

APPENDIX: "A"

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

Submitted June 27, 2017

Decided July 10, 2017

Before

WILLIAM J. BAUER, *Circuit Judge*

RICHARD A. POSNER, *Circuit Judge*

JOEL M. FLAUM, *Circuit Judge*

No. 17-1435

SHANE KITTERMAN,
Petitioner-Appellant,

v.

JEFF DENNISON,
Respondent-Appellee.

Appeal from the United States District
Court for the Southern District
of Illinois.

No. 16-cv-1134-DRH

David R. Herndon,
Judge.

ORDER

Shane Kitterman pleaded guilty in 1996 to aggravated criminal sexual abuse. According to that plea, he was to serve four years of probation. Kitterman claims that according to the terms of the plea agreement, he was relieved of the requirement to register as a sex offender upon his 1998 release from prison. Kitterman is currently serving sentences on three St. Clair County convictions for failure to register as a sex offender. He was found guilty at a jury trial of a 2014 violation, and entered guilty pleas for charges stemming from violations in 2012 and 2015. He was sentenced in August 2015 to three years in each case, with two terms to be served consecutively and one term concurrently.

In his § 2254 petition, Kitterman argues that his due process rights were violated at trial because he was not allowed to present evidence of his 1996 plea agreement. He argues that the terms of his 1996 plea agreement terminating his obligation to register as a sex offender after completing probation would have proven that the trial court lacked jurisdiction to impose a conviction for failing to register. The district court resolved this § 2254 petition by dismissing it with prejudice. The court determined that Kitterman's petition sought to challenge his 1996 conviction, and therefore the court lacked jurisdiction over the petition because Kitterman is not currently in custody for his 1996 conviction. But the district court misconstrued Kitterman's petition; in fact his petition challenges his 2012, 2014, and 2015 convictions on the basis of his 1996 plea deal. But Kitterman's state court appeal appears to be ongoing, and so he cannot proceed on his federal habeas challenges yet.

Accordingly, we **VACATE** the district court's decision and **REMAND** to confirm whether the state proceedings are still ongoing. If they are ongoing, the district court should consider staying the case pending the outcome of Kitterman's state proceedings. Kitterman's motion to proceed on appeal in forma pauperis is **GRANTED**.

APPENDIX: "B"

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U.S. District Court

Southern District of Illinois

Notice of Electronic Filing

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Case Name: Kitterman v. Garnett

Case Number: 3:16-cv-01134-DRH

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Docket Text:

ORDER denying [38] Motion for Bond. IT IS THEREFORE ORDERED that this action is STAYED until further order of this Court. IT IS FURTHER ORDERED that Petitioner SHALL NOTIFY the Court in writing when the Illinois Appellate Court, Fifth District, issues an order or opinion disposing of either of his pending appeals, within 14 days of the date the order or opinion is entered, and shall SUBMIT a copy of the order or opinion issued by the Appellate Court. The Court will then assess whether to lift the stay and whether further proceedings are appropriate. IT IS FURTHER ORDERED that Petitioner SHALL NOTIFY the Court in writing if he is released from custody while this action is pending. IT IS FURTHER ORDERED that Petitioners motion for bond during stay(Doc. 38) is DENIED. Signed by Judge David R. Herndon on 7/27/2017. (tkm)

3:16-cv-01134-DRH Notice has been electronically mailed to:

3:16-cv-01134-DRH Notice has been delivered by other means to:

Shane A Kitterman

B80577

SHAWNEE CORRECTIONAL CENTER

APPENDIX: "C"



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721

CAROLYN TAFT GROSBOLL
Clerk of the Court
(217) 782-2035
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September 26, 2017

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
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TDD: (312) 793-6185

Shane A. Kitterman
Reg. No. B-80577
Shawnee Correctional Center
6665 State Route 146 East
Vienna, IL 62995

THE COURT HAS TODAY ENTERED THE FOLLOWING ORDER IN THE CASE OF:

M.D.013984 - Kitterman v. Dennison

The motion by petitioner for leave to file a petition for writ of habeas corpus is denied.

Very truly yours,

A handwritten signature in cursive script that reads "Carolyn Taft Grosboll".

Clerk of the Supreme Court

cc: Attorney General of Illinois - Criminal Division

APPENDIX: "D"

Pet. "5"

State of Illinois

IN THE TWENTIETH JUDICIAL CIRCUIT, ST. CLAIR COUNTY, BELLEVILLE, ILLINOIS

PEOPLE OF THE STATE

vs.

Shane KITTERMAN

Defendant

No.

12 CF 1204
12 CF 1584

ORDER

This cause coming before the Court; the Court being fully advised in the premises and, having jurisdiction of the subject matter;

The Court finds: DEFENDANTS MOTION IN LIMINE FILED 9-5-13 IS
ADDRESSED AS A NOTICE OF AFFIRMATIVE DEFENSE.
IT IS THEREFORE ORDERED: THAT MOTION IS DENIED.

THIS ISSUE HAS BEEN PREVIOUSLY ARGUED PURSUANT TO
~~A STATES MOTION IN LIMINE WHERE THE DEFENDANT HAS~~
BEEN PROHIBITED FROM RAISING THE ISSUE OF THE LEGITIMACY
OF THE REQUIREMENT OF REGISTERING. THE STATE ARGUES
THAT THE REQUIREMENT STATUS IS A COLLATERAL ISSUE TO
BE ARGUED OUTSIDE THE PARAMETERS OF A CRIMINAL TRIAL.

IT APPEARS TO ME THAT THIS PROCESS PLACES TOO MUCH
FAITH IN GOVERNMENT IN GENERAL AND POLICE IN PARTICULAR
AND ALLOWS GOVERNMENT EMPLOYEES, RATHER THAN A JURY OF A
DEFENDANTS PEERS TO PROTECT THE DEFENDANT FROM THOSE SAME
EMPLOYEES. HOWEVER, AS THAT IS THE LAW AS I BELIEVE IT
HAS BEEN ~~AND~~ DECIDED THE DEFENDANT WILL NOT BE
~~ALLOWED TO CHALLENGE THIS REQUIREMENT TO REGISTER.~~
THIS ISSUE IS RESERVED FOR APPEAL

[Signature]

Judge
12-12-12 John Baricevic

White—CC, Yellow—SA, Pink—Defendant

FREEBURG PRINTING & PUBLISHING, INC.

CC-14-91

Karen L.

APPENDIX: "E"

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

October 12, 2017

Before

MICHAEL S. KANNE, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

No. 17-2632

SHANE A. KITTERMAN,
Petitioner-Appellant,

v.

JEFF DENNISON, Warden,
Respondent-Appellee.

Appeal from the United States District
Court for the Southern District of
Illinois.

No. 16-CV-1134

David R. Herndon,
Judge.

ORDER

On consideration of petitioner-appellant Shane A. Kitterman's petition for panel rehearing, filed on September 26, 2017, all judges on the original panel have voted to deny the petition.

Accordingly, the petition for panel rehearing filed by petitioner-appellant Shane A. Kitterman is **DENIED**.

APPENDIX: "F"

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

Submitted September 11, 2017

Decided September 13, 2017

Before

MICHAEL S. KANNE, *Circuit Judge*
DIANE S. SYKES, *Circuit Judge*
DAVID F. HAMILTON, *Circuit Judge*

No. 17-2632	SHANE A. KITTERMAN, Petitioner - Appellant v. JEFF DENNISON, Warden, Respondent - Appellee
Originating Case Information:	
District Court No: 3:16-cv-01134-DRH Southern District of Illinois District Judge David R. Herndon	

Upon consideration of the **PETITIONER'S MOTION FOR RELEASE PENDING DECISION OF PETITION FOR WRIT OF HABEAS CORPUS**, filed on September 8, 2017, by the pro se appellant,

IT IS ORDERED that the district court's denial of release on bond is **AFFIRMED**. The appellant has not met the very high standard applicable to motions for bond pending post-conviction proceedings. *See Cherek v. United States*, 767 F.3d 335, 337 (7th Cir. 1985)

5-3.

APPENDIX: "G"

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