing is true and correct.

Date: July 24, 2023

Respectfully, Submitted



Petitioner, pro se

No. 22-7447

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VS.

RON NEAL, Warden – RESPONDENT

PROOF OF SERVICE

I, Petitioner: Antonio D. McCaster, do swear or declare that on this date, July 24, 2023, as required by Supreme Court Rule 29. I have served the enclosed PETITION FOR REHEARING ON PETITION FOR A WRIT OF HABEAS CORPUS, on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing that about documents in the United States' mail properly addressed to each of them and with first – class postage prepaid, or by delivery to a third – party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Officer of the clerk
Supreme Court of the United States
1 First Street
Washington, DC. 20543

Office of the Attorney General of Indiana
Ind. Gov. Center S., 5th Floor
302 West Washington Street
Indianapolis, IN 46204

Ron Neal, Warden
Indiana State Prison
1 Park Row
Michigan City, IN 46360

I, Antonio D. McCaster, declare under the penalty of perjury that the foregoing is true and correct

Executed on July 24, 2023.



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CERTIFICATE

I, Petitioner: Antonio D. McCaster, hereby, in good faith verify under the penalties of perjury that the Petitioner is Pro se, and that the reasons (grounds) are limited to intervening circumstances of substantial ~~as~~ as well as controlling the effect to the grounds previously presented within the Petition For A Writ of Habeas Corpus.

Executed on July 24, 2023.

Respectfully Submitted,

Antonio D. McCaster

Petitioner, pro se

**Additional material
from this filing is
available in the
Clerk's Office.**