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No.

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OFFICE OF THE CLERK
SUPREME COURT U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Jason Robles

(Your Name)

— PETITIONER

VS.

WARDEN,
Williams Ridge State Prison.

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF VIRGINIA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jason Robles

(Your Name)

VA OSC
Centralized Distribution Center 3521 Norwalk way
(Address)

State farm, VA 23160

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

(1) Whether should prevail, The Constitution of the United States of America, coupled with the Constitution of Virginia, or the Antiterrorism and Effective Death penalty Act (AEDPA)?

(2) Allowance of Equitable Time for Pro Se litigants, should not be to the strenuous application of the Antiterrorism and Effective Death Penalty Act statute if there is a hinderance not by a litigants own conduct, and has substantial claim(s) that should have been looked at?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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:

RELATED CASES

Commonwealth v. Jason Robles, No. CR1158-1173 Circuit court Newport News Virginia. judgement entered Feb. 13, 2018

Jason Robles v. WARDEN, No. 201203 Supreme Court of Virginia. judgement entered Dec. 20, 2021

Jason Robles v. WARDEN, No. 1:22-cv-00720 (PTG/IDD) United States District Court For The Eastern District of Virginia. judgement entered May 31, 2023

Jason Robles v. WARDEN, No. 1:22-cv-720 (PTG/IDD) United States District Court for the Eastern District of Virginia. Order entered July 19, 2023

Jason Robles v. WARDEN, No. 23-66667 United States Court of Appeals for the Fourth Circuit. Decided: February 9, 2024

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TABLE OF AUTHORITIES CITED

CASES

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Murray, *supra*, at 488, 106 S.Ct. 2639, 91 L.Ed.2d 397

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STATUTES AND RULES

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OTHER

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 A 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 United States district court appears at Appendix B to the petition and is

[] reported at _____; 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 February 9, 2024.

☐ 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: April 9, 2024, and a copy of the order denying rehearing appears at Appendix C.

☐ 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).

☐ 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

THE CONSTITUTION OF THE UNITED STATES OF AMERICA: Article One, Section 9, Clause 2; The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

AMENDMENTS TO THE CONSTITUTION: Amendment 1 [1791] Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

VIRGINIA CONSTITUTION: Article 1, Section 9, "The prohibition of the suspension of the right to habeas corpus."

2244 (d)(1)(A) - (D); Under the AEDPA, a petition for a writ of habeas corpus must be dismissed if filed later than one year after: (1) the judgment becomes final by the conclusion of direct review or the expiration of the time for seeking such review; (2) any state-created impediment to filing a petition is removed; (3) the U.S. Supreme Court recognizes the constitutional right asserted; or (4) the factual predicate of the claim could have been discovered with due diligence.

STATEMENT OF THE CASE

On February 15, 2018 Jason Robles after a 3 day trial, without any physical evidence, one impeachable eyewitness, another who could not corroborate to prove beyond a reasonable doubt of guilt as guaranteed by the constitution and counsel failing to put on a defence, was ultimately convicted of 13 felonies; 2nd degree murder, 1x abduction, malicious wounding, 6 gun charges in commission of, and shooting in occupied dwelling, and sentenced the same day to 138 years without any time suspended nor concurrent. Trial counsel acting as appeals counsel appealed consecutively to the courts, only raising the argument of the petitioner right to speedy trial being violated. With that being denied (consecutively). Counsel appealed the same argument to the Supreme court of Virginia which was also denied. 364 days later petitioner filed a habeas Corpus in the Supreme court of Virginia raising substantial claims of ineffective assistance of trial counsel, Prosecutorial misconduct, and perfected the violation of speedy trial. Petitioner's habeas was denied on procedural default but the courts never answered speedy trial claim. Petitioner then filed petition in federal court stating the hindrance by counsel in state court that ultimately hindered filing in federal court, and invoke the Martinez rule on the procedural default but was denied for untimely filing pursuant to AEDPA statute. Petitioner appealed and applied for COA but was again was denied stating the same.

Now petitioner seeks the Writ of Certiorari with hope that justice will be given for a prose litigant who at every turn is being denied his right to prove his innocence and remedy the courts violations of the petitioner Constitutional rights and correct an inequitable statute.

REASONS FOR GRANTING THE PETITION

Redress of Grievance

I Jason Robles, Aver that I am a Constitutional Citizen and rely wholly on the Constitution of the United States of America in this statement of the case. I Jason Robles at every turn in my habeas Corpus proceedings from state to federal, have been denied the opportunity to be heard of my substantial claims: Due Process, Assistance of Trial Counsel, Equal Protection of the Constitution of America, Due to a statute abridging my Constitutionally protected rights.

This statute is the AEDPA (see Appendix B p. 8, Section 3) the courts presume govern My Habeas Corpus Petition. The Authority of the habeas is given without abridging thereof, by the United States Constitution, Article 1, Section 9, Clause 2 and the Virginia Constitution. The AEDPA abridges, by Diminishing and or shortening in duration or extent, my right to petition/Redress the gov.

As provided by the Const. of USA, Article 1, Section 9, clause 2 and VA Const. Article 1, sec. 9, both prohibit the suspension of the habeas, Coupled with the first Amendment [1791] Congress shall make no law respecting an establishment of religion, or prohibit the free exercise thereof; or Abridging the freedom of speech, or press, or the Right of the people to assemble and to petition the gov. for redress of grievance.

Equitable Tolling for Pro Se litigants.

I Jason Robles, Aver that in no way, willingly, knowingly, or Voluntarily, relinquished my protected Constitutional rights, neither has any court during my habeas Corpus proceedings gave proper notice.

[Although] Equitable Tolling requires elements of a two prong test be satisfied in order to qualify. (1) Petitioner must demonstrate that he has been pursuing his rights diligently, and (2) some extraordinary circumstances stood in his way, and prevented timely filing. Although in collateral proceedings the constitutional right to effective assistance is not guaranteed, counsel conduct can amount too constitutionally ineffective assistance and is therefore external to the petitioner's own conduct, Murray, supra, at 488, 106 S. Ct. 2639, 91 L. Ed. 2d 397, and is then

REASONS FOR GRANTING THE PETITION (continued..)

considered by the courts as an extraordinary circumstances and would be unconscionable to enforce the limitation period, so gross injustice would result. see, *Green v. Johnson*, 515 F.3d 290, 304. Coupled with the fact on record that the petitioner has not then nor now have had physical access to the law library at petitioners current locale at Wallen Ridge State Prison (Appendix E).

The Courts abuse of discretion in its ruling of Equitable Tolling (2) is too strenuous for a incarcerated indigent pro se litigant, Upon showing of due diligence and there being a hindrance by counsel in state court. Given the fact that the time allotted runs concurrent (state and federal). It should (the Hindrance in state court) apply to federal as well and therefore, that time tolled.

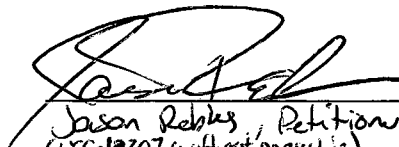
The District Court's abused its discretion: (1) by construing my motion for injunction of my petition, as a motion to alter or amend a judgement pursuant to Federal rule of civil procedure 59(e) (Appendix D). Judgement was entered 5/31/2023 (Appendix B). My motion for injunction (due to new evidence, was entered and considered filed by mailbox rule on 5/22/2023 (Appendix E), thus petition should have amended. (2) The Court ruled that my filing was not hindered because I didn't pay for counsel to file my petition. This couldn't be further from the truth, counsel was not paid to file because he failed to provide "counsel", for what he was originally paid for and what we had agreed to. see, Motion for injunction Appendix E. Counsel actions or lack thereof hindered my filing to the day allowed (364 day) in state and federal alike. From the conclusion of direct review, was the decision of the Virginia supreme court on September 24, 2019 and The Habeas Corpus was filed in the Supreme court on September 23, 2020. (Appendix G).

The court ruled that 90 days was left to file not 1 day as I argue, the abridging statute AEDPA dismisses a habeas Corpus if filed later than one year after (1) the judgement becomes final by the conclusion of a direct review or the expiration of the time for seeking such review. If 90 days is to apply the the statute should amend to give pro se incarcerated litigants notice. Until then, the strenuous application of the AEDPA should amend to allow the weight off of a incarcerated pro se litigant and the opportunity to be heard for a substantial claim of Constitutional violation(s) without the abridgment of the right of the writ of habeas Corpus to redress for remedy the government.

CONCLUSION

For the reasons stated herein and by the constitutional abridgment of the statute AEDPA you petitioner pray that today
The petition for a writ of certiorari should be granted.

Respectfully submitted,


Jason Reboles, Petitioner pro se
(UCC-1207 without prejudice)

Date: May 30, 2024