

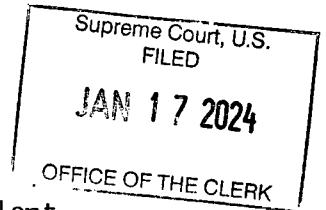
No. 23M57

IN THE
SUPREME COURT OF THE UNITED STATES

23-7397

Diamond LaNeil Barnes

ORIGINAL



Petitioner-Appellant

Case No. 3:16-cv-0798-SMY

v.

Honorable Staci M. Yandle,
Judge Presiding

FELICIA ADKINS

WARDEN, DANVILLE CORRECTIONAL CENTER

Respondent-Appellee

On Petition For Writ of Certiorari
from a Certificate of Appealability (COA)
to the Seventh(7th) Circuit Court of Appeals

PETITION FOR WRIT OF CERTIORARI

Mr. Diamond LaNeil Barnes (Pro-Per)

Diamond L. Barnes S11728

3820 East Main Street

Danville, Illinois 61834

(Pro-Per) Sui Juris Counsel

for Petitioner-Appellant

DLBarnes86@outlook.com

QUESTION(S) PRESENTED

I. A procedural § 2244 one(1)-year statute-of-limitation(s) ruling (Doc.1)(Doc. 1875)(Doc. 1893) governed by Federal Rule 36 of Appellate Procedure², properly vested this court with subject-matter jurisdiction over a Certificate of Appealability (COA) to equitably re-open this judgement (Doc. 90), Buck v. Davis, 137 S.Ct. 759, 777-780 (5th cir. 2017), in the Southern District Court of Illinois.

A. Petitioner Diamond Barnes has shown a substantial denial of a Second(2nd) Amendment Constitutional Right.

B. It is debatable to any reasonable jurist(s) that Petitioner Barnes, as a Virginian conceal-carry licensee (C. 112), has a constitutional right to bear arms "beyond the home", New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir 2022).

C. Deserves encouragement to proceed further in the Seventh(7th) Circuit Court of Appeals.

LIST OF PARTIES

The Petitioner-Appellant, Diamond LaNeil Barnes, in his own natural-person, is not a corporate-entity or agency of the UNITED STATES OF AMERICA (USA). As a National-citizen via birthright, and State-citizen of Missouri, there is no parent or publicly held company owning 10% or more of any corporate stock; last-addressed at 3527 Sugarcrest Drive, Apt. F., Saint Louis, Missouri 63033.

The Respondent-Appellee, FELICIA ADKINS, WARDEN OF DANVILLE CORRECTIONAL CENTER, in her OFFICIAL-CAPACITY, is a corporation head-quartered and doing business in the STATE OF ILLINOIS. To the best of Appellant's knowledge & belief, there is a parent or publicly held company owning 10% or more of the Appellee's stock. As of present-day, a bill of [these particulars] are unknown and unavailable to Petitioner Barnes.

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APPENDIX A	District Court Opinion (February 8 th , 2023)
APPENDIX B	Circuit Court Opinion (October 31 st , 2023)

JURISDICTION

The SUPREME COURT OF THE UNITED STATES is hereby judicially-vested with ORIGINAL JURISDICTION to hear, determine, & adjudicate these live justiciable matter(s) in-controversy" On Petition For Writ of Certiorari from a Certificate of Appealability (COA) to the Seventh(7th) Circuit Court of Appeals", pursuant to Article 3, Section 1, Clause 1, of the United States Constitution;

The subject-matter jurisdiction of this court is invoked under 28 USC § 1254(1) (WEST 2024), and limited

between citizens of different States;

The Appellant, Diamond LaNeil Barnes, who personally appears in his own proper-person (Pro-Per) *sui juris*,

pursuant to the 14th Amendment Citizenship-Clause (USCA Const. Amend. 14, Cl. 1),

as a State-citizen of Missouri, whose last place of residence was addressed at 3527 Sugarcrest Drive, Apt. F., Saint Louis, Missouri 63033; and is a

United States of America (USA) National-citizen via birthright, U.S. v. Wong Kim Ark, 18 S.Ct. 456, 459-481 (9th cir. 1898), of Choc[taw] Indian descent and creed of nationality, U.S. v. Cruikshank, 92 U.S. 542, 550-552 (5th cir. 1875),

who voluntarily enters a "GENERAL APPEARANCE" before the SUPREME COURT OF THE UNITED STATES on December 28th, 2023.

The Respondent-Appellee, FELICIA ADKINS, WARDEN OF DANVILLE CORRECTIONAL CENTER, in her OFFICIAL-CAPACITY, is a corporate agency of the STATE OF ILLINOIS, officially conducting its head-quartered business at 3820 East Main Street, Danville, Illinois 61834; we premonitize the same entry of a "GENERAL APPEARANCE: by the Appellee's counsel of record, Office of the Illinois Attorney General, 100 West Randolph Street, 11th Floor, Chicago, Illinois 60601.

On October 31st, 2023, the Seventh(7th) Circuit Court of Appeals adjudicated case no. 3:16-cv-0798-SMY, docket no. 23-1361, by erroneously denying a "Rule 60(b)(6) Motion To Re-Open Judgement" of a timely-filed § 2254 habeas corpus petition (Doc. 90), *Buck v. Davis*, 137 S.Ct. 759, 777-78.0 (5th cir. 2017), and its Certificate of Appealability (COA), *Hohn v. United States*, 118 S.Ct. 1969, 1971-1978 (8th cir. 1998)(held, United States Supreme Court had jurisdiction to review, on petition for writ of certiorari, a denial of application for certificate of appealability under AEDPA, by a circuit judge or panel of the Court of Appeals), thereof.

Pursuant to the United States Supreme Court opinion of Hohn (stated above), this court has subject-matter jurisdiction to hear, determine, and adjudicate whether Appellant Barnes' Certificate of Appealability (COA) meets the requisite criteria [from a procedural-bar] to proceed further in the Seventh(7th) Circuit Court of Appeals; on "cause" of re-opening a judgement that substantially has shown the denial of a Second(2nd) Amendment Constitutional Right To Bear Arms "beyond the home", pursuant to the noval June 23rd, 2022, landmark opinion of, New York State Pistol & R

ifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022); that has finally recognized the collateral-effect of a "fundamental miscarriage of justice" to bear arms "beyond the home" for a class of conceal-carry licensees such as Appellant Barnes, whose voluntary act(s) & omission(s) are in-fact committed "with[] lawful justification" (C. 112)^b during the public use-of-force to a provoked homicide.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATUTES, RULES, & REGULATIONS	PAGE(S)
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^b See, Federal Rule 36 of Appellate Procedure; Wilson v. Battles, 302 F. 3d. 745, 746-748 (7th cir. 2002)(holding no. 1); See also, Illinois Supreme Court Rule 272, infra., Price v. Philip Morris Inc., 2011 Ill App (5th) 7227 49, 1-8; Williams v. BNSF R. Co., 2015 IL 117444, ¶ 12-52.

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McQuiggen v. Perkins, 133 S.Ct. 1924, 1927-1932 (6 th cir. 2013)	12 & 19
Moore v. Madigan, 702 F.3d. 933, 936 (7 th cir. 2012), Petition For Rehearing denied en banc by, 708 F.3d. 901, 934 (7th cir. 2013)	9, 10, & 22
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OPINIONS BELOW

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

³ These "extraordinary circumstance(s)" of a valid & enforceable conceal-carry handgun license (C. 112) undermines the first-element (ie., without lawful justification). Hence, proof of each and every element of his offense "beyond a reasonable doubt" cannot be prejudicially sustained in the State of Illinois judiciary.

"Cause" has shown that Petitioner's Original § 2254 Federal HC Suit was not untimely, pursuant to the 7th Circuit's controlling precedent of, Wilson v. Battles, ^supra (holding, judgement from denial of PLA "BECAME FINAL" when "'entered' [upon] the docket] of record".

^c Pre-existing "fundamental" Second(2nd) Amendment Constitutional Right(s) have just recently been established, recognized, and conferred on law-abiding individuals such as Appellant, Diamond Barnes, who was a conceal-carry licensee (C. 112), in the NOVEL landmark-opinion of, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022), to BEAR ARMS "beyond the home", as-applied within the Several-States', McDonald v. City of Chicago, Illinois, 130 S.Ct. 3020, 3046-3048 (7th cir. 2010). See, VA Code Ann. § 18.2-308.014(A) (WEST 2024); 20 Ill. Adm. Code § 1231.110(b) (WEST 2024), notwithstanding its public-safety interest(s) thereof.

^d The "Barnes entourage" consists of 1) Effie "aka Bessie" Barnes, 2) Ralph Barnes, 3) Bradley Warren, and 4) Petitioner Diamond Barnes, respectively.

^e Diamond Barnes' temporary residence, for "occupational-purpose(s)", was in the Commonwealth State of Virginia: 3034 Green Garden Circle, Apt. 201, Virginia Beach, Virginia 23452.

Appellant respectfully prays that a Writ of Certiorari issue to review the judgement below.

OPINIONS BELOW

The order of the Southern District Court of Illinois to review the substantive merit(s) of a CERTIFICATE OF APPEALABILITY (COA) on a RULE 60(b)(6) MOTION TO RE-OPEN [§ 2254 HABEAS CORPUS] JUDGEMENT appears at Appendix A to this equitable petition, as an unpublished February 8th, 2023, order; and

The order of the Seventh(7th) Circuit Court of Appeals to review the substantive merit(s) of a CERTIFICATE OF APPEALABILITY (COA) to a RULE 60(b)(6) MOTION TO RE-OPEN [§ 2254] JUDGEMENT appears at Appendix B to this equitable petition as an unpublished October 31st, 2023, order.

STATEMENT OF THE CASE

In an attempt to prevent an abuse of the Great Writ (U.S.C. Const.Art. 1 § 9, cl. 2) under any other reason that justifies relief (Fed.R.Civ.Proc. 60 (b)(6)) to re-open judgement, Buck v. Davis, 137 S.Ct. 759, 777-780 (5th cir. 2017), since the ratification of the NOVEL June 23rd, 2022, landmark o

^a The acronym "ATEDPA" has the meaning ascribing the "Anti-Terrorism & Effective Death Penalty Act of 1996". The acronym "HC" has the meaning ascribing "Habeas Corpus".

^b Any citation(s) to the COMMON-LAW RECORD(S), eg., (C.), and REPORT-OF-PROCEEDING(S) eg., (R.) are incorporated-by-reference from dispositions of criminal case no. 2009-CF-1059, the principal case-in-chief.

^f Diamond Barnes' citizen(home) State of residence was in the State of Missouri: 3527 Sugarcrest Drive, Apt. F, Florissant (St. Louis), Missouri 63033.

^g Public Act 91-0690 received negative treatment in, Moore v. Madigan, 702 F.3d. 933, 936 (7th cir. 2012), Petition For Rehearing denied en banc

pinion of, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022), that federal law does not make criminal the accused public carriage of a licensed handgun (C. 112), concealed upon the person for self-defense (beyond the home), at 1104 W. 9th Street in Alton, Illinois. This "fundamental miscarriage of justice" [on "cause" of Illinois' unconstitutional blanket-ban on the carriage of fully-operable firearms in-public²], violated Diamond Barnes' 2nd Amendment Right(s) To Bear Arms in, People v. Barnes, 2012 WL (5th) 715539-U,

COUNT NO. 1: that was contrary to clearly established federal law; or

COUNT NO. 2: that involved an unreasonable application of clearly established federal law; or

COUNT NO. 3: was based on an unreasonable determination of the facts,

New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022), of the United States Supreme Court; when a conceal-carry licensee (C. 112), whose voluntary act(s) & omission(s) of imperfect self-defense, during the commission of a May 2nd, 2009, provoked homicide, were publicly committed "with[] lawful justification:.. In light of this new evidence (Exh. A)(Exh. B), proving that licensee Diamond Barnes "did not personally discharge a firearm", 720 ILCS § 5/2-15.5 (WEST 2024), that proximately-caused the death of Marcus Shannon, which was not presented at Diamond Barnes' 2010 trial, it is convincingly clear that it is "more-likely-than-not" that Diamond Barnes is "[f]actually innocent" (C. 112)³ to his conviction

by, 708 F.3d. 901, 934 (7th cir. 2013); thereafter ruled unconstitutional in, People v. Aguilar, 2013 IL 112116, ¶ 19.

& sentence of intentional 1st degree murder.

Fact(s) of Discussion

A) Upon a substantial showing to overcome ATEDPA's § 2244 one(1)-year statute-of-limitation(s) (doc. 1875)(doc. 1893)(dist doc. 1) on a [f]actual innocence plea of the denial to a Second(2nd) Amendment Constitutional Right To Bear Arms¹, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022), it is a debatable reason that justifies relief. Fed.R.Civ. Proc. 60(b)(6) (WEST 2023), to acknowledge that federal law no longer criminalizes the factual-predicate of Diamond Barnes as a conceal-carry licensee (C. 112) to bear arms "beyond the home" for self-defense.

1. Direct [appeal] review in criminal case no. 2009-CF-1059 "BECAME FINAL" (doc. 1875) on Friday, January 11th, 2013, when it was entered upon the docket of record. See, Fed.R.App.Proc. 36 (WEST 2024); Wilson v. Battles, 302 F.3d. 745, 746-748 (7th cir. 2002)(holding no. 1); See also, Illinois Supreme Court Rule 272 (WEST 2024), *infra.*, Price v. Philip Morris Inc., 2011 ILL APP (5th) 722749, 1-8; Williams v. BNSF R. Co., 2015 IL 117444, ¶ 12-52, respectively.
2. Collateral review in civil case no. 2013-MR-0168 knowingly "BECAME FINAL" (doc. 1893) on Wednesday, December 2nd, 2015, when it was entered upon the docket of record. See, Fed.R.App.Proc. 36 (WEST 2024); Wilson v. Battles, 302 F.3d. 745, 745-748 (7th cir. 2002)(holding no. 1); See also, Illinois Supreme Court Rule 272 (WEST 2024), *infra.*, Price v. Philip Morris Inc., 2011 ILL APP (5th) 722749, 1-8; Williams v. BNSF R. Co., 2015 IL 117444, ¶ 12-52.

3. Prior to Diamond Barnes seeking § 2254 Federal Habeas Corpus Relief for the first time (dist doc. 1-53) in the Southern District Court of Illinois for case no. 3:16-cv-0798-DRH-CJP, a § 5/116-3 Motion for Forensic Testing was a collateral appeal that knowingly "BECAME FINAL" (doc. 1880) on Thursday, November 19th, 2015, when it was entered upon the docket of record. See, Fed.R.App.Proc. 36 (WEST 2024); Wilson v. Battles, 302 F.3d. 745, 746-748 (7th cir. 2002), infra ., Price v. Philip Morris Inc., 2011 ILL APP (5th) 722749, 1-8; Williams v. BNSF R. Co., 2015 IL 117444, ¶ 12-52.

4. Seeking Rule 60(b)(6) relief to re-open judgement of a § 2254 Federal HC^a Suit on procedurally defaulted claims based on a showing of ACTUAL INNOCENCE, McQuiggen v. Perkins, 133 S.Ct. 1924, 1927-1932 (6th cir. 2013)(held, Escamilla v. Jungwirth, 426 F.3d. 868 [] (7th cir. 2005), abrogated ---

a) Diamond Barnes only cumulatively expended two hundred seventy-three (273) untolled days, pursuant to § 2244 one(1) year statute-of-limitation(s),

i. before timely-filing his first § 2254 Federal Habeas Corpus Application & Complaint (dist doc. 1), (doc. 1875)(doc. 1880)(doc. 1893), Carter v. Litscher, 275 F.3d. 663, 664-665 (7th cir. 2001), in the Southern District Court of Illinois; as

^h Eastridge v. United States, 371 F. Supp.2d. 33, 44-45 (D.C. cir. 2005)(holding nos. 1 & 2).

ii. binding-precedent herein controls a § 2254 HC^a Suit in the Seventh(7th) Circuit Court of Appeals, Wilson v. Battles, 302 F.3d. 745, 746-748 (7th cir. 2002)(holding, judgement from denial of Petition For Leave To Appeal (PLA) "BECAME FINAL" when "'entered' [upon the docket] of record").

b) The predicate-fact for seeking to re-open this judgement rests in the NOVEL landmark opinion of, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022);

i. on "cause" of this new rule of [criminal] procedure, Reed v. Ross, 104 S.Ct. 2901, 2906-2911 (4th cir. 1984);

ii. substantive rule change, Welch v. United States, 136 S.Ct. 1257, 1260-1268 (11th cir. 2016), that alters the class of persons that the law punishes "without lawful justification"; or

iii. narrows the scope of justifiable use-of-force w/ a firearm in public, that places conceal-carry licensees beyond the State's power to punish.

c) When June 23rd, 2022, was the date this constitutional right was ratified by the UNITED STATES SUPREME COURT in, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022), and

d) June 23rd, 2022, was the date on which the factual-predicate of these presented [constitutional] claim(s) would have been discovered through the exercise of due diligence.

5. Has resulted in a "fundamental miscarriage of justice", Davis v. United States, 94 S.Ct. 2298, 2302-2303 (9th cir. 1974);

a) to continue to punish act(s) & omission(s) that are no longer criminal, (C. 112)

6. Diamond Barnes' [f]actual innocence, Eastridge v. United States, 372 F. Supp.2d. 26, 33, 44-45 (D.C. cir. 2005), (Exh. A)³(Exh. B), (C. 112)

7. clearly shows evidence that Diamond Barnes' act(s) & omission(s) were committed "with[] lawful justification" (C. 112),

a) against the criminal law burden-of-proof, Thompson v. City of Louisville, 80 S.Ct. 624, 627 (6th cir. 1960).

8. He shall be entitled to make a showing of actual innocence, Bou sley v. United States, 118 S.Ct. 1604, 1614 (8th cir. 1998)(held, even if petitioner did procedurally default, he still shall be entitled to make a showing of actual innocence); on

9. the Second(2nd) Amendment Constitutional Right To Bear Arms "be yond the home"

a) for purpose(s) of a conceal-carry handgun licensee's (C. 112) imminent use-of-force in self-defense

i. Beard v. United States, 15 S.Ct. 962, 966 (8th cir. 1895);

ii. Brown v. United States, 41 S.Ct. 501, 501-502 (5th cir. 19

21).

10. Under any other reason that justifies relief, Fed.R.Civ.Proc. 60(b) (6)(WEST 2024), to re-open this judgement, Buck v. Davis, 137 S.Ct. 759, 777-780 (5th cir. 2017), it is "more likely than not", House v. Bell, 126 S.Ct. 2064, 2075 [2081-2082] (6th cir. 2006), that

a) new evidence of Illinois State Police (ISP) Forensic Scientist Susan Bolan's laboratory report(s) on latent-print impression(s) lifted from the criminal-agency were first discovered post-trial in fiscal year(s) 2013-2014,

i. from a Freedom of Information Act (FOIA) request to the Illinois State Police (ISP);

ii. whose laboratory result(s) were NOT SUITABLE FOR POSITIVE(+) IDENTIFICATION(S) of the accused perpetrator, Diamond Barnes (Exh. A);

b) new evidence of Illinois State Police (ISP) Forensic Scientist Scott Rochowicz's laboratory report(s) on gunshot residue (GSR) tracing(s) of the actual-shooter(s) were discovered post-trial in fiscal year(s) 2013-2014,

i. from a Freedom of Information Act (FOIA) request to the Illinois State Police (ISP);

ii. whose Electron Microscopy Scanning (EMS) result(s) were NOT SUITABLE FOR POSITIVE(+) IDENTIFICATION(S) of the accused perpetrator

tor, Diamond Barnes. (Exh. B). Bailey v. United States, 116 S.Ct. 501, 503, 507-508 (D.C. cir. 1995);

- c) this new evidence of a conceal-carry handgun license (C. 112) was not a live justiciable matter in-controversy at the October 25th, 2010 trial, whereby
- B) The factual-predicate extending the Second(2nd) Amendment Right To Bear Arms held in Bruen, 142 S.Ct. 2111, 2122, 2191 (2nd cir. 2022), could not have been previously discovered through the exercise of due diligence.
 - 1. The (cumulative set of) facts underlying these claims, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear-and-convincing evidence (C. 112) that, Coffin v. United States, 15 S.Ct. 394, 406-407 (7th cir. 1895), but for this Second(2nd) Amendment Constitutional error to bear arms "beyond the home" for self-defense, no reasonable judge would have found Diamond Barnes guilty of intentional 1st degree murder; whereby
 - a) on August 29th, 2007, the Virginia Beach Circuit Court issued a valid conceal-carry handgun license from the Commonwealth State of Virginia; and
 - b) on October 29th, 2010, the Third(3rd) Judicial Circuit Court of Madison County ACCEPTED this valid & enforceable handgun license, 5 ILCS § 100/1-35 (WEST 2024), for CONSIDERATION, under seal, from the Virginia Beach Circuit Court, located at 2425 Nimmo Parkway, Judicial Center Building 10B, Virginia Beach, Virginia 23456-9017;

c) "reckless" state-of-mind, 720 ILCS § 5/4-6 (WEST 2024); Francis v. Franklin, 105 S.Ct. 1965, 1972-1977 (11th cir. 1985), to this provoked homicide

d) is "[f]actually-innocent" to the conviction & sentence of 1st Degr ee Murder.

REASONS FOR GRANTING THE WRIT

Argument

I. A procedural § 2244 one(1)-year statute-of-limitation(s) ruling (Doc.1)(Doc. 1875)(Doc. 1893) governed by Federal Rule 36 of Appellate Procedure², properly vested this court with subject-matter jurisdiction over a Certificate of Appealability (COA) to equitably re-open this judgement (Doc. 90), Buck v. Davis, 137 S.Ct. 759, 777-780 (5th cir. 2017), in the Southern District Court of Illinois.

Standard of Review & Preservation

"DE NOVO"

Hohn v. United States, 118 S.Ct. 1969, 1971-1978 (8th cir. 1998)
Buck v. Davis, 137 S.Ct. 759, 777-780 (5th cir. 2017)

Constitutional Violation(s)

U.S.C. Const. Amend. 2

VA. Const.Art. 1 § 13; Ill. Const. 1970. Art. 1 § 22

Discussion

- c) license no. 2007-1687 has never been suspended, revoked, or prematurely terminated for just-cause;
- d) on October 29th, 2010, the right(s) to this conceal-carry handgun license became vested with credit in the Illinois judiciary;
- e) the vested-right(s) of license no. 2007-1687 survived its expiration date of August 29th, 2012;
- f) the Several-States' of Virginia and Illinois currently have "substantially-similar" firearm regulation(s), 20 Ill. Adm. Code § 1231.110(b) (WEST 2024);
- g) contrary to clearly established federal law, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd Cir. 2022).

2. Evidence in the Rule 60(b)(6) (WEST 2024) Motion To Re-Open Judgment of this § 2254 Federal HC Suit clearly shows that Petitioner Diamond Barnes

- a) did not personally discharge a firearm, 720 ILCS § 5/2-15.5 (WEST 2024), beyond a reasonable doubt, Alleyne v. United States, 133 S.Ct. 2151, 2155-2160 (4th Cir. 2013); Bailey v. United States, 116 S.Ct. 501, 503, 507-508 (D.C. Cir. 1995); and
- b) was not afforded an evidentiary hearing, In Re Davis, 130 S.Ct. 1, 1 (11th Cir. 2009); when these facts prove his

ication & Complaint (Doc. 1), Carter v. Litscher, 275 F.3d. 663, 664-665 (7th cir. 2001), in the Southern District Court of Illinois on July 14th, 2016; as

ii. binding precedent herein controls a § 2254 Federal Habeas Corpus Suit in the Seventh(7th) Circuit Court of Appeals, Wilson v. Battles, 302 F.3d. 745, 746-748 (7th cir. 2002)(holding, judgement from denial of Petition For Leave To Appeal (PLA) "BECA ME FINAL" when "'entered' [upon the docket] of record").

A, Petitioner Diamond Barnes has shown a substantial denial of a Second(2nd) Amendment Constitutional Right.

1. Petitioner Diamond Barnes is a conceal-carry handgun licensee (C. 112), verified by court record(s);
2. who lawfully owned, registered, & licensed a 9MM Taurus 24/7 P/T Pro Semiautomatic Firearm (Serial No. 73982);
3. of court record(s), originating from the Commonwealth State of Virginia, c/o the Virginia Beach Circuit Court
4. vested by handgun conceal-carry licensee/permit no. 2007-1687 (C. 112);
5. whose liberty-interest(s) conferred an individual-right to keep & bear arms, District of Columbia v. Heller, 128 S.Ct. 2783, 2797-2804 (D.C. cir. 2008);

1. Upon a substantial showing to overcome § 2244's [] one(1)-year statute-of-limitation(s) ruling (Doc. 1875)(Doc. 1893)(Doc. 1) on a [f]actual innocence plea of the denial to a Second(2nd) Amendment Constitutional Right To Bear Arms, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022), it is debatable that federal law no longer criminalizes the factual predicate of Diamond Barnes as a conceal-carry licensee (C. 112) to bear arms "beyond the home" in case(s) of public confrontation(s).

a) Direct [appeal] review in criminal case no. 2009-CF-1059 "BECAME FINAL" (Doc. 1875) on Friday, January 11th, 2013, when it was entered upon the docket of record.²

b) Collateral review in civil case no. 2013-MR-0168 "BECAME FINAL" (Doc. 1893) on Wednesday, December 2nd, 2015, when it was entered upon the docket of record.²

2. Seeking a CERTIFICATE OF APPEALABILITY (COA) in a "Rule 60(b)(6) Motion To Re-Open Judgement (Doc. 90), Buck v. Davis, 137 S.Ct. 759, 777-780 (5th cir. 2017), from equitable § 2254 Federal Habeas Corpus relief on consideration of procedurally-defaulted claims based on a showing of ACTUAL INNOCENCE, McQuiggen v. Perkins, 133 S.Ct. 1924, 1927-1932 (6th cir. 2013)(held, Escamilla v. Jungwirth, 426 F.3d. 868 [] (7th cir. 2001), abrogated) ---

a) cumulatively expending only two hundred seventy-three (273) unfiled days

i. before timely-filing his 1st § 2254 Federal Habeas Corpus Appl

B. It is debatable to any reasonable jurist(s) that Petitioner Barnes, as a Virginian conceal-carry licensee (C. 112), has a constitutional right to bear arms "beyond the home", New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022).

1. On Saturday, May 2nd, 2009, Petitioner Diamond Barnes' voluntary act(s) & omission(s) were committed "with[] lawful justification" (C. 112); however
2. it is debatable whether a public homicide committed with this firearm could be justified "beyond the home", prior to the June 23rd, 2022 pronouncement of the United States Supreme Court opinion of, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022);
3. which collaterally affected this use-of-force case during a public confrontation.
4. New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022), extended this constitutionally-protected Second(2nd) Amendment Right To Bear Arms "beyond' the home";
5. while reasonable jurist(s) continues to debate Petitioner Barnes' imperfect act(s) of self-defense that led to the demise of the perpetrator, Marcus Shannon, during this provoked homicide
6. to the detriment of the exculpatory fact(s) of Petitioner Diamond Barnes' case.

6. as-applied to the Several-States, McDonald v. City of Chicago, 130 S. Ct. 3020, 3046-3048 (7th cir. 2010), of
 - a) Virginia (VA. Const.Art. 1 § 13) and
 - b) Illinois (Ill. Const. 1970. Art. 1 § 22);
7. w/ reciprocity condition(s), VA Code Ann. § 18.2-308.014(A) (WEST 2024),
8. exclusive between these 2 States that have "substantially similar" firearms regulations, 20 Ill. Adm. Code § 1231.110(b) (WEST 2024);
9. extending "beyond the home", New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022); for
10. this use-of-force case during a public confrontation, Moore v. Madigan, 702 F.3d. 933, 936 (7th cir. 2012), Petition For Rehearing denied en banc by, 708 F.3d. 901, at 934 (7th cir. 2013);
11. to justify the act(s) of a provoked homicide against the deceased initial-aggressor[], Marcus Shannon,
12. that was committed "with[] lawful justification" (C. 112);
13. upon the curtilage, and within another's home, at 1104 W. 9th Street in Alton, Illinois,
14. on Saturday, May 2nd, 2009.

C. Deserves encouragement to proceed further in the Seventh(7th) Circuit Court of Appeals.

1. On or about October 2007, Petitioner Diamond Barnes lawfully purchased ownership of a 9MM Taurus 24/7 P/T Pro Semiautomatic Firearm from a Bass Pro Shop, located in St. Charles, Missouri.
2. Said firearm is lawfully registered in the State of Missouri;
3. on August 29th, 2007, a conceal-carry handgun licensee was issued for this 9MM Taurus Semiautomatic Firearm that was used during the commission of this alleged offense
4. was lawfully licensed, under seal, in the Commonwealth State of Virginia as permit no. 2007-1687 in the Virginia Beach Circuit Court.
5. Until present-day, the choice-of-law provision applicable to the obligatory execution of this conceal-carry handgun license/permit no. 2007-1687 is exclusively controlled by the substantive-law(s) of the Commonwealth State of Virginia.

CONCLUSION

Petitioner Diamond Barnes respectfully prays that this court issue(s) this CERTIFICATE OF APPEALABILITY on a Rule 60(b)(6) Motion To Re-Open Judgement (Doc. 90) of a timely-filed § 2254 HC Suit (Doc. 1) that was pre-judicially dismissed on "cause" of an erroneous § 2244 one(1) year statute-of-limitation(s) ruling (Doc. 35), per Wilson v. Battles, 302 F.3d. 745, 746-748 (7th cir. 2002)(holding, judgement from the denial of Petit

ion For Leave To Appeal (PLA) "BECAME FINAL" when "'entered' [upon the docket] of record"). See, (Doc. 1)(Doc. 1875)(Doc. 1893).

Succinctly, it is clear-and-convincing that Petitioner Barnes has substantially shown a Second(2nd) Amendment Constitutional Right of this handgun licensee (C. 112) to bear arms "beyond the home", pursuant to the June 23rd, 2022, NOVEL landmark opinion of the United States Supreme Court announced in, New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022); reasonably debates the issuance of this Writ of Certiorari, Hohn v. U.S., 118 S.Ct. 1969, 1971, 1978 (8th cir. 1998), on whether:

- I. A procedural § 2244 one(1)-year statute-of-limitation(s) ruling (Doc. 1)(Doc. 1875)(Doc. 1893) governed by Federal Rule 36 of Appellate Procedure², properly vested this court with subject-matter jurisdiction over a Certificate of Appealability (COA) to equitable re-open this judgement (Doc. 90), Buck v. Davis, 137 S.Ct. 759, 777-780 (5th cir. 2017), in the Southern District Court of Illinois;
- A. Petitioner Diamond Barnes has shown a substantial denial of a Second(2nd) Amendment Constitutional Right;
- B. It is debatable to any reasonable jurist(s) that Petitioner Barnes, as a Virginian conceal-carry licensee (C. 112), has a constitutional right to bear arms "beyond the home", New York State Pistol & Rifle Association v. Bruen, 142 S.Ct. 2111, 2122-2191 (2nd cir. 2022); and
- C. Deserves encouragement to proceed further in the Seventh(7th) Circuit Court of Appeals.

that this novel Second(2nd) Amendment Right To Bear Arms has been unreasonably has been unreasonably denied amongst jurist(s) of reason in the Seventh(7th) Circuit Court of Appeals.

I certify, under penalty of perjury, 28 USC § 1746(2) (WEST 2024), that the foregoing is true and correct.

Executed on December 27th, 2023