

24-5077
No. 24-5077

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
APR 23 2024
OFFICE OF THE CLERK
SUPREME COURT, U.S.

GARY DAVIS — PETITIONER
(Your Name)

vs.
Superintendent Forest S.C.T. District Attorney of Allegheny — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
C.A.#. 23-2748

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT!
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

GARY DAVIS
(Your Name) S.C.T. FOREST

286 WOODLAND DRIVE
(Address)

Marienville, PA 16239
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

① THE HABEAS CORPUS presented to the Western Court District of P.A. Pitts. 15219-was, a collateral attack on the rules & procedures of the United States of America. = # 2:23-CV-00481 ECF # 6 4-11-23. IN the COURT HOUSE STATE (over) constitutional

② Is it constitutional to charge the Petitioner with Robbery of a vehicle the Petitioner Drove off the car lot & help pay for with victim Kelly Mullen-who visit the petitioner 6 to 8 times while waiting to go to in the county Jail Prior to the Common Plea Court hearing!

③ Is it constitutional to charge Petitioner with 4 agg. Anson & only one victim faced the accuser at the preliminary stage with no prima facia case set forth. (state level) 12-4-2014 - Preliminary Hearing Anson J.

④ Is it normal rules & procedures to dismiss a state HABEAS CORPUS submitted 6-29th-2015 in common Pleas Court House By Judge Donna Jo McDaniel's - Prior to the criminal Court Date 8-15-2015 - without a opinion or Court Hearing on such State HABEAS CORPUS to have the body come forth, at the state level! (No marshal law Part.)

⑤ Public Defender coerced Petitioner to sign Plea agreement 8-15-11 2015 - who filled out to 68 plea agreement questions & initials all at the bottom of page on plea paper. - Page 9 of plea agreement Lawyer forgot my initials - any fact finding judge will understand Petitioner can not forget his own initials. Several fraudulent Documents asserted in a court of law

NEWLY DISCOVERED EVIDENCE!

① sentencing Judge Donna Jo McDaniel retire for holding not following rule & procedures - Jan 31st 2019 from the Commonwealth Court (Pitts)

② Kelly Mullen victim - Oct 2015 - 2815 Idaho St McKeesport, PA 15132 - House was burned to the ground - 19 yr old man murdered in same dwelling aware Prior - Public Records.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

THE DISTRICT ATTORNEY
OF Allegheny County Pitts, PA 15219

RELATED CASES

① Robbery of vehicle petitioner help pay for & drove off the car lot & drove often. victim Kelly Mullen Petitioner ex of BYRS were 3-4 car were purchased together petitioner drove all vehicles off of car lot - several dwellings together in the five years.

CP-02-CR-0015630-2014 Robbery Dismissed at lower courts NO WITNESS testify - NO second arrest as on authority is this Constitutional & apart of rule & procedure of court proceedings. ^{no medical records}

② 4 Aggravated arson of \$380000 Petitioner Newer set this fire at 1758 Laketon ave Wilkesburg-PA 15221 were - P.F.A.s were asserted by defense but Newer - presented in a court room of law for address were arson occurred. 9-7-2014 only 1 witness of Arson testify in the Arson Preliminary Hearing 12-4-2015 # CP-02-CR-0016480-2014 - NO medical records

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1 thru 4 All third Circuit mailing issues.
- APPENDIX B - District Court 5 thru 7 Federal Habeas Corpus - was the imprisonment legal & Not the challenge of govt, innocence or sentence writ denied for challenging the sentence Not true.
- APPENDIX C - Anson Preliminary Hearing NO WITNESSES
4 aggr - arson
- APPENDIX D - The State HABEAS CORPUS Denied without a court Hearing or opinion
- APPENDIX E - Common Pleas of Allegheny transcript & Plea agreement Public Defender filled out & coerced Petitioner
- APPENDIX F - Document Presented to the Courts that is NOT the Petitioner's signature - along with fraudulent Plea agreement by the Public Defender that did not defend my "Petitioner's" Constitutional right in this proceedings, thank you!

- ① Document 25-7 - Filed 6/20/23 Page 2 of 10 - Not the Petitioner's signature at all
- ② Document 25-2 - Filed 6/20/23 Page 1 of 5 - Plea agree
- ③ Document 25-4 - Filed 6/20/23 Page 1 of 11 the Public Defender, JACKSYNN KEARNEY filled out all question 1 to 68 & initial all pages - Page 9 of 11 She forgot my initials - which Petitioner will never forget his initials - 3 false papers.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Haines v. Kerner, 404 U.S. 519
(1972), and its progeny. see id. at 520-21
(instructing that pro se pleadings should be held
to less stringent standards than formal pleadings
drafted by lawyers).

STATUTES AND RULES

Haines v. Kerner
~~404~~ 404 U.S. 519 (1972)
Petitioner is
Pro se & doesn't
know

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 1 thru 4 to the petition and is

- reported at submitted; 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 5 thru 7 to the petition and is

- reported at submitted ECF 46; 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 N/A; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the N/A 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 1-16-24-mailing Issues *ATTACHED*
(Due Process + Issues) *received opinion in late march*
must sign for postage!

No petition for rehearing was timely filed in my case.

Due Process issue yet fill for one

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 4-3-24, and a copy of the order denying rehearing appears at Appendix A. *mailing issue submitted*

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

① Newly Discovered Common Pleas Judge
McDaniel, Donna Jo Retired Jan 31st 2019 for not
following the rule & Procedures of the Court room
(Public Record - Petitioner never informed)

② Victim & ex girlfriend of 5yrs Kelly Mullen-House in
(Oct. 2015) McKeesport, PA 15132, 2810 Idaho St - Burned to the
ground - a 17yr old was murdered a week or two earlier!
Public records - same charge Petitioner charged in 2014, Arson

③ Protection from abuse records never submitted - But asserted in
a Preliminary Hearing - 12-4-14 - NO Affidavit of probable cause for
Arson or Robbery & other records.
Nothing on robbery why NO DOCUMENTS!

④ Federal Constitution's Fourteenth Amendment - a state
prosecutor is required to disclose material evidence
favorable to an accused. Brady v. Maryland (1963) 373 U.S.
83, 10 L.E.2d 215, 83 S.Ct 1194

⑤ Amendment 6 Be confronted by witness in trial - Robbery
No witness for the vehicle the Petitioner drove after the payoff for,
② Arson one victim testify at the preliminary hearing other than
the fire marshall - But four Aggra - Arsons were submitted! (Why)
Com v. McCLELLAND 233 A.3d 717 (2020) Facing ones accuser.

⑥ Commonwealth, Pa. R. Crim. P. 506 (A) A private criminal
complaint must, at the outset, set forth a prima facie case
of criminal conduct. In re Wilson 2005 PA Super 211, 879 A.
2d 199, 211 (Pa. Super. 2005) (en banc) "THE ATTORNEY for
Commonwealth is there after required to Investigate the
allegations, set forth in the private complaint and based
on that investigation, render his or her approval or disapproval
of the private criminal complaint. id. in doing so the
attorney for the Commonwealth Criminal litigation and
prosecutions on behalf of the Commonwealth to decide whether
and when to prosecute, and when to continue or discontinue
a case." Commonwealth v. Brown, 550 Pa. 580, 708 A.2d 868 (Pa. 1998) (Brown II) (plurality opinion) same alterations in
original. (citation omitted) quoting Commonwealth v. Malloy,
304 Pa. Super 297, 450 A.2d 689, 692 (Pa Super 1982)

⑦ Ant 1 section 9 state No writ of Habeas Corpus
shall be denied without marshal law or rebellion.
Common Pleas Judge Donna Jo McDaniel Denied the STATE HABEAS
without a Court Hearing an opinion - Please retired for
Not following rule & Procedures in the Court Room
Public Records!

ATTACHED - Constitutional & Statutory Provisions Involved

⑧ Additionally, a habeas petitioner may overcome procedural default if he successfully claims that a fundamental miscarriage of justice occurred. *Schlup v. Delo* 513 U.S. 298, 315 (1995). To establish a miscarriage of justice, a petitioner must demonstrate a constitutional violation has probably resulted in the conviction of one who is actually innocent (A) ARSON - NO WITNESSES IN COURT (B) ROBBERY - Petitioner was charged for Robbing his own vehicle he drove off of the USED CAR WORLD car lot & help pay for with his ex victim alleged Kelly Mullen who visit the Petitioner often in the Allegheny county Jail prior to the Common Pleas Court date. *Munry v. Carrier*, 477 U.S. 478, 496 (1986). To show actual innocence, a petitioner guilty beyond ~~reasonable doubt~~ must demonstrate that it is more likely than not that no reasonable juror would have found the petitioner guilty beyond a reasonable doubt. *Schlup*, 513 U.S. at 321.

⑨ DISTRICT COURT of western P.A. (Pitts) Judge (10-12-23) Cynthia Reed Eddy E.C.F. 62 Clearly state "Corpus pursuant to 28 USC § 2254 challenging the Judgments of sentence imposed on him (Denied)

⑩ 3-21-23 ECF 1-2+3 District Court Habeas Corpus Date submitted E.C.F. 14 clarification #11 an independant Civil Action and Form of Collateral ATTACK to determine Not the guilt or INNOCENCE of the petitioner in custody, but whether the custody is unlawful under the U.S. Constitution Constitution & has Nothing to do with sentencing.

ATTACHED
Constitutional & statutory
Provision involved

Page 3

(1) Under Rules 5(b) of the Rules Governing Section 2254 cases the state is obliged to declare in its answer to a habeas corpus petition whether the state seeks to invoke "a statute of limitations" bar to any claim in the petition the state deliberately waives a limitations defense then the federal court is bound by that waiver and it would be "an abuse of discretion" [for the Court] to override... [the] state's deliberate waiver" by invoking the statute of limitations sua sponte.

Practice & Procedure - A state Habeas

(a) Ineffective counsel Public Defender JACKLYNN Kearney's performance in defending the Petitioner in a Court of law on 8-12-2015 was so prejudice her only focus was to get a conviction of a Plea deal.

(A) Was it unconstitutional for the Public Defender to ignore that a state Habeas submitted 6/29/2015 was denied 7/15/2015 without a opinion on an or court date "were NO witness showed for the arson Preliminary hearing 12-4-2014"

state Habeas Denied By Judge Donna Jo McDaniel

(B) Public Defender Kearney state 8-12-2015 Commonwealth of PA - Before Judge McDaniel Page 8 of 11 sentence 8 of 11 "Not that it matters, Your Honor, but the victim did go to the jail (she 'victim' is scared of him) to visit the defendant four times during this time" how did ~~the~~ Ms Kearney know of visits for she had records of the County Jail in her position at the time of court were a telephone conversation recorded the victim state, the witness to the

ATTACHED
 Constitution & statutory
 Provisions. (involved)

Anson at 1758 LAKETON ROAD - Wilkesburg PA
 15221 - Petitioner response I told you I didn't
 do this all on Allegheny County Phone records
 that Ms Kearney the Public Lawyer had in her
 hands.

(1) THE STATE Habeas Corpus to bring
 fourth the Body of evidence on 6-29-2015
 & dismissed 7-15-2015 prior to the Common
 Plea Court Date of 8-15-2015 in front
 of the honorable Judge Donna Jo McDaniel
 was never address by the Public Defender
 for arson & Robbery the petitioner informed
 the Attorney that he & Ms Kelly Mullen both
 paid for the car he picked out & drove
 off the car lot as New & drove often.

(2) Ms Kearney had plenty of defense in her
 hands - but was so deficient & not functioning
 as a attorney (defense attorney) all the
~~evid~~ evidence to rebuttal the ~~def~~ Attorney
 District ~~att~~ arguement was unreliable
 which resulted in the Public Defender to
 fill out every question on the Plea agreement
 question's 1 to 68 & Defendant's initials was all
 Ms Kearney stating the victim & witness are white
 you are Black you will get 10 to 20 yrs first time
 up state for this I am 56 yrs old Now
 Strickland v. Washington, 466 U.S. 668, 686 (1984)
 Mc Mann v. Richardson, 397 U.S. 759, 771 (1970)

(3) The Public Defender Ms Tacklynn Kearney
 was more concern with getting a plea deal
 instead of pleading a defense & had a very
 Great-one Anson - Habeas Corpus - ~~att~~ victim
 visit petitioner in Jail often - Robbery
 Petitioner owned & drove often. (NO medical).

STATEMENT OF THE CASE

rules & Procedures of the court House was not followed were the District Attorney "Allegheny County" ¹⁵²¹⁹ chelsie Pratt follow this case from the preliminary hearing for Arson 12-4-2014 to the common Pleas court hearing 8-12-2015 were

① A state habeas corpus was denied w/out a opinion or court Date.

② there was No witness at the Robbery charge an/or Arson charge - No witness testify - But charges held why.

③ Petitioner owned the vehicle Robbery Charge

④ victim Kelly Mullen visit the petitioner in the county Jail several time until he told her do not visit him No more.

⑤ NEWLY Discovered

① Judge Donna Jo McDaniel Common Pleas Judge of Allegheny County (4 Denie the writ of Habeas Corpus") retired Jan 31st 2019 for not following the rule & Procedure of the court room. Public Record none informed Petitioner.

② Victim of Arson & Robbery Kelly Mullen Dwelling 2810 Idaho st - McKeesport, PA 15132 - House was bygned to the ground & a 19yr old kid. was murdered in the same house a week or two earlier. Oct. 2015 Public Record the petitioner was in the allegheny Jail for 2014 sept 7th Arson - denied Habeas corpus & No witnesses. Respectfully submitted ~~Jerry Davis~~

REASONS FOR GRANTING THE PETITION

1 Newly Discovered Evidence

(A) Common Pleas Judge Donno Jo McDaniel retire for not following rules & procedure in Jan 2019 (31st day) Public Records.

(B) Victim & ex-hubby Malen Dwelling 2810 Idaho st McKeesport PA 15132 - was Born to the ground Oct 2015, A week or two prior a 19 yr old young man was murdered in the same Dwelling - McKeesport - PA Records on police station. The Petitioner was in the County Jail for 2014 sept 7 Anson Robbery

(2) Ineffective Counsel Public Defender Jacklyn Kearney was so in gauged in a guilty plea - she misspelled petitioners initials page 9 of guilty plea - never address the state habeas Corpus denied without a opinion or court hearing why was the fact no medical records or Protection from Abuse (P.F.A.s) Documents never submitted in the Proceedings that was mention several times. P.F.A.s for 1758 Laketon Road Wilkinsburg PA 15221 - Anson - never submitted. fore they never exist - no witnesses in the Preliminary hearing - victim visit the Petitioner several times in the Allegheny County Jail prior to the Common Pleas Court Date

Robbery is it constitutional to charge a man for Robbery on his own vehicle he drove off the car lot & drove often. Plus help pay for b

(3) Never was there a second arrest for the authority of a Robbery case after charges dismissed at lower courts

(4) Is it constitutional to hold charges - when NO WITNESSES testify on (A) Anson OR (B) Robbery - there was NO witness at the Court House on these cases.

(5) Fraud on the court the Plea agreement & Document 25-7-6/20/23 Page 2 of 10 - signature (B) Document 25-2-6/20/23 Page 1 of 5 - is Not the Petitioner

(6) All documents - P.F.A.s - Affidavit of Probable Cause medical victim Bleeding hands - ~~trans~~ transcripts of Robbery Not Submitted - Bail arraignment for Anson Brady violation - very pertinent but Not in discovery Package. this case was Not followed by rules & procedures. Jim Davis

ATTACHED - Page 2
(Reason for Granting the Petition)

Question Presented For Certiorari

- Document 25-9
- ⑦ Anson Preliminary 12-4th-2014 - District Attorney - state PFA - Page 39 of 43 on the petitioner NO PFA's paper work was presented IN court for 1758 Laketon Rd Wilkesboro PA 15221 were said arson occurred Also amend a Criminal Homicide on a reoccurrence of robbery the day prior with the same victim of a car (vehicle) the petitioner - help pay for & drove off the car lot as ~~the~~ without NO medical records throughout any proceeding Attempt Criminal Homicide!
 - ⑧ District Attorney (Anson Preliminary) assert Document 25-9 - Page 42 of 43 - sentence 10 of 11 he threatens to kill her. "She was Afraid" of him." The Court is well aware of their history state the D.A. which show prejudice, on ~~behalf~~ Behalf ~~the~~ (sorry) of the D.A Chelsea Pratt.
 - ⑨ Common Pleas of Allegheny County Court House 8-12-2015 before Judge Donna Jo McDaniel Pitts, PA 15219
 - ⑩ after being coerced by the public defender to sign a plea deal the attorney filled out - why D.A. Chelsea Pratt follow this case from the preliminary stage NO medical record - NO PFA's - NO witness at the robbery proceeding - NO witness at the Anson is this Constitutional to move forward with charges NO witnesses in either preliminary Hearing for Anson on Robberies.

Question Presented for
Certiorari

- (11) IF the victim was so afraid of the petitioner as asserted by the District Attorney 8-12-2015 attach page 8 of 11 Line 8 to 11. Petitioner's Attorney state, Not that it matters your Honor, but the victim did go to the Jail to visit the defendant four times during this time - why was the P.F.A. submitted?
- (12) Why Didn't it matter to the Petitioner's (Not) attorney that his ex girlfriend of the time visit him numerous times - in the Allegheny Jail prior to the sentencing of a coerced (Plea) sentence agreement - plus the denial of of the state Habeas Corpus wear NO witness showed for a prima facie case at hand for the Arson trial prior to 8-12-2015 and on the Robbery of a vehicle the petitioner pay for (help) & drove very often - we were was the evidence beyond a perpendance of such charges brought fourth by the district attorney office for the Common wealth to move forward within reason.
- (13) Arson & Robbery the Affidavit of probable Cause do not match up with the testimony in Court testimony of No witnesses at Court, or what is transcribed.
- (14) Fraudulent paper work submitted
(A) the Plea agreement Petitioner did not fill out but did sign - (B) Document 25-2-page 1 of 5 & (C) Document 25-7 Page 2 of 10 is Not the petitioner signature at all.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Day Down

Date: July 1st 2024

IN Jail mail BOX
July 2nd 2024