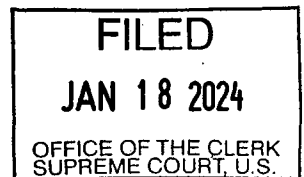


No. 23 - 6685



IN THE
SUPREME COURT OF THE UNITED STATES

WILLIE PERRY WOODS — PETITIONER
(Your Name)

VS.

FCI HAZELTON WARDEN H RAY — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(4th USCA)
[West Virginia (WV) USDC]

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

PETITION FOR WRIT OF CERTIORARI

Mr Willie Perry Woods

(Your Name)

Fed Corr'al Inst (FCI) - Hazelton
P O Box 5000

(Address)

Bruceton Mills, West Virginia 26525

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

1. Should certiorari be granted if the 4th USCA judgment **conflicts** with the USSC on whether state Statute Of Limitations (SOL) bars Fed agency adverse or punitive treatment for unprosecuted, non-capital violations of state law claimed by Fed agency?

2. Should certiorari be granted if the 4th USCA judgment **conflicts** with the USSC on whether Fed Consent Decree and Fed Settlement makes related state penal record **unreliable**?

3. Should certiorari be granted if the 4th USCA judgment **conflicts** with the USSC on the **proper interpretation** of Fed penal **statutes**?

4. Should certiorari be granted if the 4th USCA judgment **conflicts** with USSC on whether Fed agency can legally exceed its Congress-given power?

5. Should certiorari be granted if the 4th USCA judgment **conflicts** with the USSC on the Const'al right to present evidence at a Fed agency hearing?

6. Should certiorari be granted if the 4th USCA judgment **conflicts** with the USSC's bar on materially false data being used by Fed agency at administrative hearing?

7. Should certiorari be granted if the 4th USCA judgment **conflicts** with the USSC on the **Full Faith and Credit Act**, the **Rules Of Decision Act** and **Government Records Act**?

QUESTION(S) PRESENTED

8. Should certiorari be granted if the 4th USCA judgment **conflicts** with the USSC on FRE Rule 901(a) correlated with FRCP Rule 44(a)(1)(A)(B)(i)(ii)?

9. Should certiorari be granted if the 4th USCA judgment **conflicts** with the USSC on FRE Rule 201 as well as FRCP Rules: 12(b); 12(f); and 56(c)?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

UNITED STATES PAROLE COMMISSION (USPC).

The USPC is a correct Respondent in light of Goodloe v USPC, 2006 US Dist Lexis 95019 (Dist of Colorado) ("The Parole Commission may be considered petitioner's 'custodian' for purpose of a challenge to a parole decision under 28 USC 2241."); Ex Parte Endo, 323 US 283 (1944); Rumsfeld v Padilla, 542 US 426 (2004)(HN3[6]; Section 2, sen 3, para 1 of Dissent by 4 Justices).

RELATED CASES

1. Tate v Mich Parole Bd (MPB), US Bureau of Prisons (BOP), US Marshall Serv (USMS), 2021 US Dist Lexis 57665 (WD Mich)(first 28 USC 2241 Petition filed by Petitioner at bar);
2. Woods v USA, USPC, US BOP, 2022 US Dist Lexis 92114 (ED Mich)(second 28 USC 2241 Writ filed by Petitioner at bar);
3. Tate v US, 1986 US App Lexis 30170 (6th Cir)(28 USC 2255 case filed pro se by Petitioner at bar and remanded to WD Mich USDC due to materially false data in his Fed Presentence Investigation Report).

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Please excuse any typographical, grammatical and pro
forma errors in this PETITION FOR WRIT OF CERTIORA-
RI. Thank you.

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APPENDIX B:	National Appeals Bd (NAB) NOA of 6-17-2022 upholding 3-30-2022 USPC NOA.
APPENDIX C:	10-4-2022 Petition For A Writ Of Habeas Corpus under 28 USC 2241 filed by Petitioner at bar against the USPC at the WV USDC.
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APPENDIX F:	<u>Woods v Ray</u> , 4th USCA case number 23-6565, Per Curiam Opinion affirming WV USDC 5-18-2023 denial of 28 USC 2241 Petition - 4th USCA judgment dated October 24, 2023
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STATUTES AND RULES

18 USC:

1201(a)(Fed kidnapping);
4502(b)(2)(Fed parole at any time granted by USPC);
4206(d)(Mandatory Fed parole if did not seriously or frequently violate institution rules and regulations and if there is no probability of recidivism).

28 USC:

1254(a)(USSC jurisdiction);
1652 (The Rules Of Decision Act);
1733 (Government Records and Papers Act);
1738 (Full Faith and Credit Act);
2241 (Petition For A Writ Of Habeas Corpus by a federally convicted person in Fed custody);

28 CFR: 2.2; 2.11; 2.12; 2.14; 2.18; 2.19; 2.20; 2.36(a); 2.53(a) (Mandatory Parole).

FRE: 201 (Judicial Notice);
901(a)(Authenticating Evidence).

FRCP: 8; 12(b); 12(f); 56(c); 44 (Proving Official record).

OTHER

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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 F to the petition and is

☒ reported at Unpublished Per Curiam Opinion; 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 E to the petition and is

☒ reported at Woods v Ray, 2023 US Dist Lexis 114625 (ND West Virginia (WV)); 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 October 24, 2023.

☐ 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). E.g., see:

**Hert Corp v Friend, 2010 US Lexis 1897
(HN4: Fed statute gives USSC jurisdiction to review by writ of certiorari).**

☐ 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

1. US Const, Art IV, sec 1: Full Faith and Credit Act.
2. US Const, Am V: Procedural Due Process right to present evidence at Fed agency administrative hearing.
3. US Const, Am V: Procedural Due Process right to a Fundamentally Fair Fed agency administrative hearing.
4. US Const, Am V: Substantive Due Process right to be free from excessive Fed agency power.
5. 28 USC 1652: The Rules Of Decision Act.
6. 28 USC 1733: Authentication Of Government Records and Papers Act.
7. 28 USC 1738: Full Faith and Credit Act.
8. 28 USC 2241: Petition For A Writ Of Habeas **Corpus** about denial of an 18 USC 4206-(d) parole.
9. 18 USC 4205(b)(2): Eligibility for Fed parole immediately after sentencing and USPC has discretion to parole at any time.
10. 18 USC 4206(d): Mandatory Fed parole eligibility hearing (PEH) after 30 consecutive years of imprisonment on a paroleable life prison sentence imposed by a USDC.

STATEMENT OF THE CASE

1. In 1976:

a. a WD Mich USDC sentenced Petitioner under 18 USC 4205(b)(2) to paroleable life imprisonment for a 1974 kidnapping barred by 18 USC 1201(a) of which he was jury-convicted in 1976;

b. the US BOP designated MDOC as where he is to suffer that Fed sentence concurrently with a Mich state and paroleable life prison sentence; and

c. the US BOP/USPC scheduled him to have a PEH in 2006 under 18 USC 4206(d) and 28 CFR 2.42(a) when he has then endured 30 consecutive years of imprisonment.

2. In 2022:

a. the USPC denied Petitioner an 18 USC 4206(d) parole upon its opinion that he has a probability of recidivism since he seriously and frequently violated institution rules and regulations while MDOC imprisoned him between 1976-1993 with the inclusion of Jan 2009;

b. the NAB upheld that USPC denial on 6-17-2022; and

c. at the WV USDC, he filed a 28 USC 2241 Petition of 19 exhausted grounds for judicial relief from that USPC denial of an 18 USC 4206(d) parole of him.

STATEMENT OF THE CASE

3. In 2023:

a. the WV USDC issued an "ORDER TO SHOW CAUSE WHY THE PETITION SHOULD NOT BE GRANTED;"

b. at the WV USDC, Petitioner also filed:

Declaration Opposing Respondent's
FRCP Rule 12(b)/56(c) requests;

Motion For Denial Of Respondent's FRCP
Rule 12(b)/56(c) requests; and

Index Of Inadmissible Data In Respon-
dent's 3-27-2023 Submissions To The
WV USDC.

c. the WV USDC entered a 5-18-2023
judgment denying his 28 USC 2241 Writ;

d. at the 4th USCA, he timely as well
as properly filed a **SPECIAL NOTICE OF APPEAL**
(22 pp) of the WV USDC denial of his 28 USC
2241 Writ; and

e. the 4th USCA entered a 10-24-2023
judgment, by a per curiam opinion, affirming
the WV USDC denial of his 28 USC 2241 Writ.

4. Thus, this case is basically a-
bout whether the 4th USCA, WV USDC, NAB and
USPC conflicts with the US Const and USSC by
having denied Petitioner an 18 USC 4206(d)
parole on 3-30-2022?

REASONS FOR GRANTING THE PETITION

1. On 3-30-22, the USPC denied Petitioner parole under 18 USC 4206(d).

a. That denial was based on the 2022 USPC claim that, under 28 CFR 2.36 supported by 28 CFR 2.19(a)(c), Petitioner committed "New Criminal Conduct In A Prison Facility" as MDOC confined him before 2010. See:

para 1 at p 13 of 5-18-23 WV USDC
Order Granting Summary Judgment
(O-GSJ).

b. Mich has not accused Petitioner of having committed "New Criminal Conduct" while MDOC imprisoned him for 45 years from 1976-2021.

c. In 2022, the USPC alone claimed that Petitioner committed 10 Mich state acts that is Mich state evidence of 10 new Mich crimes that occurred at Mich state prisons over 29 years before 2022 between 1983-1993 and over 12 years before 2022 in 1/09.

d. Thus, the 4th USCA conflicts with the USSC where Mich state Statute Of Limitations (SOL) bars the USPC from taking adverse or punitive action against Petitioner based on Mich state crimes that allegedly occurred over 10 years before 3-30-22. SEE:

REASONS FOR GRANTING THE PETITION

US v Marion, 404 US 307 (1971)(HN's 11-16: "The applicable statute of limitations is the primary guaranty against bringing overly stale criminal charges.");

US v Kubrick, 444 US 111 (1979)(HN's 2-4, 6: SOL is "meritorious defense");

Northstar Steel Co v Thomas, 515 US 29 (1995)(state law is source of limitations period);

Toussie v US, 397 US 112 (1970)(HN's 1-14; Fed criminal prosecution barred by Fed SOL which states that "no person shall be punished").

e. Mich SOL is Mich Compiled Laws (MCL) 600.5805(1)(2)(7). Krum v Sheppard, 1966 US Dist Lexis 6643 (WD Mich)(Mich SOL applies). Also see:

Crocker v McCabe-Powers Auto Body Co, 1970 US Dist Lexis 9273 (ED Mich)(Michigan SOL bars "assault" claim);

Simmons v Sys, 2022 US Dist Lexis 62094 (ED Mich)(pendent Mich state law "assault" claim barred by Mich SOL).

f. No 18 USC nor 28 CFR aspect empowers the USPC to override Mich's SOL. See:

Cal v Arc Amer Corp, 490 US 93 (HN5: "There is a presumption against federal preemption of state law in areas traditionally regulated by the states.").

REASONS FOR GRANTING THE PETITION

2. The 4th USCA judgment conflicts with the USSC where the USPC used an 'unreliable' pre-2002 MDOC Prisoner Disciplinary Record (PDR) in 2022 to decide whether Petitioner is paroleable under 18 USC 4206(d).

a. The pre-2002 MDOC PDR was made unreliable by the combined: Knop v Johnson, 1987 US Dist Lexis 9223 (WD Mich); Heit v Van Ochten, 2002 US Dist Lexis 248 (WD Mich); Martin v MDOC, 424 Mich 553 (1986)(384 NW2d 392, Mich Supreme Ct).

b. Knop, supra, was a Class Action that proved the unreliability of the MDOC PDR for the eleven years of 1976-1987. That USDC said:

"Black inmates tend to receive a disproportionate number of non-assaultive major misconduct tickets for threatening behavior, disobeying a direct order, and insolence."

"I find that inmates occasionally are given tickets for reacting violently, with words or physical conduct, to racial slurs and other derogatory conduct by staff members."

"I sufficiently find that a large number of MDOC staff expose black inmates to a constitutionally intolerable atmosphere of racial harassment."

REASONS FOR GRANTING THE PETITION

c. Heit, supra, was a Class Action that proved the unreliability of the MDOC PDR for the 22 years of 1979-2001. The Heit USDC found that many then MDOC disciplinary hearing officers unconstitutionally said that imprisoned persons are guilty of having violated prison rules only because MDOC staff accused those violations and not because there is evidence of guilt.

d. The MDOC PDR was unreliable for the decade of 1976-1986. That is because the Martin, supra, court found that the pre-1987 MDOC Prisoner Discipline Policy Directive (upon which all pre-1987 alleged prison rule violations were based) was unconstitutional since that Policy was unpromulgated under the 1969 Mich Adm Procedures Act.

e. Petitioner was a Class Member in Knop, supra, and Heit, supra. Knop made a Consent Decree. Heit made a Settlement. Both are binding. Firefighters v. Cleveland, 478 US 501 (1986)(consent decrees); Hennessey v. Bacon, 137 US 78 (1890)(settlements).

f. Martin, supra, is judicially noticeable. 28 USC 1652. Agency Holding Corp v. Malley-Duff & Asscs, 483 US 143 (1987)(HN5: State Laws As Rules Of Decision Act).

g. Since Knop, Heit and Martin together proves that the MDOC PDR was unreliable from

REASONS FOR GRANTING THE PETITION

1976-2001, the USPC lacked reliable, i.e., rational, data in 2022 on which to claim that Petitioner "seriously or frequently violated institution rules" under 18 USC 4206(d).

h. The 4th USCA avers against above subpara's a-g (see pp 15-16 of WV USDC O-GSJ). This case is not about whether Knop, Heit or Martin required the 1976-2001 MDOC PDR to be "expunged" as the WV USDC avers.

i. Instead, Pititioner's position is that Knop, Heit and Martin together proved that the MDOC PDR was unreliable for 25 years before 2002 and, therefore, could not be legally relied on by the USPC to decide the 18 USC 4206(d) factors in 2022. See:

US v Sineneg-Smith, 2020 US Lexis 2639
(HN's 3-6: parties frame the issue).

3. The 4th USCA 2023 judgment conflicts with the USSC on how to interpret 18 USC 4206(d).

a. Congress uses the noun "institution" in 18 USC 4206(d). At p 147, Webster's 2007 Pocket Dictionary defines "institution" as "A place of confinement." The noun "institution" is singular and denotes one place of confinement. In that statute, Congress does not say "any" institution nor use the plural 'institutions'. See:

REASONS FOR GRANTING THE PETITION

Gregory v Ashcroft, 501 US 452 (1991)
(HN 13: "A word is known by the company it keeps.");

US v Enmore, 410 US 396 (1972)(HN6:
"A criminal statute must be strictly construed, and any ambiguity must be resolved in favor of leniency.");

Metropolitan Stevedore v Rambo, 515 US 291 (1995)(HN's 2-3: USSC gives effect to plain command of statute, even if that will reverse the longstanding practice under the statute or rule);

Estate Of Cowart v Nicklos Drilling, 505 US 469 (1992)(HN3: "Although judicial deference is required with respect to a reasonable statutory interpretation by an administrative agency, a reviewing court should not defer to an agency position which is contrary to an intent Congress expressed in unambiguous terms.");

"The Supreme Court reminds us that courts must give effect to each word in a statute," Setser v US, 566 US 231, 239 (2012), appreciating that "Congress says in a statute what it means and means in a statute what it says there." Hartford Underwriters Ins Co v Union Planters Bank, 530 US 1, 6 (2000);

Digital Realty Trust Inc v Somers, 2018 US Lexis 1377 (HN's 11-14):

REASONS FOR GRANTING THE PETITION

"Where Congress has directly spoken to the precise question at issue, courts do not accord deference to the contrary view advanced by an agency in a rule. A statute's unambiguous definition, in short, precludes agency from more expansively interpreting term."

b. In the 2021 Tate, supra, a Mich USDC interpreted 18 USC 4206(d) as: "that the prisoner has not seriously or frequently violated his facility's rules and regulations." "His facility's" plainly means one institution.

c. 28 CFR 2.53(a) is titled "Mandatory parole." It requires proof that one "has seriously or frequently violated the rules and regulations of the institution in which he 'is' confined." Holt v Terris, 2017 US Dist Lexis 132522 (ED Mich)("institution in which he 'is' confined."). See:

Gulf Const Bank & Trust Co. v Mingo Tribal Preservation Trust, 2016 US Dist Lexis 50968 (WD North Carolina)("is" means the present, not the past).

d. The institution in which one 'is' confined 'is' the place where one 'is' when the USPC gives that one an 18 USC 4206(d) PEH. See:

REASONS FOR GRANTING THE PETITION

Smith v US, 360 US 1 (1959)(18 USC 1201 kidnapping case)("Substantial safe-guards to those charged with serious crimes cannot be eradicated under guise of technical departure from the rules.");

US v Menasche, 348 US 528 (1995)(HN9: "The traditional canon of construction calls for strict interpretation of criminal statutes in favor of defendants when substantial rights are involved.").

e. MDOC confined Petitioner from Jan 2019 - 3/21 at Earnest C Brooks Corr'al Fac (LRF) in Muskegon, Mich. On 3-31-21, the USMS obtained him from LRF to confine him at Hazelton FCI in WV for his then upcoming 18 USC 4206(d) PEH.

f. Petitioner did not violate LRF rules and regulations as MDOC confined him there for over 2 years. Nor did he violate such as he was at Hazelton FCI for six months before his 18 USC 4206(d) PEH on 3-9-22.

g. Thus, under 18 USC 4206(d), the USPC was required to parole Petitioner since he did not violate LRF or Hazelton FCI rules and regulations.

4. The 4th USCA 2023 judgment conflicts with the USSC where the USPC exceeded its US Const'al and Congress-granted power by denying Petitioner an 18 USC 4206(d) parole in 2022 for 10 acts that the USPC alone claims are Mich state crimes.

REASONS FOR GRANTING THE PETITION

a. In making its 3-30-22 decision under 18 USC 4206(d), the USPC exceeded its power by acting as Mich state: police, prosecutor, jury and judge to claim that Petitioner committed 10 state acts that is state evidence of 10 new state crimes while MDOC confined him at state prisons from 1983-1993 (with a "threatening behavior" state crime in 1/09). See herein above subpara 1(b).

b. Neither 18 USC nor 28 CFR empowers the USPC to act as a state elected official, state appointed officer, or state assigned criminal-law jury. See:

Cal v Arc Amer Corp, 490 US 93 (1989)
(HN5: "There is a presumption against federal preemption of state law in areas traditionally regulated by the states.");

Harmon v Brucker, 355 US 579 (1958)
(HN's 1-3: "Generally, judicial relief is available to one who has been injured by act of government which is in excess of his express or implied powers.");

Dugan v Rank, 372 US 609 (1963)(HN5):

"The actions of federal officials can be made basis of a suit for specific relief against such officials as individuals where [1] the actions are beyond the official's statutory powers, or [2] even though within their authority, the powers themselves or the manner in which they are exercised are constitutionally void.").

REASONS FOR GRANTING THE PETITION

c. US Const'al Am V and Am VI are violated if the USPC classifies one as being guilty of a state crime without that state first, via its judiciary, proving that guilt is beyond a reasonable doubt. See:

Blakely v Washington, 542 US 296 (2004) (kidnapping case)(HN's 5-6, 17); Alleyne v US, 2013 US Lexis 4543 (HN3);

People v Lockridge, 498 Mich 358 (870 NW2d 502)(2015)(Mich Supreme Ct held that guilt of a crime must be proved beyond a reasonable doubt).

d. The 4th USCA avers that 28 CFR empowers the USPC to consider: "unadjudicated, dismissed and uncharged criminal offenses." See pp 13-18 of 5-18-23 WV USDC O-GSJ.

e. At p 69, Webster's Pocket Dictionary defines "criminal" as "An act in violation of the law." At p 195, it defines "offense" as "A crime." An act in violation of the law, i.e., a crime, is proven by guilt beyond a reasonable doubt, on each element that comprises a violation of the law, at a court proceeding (see Blakeley, Alleyne, and Lockridge above).

f. Since the 10 violations of Mich state law claimed by the USPC alone do not constitute "criminal offenses," as the preceding subpara demonstrates, 28 CFR 2.19(a)(c) is here unapposite.

REASONS FOR GRANTING THE PETITION

5. The 4th USCA 2023 judgment conflicts with the USSC where the USPC denied Petitioner's US Const'al right to present relevant evidence at the 18 USC 4206(d) PEH of 3-9-22.

a. "The right to a 'full hearing' conducted by an administrative agency embraces the right to present evidence." Morgan v US, 304 US 1 (1938) (HN's 1, 4); Armstrong v Mazo, 380 US 545 (1965) (HN's 3,6).

b. "The Due Process Clause also encompasses a third type of protection, a guarantee of fair procedure." Zinerman v Burch, 1990 US Lexis 1172.

c. The relevant evidence that Petitioner sought to present is:

The 2020 eleven-member Mich Parole Bd (MPB) found that he has no probability of recidivism.

That MPB found that his 1976-2020 PDR is not a reasonable basis to deny him a 2021 Mich state parole.

That MPB decided to give him a 2021 Mich state parole after he suffered 45 consecutive years of imprisonment due to one Mich state kidnapping conviction involving a 3½ minute incident where no person was physically injured.

That MPB concluded that his concurrent Fed prison sentence for an unrelated Fed kidnapping is not a reasonable basis to deny him a 2021 Mich state parole.

REASONS FOR GRANTING THE PETITION

In 1/09, he had 2 Brain Aneurysms (BA) at MDOC's Lakeland Corr'al Fac (LCF). As he was recuperating from Brain Surgery for 23 days at Borgess Med Ctr in Kalamazoo (Mich), 3 misconducts reports were imposed on him (one for threatening behavior).

BA causes mental dysfunction and severe emotional disorders.

Those 3 misconduct reports would have not occurred had he not had the BA.

He did not violate any MDOC rule as he was physically at LCF for 19 months preceding 1/09.

He did not violate a prison rule in the over 2 years following 1/09.

Thus, the USPC did not properly view those 3 Jan 2009 misconduct reports.

d. Had the USPC considered the relevant evidence sought to be presented by Petitioner at the 2022 PEH, the USPC would have had reasonable evidence on which to view the pre-2010 MDOC PDR differently.

e. The preceding subpara is supported by the esp relevant fact that, after 3-30-22, the USPC-/US BOP on 4 occasions found that Petitioner has a "LOW RISK OF RECIDIVISM" (4-11-22, 10-4-22, 3-27-23 and 9-18-23 US BOP FCI Hazelton Program Review Reports on Petitioner at bar).

REASONS FOR GRANTING THE PETITION

6. The 4th USCA 2023 judgment conflicts with the USSC where it relies on materially false data. See pp 6-7, 9-10 and 13 of 5-18-23 WV USDC O-GSJ. That materially false data is that:

Petitioner "admitted" having violated MDOC rules before 2010. In a WV USDC affidavit and declaration, he denied having admitted such. No audiotape nor affidavit/declaration was produced as proof of his having admitted such. The pre-2010 MDOC PDR shows that he pled NOT GUILTY whenever MDOC staff accused him of misconduct.

Petitioner armed-robbed Mr Gregory Lewis Richardson; attempted to rape Ms Bertha Mae Love; armed-robbed a grocery store; attempted to murder Mr Joe Jackson and Mr Antwain Fitzgerald; Mr Jackson and Mr Fitzgerald were Fed witnesses in Petitioner's Fed case. Those 5 accusations are false (see below para 7 and 5-2-23 INDEX OF INADMISSIBLE DATA IN RESPONDENT'S 3-27-23 USDC Submissions).

a. The US Const, Congress and USSC bars Fed agencies from using materially false data against people at Fed administrative hearings. See:

US v Rodgers, 466 US 475 (1984)(Fed agency use of materially false data is illegal, as is proven by: 18 USC 1001 and 18 USC 1519).

REASONS FOR GRANTING THE PETITION

Chessman v Teets, 354 US 156 (1957)
(HN5: Procedural Due Process requirement to a fundamentally fair process bars government action against a person based on unreliable government record).

b. The 4th USCA avers that use of the materially false data stated above is permitted by 28 CFR and where most of that data is in Petitioner's Presentence Investigation Report (PSR).

c. 28 CFR permits the USPC to rely only on what is true and it would be unconstitutional as well as in conflict with the USSC for 28 CFR to permit use of materially false data against a person at an administrative hearing. As the USSC says:

"There is no constitutional value in false statements of facts; neither the intentional lie nor the careless error materially advances society's interest" Gertz v Welch, 418 US 323 (1974)(HN7).

d. No Amer state has suspected that Petitioner committed an 11/74 armed robbery of a grocery store. No grocery store owner or employee has ever accused him of having armed-robbed that store. No res gestae witness, video or other forensic evidence supports a claim that he armed-robbed a grocery store.

e. Neither Mr Jackson nor Mr Fitzgerald was listed in Fed Trial Court as witnesses in Pe-

REASONS FOR GRANTING THE PETITION

itioner's Fed case. Those 2 persons never gave an affidavit or declaration as a witness in his Fed case. No FBI agency staff ever provided a formal statement identifying either of those 2 persons as a witness in his Fed case. Neither of those 2 persons testified in any Amer court as a witness to anything in his Fed case.

f. Congress and the USSC says that it is not true that materially false data in a PSR justifies Fed agency use of that data against a federally convicted person. See:

H R Rep No 247, 94th Cong, 1st Sess 18, reprinted in 1975 US Code Cong & Ad News 674, 690: "Congress has made it plain that since district courts rely heavily on presentence reports, they must be completely accurate in every material way."

Townsend v Burke, 334 US 736 (1948) (Due process is violated when the information on which the defendant is sentenced is 'materially untrue' or is, in fact, 'misinformation').).

g. The 6th USCA in 1986 remanded Petitioner's 28 USC 2255 to the WD Mich USDC because he proved that his Fed PSR contained the materially false data stated in above para 6 (second part) and subpara's 6(d)(e). Tate v US, 1986 US App Lexis 30170 (6th Cir). On remand that USDC held that it did not rely on any of that materially false data in deciding the type of prison sentence to impose on him.

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h. Respondent's claim that 28 CFR allows the USPC to rely on materially false data, as a basis for denying a Fed parole, is meritless in light of FRE 901(a), 28 USC 1733 and FRCP Rule 44(a)(1)(A)(B)(i)(ii). See:

Tome v US, 513 US 150 (1995)(HN's 2, 4: "The United States Supreme Court cannot alter evidentiary rules merely because litigants might prefer different rules in a particular class of cases.");

Beech Aircraft Corp v Rainey, 488 US 153 (1988)(supporting compliance with FRE).

7. The 4th USCA 2023 judgment conflicts with the USSC where the USPC took adverse or punitive action against Petitioner in 2022 due to four 1974 alleged Mich state crimes that the Fed Government cannot use against him. See:

US Const, Art IV, sec 1, Full Faith and Credit Clause: Williams v Kaiser, 323 US 471 (1945)("A state court decision is, though its grounds are not indicated, binding upon the Supreme Court of the United States in so far as state law is concerned.");

Congress via 28 USC 1652, The Rules Of Decision Act. Agency Holding Corp, supra above subpara 2(f):

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"The laws of several states, except where the Constitution of treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States in cases where they apply."

Congress via 28 USC 1738, Full Faith and Credit Act. Morris v Jones, 329 US 545 *(1947)(HN's 1,5,7,8,10, 13,15):

"Full Faith and Credit clause has established throughout Fed system common-law principle that litigation once pursued to judgment shall be conclusive of rights of parties in every other court as in that where judgment was rendered."

a. It Is Public Record that, with prejudice in 1975, Mich's 70th Dist Ct of Saginaw Co com-pletely dismissed the Mich state: Armed robbery of Mr Richardson, attempted rape of Ms Love, attempted murder of Mr Jackson and attempted murder of Mr Fitzgerald felony charges that Petitioner was wrongfully accused of having committed in 11/74.

See:

Christmas v Russell, 72 US 290 (1866)
(Where judgment is conclusive between parties in state court where rendered, it is also conclusive in all other courts in United States.).

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b. That Mich 70th Dist Ct found that the armed robbery and attempted rape accusations were fabricated, as well as that both attempted murder accusations fails because those 2 people were physically injured by a person acting in self-defense as those 2 people sought to cover-up public exposure of a burglary committed by them. See:

People v Beck, 2019 Mich Lexis 1298 (Mich Supreme Ct bans government use of accusation that a crime, i.e., murder, was committed when its judiciary dismissed that accusation with prejudice).

c. The 4th USCA avers that 28 CFR permits USPC consideration of "unadjudicated and dismissed criminal offenses." That proffer is proven to be meritless under above subpara's 4(c)-(e).

d. 28 CFR does not permit the USPC to act unconstitutionally by relying on an accusation of a crime that was "unadjudicated" or "dismissed" with prejudice when that accusation was found by a court to be fabricated. See Williams v Kaiser, supra (above para 7).

8. The 4th USCA 2023 judgment conflicts with the USSC where the WV USDC and USPC failed to abide by FRE Rule 901(a), 28

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USC 1733 and FRCP Rule 44(a)(1)(A)(B)(i)(ii) regarding significant evidentiary aspects of the 2022 PEH held for Petitioner under 18 USC 4206(d).

a. "Proving an Official Record" is the name of FRCP Rule 44(a)(1)(A)(B)(i)(ii). This Rule requires the USPC to authenticate and prove the truthfulness of each government record used by the USPC at a Fed administrative hearing. Note:

FRCP Rule 1: "These rules govern the procedure in all civil actions and proceedings in the United States District Courts. They should be construed, administered, and employed by the court and the parties to secure the just . . . determination of every action and proceeding."

See Tome, supra (cite at above para 6).

b. FRE Rule 901(a) requires the USPC to authenticate each government document or record used by the USPC at a Fed administrative hearing. Note:

Kumbo Tire Co v Carmichael, 526 US 137 (1999)(FRE provides Fed Courts gatekeeping power regarding admissibility of claimed evidence);

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Schulz v Frost, 2025 US Dist Lexis 97041 (DC Idaho):

"Authentication, required by Federal Rules of Evidence 901(a), is not satisfied simply by attaching a document to an affidavit. The affidavit must contain testimony of a witness with personal knowledge of the facts who attests to the identity and due execution of the document."

c. 28 USC 1733 is the **Authentication Of Government Records and Papers Act**. It requires the USPC to authenticate each government record and paper used by the USPC at a Fed administrative hearing. Note:

Hal Roach Studios, Inc v Richard Feiner & Co, 1989 US App Lexis 20709 (9th Cir):

"It is well established that unauthenticated documents cannot be considered on a motion for summary judgment."

"To be considered by the court, documents must be authenticated by and attached to an affidavit that meets the requirements of [Rule] 56(e) and the affiant must be a person through whom the exhibits could be admitted into evidence'."

"A document which lacks a proper foundation to authenticate it cannot be used to support a motion for summary judgment."

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d. "Congress enacted" FRE and the "United States Supreme Court must enforce the words that it enacted" as FRE. US v Salerno, 505 US 317 (1992)(HN3).

e. Para's 16(a)-(j) on pp 7-8 of Petitioner's 5-2-23 "INDEX OF INADMISSIBLE DATA" details most USPC documents filed by Respondent at the WV USDC which are unauthenticated, unsworn, non-affidavits and not declarations.

f. Respondent's affidavit by USPC General Counsel Helen H Krapel, also submitted at the WV USDC, is defective since Krapel:

has no personal knowledge about the pre-2002 MDOC PDR;

has no personal knowledge about the 2-9-77, 3-18-88 and 8-18-88 USPC documents proffered at the WV USDC on 3-27-23; and

did not attend, nor was privy to an audiotape of, the 3-9-22 PEH.

g. Also, the USPC did not authenticate nor show the truthfulness of the:

pre-2002 MDOC PDR relied on by the USPC;

grocery store armed robbery story; and

story that Mr Jackson and Mr Fitzgerald were Fed witnesses.

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9. The 4th USCA 2023 judgment conflicts with the USSC where the WV USDC failed to take Judicial Notice, failed to grant Motion To Strike and improperly granted Summary Judgment for the USPC on 5-18-23.

a. Petitioner filed a Motion For Judicial Notice at the WV USDC under FRE 201. It was denied contrary to USSC precedent (para 3, p 27, of 5-18-23 WV USDC O-GSJ). See:

Communist Party of USA v Subversive
A C Bd, 351 US 115 (1956)(HN7):

"The Supreme Court will take judicial notice of cases decided by lower federal courts" where materially false data was used by Fed government);

Fantasy, Inc v Fogerty, 1993- US
App Lexis 1497 (9th Cir)("Request
for judicial notice may properly
be considered by the court in ru-
ling on motion to strike.");

Pub-Sec Sulu, Inc v Hunt & Assin,
2022 US Dist Lexis 16173 (DC Mary-
land)("The court may take judi-
cial notice at any time [stage]
of the proceeding.");

Williams v Toro, 2022 US Dist Lexis
149026 (DC Maryland):

"In consideration of a motion to dismiss, a court may take judicial notice of public record such as court-filings or records, without so converting the motion.";

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Kramer v Time Warner, Inc, 1991 US App Lexis 13921 (2nd Cir)(HN2: "Judicial notice can be taken while deciding a motion to dismiss under FRCP Rule 12(b)(6);"

Knop, supra (HN's 18,21: "Judicial notice is mandatory. Judicial notice is an alternate means of proof.").

b. Petitioner also filed there a FRCP Rule 12(f) Motion To Strike. It was denied contrary to USSC precedent (p 28 of 5-18-23 WV USDC O-GSJ). See:

Lovesy v Armed Forces Benefit Ass'n, 2008 US Dist Lexis 93486 (ND Cal) ("The court may strike from a pleading an insufficient defense or any redundant, immaterial, or scandalous matter.");

Fantasy, Inc, supra (affirmed grant of motion to strike stale and irrelevant data)("Superfluous historical allegations are a proper subject of a motion to strike.");

Trudeau v Lanoue, 2006 US Dist Lexis 7956 (ND Ill)(granted motion to strike where party's reply went "far beyond the scope of any arguments present" in plaintiff's response);

e.g., Romero v Drummond Co, 2006 US Dist Lexis 97555 (ND Ala) ("Mischaracterization" is ground for motion to strike).

c. Petitioner, moreover, there filed an

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"Affidavit/Declaration" opposing Respondent's FRCP Rule 12(b)/56(c) requests.

d. Petitioner, furthermore, thereat filed a "Motion To Dismiss" Respondent's FRCP Rule 12(b)(6)/56(c) requests. It was denied contrary to USSC precedent (5-18-23 WV USDC O-GSJ). See:

City & Cty of San Fran Cal v Sheehan, 575 US 600 (2015)(HN 1: "Where a case arises in summary judgment posture, a court views the facts in the light most favorable to the non-moving party."); e.g.,

Johnson v Mueller, 1969 US App Lexis 10947 (4th Cir)(reversed dismissal of imprisoned person's civil rights action alleging false arrest, inter alia);

Steel Co v Citizens For Better Env, 523 US 83 (1998)[*When FRCP Rule 12(b) motion to dismiss is granted by lower Fed court, USSC "presumes on Certiorari that the general allegations in the complaint encompass the specific facts necessary to support those allegations."]; e.g.,

Reynolds v Abbeville Co Sch Dist, 1977 US App Lexis 13439 (4th Cir)(reversed order dismissing discrimination **CLAIM**);

Ashcroft v IQBAL, 556 US 662 (2009)[reversed grant of FRCP Rule 12(b)(6) motion filed by Fed Government against former "prisoner of high interest)"]; e.g.,

E I du Pont de Nemours & Co v Kolon, Indus, Inc, 2011 US App

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Lexis 4752 (4th Cir)]background facts are taken from complaint and are presumed to be true on FRCP Rule 12(b)-(6) motion](reversed grant of motion to dismiss).

10. "The Supreme Court may, under the provisions of Rule 52(a) of the Rules of Civil Procedure that findings of fact in actions tried without a jury shall not be set aside unless clearly erroneous, reverse a finding of fact in an action so tried when, although there is evidence to support the finding, the reviewing court on the entire evidence is left with a definite and firm conviction that a mistake has been made." US v US Gypsum Co, 333 US 364 (1948)(HN7).

11. "The Supreme Court will express an opinion on a point not necessary to its disposition of the case where it seems inevitable to leave the decision below as precedent." US v US Gypsum Co, supra (HN 1).

12. The 1976-1993 MDOC PDR cannot be legally used by the USPC to deny an 18 USC 4206(d) parole to Petitioner because:

a. MDOC and the USPC designates that PDR as "null" (see pp 4-12 of 3/4/22 Pre-Hearing Assessment and Hearing Summary). See:

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In re Lilco Secs, Litig, 1988 US Dist Lexis 19670 (EDNY) ("null" means that which is void, lacks validity and cannot be legally used).

13. The USPC used 12 pre-1989 MDOC prisoner misconduct reports that no guilty finding was made on (see pp 1-2 of 8/18/88 SIH/Recission Hearing Summary). See: US v Rodgers, supra; Chessman v Teets, supra.

14. Granting certiorari in the case at bar is proper in light of USSC precedent. E.g.,

Warden v Marrero, 417 US 653 (1974) (e.g., HN 1: Certiorari granted to resolve conflict among US Courts of Appeal on question of Fed parole eligibility);

Smith v US, 360 US 1 (1959) (18 USC 1201 kidnapping case) ("We granted certiorari because of the serious due process and statutory questions involved.");

Yee v Escondido, 503 US 519 (1992) (Conflict is a substantial reason for granting certiorari on the issue under Rule 10 of the United States Supreme Court Rules);

US v Menasche, 348 US 528 (1955) (certiorari granted because case presented question concerning the proper interpretation of a Fed statute);

Keever v Bainter, 404 US 1010 (1972) (Writ of Certiorari and motion to proceed in forma pauperis granted.

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Judgment vacated and remanded for further consideration in light of US v Marion, supra);

Arciniega v Freeman, 404 US 6 (1971) (motion to proceed in forma pauperis and petition for a writ of certiorari granted);

Biden v Nebraska, 2022 US Lexis 5177 ("The petition is granted on the questions presented. ").

15. The 1976-1993 and 1/09 MDOC PDR on Petitioner is solely proffered by the USPC to claim that he has a "reasonable probability" of recidivism. See 3-30-22 USPC NOA (sen 5). That proffer is irrational in light of above para's 1-3 and 8-9.

16. MCL and Mich Statutes Annotated (MSA) neither expressly nor implicitly lists 'Threatening Behavior' against a prison employee as a 'crime'. That is additional proof the the USPC exceeded its 28 CFR authority by claiming that Petitioner committed a Mich state crime of "threatening behavior" against a Mich state prison guard at MDOC.

17. Petitioner at bar has a substantial right, i.e., statutory entitlement, to a Fed parole under the Congress-enacted 18 USC 4206-(d) if the USPC cannot find either factor under that Fed statute to justify denying that parole.

18. "In a civilized ~~society~~ government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of the law, the defendant is entitled to his immediate release." Smith v Lucas, 1993 US App Lexis 31547 (5th Cir); e.g.,

US Ex Rel Campbell v Pate, 1968 US App Lexis 5545 (7th Cir)(prison staff unconstitutionally prevented state parole board hearing by providing false evidence against imprisoned person);

Hermanowski v Farquharson, 1999 US Dist Lexis 2240 (DRI)(availability of the Great Writ).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Mr Willie Perry Woods

Date: December 27, 2023 - Wednesday

I declare and swear under the penalty of perjury that the foregoing is true and correct as well as is based on my personal knowledge, information and belief. 28 USC 1746.

Please excuse any typographical, grammatical and pro forma errors in the legal documents submitted by pro se proceeding Petitioner in this case. Thank you.