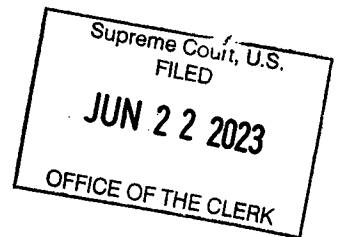


23-5071

1 of 18

\$100:17,50 Petition For Writ Of Certiorari
Alternate Form
Reference



No. 22-6798 Bruce Buckner

V.

Warden, MacDougall Correctional Institution
(1:21-cv-03714-TLW)

In The United States Supreme Court

Bruce Allen Buckner,
Petitioner,

V.

United States Of America,
Respondent.

On Petition For Writ Of Certiorari
To The
United States Court Of Appeals
For The Fourth Circuit

Questions Presented

1. Would a jurist of reason find the District Court Clerk made a procedural error by failing to issue and mail the November 15th, 2021 termination order and the report and recommendation as required by 28 USC § 45, Clerk's Duties (c) ?

2. Would a jurist of reason find the same procedural error, denied the Petitioner's Fourteenth Amendment due process right to file objection to the report and recommendation in a fundamentally fair criminal proceeding ?

3. Would a jurist of reason find the same procedural error simultaneously denied the Petitioner's Fourteenth Amendment due process right to raise the underlying constitutional violations in a fundamentally fair criminal proceeding ?

4. Would a jurist of reason, who reviewed the attached police reports, think Police blatantly admitted to a warrantless intrusion of privacy to illegally obtain probable cause ?

5 Would a jurist of reason who reviewed the attached police report, think Police blatantly admitted conspiring to use the illegally obtained probable cause to obtain a valid search warrant ?

6 Would a jurist of reason think the illegally obtained probable cause taints all the warrants, making them invalid as fruit of the poisonous tree ?

7 Would a jurist of reason who reviewed the attached police reports surmise that Police Officers used deception, artifice, tricks and misrepresentation to gain entry, because there no such thing as a possible wanted person ?

8 Would a jurist of reason find the attached letter, from the York County Clerk Of Court's Office, denies the Petitioner's Sixth Amendment right to subpoena and cross-examine witnesses, while simultaneously denying the Petitioner's Fourteenth Amendment due process right to a fundamentally fair criminal proceeding ?

9 Would a jurist of reason who reviewed the attached arrest warrants wonder why the Solicitor violated Brady by replacing the signed arrest warrants with unsigned arrest warrants ?

10 Would a jurist of reason find it interesting to know the attached arrest warrants were unlawfully signed by a Rock Hill City Bond Bailiff who had no firsthand knowledge of the content of the affidavits he signed ?

11 Did the Fourth Circuit Clerk's procedural error in assigning District Court case number; 1:21-cv-03714-TLW two different Fourth Circuit Docket numbers, damage the judicial process, denying my Fourteenth Amendment due process right to a fundamentally fair criminal proceeding ?

Petition For Writ Of Certiorari
 Bruce Allen Buckner Pro se
 MacDougall Correctional Institution
 1516 Old Gilliard Rd.
 Ridgeville, South Carolina 29472

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Exhibits

- 2 Police Reports
- 1 Letter, From The York County Clerk Of Courts Office
- 4 Arrest Warrants; "2 from the Discovery Pack
and 2 recieved at trial."

Table Of Authorities

Slack v. McDaniel, 120 S.Ct. 1595
28 USCA § 45, Clerk's Duties (c)
South Carolina Constitution, Art. I sec. 10
United States Constitution Amendment IV
Horton v. California, 110 S.Ct. 2301
Payton v. New York, 100 S.Ct. 1371
U.S. v. Robertson, 736 F.3d. 677
U.S. v. Mowatt, 513 F.3d. 395
Kyllo v. United States, 533 U.S. 27, 32, 121 S.Ct. 2038
McKenna v. Edgell, 617 F.3d. 432
United States v. Elmore, 18 F.4th. 193
Segura v. U.S., 104 S.Ct. 3380
Federal Rules Of Civil Procedure, Rule 45, Subpoena(a)(3)
Pointer v. Texas, 85 S.Ct. 1065
Mapp v. Ohio, 81 S.Ct. 1684
Brady v. Maryland 83 S.Ct. 1194
United States v. Somerlock, 696 F.Supp. 1216

Opinions

Because of the Fourth Circuit Clerks procedural error the underlying District Court case number; 1:21-cv-03714-TLW as had multiple decisions, but only one opinion.

The Fourth Circuit filed a per curiam opinion on April 4th, 2023 in case number No. 22-6798 granting me certiorari.

Jurisdiction

The per curiam opinion given by the Fourth Circuit Court Judges give the Supreme Court jurisdiction, but the procedural errors by the lower Court must be corrected, before it damages the integrity of the judicial system, and makes the Bill Of Rights a joke.

Pertinent Statutory Provisions

Slack v. McDaniel 120 S.Ct. 1595 (2)

"when the District Court denies a habeas petition on procedural grounds without reaching the Petitioner's underlying constitutional claim, a COA should be issued if the Petitioner shows, at least, that jurist of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right, and that jurists of reason would find it debatable whether the District Court was correct in its procedural ruling."

28 USCA § 45, Clerk's Duties (c)

Notice of an Order or Judgment. "Upon the entry of an order or judgment, the circuit clerk must immediately serve a notice of entry on each party, with a copy of any opinion, and must note the date of service on the docket."

South Carolina Constitution, Art. I sec. 10
(Searches and Seizures and Invasions of Privacy)
"The right of the people to be secure in their person, home, papers and effect against unreasonable invasions of privacy and unreasonable searches and seizure shall not

be violated and no warrant shall be issued but on probable cause."

United States Constitution Amendment IV,
"No warrant shall be issued without first showing probable cause."

Horton V. California 110 S.Ct. 2301
"To justify warrantless seizure of item in plain view, not only must police officers be lawfully located in place from which object can be plainly seen, but he or she must also have lawful right or access to object itself."

Payton V. New York 100 S.Ct 1371
"Physical entry of home is chief evil against which wording of Fourth Amendment is directed."

U.S. V. Robertson 736 F.3d, 677
"The defendant never consent to police officer's search, rendering it presumptive unreasonable absent probable cause. Because we find that in submitting to the search, the defendant obeyed the police's orders without giving valid consent."

U.S. v. Mowatt, 513 F.3d 395

"The primary evidence was obtained as a result of an illegal warrantless search."

Kyllo v. United States, 533 U.S. 27, 32, 121 S.Ct. 2038, 150 L.Ed. 2d 941 "The Supreme Court has announced the general rule that a search or seizure without probable cause is unreasonable and thus unconstitutional."

McKenna v. Edgell, 617 F.3d 432

"It is a violation of the Fourth Amendment for Police Officers acting in a law enforcement capacity to seize a person and search his home without probable cause."

United States v. Elmore, 18 F.4th. 193

"Fruit of the poisonous tree, cansels for exclusion of evidence derived from information or items obtained in illegal search; the doctrine extends to evidence not directly obtained in an illegal search."

Segura v. U.S. 796, 104 S.Ct. 3380

Mapp v. Ohio 81 S.Ct. 1684

"All evidence obtained by search and seizures in violation of the constitution is constitutionally inadmissible in state courts."

Brady v. Maryland, 83 S.Ct. 1194

"Suppression by prosecution of evidence favorable to an accused upon request violates due process when evidence is material either to guilt or punishment irrespective of good faith or bad faith of prosecution."

United States v. Somerlock, 696

F.Supp. 1216 "A defendant challenging the veracity of statement made in an affidavit supporting a search warrant has the burden of establishing, by a preponderance of the evidence both prongs of the Franks test for showing that a facially valid search warrant was invalidly obtained." "If both prongs of the Franks test for showing that a facially valid search warrant was invalidly obtained are met, the warrant must be voided and the fruit of the search excluded."

Statement of Facts

I did not receive Magistrate Judge Shiva Hodges' November 15th, 2021 termination order or the report and recommendation for case number; 1:21-cv-03714-TLW, and the South Carolina Department of Corrections Mail Delivery log proves that fact. The only thing I received from the District Court between November 15th, 2021 and November 30th, 2021 was the report and recommendation for case number; 0:20-cv-03253-TLW. And the Civil Docket For Case Number; 0:20-cv-03714-TLW confirms the report and recommendation for that case was mailed to me on November 16th 2021, and the Civil Docket shows I filed objection to that report and recommendation.

This proves the District Court Clerk made a procedural error by not issuing and mailing the termination order and the report and recommendation on November 15th, 2021 as required by 28 USC § 45, Clerk's Duties (c). This denied my Fourteenth Amendment due process right to file objections and address the underlying constitutional violations in a fundamentally fair criminal proceeding.

The undisputed documented evidence I have attached, were in the 49 page Brief For Petitioner, filed with the Habeas Corpus Complaint, and in the Informal Brief For Certificate Of Appealability, file with the United States Court Of Appeals For The Fourth Circuit, Informal Brief For Habeas And Section 2255 Case Form, on October 26th, 2022

The attached police reports prove by their own admission, that Police Officers violated my Fourth Amendment right to privacy by illegally entering my privately rented room without a warrant to obtain probable cause, and conspiring to obtain a legal search warrant by illegal means, making everything the fruit of the poisonous tree, including the arrest warrants.

The attached letter dated October 22nd, 2020 from the York County Clerk Of Court Office proves the Clerk Of Court denied my Sixth Amendment right to subpoena and cross-examine ~~5 witness~~ 5 day before the

preliminary hearing, while simultaneously denying my Fourteenth Amendment due process right to a fundamentally fair criminal proceeding.

The attached arrest warrants prove the York County Solicitor violated Brady and obstructed justice by replacing the signed arrest warrants in the Discovery Rack with unsigned arrest warrant to conceal the affiant was a Rock Hill City Bond Bailiff who had no firsthand knowledge of the content of the affidavits he swore too, making the arrest warrants invalidly. This was a intentional denial of my Fourteenth Amendment due process right to a fair criminal proceeding an a malicious act.

Thank God, I saw the dismissal on Westlaw and was able to file an appeal to insure my rights on June 27th, 2022, because the the District Court Clerk failed to mail me the June 17th, 2022 order of dismissal until July 22nd 2022 to deny my right to appeal. This was a intentional violation of

28 USCA § 45, Clerk's Duties (C).

The Fourth Circuit Clerk made a plain error by issuing District Court case number 1:21-cv-03714-TBW with two different docket numbers; No. 22-1637 and No. 22-6798. I filed a letter with the court on this issue, thinking the problem would be corrected, because the error is so obvious. Where does one case stop and the other case start? When both cases are one case, filed in one habeas petition. It forced me to file two separate Writ Of Certioraris to meet the filing demands of Scott Harris. This is a substantial stretch on due process rights.

Reason For Granting This Petition

With all due respect, it is the duty of the Supreme Court to protect the United States Constitution and my right as a citizen from procedural error. God has given me the laws and the undisputable admission to overturn this case because of the wickedness of the York County Judicial System, which has made its way into the South Carolina District Court Division Of Rock Hill.

Conclusion

I respectfully request my release from the South Carolina Department Of Corrections and the expungement of the convictions from my record. I also humbly request a Change Of Venue for the civil suits so a jury can decide how much monetary damage I am owed.