

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Ronald Collins Jr. — PETITIONER
(Your Name)

VS.

United States of America — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☐ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

☒ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☐ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____, or

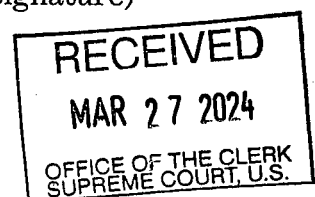
☐ a copy of the order of appointment is appended.

Ronald Collins Jr.

(Signature)

Ronald Collins Jr.

April 6th 2024



**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Ronald Collins Jr., am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Self-employment	\$ <u>\$46 month</u>	\$ _____	\$ _____	\$ _____
Income from real property (such as rental income)	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Gifts	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Alimony	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Child Support	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ <u>0</u>	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ <u>\$46</u>	\$ _____	\$ _____	\$ _____

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>PMG</u>	<u>Sumner WV</u>	<u>Dec to Feb 2024</u>	<u>\$ 81500</u>
<u>Applebees</u>	<u>South Charleston WV</u>	<u>Sept to Oct 2023</u>	<u>\$ 21,500 or 8900</u>
<u>United Talent</u>	<u>South Charleston WV</u>	<u>July to Sept 2023</u>	<u>\$ 1,600</u>

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Single no spouse

Employer	Address	Dates of Employment	Gross monthly pay
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

4. How much cash do you and your spouse have? \$ _____
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
<u>Checking City National</u>	<u>\$ 126</u>	<u>\$ _____</u>
_____	<u>\$ _____</u>	<u>\$ _____</u>
_____	<u>\$ _____</u>	<u>\$ _____</u>

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☐ Home
Value _____

☒ Other real estate
Value \$ 1,000

☒ Motor Vehicle #1
Year, make & model 2009, Nissan, Armada
Value \$ 3,000

☐ Motor Vehicle #2
Year, make & model _____
Value _____

☐ Other assets
Description _____
Value _____

Person owing you or your spouse money

Amount owed to your spouse

\$ _____

\$ _____

\$ _____

Name

Age

You

\$ \$200

\$_____

Is property insurance included? ☐ Yes ☒ No

\$ 8100

\$_____

\$ 0

\$_____

\$ 

\$

§ 6

\$

§ ~~_____~~

§

§ ~~1~~

\$

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>300</u>	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>Ø</u>	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>Ø</u>	\$ _____
Life	\$ <u>Ø</u>	\$ _____
Health	\$ <u>Ø</u>	\$ _____
Motor Vehicle	\$ <u>Ø</u>	\$ _____
Other: _____	\$ <u>Ø</u>	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>Ø</u>	\$ _____
Installment payments		
Motor Vehicle	\$ <u>Ø</u>	\$ _____
Credit card(s)	\$ <u>50</u>	\$ _____
Department store(s)	\$ <u>Ø</u>	\$ _____
Other: _____	\$ <u>Ø</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>Ø</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>Ø</u>	\$ _____
Other (specify): _____	\$ <u>Ø</u>	\$ _____
Total monthly expenses:	\$ <u>550</u>	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

My car broke down & needs another \$600 in repairs, I am currently layed off from work & there isn't even part time work available in my area.

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

Executed on: March 14th, 2024

Re-executed on April 8th, 2024

Donald Collins
(Signature)

& Donald Collins

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Ronald Collins Jr. — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fourth Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ronald Collins
(Your Name)

668 Kanawha Ave
(Address)

Rainelle WV 25962
(City, State, Zip Code)

304-366-2033
(Phone Number)

QUESTION(S) PRESENTED

1. Are claims of actual innocence required to be reviewed by the court & rulings on evidence & arguments made required by the Due Process clause of the Fourteenth Amendment and/or the "cruel and unusual punishments inflicted" portion of the Eighth Amendment and right to be "secure in person" under the Fourth Amendment?
2. Is State Law considered "New Evidence" where it would effect the filing time for a 2255 motion under 18 U.S.C. 927?

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

Case Number 5:18-cr-00068 2019 Trial Case
Case Number 19-4596 2020 Appeals Case
Case Number 22-7436 2023 2255 Appeals Case
Case Number 5:22-cv-00161 2021-22 2255 Case

TABLE OF AUTHORITIES CITED

CASES • *Mc Quiggin v. Perkins*, 569 U.S. 383 (2013) PAGE NUMBER

- *United States v. Jennings*, 323 F.3d 263
- *Thrall v. Wolfe*, 503 F.2d 313 (7th Cir. 1974)
- *C.D.M. Products Inc. v. City of New York*, 350 N.Y.S. 500, 76 Misc.2d 369 (N.Y. Sup. Ct. 1973)
- *Fitzgerald v. United States*, 989 F.2d 499 (6th Cir. 1993)
- *United States v. Ramirez* 4:14-cr-221 (S.D. Texas 2014)
- *United States v. Benson*, 605 F.2d ~~313~~^{RC} 1903 (9th Cir. 1979)
- *United States v. Matassini*, 565 F.2d 1297 (5th Cir. 1978)
- *United States v. Friday*, 404 F. Supp. 1343 (E.D. Mich. 1975)
- *United States v. Midgett*, 198 F.3d 143 (4th Cir. 1999)
- *Addington v. Texas* 441 U.S. 418 (1979)
- WVa Case No: 14-C-900-H & • WVa Case No: 13F-1026

STATUTES AND RULES

28 U.S.C. 2255 (f)(4)

18 U.S.C. 927

WVa Code 27-5-9 (a) & (g)

WVa Code 27-5-2a (g)

WVa Code 61-5-27a (b) & (c)

WVa Code 27-6A-2 (b)

WVa Code 61-7-7 (a)(4)

WVa Code ~~§~~^{RC} 27-5-9 (a)

OTHER

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION	

INDEX TO APPENDICES

APPENDIX A *Motion to Vacate, Set Aside, or Correct a Sentence
By a Person in Federal Custody (Case No. 5:22-cv-00161)*

APPENDIX B *(Document 195 Case No. 5:18-cr-00068) Civil Action No. 5:22-cv-00161*

APPENDIX C *Unsigned & Full Appeal to the Fourth Circuit Civil Action
No. 22-7436*

APPENDIX D *Civil Action No. 5:22-cv-00161 & Criminal Action No.
5:18-cr-00068 Response of the United States in Opposition to
Petitioner's Motion to Vacate Sentence Pursuant to 28 USC § 2255*

APPENDIX E

APPENDIX F

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 _____ 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 _____ 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 22-7436.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ 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

While the case itself was appealed claiming a violation of Due Process, Being Secure in Person, Place & Property Rights along with the Petitioner's Second Amendment Rights. The Petitioner's cited issues before the

Justices that of the simple statutory provision of the Federal ^{Courts} ~~Rules of~~ application of 28 U.S.C. § 2255 (f) 1-year period of limitations, would have been extended under its subsection (4), 28 U.S.C. § (f) (4): "A 1-Year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of-

(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence."

As the petitioner's original 2255 Motion was based on an "Actual Innocence Claim" that under 18 U.S.C. 927;

(continued on back of this page)

"No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State on the same subject matter, unless there is a ~~conflict~~ direct and positive conflict between such provision and the law of the ~~United~~ States so that the two cannot be reconciled or consistently stand together."

Which would a critical element the Petitioners Actual Innocence claim as, his evidence of being "Factually Innocent" was based on West Virginia state statutes, which would prove at a minimum that a witness provided false testimony to the Court at the petitioner's trial and, that the Government lacked jurisdiction, basing its evidence of state proceedings that produced false evidence by violating West Virginia State Statutes.

All this would have been "New Evidence" under 18 U.S.C. 927 when the Petitioner had access to state law upon his release from prison & extended his filing time under 28 U.S.C. 2255 (f)(4).

(1)

STATEMENT OF THE CASE

The petitioner was charged with being a prohibited person in possession of a Firearm under 18 USC 922(g)(4) & lying on the ATF form to purchase a handgun from a licensed firearm dealer. The Petitioner filled out the background check & was delayed for 3 days before the Petitioner acquired his firearm & the ATF did not provide any reason to ~~not~~ prohibit the Petitioner from owning said handgun.

A month later the Petitioner was stopped by the WV State Police & hand the handgun on, a check of the National Instant Criminal background Check ~~System~~ system turned up no prohibition. And, the petitioner was released with his firearm.

The next night the WV State Trooper (Gilkenson) arrested the petitioner under West Virginia Code 61-7-7 (a)(4), which was the reason for his Federal Charges in case 5:18-cr-00068, Appeals Case 19-4596, & the Petitioner Motion under 28 USC 2255 case number 5:22-cv-000161.

The Petitioner had filed his 28 USC 2255 motion prior to leaving prison with the intent to update said motion with relevant state laws once he was released. The petitioner was unable to have the Motion prepared in prison require the Clerks to sign for the
(cont. on back)

② Letter containing the Petitioner's 2255 motion.
Once released from the ~~in~~ prison, the Petitioner had called the Clerks ~~the~~ to find out the ~~stat~~ status of his 2255 motion, and was told there was no Motion recieved.

The Petitioner then filed a second 28 USC 2255 Motion claiming that both (a) his delay in filing should be waived citing an Actual Innocence claim & the Supreme Court's Ruling in McQuiggins v. Perkins 569 U.S. 383 (2013) & (b) That in accordance with 18 USC 927 & following 28 USC 2255(f)(4) that the 1-year statute of would have began on the date of the Petitioner's release from prison to the Dismas Charities Halfway House in Clarksburg WV. As Trooper Gilhenson's charges under WV Code 61-7-7 (a)(4) was regulated under Chapter 27 of WV Code which in accordance with WV Code 27-6A-2 (b) list five things required by state law to be provided to a Psychological Examiner, 3 of which were missing & resulted in an unlawful commit in a WV Criminal Case (No. 13-F-1026) which was later dismissed by the State of WV, and the Violation of State Code 27-6a-2(b), which resulted in a Violation of WV Code 61-5-27a ^{(b) & (6)} state law related to fraudulent filings & fraudulent official proceedings.

(3) (Continues on back)
was preserved on record in WV Case No: 14-C-900-H; Where the Petitioner filed a Habeas Corpus with the State of West Virginia, Court System. (See ~~WV~~ Case 14-C-900-H) cited in the Motion to Vacate, Set Aside, or Correct a Sentence By a Person in Federal Custody (Under 28 U.S.C. 2255) stock form in Appendix A. 11

The Petitioner later updated the 2255 Motion providing material evidence & an argument addressing 28 U.S.C. 2255 (f)(4), proof that the Court received this is found in Appendix B, and made the same argument in his Appeals Court concerning both *McQuiggins v. Perkins* & 28 USC 2255 (f)(4) in relation to 18 USC 927 (See Appendix C).

The Government never addressed the Petitioner's "Actual Innocence" claim based on the merits, (Appendix D) & the matter of 28 U.S.C. 2255 (f)(4) where 18 USC 927 is a determining factor in state law as ~~New~~ Evidence. The district court never ruled on that statutory issue nor did the 4th Circuit Court of Appeals. ~~88~~ The matter of 28 USC 2255 (f)(4) is found in his Motion for Appeal Case No: 22-7436, ~~page~~ ^{page} 1, as WV law is foundation of all actual Innocence Claims

④ by the Petitioner with the Statutory requirements for its consideration never addressed, as a statutory requirement of Federal Law under 18 U.S.C. § 927. That said argument was made on record in ~~response~~^{Petitioner's} response to U.S. Magistrate's Preliminary Findings & Recommendations for Case No. 5:22-cv-00161 (Attachment 9) of Evidence in Appendix ~~PC~~.

This provides documentation that the Statutory argument of State Law under Federal Statute 18 USC § 927, is new evidence under Federal Statute 28 USC § 2255 (f)(4), which was never addressed by the district court or the court of appeals, making the collection of evidence in regard the Petitioner's Actual Innocence Claim under McQuiggins v. Perkins moot, as a Constitutional Matter of Due Process of Law.

Otherwise, the Petitioner can only ask the Supreme Court of the United States whether an action innocence claim under McQuiggins v. Perkins requires the courts faced with such a claim to address the merits & evidence provided to them,

⑤ which the District Court & 4th Circuit Appeals court did not, as a mandatory requirement by the analysis of the Supreme Court of the United States of America.

← Nothing Else Follows →

REASONS FOR GRANTING THE PETITION

- 1) Petitioner is Actually Innocent & the Supreme Court would be maintaining its stated goal in McQuiggins v Perkins to protect the Innocent from incarceration.
- 2) The Petition is a Straight Forward & direct question of Federal Statutes, 18 U.S.C. 927 by the number of ~~Circuits~~¹ has been determined that the laws of states contain jurisdiction over federal proceedings & that under that determination should Count as New Evidence under 28 U.S.C. 2255 (f) (4).

In both cases the result ~~will~~ will be the same, the Supreme Court will remand the case back to the Appeals Court to rule on the "New Evidence" presented to them under 28 U.S.C. 2255 (f) (4) & Establish a Constitutional Protection of Due Process by Establishing access to State statutes as "New Evidence" for Claims under 18 USC 927 & other cases with Similar statutory factors.

1: Note: Cited Case listed on back.

1. Cases protecting State Statutes under the 18 USC 927

Statute:

Thrall v. Wolfe, 503 F 2d 313 (7th Cir 1974)

CDM Products Inc. v. City of New York, 350 N.Y.S. 300,
76 Misc 2d 369 (N.Y. Sup. Ct. 1973)

Fitzgerald v. United States, 989 F. 2d 499 (6th Cir. 1993)

United States v. Ramirez 4:14-cr-221 (S.D. Texas 2014)

United States v. Benson, 605 F 2d 1903 (9th Cir 1979)

United States v. Matassini, 565 F 2d 1297 (5th Cir 1978)

United States v. Friday, 404 F. Supp. 1343 (E.D. Mich
1975)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Donald Coleman Jr. Re-Submitted Donald Coleman Jr.

Date: March 20, 2024 Date: April 6th 2024

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 22-7436

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RONALD COLLINS,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. Irene C. Berger, District Judge. (5:18-cr-00068-1; 5:22-cv-00161)

Submitted: August 29, 2023

Decided: August 31, 2023

Before KING, AGEE, and BENJAMIN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ronald Collins, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ronald Collins, Jr., seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on Collins' 28 U.S.C. § 2255 motion. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(B). 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 the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 580 U.S. 100, 115-17 (2017). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the motion states a debatable claim of the denial of a constitutional right. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Collins has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Collins' motions for abeyance, 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

FILED: December 19, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7436
(5:18-cr-00068-1)
(5:22-cv-00161)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

RONALD COLLINS

Defendant - Appellant

O R D E R

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

**Additional material
from this filing is
available in the
Clerk's Office.**