No. _____

_____

In the

Supreme court of the United States

Angela Dawn Miller – Petitioner

vs.

Patrick Morrisey, Attorney General

STATE OF WEST VIRGINIA – RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

THE SUPREME COURT OF THE UNITED STATES

***Pro Se* Petitioner:**
Angela Dawn Miller
3354250/A-13
Lakin Correctional Center & Jail
11264 Ohio River Road
West Columbia, WV 25287

QUESTIONS

I. Does lack of meaningful appellate review of sufficiency of evidence as determined by a footnote in a direct appeal opinion violate due process clause and equal protection clause of the Fourteenth Amendment and the to the following stated in the direct appeal opinion in footnote 31:

> "Before concluding this case, we feel compelled to comment on the failure of the defendant to designate as a formal assignment of error the insufficiency of the evidence at least to first degree murder. While this allegation appears throughout the defendant's brief, it was used only as an introduction and led into other assignments of error. The defendant and her counsel have the discretion, if not the right, to limit the number and scope of issues presented on appeal, and, therefore, we will not interfere with that decision. See Jones v. Barnes, 463 U.S. 745, 103 S. Ct. 3308, 77 L. Ed. 2d 987 (1983); Whitt v. Holland, 176 W. Va. 324, 342 S.E.2d 292 (1986). We note, however, that the issue of insufficiency of the evidence is of a constitutional dimension and can be raised for the first time in a state petition for habeas corpus. See Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979); State v. Guthrie, supra."

which has not been acted upon since it was written in 1996 not excuse the procedural fault of timeliness especially when Petitioner has an IQ in the 80s[1] and a GED (petitioner only completed the 5th grade) that does not allow for her compile the necessary documents and write a habeas petition without appointed counsel in violation of the Sixth Amendment of the United States Constitution?

II. Can a structural error in violation of the Sixth Amendment of the United States Constitution – (1) no evaluation after a suicide attempt before trial and (2) ineffective

[1] Petitioner has taken an IQ test – all Wechsler Intelligence Scale – three times and all of the results have scored in the 80s – dull normal intelligence.

trial counsel of presenting such - be assuaged just because time has gone by in violation of the Sixth Amendment of the United States Constitution?

III. Does equal protection under the law in the Fourteenth Amendment not mean that a women who has life without parole in a State where life without is the highest punishment shouldn't have the same access to legal counsel as an inmate in a state where capital punishment is legal in violation of the Sixth Amendment of the United States Constitution?

IV. Can a circuit court when provided evidence of a juror answering falsely in voir dire dismiss the claim for relief without investigating the information and by stating the incarcerated individual did not provide an address of the juror in question or formal proof of her familial relationship in violation of the due process clause of the Fifth, Sixth, and Fourteenth Amendments?

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:

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Table of Authorities

Cases

Treatises

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:

Not applicable for cases from Federal courts.

For cases from State Courts:

The opinion of the highest state court to review the merits is:

____X____ United States Court of Appeals for the Fourth Circuit – No. 22-7180 (unpublished)

Mandate Issued November 1, 2023 – See Exhibit A

Submitted: June 22, 2023 Decided: June 26, 2023

Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus dismissed based on Petitioner not making the requisite showing to waive the procedural timeliness requirement.

_____ has been designated for publication but is not yet reported; or,

_____ is unpublished.

The opinion of the Supreme Court of West Virginia rendered in this case:

__X____ reported at State v. Miller, 197 W. Va. 588, 476 S.E.2d 535, 1996 W. Va. LEXIS 69 (June 14, 1996), Miller v. Nohe, 2015 W. Va. LEXIS 555, 2015 WL 1740514 (W. Va., Apr. 13, 2015), and Miller v. Sallaz, 2020 W. Va. LEXIS 338, 2020 WL 2904844 (W. Va., June 3, 2020)

_____ has been designated for publication but is not yet reported; or,

_____ is unpublished.

Jurisdiction

For cases from the federal courts:

Not applicable for cases from federal courts.

For cases from state courts:

The date on which the United States Court of Appeals for the Fourth Circuit filed the Mandate was November 1, 2023. It was received at the facility November 3, 2023. Starting calculation on November 4, 2023, 90 days would be February 2, 2024.

The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a).

Constitutional and Statutory Provisions Involved

Petitioner asserts the State of West Virginia has violated her rights under the Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution with respect to due process, equal protection and specifically a fair trial and ineffective assistance of legal counsel when habeas petitions have been dismissed based on Petitioner not making the requisite showing to waive the procedural timeliness requirement. Merits of the evidentiary question of satisfaction of the element of premeditation, ineffective trial, appellate, and habeas counsel, and juror nullification have not had meaningful appellate review due to the "timeliness".

Statement of Case

Procedural History

A. Factual and Procedural Background as stated in State v. Miller, 197 W. Va. 588, 476 S.E.2d 535, 1996 W. Va. LEXIS 69 (June 14, 1996), Justice Franklin Cleckley authored the opinion:

We supply a thumbnail sketch of the relevant facts. During the early hours of October 9, 1993, the defendant shot and killed Jerry White outside a bar known as Tucky's located in Wyoming County. The defendant does not deny shooting the victim; however, she states she cannot remember the shooting because at the time of the incident she was intoxicated and had taken several Valiums. At trial, the defendant claimed the facts did not warrant a conviction of first degree murder because the State failed to demonstrate the requisite mental state of premeditation. In the alternative, the defendant offered evidence that she acted in defense of herself and/or others when she shot the victim. There were numerous witnesses who testified at trial as to the events that transpired. The accounts given by these witness and by the defendant, who also testified at trial, often conflicted with one another. The following is a summary of the relevant facts.

During the afternoon of October 8, 1993, the defendant joined several others at her parent's house to assemble a water bed. One of the individuals helping assemble the bed was Tina Reed, the defendant's roommate and alleged homosexual partner. Also helping with the assembly of the bed was the defendant's father, Billy Miller, and a friend, Danny Little. While working on the bed, the group began drinking beer.

Later that evening, the group went to the house of the defendant's sister and brother-in-law, Tina and Timothy Church. Before leaving her parent's house, however, the defendant took a .38 revolver and stuck it in her pants. Mr. Miller also had a 9 millimeter weapon with him at the Church's house. Mrs. Church claimed the defendant was drunk when she arrived at the Church's house. The group continued to consume beer at that residence, and both the defendant and Ms. Reed testified the two of them took a few Valiums throughout the course of the evening.

While at the Church house, Mr. Miller mentioned a couple of times that he would like to go to Tucky's bar. Believing the group was too drunk to drive, Mr. Church drove the defendant, Ms. Reed, Mr. Miller, and Mr. Little to Tucky's at approximately 1:00 a.m. on October 9, 1993. Mr. Church stated that once they arrived at the bar the defendant said she did not want to go into the bar because "there was too many people that didn't like her that hung around Tucky's and that's the reason she didn't want to go." According to Mr. Church, Mr. Miller assured the defendant nothing would happen if she stayed with him. The group then proceeded into the bar and sat down.

Once inside the bar, Ms. Reed apparently noticed the victim whom she had dated for almost three months approximately two and one-half to three years ago. The events described by the various witnesses from this point forward often conflict, and many of the witnesses admit they were drinking. The owner of the bar, Juanita "Tucky" Hughes, testified she saw Ms. Reed and the defendant approach the victim and Ms. Reed tell the victim that the defendant and she were married and he should leave her "'the hell alone.'" According to Ms. Hughes, the victim

turned in response and told Ms. Reed that he was not bothering her and she should "'get out of [his] face.'" Ms. Hughes also told the police the victim called Ms. Reed a bitch. Ms. Hughes said she saw the defendant had a gun and, after the defendant went to the front door, Ms. Hughes forced her outside. The victim then departed from the bar and told Ms. Hughes he was leaving because he did not want any trouble. She did not see any altercations between the victim and anyone until she heard the gunshots and saw the victim fall to the ground.

Another version of the events came from Benny Alan Mills. Mr. Mills, who is a second or third cousin to the victim, said the defendant and Mr. Miller talked with the victim for about thirty or forty minutes in what appeared to be a friendly conversation and then the victim told Mr. Mills he was "going outside [to] smoke a joint with them[.]" About thirty seconds to a minute later, Mr. Mills stated he "heard a ruckus in the back of bar," so he went to see what was happening. When Mr. Mills got there, the victim told him that Mr. Miller "sucker punched [him] in the side of the head." Mr. Mills claimed he told the victim to take Mr. Miller outside and "whip his ass[.]" The victim, Mr. Mills, and a group of people exited the bar, and Mr. Mills informed the victim he "would watch his back." Mr. Miller and the victim were "wrestling" in preparation to fight when the defendant attempted to break them up. The defendant was shoved down in the process and fired the gun five times killing the victim. Mr. Mills stated he kicked the defendant in the head after she shot the gun and someone grabbed the gun out of her hand and threw it across the parking lot.

Several witnesses had other variations of the events. Some witnesses said the victim and Mr. Miller had an argument inside the bar. One witness said Mr. Miller attempted to start a fight,

the victim swung at Mr. Miller and missed, and the victim agreed to leave the bar to prevent trouble. Another witness said that, when the victim was leaving, Ms. Reed said something to him about the defendant and the victim "barely shoved" Ms. Reed out of his way and told Ms. Reed "to keep her G.D. lesbian friend out of his face." Still a further witness described the victim as punching Mr. Miller and back-handing Ms. Reed. One witness who saw the defendant shoot the gun said the defendant continued to pull the trigger after the gun was empty.

Ms. Reed testified at trial that she saw the victim, the defendant, and Mr. Miller arguing when she went outside. Ms. Reed stated she told the victim to leave the defendant "the F alone" and it was then that the victim punched Ms. Reed on the left side of her forehead with his fist. She claimed she "was knocked out" and the next thing she knew was Mr. Church was trying to get her in the car when she heard a shot and she took off up the road. Mr. Church also said Ms. Reed was hit so hard that she flew five or six feet out of his arms and, although he did not see who actually hit her, he said the victim was the only person standing near Ms. Reed.

Roger Mullins, who also was at the scene, stated the victim hit Ms. Reed and then turned toward the defendant and Mr. Miller and "somebody threw something or [Mr. Miller] . . . threw his arms up like he was defending hisself, . . . and that's when I started hearing the shots being fired . . . and I seen [the defendant] and then I realized who was firing." When the shots were fired, Mr. Mullins said Ms. Reed was on the ground while the defendant was standing beside her father.

The defendant testified that she remembered getting a gun from her father's house, but she said she did not check to see if it was loaded. She also recalled drinking, taking some Valiums, sitting at a table in Tucky's, going up to the area where her father and the victim were

talking inside the bar, the victim's giving Ms. Reed an "evil look," and various other miscellaneous events that occurred prior to the killing. She stated she did not remember leaving Tucky's and she had no independent recollection of the actual shooting. However, she said she recalled her father shook her after the incident and told her she shot the victim. The defendant claimed she was scared after her father told her what had happened, so she and Ms. Reed took off running.

The defendant testified she and Ms. Reed ran across a bridge and hid under a porch for a while. According to the defendant, the two then walked up some railroad tracks and ended up at the house of Clyde Graham, who worked for the Wyoming County Sheriff's Department. Mr. Graham's wife is a distant cousin of Ms. Reed. Mr. Graham said they arrived at his house between 3:00 and 4:00 a.m. The defendant and Ms. Reed asked if they could use the phone, and Mr. Graham told them the deputies were searching for them. The defendant called her sister and told her to have her parents meet them at the jail. A little after 4:00 a.m., Randy Brooks of the Wyoming County Sheriff's Department learned the defendant and Ms. Reed were at Mr. Graham's house. Mr. Brooks went to the house and transported the women to the Wyoming County Jail. Mr. Brooks testified the defendant was coherent and did not appear to be intoxicated.

The victim died at the scene. Medical evidence demonstrated the victim was shot four times of which only one of the wounds would not have been fatal. An autopsy revealed the victim had a blood alcohol content of .13 percent and alcohol urine content of .30 percent. The victim also had evidence of some marijuana use in his blood stream.

There is no indication in the record that the defendant knew the victim was at Tucky's prior to her seeing him in the bar. The victim was not a regular patron of Tucky's, and he had not been there for several months. Moreover, the defendant did not drive himself to the bar, so his vehicle would not have been detected in the parking lot before the defendant entered the establishment. The defendant testified she did not even personally know the victim and had never had a conversation with him. The defendant stated she only heard about the victim's reputation from Ms. Reed and others and what she heard scared her.

The defendant claimed that, when she and Ms. Reed first started their relationship, Ms. Reed told her the victim said he "would get the blonde-headed bitch that lived with her." The defendant further asserted that Ms. Reed informed her the victim used to beat women, including Ms. Reed. The defendant denied being jealous of the victim. Ms. Reed testified the victim smacked and punched her while they were dating and the victim had a reputation for drinking and fighting. Ms. Reed stated that, shortly after she and the defendant began their relationship, the victim told her "he hated the blonde-headed bitch and he would get her, he would get even with both of us." Ms. Reed claimed she knew there would be trouble at the bar by the look in the victim's eyes.

B. [1]First habeas corpus petition (Case No. 01-C-151) and{2022 U.S. Dist. LEXIS 5} appeal (Case No. 032517).

Following the SCAWV's 1996 opinion affirming her conviction, Petitioner did not further challenge her conviction and sentence until August 21, 2001, when by new counsel, James B. Billings, (T***his was incorrect from the District Court – James B. Billings was appellate counsel***

[1] Taken from Miller v J.D. Sallaz, Superintendent, Lakin Corr. Ctr., 2022 U.S. Dist. Lexis 160701 (2022) United States District Court of the Fourth Circuit, Beckley Division

as well. ***He waited five years to file the petition for habeas corpus even after Justice Cleckley wrote footnote 31 (see Question 1) stating there was not evidence as to first degree murder.) (text added)*** she filed an Omnibus Petition for Writ of Habeas Corpus in the Circuit Court of Wyoming County (Case No. 01-C-151) ("first petition"). (ECF No. 10, Ex. 3). That petition raised 25 grounds for relief, including: (1) insufficient indictment; (2) improper indictment; (3) prejudicial pretrial publicity; (4) denial of right to speedy trial; (5) denial of counsel of choice; (6) incompetence at time of crime; (7) not allowed to knowingly participate in defense; (8) suppression of exculpatory evidence during grand jury proceedings; (9) state's use of perjured testimony; (10) denial of preliminary hearing; (11) irregularities or errors in arraignment; (12) composition of grand jury; (13) defects in indictment; (14) improper venue (which is really a challenge based on pretrial publicity and alleged bias concerning Petitioner's homosexual lifestyle); (15) pre-indictment delay; (16) refusal to allow witnesses of Petitioner's choice/exclusion of expert medical evidence; (17) constitutional {2022 U.S. Dist. LEXIS 6} errors in evidentiary rulings; (18) improper jury instructions; (19) prejudicial statements to the jury by the prosecution; (20) absenteeism of Petitioner during critical portions of the criminal trial; (21) improper communications with jurors; (22) excessive sentence; (23) improper admission of witness statements; (24) instructional error concerning self-defense instruction; and (25) ineffective assistance of counsel (which contained 57 sub-parts). (Ex. 3 at 2-20).

On February 15, 2002, the circuit court denied and dismissed, with prejudice, all grounds raised in the first petition except for Petitioner's claim concerning improper communication with the jurors. (ECF No. 10, Ex. 4). After an evidentiary hearing, the circuit court fully denied Petitioner's first habeas corpus petition on July 19, 2002. (ECF No. 10, Ex. 5). ***The circuit court listed as evidence of first degree murder the following:***

> ***There was evidence produced that Petitioner shot five shots outside the bar, four of which entered the victim. There was also evidence that Petitioner attempted to pull the gun out within the bar, before she and the rest of those involved were thrown out. One witness stated that upon telling Petitioner that she might have killed Jerry White just after the shooting, Petitioner replied, "Well I hope I did." None of this is evidence of premeditation. (text added)***

On August 1, 2002, Petitioner filed a Notice of Intent to Appeal and perfected the appeal on or about November 19, 2003 (Case No. 032517). (ECF No. 10, Exs. 6 and 7). The SCAWV **refused the petition** (*emphasis added*) for appeal on February 25, 2004. (ECF No. 10, Ex. 8).

C. Second habeas corpus petition (Case No. 040815).

On April 29, 2004, Petitioner filed a pro se Petition for Writ of{2022 U.S. Dist. LEXIS 7} Habeas Corpus in the SCAWV under its original jurisdiction (Case No. 040815) ("second petition"). (ECF No. 10, Ex. 9). The second petition reasserted Petitioner's claims concerning the sufficiency of evidence to support first degree murder, the suppression of exculpatory evidence (including expert testimony of the effects of alcohol on the ability to premeditate and deliberate), and prejudicial comments by the court. (Id.)

On or about August 26, 2004, Petitioner filed an Amendment to Writ of Habeas Corpus in which she asserted that, on May 10, 2004, she received a message from Linda Farren ("Farren"), one of her trial jurors, who allegedly advised her that she did "not vote guilty" and that the "judge sent a message to the jury deliberation room saying that whoever voted not guilty had better vote guilty or he (Judge Hrko) would say that they voted guilty himself because he didn't want to sequester the jury for the weekend[.]" (ECF No. 10, Ex. 10 at 1). However, Petitioner provided no affidavit

from Farren or any other information verifying this allegation or even proving that Farren had contacted her. (Id. at 1-2). On September 30, 2004, the SCAWV summarily refused the writ prayed{2022 U.S. Dist. LEXIS 8} for by Petitioner. (ECF No. 10, Ex. 11).

D. Third habeas corpus petition (Case No. 04-C-320).

On December 2, 2004, Petitioner filed a pro se Petition for Writ of Habeas Corpus in the Circuit Court of Wyoming County ("third petition"), which was assigned Case No. 04-C-320. (ECF No. 10, Ex. 1 at 4 and Ex. 12). The third petition repeated some of Petitioner's claims concerning ineffective assistance of trial counsel, excessive sentence, and exclusion of expert evidence, and further relied on new medical evidence indicating that Petitioner suffered from a brain abnormality ("arteriovenous malformation" or "AVM"), which she claimed demonstrated that she lacked the requisite mental state for first degree murder at the time of the crime. (ECF No. 10, Ex. 1 at 4-5 and Ex. 12 at 2-4). That petition did not appear to address any juror misconduct. The circuit court summarily denied the third petition on March 17, 2005, specifically finding that the new medical evidence did not satisfy the requirements for granting a new trial and that Petitioner's other claims had been previously and finally adjudicated. (ECF No. 10, Ex. 12 at 4).

E. Subsequent filings in Criminal Case No. 94-F-18.

On July 27, 2007,{2022 U.S. Dist. LEXIS 9} Petitioner filed a pro se motion for appointment of counsel for the purpose of filing yet another habeas corpus petition. However, the circuit court denied that motion on August 2, 2007. (ECF No. 10, Ex. 1 at 5-6).4 Then, on January 29, 2008, Petitioner filed an untimely pro se motion for reduction of sentence under West Virginia Rule of Criminal Procedure 35(b), which was denied by the circuit court on January 31, 2008. (ECF No. 10, Ex. 1 at 6).

F. Subsequent filings in Civil Case No. 04-C-320 (fourth and fifth habeas corpus petitions).

On July 17, 2009, Petitioner filed a pro se Petition for Writ of Mandamus seeking various documents for use in preparing another habeas corpus petition. (ECF No. 10, Ex. 13). On February 5, 2010, the circuit court (by Circuit Judge Warren R. McGraw) treated the mandamus petition as a motion for appointment of counsel and appointed Lela D. Walker ("Walker") as counsel for the purpose of investigating and filing a new habeas corpus petition on Petitioner's behalf. (ECF No. 10, Ex. 14). On December 5, 2011, Walker filed a Motion for Extension of Time to Submit Habeas Petition. (ECF No. 10, Ex. 15). The motion indicated, in part, that Walker had "retained the services of a private investigator{2022 U.S. Dist. LEXIS 10} to interview jurors that may still be living." (Id.) On December 6, 2011, the circuit court granted the motion for extension of time and ordered that Petitioner's new habeas petition be filed by March 1, 2012. (ECF No. 10, Ex. 16). However, sometime thereafter, another change of counsel occurred, and Petitioner was subsequently represented by Mark Hobbs ("Hobbs").

On September 23, 2013, Petitioner, by Hobbs, filed an Amended Petition for Writ of Habeas Corpus ("fourth petition"), which was docketed in Case No. 04-C-320. (ECF No. 10, Ex. 17). In her fourth petition, Petitioner acknowledged that, by virtue of her direct appeal and prior habeas proceedings, "the issues of improperly drafted indictment, qualifications of the jury, [and] improper jury selection process . . . have previously been fully adjudicated." (Id. at 2). Petitioner further acknowledged that the denial of her habeas appeal in Case No. 01-C-151 "fully adjudicated the issues of sufficiency of the evidence to support a conviction of first degree murder and suppression of exculpatory evidence[.]" (Id.) Finally, Petitioner acknowledged that

her claims of ineffective assistance of counsel and sufficiency of evidence "had{2022 U.S. Dist. LEXIS 11} already been fully adjudicated and thus cannot be adjudicated herein." (Id.)

However, in accordance with an accompanying Losh checklist, the fourth petition summarily sought to pursue claims concerning Petitioner's mental competency at the time of trial, coerced confessions, suppression of helpful evidence, irregularities in arrest, challenges to the composition of the grand jury, refusal of continuance, refusal to turn over witness notes after testifying, constitutional errors in evidentiary rulings, instruction error, prejudicial statements by prosecutor, and improper communications with the jury. (Id. at 3). On January 21, 2014, the circuit court (Judge Charles M. Vickers by special assignment) summarily denied Petitioner's fourth petition because the claims were without any factual support and, more importantly, were barred by the doctrine of res judicata. (ECF No. 10, Ex. 18).

On February 24, 2014, Petitioner, by counsel, filed a Motion to Set Aside or Grant Relief from the Court's January 21, 2014 Order Denying Amended Petition. (ECF No. 10, Ex. 19.) That motion was denied by the circuit court on April 8, 2014. (ECF No. 10, Ex. 20).

On May 8, 2014, Petitioner appealed the circuit{2022 U.S. Dist. LEXIS 12} court's January 21, 2014 Order Denying Amended Petition, as well as the court's April 8, 2014 Order Denying Motion to Set Aside or Grant Relief. (ECF No. 10, Ex. 21). On April 13, 2015, the SCAWV issued a memorandum decision affirming the circuit court's decisions. Miller v. Nohe, No. 14-0482, 2015 W. Va. LEXIS 555, 2015 WL 1740514 (W. Va. Apr. 13, 2015) (ECF No. 10, Ex. 22).

On April 18, 2016, Petitioner filed another habeas petition ("fifth petition"), alleging ineffective assistance by habeas counsel Hobbs. (ECF No. 10, Ex. 1 at 8; Ex. 23 at 2). That petition was also docketed in Case No. 04-C-320. It did not address any claims of juror misconduct. The circuit court (Judge Vickers) denied that petition on June 10, 2016, finding that Petitioner could not demonstrate the requisite prejudice from any deficient conduct by Hobbs because all claims for relief raised by Hobbs were barred by Petitioner's prior post-conviction proceedings. (ECF No. 10, Ex. 1 at 8; Ex. 23 at 6). Petitioner did not appeal that decision to the SCAWV.

G. Sixth habeas corpus petition (Civil Case No. 17-C-96).

On June 27, 2017, Petitioner filed yet another pro se Petition for Writ of Habeas Corpus in the Circuit Court of Wyoming County (Case No. 17-C-96) ("sixth petition"), which was specially assigned{2022 U.S. Dist. LEXIS 13} to Judge Rudolph J. Murensky, II. (ECF No. 10, Ex. 1 at 9; Ex. 25). In addition to reasserting several claims of ineffective assistance of counsel, the sixth petition alleged, for the first time, that juror Farren, the same juror who allegedly claimed she felt pressured to render a guilty verdict by Judge Hrko (hereinafter "jury pressure claim"), also lied under oath and failed to disclose pertinent information during voir dire. (ECF No. 10, Ex. 1 at 23-24; Ex. 25 at 47). Specifically, Petitioner claimed that Farren's sister, brother and nephew were involved in a violent incident in March of 1993 (prior to Petitioner's trial) that resulted in them being charged with unlawful wounding in Kanawha County, West Virginia, four months after Petitioner's trial. Petitioner contended that she learned of this "traumatic event" in October of 2016, while incarcerated in the same prison as Farren's sister. Petitioner claimed that Farren's failure to disclose this information during voir dire was "newly discovered" evidence of juror misconduct and bias, which should have disqualified Farren from serving on her jury (hereinafter "juror disqualification claim"). (ECF No. 10, Ex. 1 at 23-24; Ex. 25{2022 U.S. Dist. LEXIS 14}

at 47). Petitioner further claimed that she was entitled to a new trial based on her counsel's failure to ask the jurors questions that would have elicited such prejudicial information. (ECF No. 10. Ex. 1 at 23-24; Ex. 25 at 47).

In its October 9, 2018 order denying her sixth habeas petition, the circuit court acknowledged that Petitioner's juror disqualification claim had not been previously adjudicated and noted that Petitioner claimed that, although she discovered the basis of the jury pressure claim on May 10, 2004, she was not aware of the juror disqualification claim until October of 2016. (ECF No. 10, Ex. 1 at 23-24). The circuit court denied these SCAWV refused the mandamus petition. (ECF No. 10, Ex. 29). Petitioner then refiled an identical habeas petition in the circuit court on June 27, 2017, and it was assigned Case No. 17-C-96. (ECF No. 10, Ex. 25). claims and found that Petitioner did not actually establish the familial relationship between Farren and the parties involved in the 1993 assault, or that Farren was aware that they were the perpetrators of that crime at the time of Petitioner's trial. (ECF No. 1, Ex. 1 at 25-27). Likewise, the court found that Petitioner had{2022 U.S. Dist. LEXIS 15} not demonstrated, by actual evidence, that Farren felt rushed to judgment, and that Farren's response during the polling of the jury at the conclusion of the trial contradicted that assertion. (Id. at 27-28). The court further found that Petitioner had not demonstrated that the disclosure of any of those facts would have produced an opposite result at a second trial. (Id. at 27).

On November 14, 2018, Petitioner filed her notice of appeal concerning the denial of her sixth petition. (ECF No. 10, Ex. 30). Petitioner again raised claims concerning insufficiency of evidence of premeditation, ineffective assistance of counsel, and the jury pressure and juror disqualification claims (collectively referred to as "juror misconduct claims"). (Id.) Petitioner

claimed that she had been denied an evidentiary hearing on these issues and should have had counsel appointed to assist her in presenting those claims. (Id.)

On June 3, 2020, the SCAWV issued a memorandum decision affirming the denial of Petitioner's sixth habeas petition. Miller v. Sallaz, No. 18-1001, 2020 W. Va. LEXIS 338, 2020 WL 2904844 (W. Va. June 3, 2020). (ECF No. 10, Ex. 31). The SCAWV ruled that all claims, other than those relating to juror misconduct, had been thoroughly and finally adjudicated in Petitioner's direct{2022 U.S. Dist. LEXIS 16} appeal and previous habeas petitions. (ECF No. 10, Ex. 31 at 3-4). The SCAWV also found that the juror misconduct claims were based upon speculation and determined that the circuit court correctly concluded that there was "no evidence that the juror knew of the criminal activity involving her family members at the time of petitioner's trial." (Id. at 3-4). The SCAWV further concluded that "the polling of the jury, and the juror's explicit agreement with the verdict, dispelled petitioner's allegation that the juror was 'rushed' into voting." (Id.)

H. Instant section 2254 petition and motion to dismiss.

On October 8, 2020, Petitioner filed the instant petition under 28 U.S.C. § 2254, asserting the following grounds for relief: (1) Petitioner was denied the presentation of her psychiatric evaluation at trial; (2) ineffective assistance of trial counsel, appellate counsel, and habeas counsel9; (3) new evidence that juror answered falsely in her voir dire as to whether she or her immediate family had been involved in violence; (4) improper questioning as to Petitioner's homosexual lifestyle in voir dire; and (5) "the forensics of this case don't match up." (ECF No. 1 at 5-10, 20-21).

On October 1, 2021, Respondent{2022 U.S. Dist. LEXIS 17} filed a Motion to Dismiss (ECF No. 10), asserting that Petitioner's § 2254 petition is untimely and there is no basis to equitably toll the statute of limitations concerning any of her claims for relief. On November 5, 2021, Petitioner responded to the motion to dismiss. (ECF No. 14).

In pertinent part, Petitioner's response asserts that Respondent's Exhibits 15 and 16 in support of the motion to dismiss should be stricken from this court's record because she had allegedly never seen those documents before. (Id. at 2). She further claims that she does not recall meeting with her habeas counsel and an investigator on August 25, 2011, as demonstrated by attorney billing records she provided, and that the billing records further fail to establish what, if any, investigation was done by those individuals or whether any meetings with jurors had occurred. (Id. at 2-3, 18 (Ex. D)). Petitioner's response further relies upon her Rule 60(b) motion and an affidavit from habeas counsel Hobbs suggesting that he had "misplaced" a disk containing Petitioner's trial transcripts and, consequently, filed a summary petition on September 27, 2013, with the intent of filing a supplement containing a more detailed factual{2022 U.S. Dist. LEXIS 18} basis for the claims raised therein. (Id. at 3 and 29-33 (Exs. G-1 and G-2)). Petitioner appears to offer this evidence to establish why she failed to raise her claims concerning juror misconduct at that time.

Petitioner further appears to be seeking equitable tolling of the statute of limitations because of her low IQ and educational level, her need to rely on inmate law clerks for assistance, and her alleged lack of sufficient access to resources at Lakin Correctional Center to pursue available federal remedies. (Id. at 4). Petitioner further contends that the statute of limitations with respect

to Ground Three of her petition (the juror misconduct claims) should run from the SCAWV's September 11, 2020 order denying her motion for rehearing of her appeal on her sixth habeas corpus petition. (Id.) Respondent did not file a reply brief. This matter is ripe for adjudication.

The above procedural history is compiled from the previous state and federal opinions in this case.

Argument

Petitioner contends that the requisite showing of the procedural timeliness requirement per AEDPA should be waived in certain circumstances where the capital sentence of life without the possibility of parole has been imposed incorrectly when no evidence supports a specific element of the crime. While this does not raise an actual innocence issue, it does raise the issue of a life to end with death in prison without the substantive evidence to support such. When no evidence of premeditation in a first degree murder conviction exists, and the State does not have the legal prowess (or watch dogs) of those States with the death penalty, a Petitioner can slip through the cracks as to the timely filing of habeas appeals. ADEPA was not intended to allow States to hide sloppy work of legal counsels.

Justice Franklin Cleckley, probably the greatest legal mind to sit on the bench in West Virginia stated this was not a first degree murder case in the direct appeal opinion (see Question I), however the counsel representing Petitioner on both the direct appeal and habeas petition took five years to file the habeas. By that time, the West Virginia Supreme Court's justices were replaced. Specifically Justice Cleckley was teaching at WVU Law. Therefore no one knew the history of this case and it was refused to be heard. This injustice needs to be corrected.

Questions

I. Does lack of meaningful appellate review of sufficiency of evidence as determined by a footnote in a direct appeal opinion violate due process clause and equal protection clause of the Fourteenth Amendment and the to the following stated in the direct appeal opinion in footnote 31:

> **"Before concluding this case, we feel compelled to comment on the failure of the defendant to designate as a formal assignment of error the insufficiency of the evidence at least to first degree murder. While this allegation appears throughout the defendant's brief, it was used only as an introduction and led into other assignments of error. The defendant and her counsel have the discretion, if not the right, to limit the number and scope of issues presented on appeal, and, therefore, we will not interfere with that decision. See Jones v. Barnes, 463 U.S. 745, 103 S. Ct. 3308, 77 L. Ed. 2d 987 (1983); Whitt v. Holland, 176 W. Va. 324, 342 S.E.2d 292 (1986). We note, however, that the issue of insufficiency of the evidence is of a constitutional dimension and can be raised for the first time in a state petition for habeas corpus. See Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979); State v. Guthrie, supra."**

which has not been acted upon since it was written in 1996 not excuse the procedural fault of timeliness especially when Petitioner has an IQ in the 80s[2] and a GED (petitioner only completed the 5th grade) that does not allow for her compile the necessary documents and write a habeas petition without appointed counsel in violation of the Sixth Amendment of the United States Constitution?

In 1996, West Virginia Supreme Court of Appeals (WVSCA) Justice Franklin Cleckley wrote in a footnote of a direct appeal that there wasn't evidence as to first degree murder, but as the

[2] Petitioner has taken an IQ test – all Wechsler Intelligence Scale – three times and all of the results have scored in the 80s – dull normal intelligence.

Petitioner did not assign such as error, the conviction was affirmed. West Virginia's capital punishment is life without the possibility of parole. In Campbell v Ohio, 138 S. Ct. 1059; 200 L Ed 2d 502200 L. Ed. 2d 502; 2018 US LEXIS 16382018 U.S. LEXIS 1638 (2018), Justice Sotomayor in concurring states the United States Supreme Court of Appeals' Eighth Amendment jurisprudence developed in the capital context calls into question whether a defendant should be condemned to die in prison without an appellate court having passed on whether that determination properly took account of his circumstances. In the present case, Petitioner believes footnote 31 above describes in the least, (1) the direct appeal did not take into consideration the sufficiency of evidence, (2) it did not take into account the structural error that Petitioner was not allowed to present a psychiatric evaluation, and the (3) ineffective trial counsel that botched the psychiatric report being provided to the jury and the (4) ineffective habeas counsel that allowed her one year tolling under AEDPA to expire have not been considered.

(1) Regarding the sufficiency of evidence - In the Opinion Order Setting Trial filed in Wyoming County Circuit Court 29 January 2002, the Honorable John S. Hrko stated the following was evidence of first degree murder:

> There was evidence produced that Petitioner shot five shots outside the bar, four of which entered the victim, Jerry White. There was also evidence that Petitioner attempted to pull the gun out within the bar, before she and the rest of those involved were thrown out. One witness stated that upon telling the Petitioner that he might have killed Jerry White just after the shooting, Petitioner relied, "Well, I

hope I did." (pg. 5-6 of the Order, internal citations omitted[3]).

In reviewing above as required by Jackson v. Virginia, 443 U.S. 307, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979) the element of premeditation is not satisfied. Per Wayne R. LaFave's Criminal Law, Third Edition, 2000 the number of shots fired or anything said after the fact qualifies as evidence of premeditation. As for attempting to pull the gun out, it is undisputed that the Petitioner left the bar, and the victim followed her out. Justice Cleckley said there was not evidence to support first degree murder. Judge Hrko did not in his ruling denying relief July 19, 2002 provide evidence that supported the element of premeditation. No meaningful appellate review has evaluated Judge Hrko's habeas order as the WVSCA refused the case on February 25, 2004. It is this one-two punch from the Wyoming County Circuit Court and the WVSCA that all subsequent filings for relief have been denied.

James B. Billings was the appellate counsel (the district court got it wrong see pg. 7 of this document) and took five years to file the petition for writ of habeas corpus, not filing until 2001. James B. Billings was Petitioner's habeas counsel all those years[4]. This single act by legal counsel made federal review under AEDPA impossible. Petitioner spoke with and corresponded with Mr. Billings and always stated she wanted a habeas filed, thought he was working in her best interest and meeting deadlines. Petitioner could not have proceeded without legal counsel. Petitioner's IQ is in the 80s, and her highest degree conferred is a GED. This however did not prepare her to work on her own to put together a habeas corpus or even understand the court rules governing a habeas corpus. If it did, why is law school needed? The procedural default of

[3] Trial Transcripts available.

[4] Court records and voucher reimbursement for court appointed counsel available for substantiation.

timeliness should be waived and the question of sufficiency of evidence be determined on the merits under Jackson v. Virginia, 443 U.S. 307, 319, 99 S. Ct. 2781, 61 L. Ed. 2d 560 (1979).

(2) Regarding the structural error - see Ground II below.

(3) Regarding ineffective trial counsel – trial counsel's law firm was in charge of Petitioner's case from the beginning. It was trial counsel's duty to have Petitioner evaluated. That the psychiatrist's report was not presented by the Court's deadline is ineffective assistance of trial counsel.

(4) Regarding ineffective habeas counsel – James Billings was counsel for the direct appeal and habeas counsel. The direct appeal opinion was published April 30, 1996 and included the above referenced footnote 31. James Billings did not file the habeas petition until August 21, 2001. This used up the tolling provided in AEDPA. Petitioner did not and does not have the ability to pursue a habeas filing on her own.

The fact that Justice Cleckley wrote this is not a first degree murder case in 1996 and no-one has since provided evidence to the contrary is reason for the timeliness component of AEDPA to be waived.

II. Can a structural error in violation of the Sixth Amendment of the United States Constitution – (1) no evaluation after a suicide attempt before trial and (2) ineffective trial counsel of presenting such - be assuaged just because time has gone by in violation of the Sixth Amendment of the United States Constitution?

Petitioner attempted suicide and was evaluated. Petitioner attempted suicide a second time in June before the August trial. She was not reevaluated. This is discussed at length outside

of the jury during trial. See transcript pages[5] starting on page 487, Wyoming County, West Virginia Case No. 94-F-18. Petitioner was deprived of the testimony of her psychiatrist and an Eleventh Circuit Court of Appeals case from 2019, McWilliams v. Commissioner, 940 F.3d 1218; 2019 US App LEXIS 306502019 U.S. App. LEXIS 30650; 28 Fla L Weekly Fed C 46328 Fla. L. Weekly Fed. C 463, No. 13-13906, October 15, 2019, which involved a 1986 case in which the defendant was deprived of the evaluation of a psychiatrist contrary to the 1985 ruling of the United States Supreme Court, Ake v. Oklahoma, 470 U.S. 68, 75, 105 S. Ct. 1087, 84 L. Ed. 2d 53 (1985). Petitioner does not understand how the waiver of the procedural default in this case does not apply to her case. The Lexis Nexis edition at Petitioner's facility does not include case law from other states therefore she has had to rely on the federal review of the state case only.

A structural error – the above attempted suicide with no evaluation and the ineffective assistance of trial counsel that did not get an evaluation (as well as the ineffective assistance of counsel listed in Question I) should not be allowed to be procedurally defaulted. It should be decided upon the merits under Ake v. Oklahoma, 470 U.S. 68, 75, 105 S. Ct. 1087, 84 L. Ed. 2d 53 (1985). The timeliness component of AEDPA was intended create finality for those cases which have been previously adjudicated. ADEPA was not intended to allow states to cover up mistakes. This Petitioner has dull normal intelligence and had initial habeas counsel - who either did not know about AEDPA as the passage of the Act was close in time to the publishing of Petitioner's direct appeal opinion or did not understand the tolling – filed the habeas petition timely after the direct appeal, it is more likely than not that Petitioner's sentence would have

[5] Available from the United States District Court for Southern West Virginia Beckley Division, West Virginia Supreme Court, or Wyoming County Circuit Court.

been changed to the second degree punishment of 5 – 18 years[6] because Justice Cleckley would still have been on the Court (see Question I).

III. Does equal protection under the law in the Fourteenth Amendment not mean that a women who has life without parole in a State where life without is the highest punishment shouldn't have the same access to legal counsel as an inmate in a state where capital punishment is legal in violation of the Sixth Amendment of the United States Constitution?

Petitioner found no case law, but is she had been in a state where the death penalty is law, she would have had constant legal representation. During thirty years, Petitioner has had three court appointed attorneys. She has had to rely on jailhouse lawyers not trained in the law including for this writ of certiorari. This is not equal protection under the law under the Fourteenth or Eighth Amendments and as such should be the basis to waive the procedural default of timeliness. Please note Griffin v. Warden, Maryland Corr. Adjustment Ctr., 970 F.2d 1355, 1357 (4th Cir. 1992). In that case, the Petitioner argued that he was denied effective assistance of counsel because his trial attorney failed to timely advise the court that he was going to use the defense of alibi, and the trial attorney failed to call alibi witnesses. Why is this not on point for her case as to be eligible to waive the procedural default of timeliness?

[6] That was the sentence at the time of Petitioner's trial. Current sentence is 10 – 40 years for second degree murder.

IV. Can a circuit court when provided evidence of a juror answering falsely in *voir dire* dismiss the claim for relief without investigating the information and by stating the incarcerated individual did not provide an address of the juror in question or formal proof of her familial relationship in violation of the due process clause of the Fifth, Sixth, and Fourteenth Amendments?

In the State of West Virginia, in Gibson v. Dale, 173 W. Va. 681, 319 S.E.2d 806 (1984), syllabus point 5 states, " A habeas corpus petitioner is entitled to careful consideration of his grounds for relief, and the court before which the writ is made returnable has a duty to provide whatever facilities and procedures are necessary to afford the petitioner an adequate opportunity to demonstrate his entitlement to relief". The State of West Virginia did not follow their own rules when they did not provide a private investigator to find Linda Farren and substantiate Petitioner's claims of her falsifying answers in voir dire. She is the sister of Lillie Mae Trail, State v. Trail, 236 W. Va. [167, 181], 778 S.E.2d [616, 630 (2015) and the event that occurred prior to Petitioner's trial is recorded in Lawyer Disciplinary Bd. V. Jarell, 206 W. VA. 236, 523 S.E.2d 552 (1999). In March of 1993 Lillie Trail, her brother Charles Whittington, and nephew Greg Whittington beat Lillie and Charles' (and Linda's) brother in law Mark Medley with a hammer. The State of West Virginia wasn't sure Linda Farren knew of the assault to which her immediate family members pleaded no contest. West Virginia should be forced to follow their own rule and provide investigative services to formalize the familial relationship.

Conclusion and Reason for Granting the Petition

Other jurisdictions allow for the procedural default of timeliness to be waived when claims for relief have merit and when the Petitioner is not capable of having compiled a petition for habeas corpus herself. Why does not Petitioner not have this equal protection under the law afforded to her? Petitioner is asking for her conviction to be changed to second degree murder, a sentence of 10 – 40, which she has already served under the guidelines of West Virginia discharge of sentence.

Petitioner respectfully asks that if the facts she has put forth should have been crafted under another constitutional rights violation, please provide legal counsel to help her correct any legal mistake.

Respectfully Submitted,

Angela Dawn Miller, 3354250

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 1-30-04.
[date]

Angela Miller
Signature of Petitioner

SUPREME COURT OF THE UNITED STATES

ANGELA DAWN MILLER,
Petitioner

v. **Civil Action No. _____**

J. D. SALLAZ, Superintendent,
Lakin Correctional Center and Jail,
Respondent

CERTIFICATE OF SERVICE

I, Angela Dawn Miller, appearing *pro se*, hereby certify that I have served the foregoing "*Petition for a Writ of Certiorari to the Supreme Court of the United States*" upon the respondent by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the respondent on January 31, 2024:

Andrea Nease Proper
WV Attorney General's Office
State Capitol Complex
1900 Kanawha Blvd., East
Bldg. 6, Suite 406
Charleston, WV 25305 – 0220

Angela Dawn Miller #3354250
Angela Dawn Miller, OID # 3354250

Exhibit A

Mandate

Fourth Circuit Court of Appeals

Issued November 1, 2023

and

Returned Correspondence from SCOTUS

Regarding Submission of

Petition for Writ of Certiorari

FILED: November 1, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7180
(5:20-cv-00661)

ANGELA DAWN MILLER

Petitioner - Appellant

v.

J. D. SALLAZ, Superintendent

Respondent - Appellee

MANDATE

The judgment of this court, entered June 26, 2023, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/Nwamaka Anowi, Clerk

FILED: October 24, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7180
(5:20-cv-00661)

ANGELA DAWN MILLER

Petitioner - Appellant

v.

J. D. SALLAZ, Superintendent

Respondent - Appellee

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Nwamaka Anowi, Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7180

ANGELA DAWN MILLER,

Petitioner - Appellant,

v.

J. D. SALLAZ, Superintendent,

Respondent - Appellee.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. Frank W. Volk, District Judge. (5:20-cv-00661)

Submitted: June 22, 2023 Decided: June 26, 2023

Before HARRIS and HEYTENS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Angela Dawn Miller, Appellant Pro Se. Lindsay Sara See, OFFICE OF THE ATTORNEY GENERAL, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Angela Dawn Miller seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as untimely Miller's 28 U.S.C. § 2254 petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. *See Gonzales v. Thaler*, 565 U.S. 134, 148 & n.9 (2012) (explaining that § 2254 petitions are subject to one-year statute of limitations, running from the latest of four commencement dates enumerated in 28 U.S.C. § 2244(d)(1)). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When, as here, the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right. *Gonzalez,* 565 U.S. at 140-41 (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Miller has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

PACER fee: Exempt

If you view the Full Docket you will be charged for 2 Pages $0.20

General Docket
United States Court of Appeals for the Fourth Circuit

Court of Appeals Docket #: 22-7180
Nature of Suit: 3530 Habeas Corpus
Angela Miller v. J. D. Sallaz
Appeal From: United States District Court for the Southern District of West Virginia at Beckley
Fee Status: fee paid

Docketed: 10/12/2022
Termed: 06/26/2023

Case Type Information:
1) Habeas Corpus-State
2) state
3) null

Originating Court Information:
District: 0425-5 : 5:20-cv-00661
Presiding Judge: Frank W. Volk, U. S. District Court Judge
Date Filed: 10/08/2020

Date Order/Judgment:	Date Order/Judgment EOD:	Date NOA Filed:	Date Rec'd COA:
09/06/2022	09/06/2022	10/11/2022	10/11/2022

11/16/2022	9	INFORMAL OPENING BRIEF by Angela Dawn Miller. [1001268366] [22-7180] KS [Entered: 11/18/2022 10:26 AM]
11/18/2022	10	RULE 45 NOTICE issued to Angela Dawn Miller re: failure to satisfy fee requirements. Mailed to: Angela Dawn Miller, #3354250, LAKIN CORRECTIONAL CENTER, 11264 Ohio River Road, West Columbia, WV 25287. [1001268370] [22-7180] KS [Entered: 11/18/2022 10:28 AM]
11/28/2022	11	IFP-APPLICATION to proceed in forma pauperis (FRAP 24)(court access only) by Angela Dawn Miller. [1001274177] [22-7180] KS [Entered: 11/30/2022 09:18 AM]
11/30/2022	12	ORDER filed denying Motion to proceed in forma pauperis [11]. Copies to all parties. Mailed to: Angela Dawn Miller, #3354250, LAKIN CORRECTIONAL CENTER, 11264 Ohio River Road, West Columbia, WV 25287. [1001274363] [22-7180] KS [Entered: 11/30/2022 10:50 AM]
11/30/2022	13	RULE 45 NOTICE issued to Angela Dawn Miller re: failure to satisfy fee requirements. Mailed to: Angela Dawn Miller, #3354250, LAKIN CORRECTIONAL CENTER, 11264 Ohio River Road, West Columbia, WV 25287. [1001274369] [22-7180] KS [Entered: 11/30/2022 10:55 AM]
12/12/2022	14	NOTICE ISSUED re: tendered payment returned to Angela Dawn Miller in paper form. Amount of payment: $505.00. Mailed to: Attn: Prison Accounting Office, LAKIN CORRECTIONAL CENTER, 11264 Ohio River Road, West Columbia, WV 25287, and Cc:Angela Miller, LAKIN CORRECTIONAL CENTER, 11264 Ohio River Road, West Columbia, WV 25287. [1001281260] [22-7180] DG [Entered: 12/12/2022 04:17 PM]
06/26/2023	15	UNPUBLISHED PER CURIAM OPINION filed. A certificate of appealability is denied. Originating case number: 5:20-cv-00661. Copies to all parties and the district court/agency. Mailed to: Angela Dawn Miller, #3354250, LAKIN CORRECTIONAL CENTER, 11264 Ohio River Road, West Columbia, WV 25287. [1001390882] [22-7180] KS [Entered: 06/26/2023 10:04 AM]
06/26/2023	16	JUDGMENT ORDER filed. Decision: Dismissed. Originating case number: 5:20-cv-00661. Entered on Docket Date: 06/26/2023. Copies to all parties and the district court/agency. Mailed to: Angela Dawn Miller, #3354250, LAKIN CORRECTIONAL CENTER, 11264 Ohio River Road, West Columbia, WV 25287. [1001390887] [22-7180] KS [Entered: 06/26/2023 10:06 AM]
07/14/2023	17	PETITION for rehearing en banc by Angela Dawn Miller. [1001402429] [22-7180] KS [Entered: 07/14/2023 03:41 PM]
07/14/2023	18	Mandate temporarily stayed pending ruling on petition for rehearing or rehearing en banc. Mailed to: Angela Dawn Miller, #3354250, LAKIN CORRECTIONAL CENTER, 11264 Ohio River Road, West Columbia, WV 25287. [1001402432] [22-7180] KS [Entered: 07/14/2023 03:42 PM]

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10/13/2023 16:22:32

PACER Login:	scotus2023	**Client Code:**	
Description:	Case Summary	**Search Criteria:**	22-7180
Billable Pages:	1	**Cost:**	0.10
Exempt Flag:	Exempt	**Exempt Reason:**	Always

Recv'd 10-24-23

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

October 17, 2023

Angela D. Miller
#3354250/A-13
11264 Ohio River Road
West Columbia, WV 25287

RE: Miller v. Sallaz, Supt.
USCA4# 22-7180

Dear Ms. Miller:

The above-entitled petition for writ of certiorari was postmarked September 27, 2023 and received October 3, 2023. The papers are returned for the following reason(s):

Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.

It appears that your case is temporarily stayed in the United States Court of Appeals for the Fourth Circuit, pending the ruling of a petition for rehearing.

Sincerely,
Scott S. Harris, Clerk
By:

Redmond K. Barnes
(202) 479-3022

Enclosures