

24-5233

No. _____

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MAY 01 2024
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SUPREME COURT U.S.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Willie Charles Rose — PETITIONER
(Your Name)

VS.

Heidi Washington, et.al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The Sixth Circuit Court of Appeals of The United States
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Mr. Willie Charles Rose
(Your Name)

1780 East Parnall Rd.
(Address)

Jackson, Mi 49201
(City, State, Zip Code)

N/A
(Phone Number)

MDOC Prison Number #235893

QUESTION(S) PRESENTED

- 1) Whether the Sixth circuit made clear error when it concluded that the District Court did not err or make mistake when it overruled the magistrate judges order that held that prison officials caused "actual injury" to plaintiff Rose ability to timely and fairly access the court when he was seeking meaningful federal and state post conviction relief by unlawfully stripping him of his legal documents, material(court documents) by way of retaliatory transfer for engaging in First Amenedment protected conduct?
- 2). Whether Jurist of Reason conclude or find it debatable that plaintiff Rose has presented a valid access to the court claim with a non-frivolous underlying claim that would warrant relief?
- 3). Whether Jurist of Reason would conclude or find it debatable that the previous rule 60(b)(6) motion that plaintiff Rose submitted to the District Court and the Sixth Circuit in an attempt to remedy the issues in this case were erroneously denied, especially considering that Mr. Rose was in compliance with controlling Sixth Circuit law?

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

Rose v. Woods, 2016 U.S. Dist Lexis 3886

Rose v. Washington, 2:16-cv-242-GJQ-TPG

Rose v. Woods 2017 U.S. Dist. Lexis 207821

* * Rose v. Bauman, 2018 U.S. Dist. Lexis 16339 * *

Rose v. Horton 2018 U.S. App Lexis 38148

Rose v. Wayne County, 2019 U.S. Dist. Lexis 163712

Rose v. Damron, 2019 U.S. Dist. Lexis 52944

Rose v. DAMRON, 2019 U.S. Dist. Lexis 52660

Rose v. Campbell 2020 U.S. ^{App.} Dist. Lexis ~~30452~~ 12990

Rose v. Bauman 2020 U.S. Dist. Lexis 30452

Rose v. Campbell 2020 U.S. ^{App.} Dist Lexis 19189

People v. Rose, 2011-12580-01-FC (3rd.Jud.Circuit Court)

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Christopher v. Harbury, 536 U.S. 412-415
Lewis v. Casey, 518 U.S. 349, 351, 355
Crawford-El v. Britton, 523 U.S. 574, 578-81
Hartman v. Moore, 547 U.S. 250, 251
Hardy v. United States, ~~375~~ U.S. ~~277~~, 282
Smith v. Murray, ~~477~~ U.S. ~~527~~, 536
Ross v. Blake, 578 U.S. 632, 644-45
Bransford v. Brown 806 F.2d 83, 86

STATUTES AND RULES

42 U.S.C. 1983
42 U.S.C. 1997(e)(c)
28 U.S.C. 1915(e)(2)
28 U.S.C. 1915(A)
Rule 15 of Fed.R.Civ.P
Rule 60 of Fed.R.Civ.P
MCL 780.972
MCR 6.508()()

OTHER

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☒ reported at 2023 U.S. App. Lexis 29276; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☒ reported at 2019 U.S. Dist. Lexis 52944; 2019 U.S. Dist. Lexis 52660; 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 Nov. 01 2024.

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

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: Feb. 1, 2024, and a copy of the order denying rehearing appears at Appendix C.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including Petitioner Rose (date) on MAY 21, 2024 (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

I & IVX Ams. of The U.S. Const.

STATEMENT OF THE CASE

In December of 2015, Mr. Rose was subjected to a retaliatory transfer by prison officials within the michigan department of corrections(MDOC), after Mr. Rose filed a grievance giving notice that he intended to seek redress in a court of law for being denied access to prompt serious/adequate health care for an extremely painful and life threatening gangrenous gall bladder infection that had started spreading to his liver.

Shortly after the retaliating transfer occurred, while at the new place of confinement, Mr. Rose became aware that the legal documents pertaining to his wrongful state conviction in addition to other documents and case laws that were meant to help him support his post-conviction relief efforts and the issues related to the suit were no longer in his possession. This loss of document caused Mr. Rose to file 2 more grievances, both grievances verified that plaintiff Rose was indeed stripped of his documents. One of the grievance even verified that the MDOC had refused to provide a viable remedy to replace the unlawfully seized documents that were taken, and it also verified that Mr. Rose's due diligence efforts to recover the court record through the court failed due to him being indigent. However it should be noted that the state court stopped withholding the requested records after the U.S. District Court denied Mr. Rose's federal habeas petition and his motion to

stay/amend his petition.

Plainly put, during the time MR. Rose was subjected to the retaliatory transfer, he was actively engaged in his first and fourteenth amendment rights seeking redress by the prison grievance system and by way of the court pursuant to 28 USC 2254, for nonfrivolous claims related to him being wrongfully convicted and sentenced for criminal intent assault. See related cases section. See also Appx-B and Appx-D.

In short, while MR. Rose does not profess to be a legal genius; at the time the events mentioned above occurred he was somewhat lost and unsure because he was not as familiar with the law as he is now and he was heavily dependent upon the assistance he was receiving from his jailhouse lawyer who was a trained paralegal, to help him resolve his post-conviction issues. Additionally it was with the help of the jailhouse lawyer that Mr. Rose became completely aware that his involuntary guilty plea conviction could be vacated due to the fact that he was actually innocent of criminal intent assault per state law, and due to him being subjected to a slew of structural errors that led to him being arbitrarily denied access to exculpatory witnesses, his retained counsel of choice without competent substitutions amongst additional errors such as being denied the right to counsel, judicial bias and denied the right to defend with expert witnesses. See issue 1 of the amended appeal and see also Dkt #57 of the Sixth Circuit case 21-2882, for a

crystal clear picture of the underlying nonfrivolous claim for relief.

In a nutshell, despite all of Mr. Rose's efforts to fairly access the court in order to seek relief he has never been allowed to obtain relief for the verifiable claims presented in issue-1, despite him attempting to do so in the courts at every level see related cases; Rose v. Woods, 2016 Dist. Lexis 3886; Rose v. Woods, 2017 U.S. Dist. Lexis 207821; Rose v. Bauman, 2018 U.S. Dist. Lexis 16339 :Rose v. Horton, 2018 U.S.App. Lexis 38148; Rose v. Damron, 2019 U.S. Dist. Lexis 52944; Rose v. Bauman, 2020 U.S. Dist. Lexis 30452; Rose v. Campbell, 2020 U.S. App Lexis 12990; Rose v. Wayne County, 2019 U.S. Dist. Lexis 163712.

The external interference caused by prison officials intentional misconduct and the failure of the state court to provide Mr. Rose access to documents until after his Habeus petition was dismissed, effectively made exhaustion unavailable. See Ross v. Blake, 578 U.S. 632, 644-45

(Holding when a parties ability to properly exhaust has been thwarted these actions make exhaustion unavailable.)

Absent the external interference mentioned above occurring, Mr. Rose would have prevailed years ago.

REASONS FOR GRANTING PETITION

Petitioner Rose pleads with this Honorable and Just Court to grant certiorari because he is an actually innocent man whom was wrongfully convicted by way of an involuntary guilty plea after he was arbitrarily denied his right to defend against the criminal intent assault charges. See the above mentioned underlying access to the court claim listed issue #1 of the sixth circuit appeal. See also Dkt. #57 of Rose v. Washington, et al, case no. 21-2381; Rose v. Bauman, 2020 U.S. Dist. Lexis 30452; Rose v. Campbell, 2020 U.S. App. Lexis 19189. Appx-D

If this court does not take up this case, petitioner Rose will not only be denied an opportunity to get relief pursuant to 42.U.S.C 1983, he will equally be unable to seek relief pursuant to rule 60(d) of F.R.C.P. A favorable ruling could support this avenue.

Point 1

Access to the court

In Hardy v. United States, 375 U.S. 277, 282 this Honorable and Most High Court made it clear to the nation that effective appellate advocacy begins with having access to the official court records, and later in Smith v. Murray 477 U.S. 527, 536, this Honorable and Just Court reaffirmed this principle by asserting that "the hallmark of Effective Appellate Advocacy occurs when a counselor surveys

transcripts to winnow of weaker arguments in order to identify stronger dead bang winner claims that are present in the record. ". See Rose v. Woods, 2016

U.S. Dist. Lexis 3886 (acknowledging the prejudice Mr. Rose faced without his court records.)-Appx.-D. pg.

Put plainly, petitioner Rose contends that these bedrock principles of effective appellate advocacy were violated in the worst way by overzealous prison officials whom were helibent on punishing him simply for seeking redress by the prison grievance system with the intent to seek vindication in a court of law for callously depriving him of prompt serious/adequate care for a life threatening illness. See Rose v. Damron, 2019 U.S. Dist. Lexis 52944(17-20) See Appx-B. (holding that prison officials actions violated petitioner Rose's right to fairly access to the court), see also Crawford-E1 v. Britton, 523 U.S. 574, 578-81 (holding that if a prison official intentionally subjects a prisoner to misconduct that affects his ability to fairly access the court a remedy must come forth). See also Hartman 547 U.S. 250, 251. In this case unlike Mr. Crawford-E1, Mr. Rose's Fourteenth amendment right to fairly access the court was violated because not only was he subjected to an act of intentional misconduct in violation of the first amendment of the U.S. Const. Mr. Rose was also denied an opportunity to timely and fairly present his nonfrivolous claim for relief.

In other words, Mr. Rose contends that Jurist of Reason

could conclude that when the federal judiciary in the lower court (U.S.D.C.), held that absent the prison officials actions of engaging in retaliatory misconduct by way of subjecting Mr. Rose to a retaliatory transfer, Mr. Rose never would have been stripped of the official and material court records that he needed to study in order to generate a nonfrivolous prima Facie pleading with documentation supporting his claim for relief, showing how he was arbitrarily denied his retained counsel of choice, without competent substitution, denied access to exculpatory witnesses, expert witnesses and the right to counsel, all of which led to an involuntary guilty plea.

The prison officials nefarious actions eventually led to Mr. Rose suffering "ongoing" serious prejudice to his ability and right to effectively engage in appellate advocacy for himself. See Hardy, Smith and Crawford-El

Had the prison officials never unlawfully seized Mr. Rose's records he would have timely and effectively sought relief in the state court and additionally petitioner Rose declares that the unchecked misconduct caused by the prison officials and the failure of the state court and state court employees to provide Mr. Rose access to official court records that he needed to effectively advocate for himself as he acted in pro per, representing himself in this case, ultimately made exhaustion pursuant to 28 USC 2254()() "unavailable". See Ross v. Blake 578 U.S. 632, 644-45 (holding that when prison officials thwart or interfere with a prisoners

ability to fairly exhaust, exhaustion is no longer required).

Lastly, the petitioner reasserts that absent the prison officials unlawfully targeting him and seizing his legal documentation, he contends that he would have been able to exhaust his state court remedies pursuant to MCR 6.502(c), in a timely and effective manner in accordance to the clearly established law mentioned above. And in the event he did not prevail in state court proceedings, he is confident that he would have prevailed victorious in the habeas court with the underlying clearly meritorious claim for relief mentioned in issue 1 of his appeal. However this opportunity appears to be unavailable and perhaps a backwards looking access to the court claim, due to the lower courts erroneously concluding that no injury occurred. See Christopher 536 U.S. 412-15. See also Lewis v Casey, 518 U.S. 349, 351, 355. If this court remedies this injury, Mr. Rose could perhaps even seek relief pursuant to Rule 60(d) of F.R.C.P.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

William Charles Rose - Petitioner in Pro Se

Date: July, 4 2024