

No. 23-6685

IN THE
SUPREME COURT OF THE UNITED STATES

WILLIE PERRY WOODS, Petitioner pro se,

v

HAZELTON FCI WARDEN H RAY, Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

REQUEST FOR REHEARING BY PETITIONER

USSC RULE 44(2)

Petitioner pro se:

Mr. Willie Perry Woods
Federal (Fed.) Bureau of Prisons (BOP) Reg. 01917-285
Hazelton Fed. Corr'al. Insti. (FCI)
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Bruceton Mills, West Virginia (WV) 26525

(A) Opening Statement

(1) A preponderance of Fed. and Michigan (Mich.) state documented evidence proves that the U.S. Parole Commission (USPC) did not give Petitioner the '**fundamentally fair**' administrative Parole Eligibility '**Hearing**' (PEH) required by 18 USC 4206(d), 28 CFR 2.53(a) and the Fed. '**Administrative Procedures Act**' (APA).

(a) See 5 USC 706(2)(A)-(F) of the Fed. APA.

(b) "Litigants seeking review in the United States Supreme Court of a claim properly raised in the lower courts generally possess the ability to frame the question to be decided in any way they choose, without being limited to the manner in which the question was framed below." Quoting Yee v Escondido, 503 US 519 (1992).

(2) "The Due Process Clause also encompasses a third type of protection, a guarantee of **fair** procedure." Quoting Zinermon v Burch, 1990 US Lexis 1172.

(a) "Our system of law has always endeavored to prevent even the probability of **unfairness**." Quoting Estes v Texas, 1965 US Lexis 2339 (HN8).

(B) CASE OVERVIEW

(1) On 6-9-76, a Fed. jury convicted Petitioner on one count of 18 USC 1201(a) kidnapping.

(a) United States District Court (USDC), Eastern District of Mich. Case number (CN) 74-20115.

(b) That conviction states that he transported a person from Mich. to Illinois on 11-17-74 against that person's will, then promptly paid for that person's return to Mich. from Illinois via the Greyhound bus service, all within less than 12 hours that day.

(2) On 9-14-76, that USDC imposed a paroleable life prison sentence on Petitioner for that conviction pursuant to 18 USC 4205(b)(2).

(a) 18 USC 4205(b)(2) made him "immediately" eligible for a USPC PEH in 1976 after sentencing.

(3) In 10/76, the Fed. BOP:

(a) designated Michigan Department of Corrections (MDOC) to be where Petitioner is to endure that Fed. sentence concurrently with a Mich. state penal term imposed on him by a Mich. state court before 9/76; and

(b) scheduled him for a USPC PEH in 9/2006 after he has endured 30 consecutive years of that Fed. sentence, as mandated by 18 USC 4206(d)/28 CFR 2.53(a).

(4) On 3-9-22, the USPC gave Petitioner a PEH pursuant to 18 USC 4206(d)/28 CFR 2.53(a).

(a) On 3-30-22, the USPC issued a Notice Of Action (NOA) which concluded that he is ineligible for any benefit of 18 USC 4206(d)/28 CFR 2.53(a).

(b) On 6-17-22, the National Appeals Board affirmed that USPC NOA.

(5) In 10/22, petitioner filed a 28 USC 2241 Petition For A Writ Of Habeas Corpus for relief from that USPC NOA. WV USDC, CN 5:22-cv-294. **Note:**

Peyton v Rowe, 391 US 54 (1968)(HN5: "The federal statute authorizing the United States to issue writs of habeas corpus on behalf of prisoners who are in custody in violation of the Constitution of the United States, 28 USC 2241(c)(3), does not deny the federal courts power to fashion appropriate relief other than immediate release.");

Blackledge v Allison, 1977 US Lexis 80 (HN's 1, 24):

]"The purpose of the writ of habeas corpus is to safeguard a person's freedom from detention in violation of the constitution."

"A federal habeas corpus petitioner is entitled to careful consider-

ration and plenary processing of his claims, including full opportunity for presentation of the relevant facts."

Hermanowski v Farquharson, 1999 US Dist Lexis 2240 (DRI):

"The government's determination that an individual is a danger to the community is, by itself, an insufficient basis for detaining that individual indefinitely."

(a) On 5-18-23, that WV USDC denied that 28 USC 22-41 Petition.

(6) On 10-24-23, the U.S. Court of Appeals for the Fourth Circuit (4th USCA) affirmed that WV USDC denial. CN 23-6565.

(7) On 1-17-24, Petitioner filed a Petition For A Writ Of Certiorari in the USSC for relief from that 4th USCA ruling. CN 23-6685

(a) That PETITION FOR CERTIORARI does not contain any of the six reasons for denying certiorari. Those six reasons are listed in HN2 of Maryland v Baltimore Radio Show, 338 US 912 (1950).

((8)) On 2-22-24, the U.S. Solicitor General documentarily "waived" filing a response to Petitioner's request for certiorari in the USSC.

(a) That "waiver" can be reasonably construed to mean that the USPC no longer disagrees with Petitioner's factual and legal claims in this case. Generally, see FRCP Rule 8(b)(1)(4)(6)(c).

(b) Factual allegations are essentially admitted when not disputed. Cristini v McKee, 2008 US App Lexis 10873 (6th Cir); Failure to argue against an issue is cause for court to view issue as unopposed, U.S. v Kloehn, 2010 US App Lexis 18109 (9th Cir); Unraised defenses cause loss of right to have judgment based on that defense, Trest v Cain, 522 US 87 (1997).

(9) On 3-18-24, the USSC denied Petitioner's request for certiorari.

(C) Good Cause For Rehearing

(1) In compliance with USSC Rule 44(2), this rehearing ~~request~~ has compelling substantial grounds previously unrepresented due to the rational view that those grounds would have been obviated by the grant of certiorari before 3-18-24.

(2) By having not granted certiorari in this case on 3-18-24, the USSC acted contrary to:

(a) the Oath sworn to be each USSC Justice to uphold the U.S. Constitution as well as to support the laws of the U.S.;

(b) its duty to supervise lower Fed. Courts via guiding USSC case law; and

(c) the American Jurisprudence standard regarding the **"appearance of justice."**

(3) See 'Oath Of Office' at: 28 USC 453; 5 USCS 3331; and U.S. Constitution, Art VI, cl 3. Note:

Chessman v Teets, 354 US 156 (HN8): "The overriding responsibility of the Supreme Court of the United States is to the Constitution of the United States."

(4) The USSC is obliged to grant certiorari to supervise the Fed. Judiciary because:

"The lower courts should not have to struggle to make sense of . . . tensions in our case law." Quoting Parking Ass'n v City of Atl, ==515 US 1116 (1995).

(5) USSC Justice Frankfurter advised that: "Justice must satisfy the appearance of justice." Quoting Offutt v U.S., 1954 US Lexis 1502 (Williams-Yulee v Fla Bar, 2015 US Lexis 2983). Also, note:

In re Murchinson, 1955 US Lexis 807 (HN2):
"To perform its high function in the best way, justice must satisfy the appearance of justice."

(6) In the case at bar, the USSC did not uphold the 5th Amendment's rule that one is 'guilty' of "criminal conduct" only when a Court System finds that 'guilt' to exist beyond a reasonable doubt. In re Winship, 397 US 358, 364 (1970).

(a) After 1976, no Court System has found Petitioner guilty of "criminal conduct." "Criminal conduct" is violation of legislatively enacted law. A prison rule is not legislatively enacted law.

(b) 28 CFR 2.36 cannot circumvent the 5th Amendment nor In re Winship, supra.

(c) 28 CFR 2.36 is a misnomer, because a "criminal offense" is a "criminal" conviction. A criminal conviction is not "unadjudicated, dismissed, or uncharged." A conviction means that the accused violation of a law was charged or adjudicated. A conviction is not dismissed, but is instead set aside, reversed, or vacated.

(d) Thus, the 3-30-22 USPC NOA unfairly bases

its conclusion on the erroneous information that Petitioner committed "criminal conduct" between 1983-1993 and in 2009.

(e) It would be inconsistent with USSC precedent to defer to the USPC, WV USDC and 4th USCA opposing interpretation of 28 CFR 2.36 in light of above paragraphs 6(a)-(d). See:

Metropolitan Stevedore v Rambo, 515 US 291 (1995)(HN's 2,3); Estate Of Cowart v Nicklos Drilling, 505 US 469 (1992)(HN3); Digital Realty Trust, Inc v Somers, 2018 US Lexis 1377 (HN's 11-14).

(7) Also, in the case at bar, the USSC did not uphold controlling statutory and case law that requires the Fed. Government to heed a state's Statute Of Limitations (SOL) in matters concerning a state's criminal code. See:

28 USC 1652: State Laws As Rules Of Decision Act; HN5 of Agency Holding Corp v Malley-Duff And Assocs, 483 US 143 (1987);

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

California v Arc Amer Corp, 109 S Ct 1661 (HN's 5,7): "There is a presumption against federal preemption of

state law in areas traditionally regulated by the states."

(a) Mich. SOL bars the government from charging, prosecuting, convicting, penalizing, or otherwise criminalizing a person for an "assault" accusation when the alleged "assault" occurred over 3 years before that accusation is made. Mich. Compiled Laws 600.5805(1)(2)-(7). E.g.,

Crocker v McCabe-Powers Auto Body Co,
1970 US Dist Lexis 9272 (ED Mich);
Simmons v Sys, 2022 US Dist Lexis 62-
094 (ED Mich).

(b) Thus, Mich. SOL barred the USPC from penalizing Petitioner on 3-30-22 for its accusation first made in 2022 that he committed "assaults" at least 29 years before 2022 between 1983-1993. See Krum v Shepard, 1966 US Dist Lexis 6643 (WD Mich)(Mich. SOL applies).

(8) Additionally, the 3-18-24 USSC denial of certiorari did not uphold 18 USC 1001 nor 18 USC 1519, both which bars falsification of Fed. government records.

(a) E.g., U.S. v Bruno, 2004 US App Lexis 19260 (2nd Cir)(F.B.I. agent convicted under 18 USC 1001 for

making false statement). Also, see:

U.S. v Gray, 2011 US App Lexis 8661 (2nd Cir)(18 USC 1519): "Whoever knowingly falsifies any record or document with the intent to impede, obstruct, or influence the proper administration of any matter within the jurisdiction of any department or agency of the United States."

(b) The 3-30-22 USPC NOA is based on materially false information because Mich. has never legislatively enacted a state law which makes it a 'crime' for "threatening" or "threatening behavior" toward a MDOC, prison, or Mich. Civil Service employee.

(9) Moreover, the 3-18-24 USSC denial of certiorari in effect supported:

(a) the racism which made the 1976-1987 MDOC Prisoner Disciplinary Record (PDR) 'unreliable' as is proven by the racism exposed in Knop v Johnson, 1987 US Dist Lexis 9223 (WD Mich)(MDOC did not challenge that exposed employee racism);

(b) unfair prison disciplinary hearings which made the 1976-2001 MDOC PDR 'unreliable' as is proven by Heit v Van Ochten 2002 US Dist Lexis 248 (WD Mich) (MDOC agreed that the unfair hearing practices existed);

(c) disregard of the Constitutional Full Faith And Credit Clause (Art IV, sec 1), along with 28 USC 1738, which obliges the USPC, WV USDC, 4th USCA and USSC to acknowledge that the 1976-1986 MDOC PDR was made 'unreliable' by the illegality of the then MDOC Prisoner Disciplinary 'Policy' Directive according to Martin v MDOC, 424 Mich 553/384 NW2d 392 (1986)(Mich. Supreme Court)('Policy' was unlawfully not promulgated pursuant to the Mich. APA);

(d) unconstitutionally unfair USPC interpretations of 18 USC 4206(d)/28 CFR 2.53(a) regarding their application based on the present tense word "is" combined with the singular word "institution" which together means Petitioner's prison disciplinary conduct only at where he is confined when he receives a USPC PEH (not at the other 22 MDOC institutions where he was imprisoned from June 1976 to March 2021); and

(e) disregard of 18 USC 1001, 18 USC 1519, 28 USC 1652, the Full Faith And Credit Clause, 28 USC 17-33, 28 USC 1738, FRCP Rule 44, FRE Rule 201, FRE 901-(a) and related USSC precedents by not exercising its supervisory authority to correct lower Fed. Court decisions, opinions, or rulings that are constitutionally wrong (see:)

State Oil Co v Khan, 522 US 3 (1977)
(HN's 7-10: "It is the Supreme
Court's prerogative alone to over-
turn one of its own precedents.");

Koon v U.S., 1996 US Lexis 3877 (HN
10: "A district court by definition
abuses its discretion when it makes
an error of law.");

Williams v Kaiser, 323 US 471 (1945)
("A state court decision is, though
its grounds are not indicated, bind-
ing upon the Supreme Court of the
United States in so far as state law
is concerned.");

Kumho Tire Co v Carmichael, 526 US
137 (1998):

'Fed. Courts gatekeeping
obligation under FRE, to insure that
expert witness' testimony rests on
'reliable' foundation and is held to
apply to 'all' expert testimony, not
only scientific'.).

(D) CONCLUSION OF REQUEST FOR REHEARING

(1) **THEREFORE**, in light of the foregoing, the
USSC has good cause to exercise its "discretion" by
granting **REHEARING WITH THE EFFECT** of granting Peti-
tioner's request that the USSC grant **CERTIORARI** in
the case at bar.

(2) Pursuant to 28 USC 1746, Petitioner declares and signature-verifies under the penalty of perjury that the foregoing is true and correct as well as is based on his personal knowledge, information and belief. Mel-
ler v Wings Over Spartanburg, LLC, 2016 US Dist Lexis
35792 (about 28 USC 1746 Declaration).

RESPECTFULLY SUBMITTED BY PRO SE PROCEEDING

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Mich. Dep't. of Corr's. Penal No. A-145822

PLEASE EXCUSE ANY TYPOGRAPHICAL, GRAMMATICAL AND PRO FOR-
MA ERRORS HEREIN. THANK YOU.

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USSC RULE 44(2) CERTIFICATE,
AS WELL AS WORD COUNT AND PAGE COUNT OF PETITION

Please be advised that the accompanying USSC Rule 44-(2) PETITION FOR REHEARING is plainly submitted in good faith and not for any type of delay, as well as which contains less than 3,000 words and has less than 15 pages.

RESPECTFULLY SUBMITTED BY PRO SE PROCEEDING

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