

Cause No. 17-7902

IN THE SUPREME COURT of the United States

IN RE: JOHN PEYTON ALEXANDER, II
PETITIONER Pro SE

ON REHEARING FROM THE MARCH 19, 2018 DENIAL ORDER

STARFISH PETITION FOR REHEARING

addressed to Justice Samuel A. Alito, Jr.
(Rule 22)

JOHN PEYTON ALEXANDER, II PIN 30021
EAST MISS. CORRECTIONAL FACILITY
10641 Highway 80 West
MERIDIAN MS 39307-9256

"For if we are out of our minds, it is for God; if we are rational, it is for you." - 2 Cor. 5:13 (NAB)

Grounds for Discretionary Rehearing

Petitioner's May 7, 1976 murder conviction was obtained in violation of the Constitutional provision of collateral estoppel.

— AMENDMENTS V & XIV

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App. B-3.1 — November 25, 1975 "NOTICE" to Chancery Court, signed by Hinds County Circuit Judge Leon F. Hendrick of (Petitioner's) Grand Jury Acquittal.

App. B-3.2 to 3.4 — Nov. 24, 1975 Acquittal of John Peyton Alexander, II, pursuant to MCA § 99-13-5 (1972), signed by the grand jury foreman and by Hinds County District Attorney, Ed Peters.

App. B-3.6 to 3.8 — Nov. 25, 1975 "Order of Admittance After Hearing" signed by Hinds County Chancellor George Haynes committing John Peyton Alexander, II to the Miss. State Hospital.

App. B-4 — May 7, 1976 "Jury Verdict AND SENTENCING of the Defendant By the Court," signed by Hinds County Circuit Judge Russel D. Moore, III recording a guilty finding against Petitioner

- App. D-7 — "Certificate of Rehabilitation": proposed format.
- App. F-10.3 — Amendment II, U.S. CONSTITUTION
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- App. Q-32 — July 27, 1977, notification letter from the Director of Forensic Psychiatry at the Miss. State Hospital informing the Hinds County Circuit Judge of Petitioners desire to transfer to prison.
- App. Q-33 — August 4, 1977, WAIVER from Petitioner requesting transfer to the Miss. State Penitentiary at Parchman.
- App. R-34 to 35 — March 14, 2018, newspaper article, "Email: Prison gangs 'running things'," "The Clarion Ledger," Jackson, MS

App. R-36 — March 15, 2018, newspaper Article,
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EPIGRAPH (REPRISE)

In the evenings, an aged & eccentric U.S. military veteran would often go out to the beach at low-tide where hundreds of starfish had washed up on the shore. The old soldier began the practice of throwing individual starfish back into the sea.

Upon seeing him, a wealthy industrialist approached the combat-veteran and asked him what he was doing.

"I'm rescuing these starfish," he replied.

"Why, you cannot think your behavior could possibly make any difference," said the magnate. "There are hundreds of starfish!"

Undeterred, the warrior picked up another starfish and threw it back into the ocean.

"Well," the old soldier said, "it made a difference to that one!"

— adapted from Anthony de Mello

SEE APPENDIX O-30

Cause No. 17-7902

STARFISH PETITION for Rehearing

Comes Now, John Peyton Alexander, II, petitioner, and hereby files this, his Petition for Rehearing, from the March 19, 2018 denial order in the Above-numbered cause (Appendix, hereafter App. P-31); And, in support thereof, would show unto this Honorable Court, the following, to wit:

Collect/INVOCATION ^{FNI}

Set Aside, o Lord, the bond of sentence written for me by the law of sin, which in the paschal mystery you cancelled through the resurrection of Christ your Son. Who lives and reigns with you in the unity of the Holy Spirit, one God, for ever and ever. Amen!

FNI. Source: Roman Missal

STATEMENT of the Case

Because of the discrete nature of the circumstances surrounding the homicide which I committed, the Hinds County (Miss.) District Attorney, Ed Peters, (who ~~was~~ ^{was} a personal friend of all of the principals to the case), did not want to try the case in public. Mr. Peters & my trial attorney utilized a little-used State Statute FN2 which allows a grand-jury (as opposed to a petit-jury) to render acquittals in insanity cases. Most of the Miss. public at-the-time saw this move as an instance of jury-nullification. However, I had widespread support & sympathy (not for my actions, but for me as a person FN3); and there was little support for sending me to Mississippi's notorious Parchman Prison.

FN2. Miss. Code Ann. § 99-13-5 (1972)

FN3. I discovered that my griefs
grieve on universal bones!

The homicide occurred on October 4, 1975. The November 1975 Term of the Hinds County Grand Jury certified to the Circuit Court that by reason of my insanity "[I] was not, on October 4, 1975... when the homicide occurred, responsible for [my] acts at the time the acts were committed and made." FN4

Thus, a final judgment in the case was rendered as a matter of law by a jury of my peers which acted pursuant to state statutory authority.

When pressed by the Miss. news media as to why he allowed such a disposition, the DA said

FN4 The Certification of the Grand Jury (App. B-3.2 to 3.4) is signed by Ed Peters the Hinds County District Attorney. Notice of the Acquittal (App. B-3.1) was given by the Circuit Judge to Chancery Court, which on Nov. 25, 1975, committed me to the Miss. State (mental) Hospital for 20 days. (See App. B-3.6 to 3.8).

that he was going to use everything which I told the Hospital psychiatrists in a possible future trial, (Although he only speculated whether a public trial would ever take place.) Based on these statements by the DA, my trial Attorney advised me not to talk to these psychiatrists.

After the 20 days had passed, the Miss. STATE Hospital released me into pretrial detention in a jail cell.

On May 7, 1976, a HINDS COUNTY Circuit Court petit-jury reached a different verdict (App. B-4), ^{FN5} that is in direct conflict with the grand-jury Acquittal (App. B-3-1 to 3.4). Both jury-verdicts were rendered in the Hinds County Circuit Court, Although two different judges signed-off on the Acquittal

FN5. As a result of this petit-jury verdict, I have been incarcerated for over 40 of the last 42 years in what was then—and what remains today—one of our nation's most brutal & cruel prison systems (See App. R-34ff.).

(App. B-3.1 to 3.4) and the guilty-finding (App. B-4). Both the ACQUITTAL AND the guilty-verdict were the result of litigation between the same District Attorney and the same Defendant charged with the same illegal act. Aggrieved by the above described circumstances, I now humbly petition this Honorable Court for redress.

REASONS for Granting the Writ

"God be merciful to me A sinner."

— Luke 18:13 (NAB)

I respectfully assert that the State of Mississippi obtained the second jury-verdict (A conviction), SEE App. B-4, in violation of the Constitutional protections regarding collateral estoppel found in Amendment II (App. F-10.3) and Amendment XIV (App. F-10.5). Although I have asked many times in many courts, no appellate court has ever granted me plenary collateral review on these substantial grounds.

The thing speaks for itself! The Hinds County District Attorney showed a split-mind on the ques-

tion of my innocence or guilt. First, the DA signed his name to the Acquittal-finding (See App. B-3.4); then, he argued vehemently before the members of a petit-jury for them to find me guilty. The underlying circumstances of the homicide tell a story of "the human heart in conflict with itself." In 1977, I was initially at the Miss. State Hospital; and the treatment I experienced there caused me to decide that I could not find integrity in the finding that I was not responsible for my actions. FN6 Due to the hope of better living conditions at Parchman offered by the landmark Miss. prisoners' rights decision in Gates v Collier, 501 F. 2d 1291 (5th Cir. 1974), in 1977, FN7 I decided that I wouldn't file for immediate post-conviction relief should the state supreme court uphold my murder conviction; which it did,

FN6. my parents reared me to be a responsible person, and they both taught me the difference between right & wrong.

FN7. See App. Q-32 and Q-33. I asked to go to prison!

6.

See Alexander v. State, 358 So. 2d 379 (Miss. 1978).
The government did not develop the idea of a collateral relief time-bar until the mid 1980s. I never planned seriously even to raise these grounds until my parole was unlawfully revoked, ^{FWB} and by then it was too late. I have filed so many habeas petitions in the U.S. Court of Appeals for the Fifth Circuit that the Justices there threatened me with sanctions. (See App. G-12 to 13). Therefore relief now is not available to me in any other court besides the Supreme Court of the U.S. This cause number is my last metaphorical rock!

REQUESTED RELIEF

I humbly ask this Honorable Court to set-aside my murder conviction, based on the collateral estoppel principle. I also humbly ask for a "Certificate of Rehabilitation." (See App. D-7).

FWB. See Alexander v. State, 647 So 2d 693 (Miss. 1994).

Conclusion

If "legal justice" is defined as the practice of government officials conscientiously following the law (wherever it may lead) by giving full faith & credit to lawfully-rendered court decrees, and "moral justice" is humane-punishment ^{Eng} which fits the severity of the offense: I would have to say that the decision which I made in 1977 to ask to go to prison was a choice for "moral-justice" over "legal-justice." Forty-one years later, I now am emotionally stable on long-acting injectable medication (App. K-23), and I just want to get out of prison! I now humbly beg for "legal-justice" over "moral-justice."

FW9. This brings-up the intervening circumstances of Rule 44. By means of a recent § 1983 lawsuit, the long-standing fact has become publicly known that prison gangs control the Miss. prisons and are flooding them with illegal drugs. (App. R-38). In response, on Apr. 20, 2018, officials put all MDX prisons on indefinite-lockdown. This is a major governmental crisis! The purpose for my asking to go to Parchman (App. Q-32 & 33) was for me to obtain humane-treatment, and this now is not available anywhere!

I have surrendered my indignant heart for
A begging one:

Have mercy on me A sinner!

Benediction ~~FN10~~

May the peace of God which passeth understanding keep your hearts and minds in the knowledge and love of God, and of his Son Jesus Christ; and may the blessing of God Almighty, Father, Son and Holy Spirit, be, amongst you and remain with you always!

This the 27th day of April, 2018.

Fiat mihi,

John Peyton Alexander, II
John Peyton Alexander, II
Petitioner Pro Se

FN 10 Source: Book of Common Prayer (1928).

Postscript

"God is in his heaven, and all is right with the world."
— Robert Browning

The LORD is God of the impossible! Early in my adult life, I committed egregious mistakes which resulted in my being given a life sentence in one of our country's most brutal prisons. ^{FNII} However, some seven weeks after the homicide, the impossible occurred: a grand-jury, acting pursuant to state

FNII The current practice where Miss. government leaders change the laws concerning prisons with every fickle shift in public opinion has caused the prison reforms of the 1970s to be erased. Living conditions all over the MDOC statewide are just as brutal in 2018 (See App. R-34ff) as Parchman Prison was in 1974 (See Gates, supra). The goals of my insanity defense were to avoid the horrors of Parchman and to obtain medical treatment; which, prior to the late 1970s, was not available to inmates anywhere except in the Miss. State (mental) Hospital.

Statutory Authority, Acquitted me of murder. Nevertheless, A subsequent petit-jury, in the same Court with the same DA, found me guilty. I was sent to the Miss. State Hospital to wait on Direct Appeal.

From my conversations with other hospital patients, I learned that the quality-of-life at the state penitentiary in 1977 was more humane than the quality-of-life at the state hospital. Therefore, I chose to go to Parchman!

Based on the 1975 grand-jury acquittal, I am now asking this Court to overturn my murder conviction and give me a Certificate of Rehabilitation. ^{EN12} In light of the 2018 zeitgeist, when I think about how preposterous this request seems, I flinch!

I flinch because even though the guilty verdict was obtained in violation of the Constitutional principle of collateral estoppel, forty-years in carcer

EN12 The homicide which I committed was a once-in-a-lifetime Act of passion.

ation is AN appropriate & fitting disposition, given the serious ness of the illegal-act which I committed. FN13

I flinch because opposing-counsel is AN esteemed government official who is much more powerful than I AM, AND who has ALL of the news-media behind him; AND there ARE many adversaries!

I also flinch because, even though I have proven my ongoing emotional-stability through 28 years now of medication-compliance on long-acting injectable medicine, FN14 I have done some very foolish things

FN13. Forty-years is the duration which God imposed on Moses after he smote AN Egyptian. Acts 7: 24, 28-30.

FN14. Ever since 1990, I have been getting A timed-release "feel-good shot" which stays in my blood-stream for 28 days (see App. K-23). Therefore, my medication-delivery schedule is easily tracked. Also I look-forward each month to the mood-boost which I get from these injections.

in the past: And therefore have no right-standing
on my own.

But then I put my eyes on our national
motto: "IN GOD WE TRUST." Our Lord is a good
and gracious God, whose mercy is stronger
~~than~~ any human power to do evil! There fore, I
can rest, because I know that God Almighty and
this Honorable Court can do for me that which I
cannot do for myself.

The Lord is faithful, FN15 and with God's
help, I just might accomplish the impossible!

JOHN PEYTON ALEXANDER, II; PIN 30021
EAST MISS. CORRECTIONAL FACILITY
10641 Highway 80 West
MERIDIAN MS 39307-9256

FN15. "Shall not the Judge of all the earth
deal justly?" Gen 18:25 (NASB)

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