

UNITED STATES SUPREME COURT

Devon Delehoy (pro se)
Petitioner,

v.

Kellie Wasko, et al,
Respondents

CIV NO ²⁴⁻⁷²²⁴~~24-2866~~

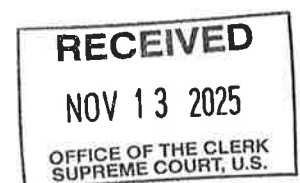
**PETITION FOR REHEARING
OF ORDER DENYING OF THE
WRIT OF CERTARIORI**

IT COMES NOW, pursuant to **Sup Ct. rule 44(a)** the above entitled petitioner Devon Delehoy a pro se litigate person , hereby respectfully moves the court to grant the above captioned matter: ‘ Petition for rehearing of order denying the writ of certiorari.

The petitioner presents the substantial grounds that are intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented. The petition for rehearing list the substantial grounds for the petition for rehearing of the order denying the writ of certiorari under the court ruling in **HALL V HALL, 584 U.S. 591, 138 (2018), UNITED STATES V HIGGS, 141 S. Ct 208 L. Ed 2d 582 (2021)** and other rulings presented within the petitioner for rehearing. The petition for rehearing presents the listed grounds separately for the courts convince.

The writ of certiorari presented the below questions:

1. Is a person who gets out of a car voluntary, held against their will?
2. Is a person who exist a car, and returns without concern held against their will?
3. Is a person who performs a sexual act held against their will?
4. Is a person who drives home while her alleged kidnapper sleeps being held against their will?
5. Is it a common reflection of kidnapping when the person invites their alleged kidnapper after the act into their home?
6. Was the petitioner entitled to a jury instruction that describes the knowing element of the underlying offence?



7. Must a court screen the petition of habeas corpus under rule 4 of habeas corpus 2254 cases?
8. Must a court rule on the merits under the 14th amendment?
9. Can a habeas court grant a habeas corpus absence of showing cause for procedural default?
10. Is wrongfully convicted also known as actual innocent?
11. Is due diligence waived under actual innocence?
12. Is timeliness excused under procedural default?
13. Is procedural default waived under actual innocence?

The petitioner presents further questions of a matter of common law, and fact that have not been previously presented that give the compelling reasons why the court shall deny the order denying the writ of certiorari, and now grant the petition for rehearing, and grant the writ of certiorari as the interest of justice so begs the court to ensure the protections of the constitution do not result in once who is innocent.

Presented questions of common law and fact that have not been previously presented:

1. Is it a compelling reason to review the case in order for a fair opportunity to present the claims of the Court of Appeals mistake by not upholding its own rulings and not finalizing the matter upon the merits?
2. If the court of appeals failed to make a ruling based on a proper and plenary review of material, and make a conclusion based on the merits is the inmates conviction unfinalized? If so, is it not a compelling reason in the interest of the public that inmate's convictions are finalized by the court's discretionary review to ensure that persons are not held in violation of a constitutional protection?
3. Does the court have the jurisdiction to use its duty in a particular compelling in cases that present an opportunity to decide the constialty or enforceable of a federal statute in a manner that is proper exercise of government power when a combination of an extraordinary case and compelling reasons that warrant a discretionary sentence

vacated can include reasons that may also allege as grounds to vacate sentence under
28 U.S.C 2254?

GROUND #1

Is it a compelling reason to review the case in order for a fair opportunity to present the claims of the Court of Appeals mistake by not upholding its own rulings and not finalizing the matter upon the merits?

The justices re-look at the matter is in the public's interest as it is an undoubtedly compelling reason to give the petitioner his "fair and meaning full opportunity to be heard and defend (e.g. **BODDIE V. CONNECTIUCT, 401 U.S. 371, 91 (1971).**

The court's re-review will reveal the 8th Circuit Court of Appeal's adjudication of the appeal by making a fundamental error by not upholding its own ruling in **UNITED STATES V SIMPSON 44 4TH 1093, 119 2022 WL 3350604 8TH CIRC 2022)** (to convict the defendant of kidnapping, government is required to show that the defendant has knowledge of the kidnapping) which is exemplified in the **UNITED STATES V MACKLING, 671 F. 2D 60 2ND CIRC. 1982** (the nature of crime of Kidnapping requires kidnapper use of means of force, actual or threaten, physical or mental in each element stage of the crime so that victim is taken, held and transported against his or her will). Obviously, the appeal court's decision conflicts with this ruling (**Sp Crt rule 10**). The court's re-examination of the state court record substantially shows the victim was not being held against her will by any means of force whatsoever as the previously presented questions are substantially answered. No person is being held against her will if she gets out of a car voluntary and gets back in, performs a sexual act, or when she drives home while her alleged kidnapper sleeps, or even invites him into her home after the alleged occurrence. This plain and harmful error of such conflicts gives the court the compelling interest that this petitioner did not

“KNOWINGLY” kidnap any person, and by the court record the custody violated his due process rights under the element clause of the 14th amendment.

By the appeal courts plain error in connection of the finding which conflicts with its own ruling in **DIESER V. CONTINTAL CAS CO 440 F. 3D 920 8TH CIRC. 2006**) “judgments is final within the meaning of statue providing court with jurisdiction or appeal from discretion ruling shows no judgment is final thus the court must finalize the proceeding by ruling on the merits” which coincides with this court ‘s ruling in **HALL V HALL, 584 U.S. 591, 138 (2018)**. It is a very compelling reason to finalize inmates convictions **HIGGS V UNITED STATES, 141 S. Ct 208 L. Ed 2d 582 (2021)**.

GROUND TWO

If the court of appeals failed to make a ruling based on a proper and plenary review of material, and make a conclusion based on the merits is the inmates conviction unfinalized? If so, is it not a compelling reason in the interest of the public that inmate’s convictions are finalized by the court’s discretionary review to ensure that persons are not held in violation of a constitutional protection?

The court in **HARRIS V NESLON 394 U.S. 286, 89 (1969)** made the ruling that a habeas court must “carefully and plenary process of his claims including a full opportunity for presentation of relevant facts as actual innocence entitle him to the court review.” The fact that the appeal court made the claim that it gave the matter this standard of review within its judgment; however such claim is without merit as the court’s overview of the state court record shows the petitioner did not knowing hold any person against their will. Additionally, by the appeal court mistake that when a district court has the duty ensure the reasonable application of this court’s rulings are applied to habeas corpuses cases and m by the lack of review the appeal

court made the clear error that the district court's rulings that diligence is a one year limitation which conflict the **Mc QUIGGIN V. PERKINS, 569 U.S. 383, 113 (2013)** court ruling that "due diligence is waved under actual innocence."

By the appeal court making its ruling upon no cited conclusion based on any merit is reflects the "balance the societal interest in finality comity and conversation of secure judicial resource which the individual inheritance of justice arises in the extraordinary cases.... Since habeas corpus is at its core, an equitable remedy a court must adjudicated as required to do so by the ends of justice ... to those who are truly deserving" (**SCHULP V. DELO, 518 U.S. 298, 115 (1995)**) is left to the side. By the cognizable claims within the filed Habeas Corpus which present the "extraordinary cases where a constitutional violation as probably resulted in a conviction of one who is innocent, a federal court can grant the habeas even in an absence of showing for procedural default" **MURRAY V. CARRIER, 477 U.S. 478, 106 (1986)**. The appeal court's order creates a "fundamental miscarriage of justice by allowing this factually innocent person to remain imprisoned due to constitutional violation"(**MC QUIGGIN V PERKINS, ET AL**)

Such case is of course deserving as such "narrow class of a case" (**SCHULP ID.**) is a "fundamental value determination of our society that it is for worse to convict an innocent man than to let a guilty one go" (**IN RE WINSHIP, 397 U.S. 358, 372 (1970)**). The fact not only did the district court make this error, but so did the appeal court under the abuse of its discretion by "losing sight of the vital role in protecting constitutional rights" (**SLACK V. MC DANIEL, 529 U.S. 473, 120 (2000)**) as "it is particularly important that judges consider and resolve challenges to inmates conviction and sentence" (**UNITED STATES V. HIGGS, 141 S. Ct 645, 208 (2021)**). The matter before the court gives the court the proper jurisdiction "to induce a greater degree of finality of judgments in Habeas Corpus proceedings" (**KUHLAMN V WILSON 477 U.S. at**

450, 106), as a court “must yield to the imperative of correcting a fundamentally unjust incarceration” (ENGLE V ISAAC, 456 U.S. AT 135, 102 S. CT AT 1576)

GROUND #3

Does the court have the jurisdiction to use its duty in a particular compelling in cases that present an opportunity to decide the constitutionally or enforceable of a federal statute in a manner that is proper exercise of government power when a combination of an extraordinary case and compelling reasons that warrant a discretionary sentence vacated can include reasons that may also allege as grounds to vacate sentence under 28 U.S.C

2254?

28 U.S.C 2254 (A) clearly states; “only on the ground that he is in custody in violation of a constitutional right.” By the mistake of the appeal court not carefully reviewing the material that clearly shows the abuse of the district court in which the appeal court decision conflicts with its enforcement of law. This court is asked for its grace and enforcing the historical “remedy that secures the most basic of freedoms is a habeas Corpus” (congressman, Leahy, During the Improving American Security act 2007). The lower court’s constitutional law violation by convicting a person in violation of the bill of rights and the 14th amendment protections, demonstrates the clear combination of the extraordinary case as the one before the court. The compelling reasons that the “ greater importance that interest in avoiding injustice is most compelling to the context of actual innocent that results from the conviction of an innocent person as o it is been at the core of our criminal system” (**SCHULP V DELO, 513 U.S. 298, 115 (1995).**

By the filed petition that substantially shows the claims of the constitutional violations of the guaranteed protections resulted in one who is innocent(e.g. **MURRAY V CARRIER, ET AL.**) as the “ novel and significant questions” (**UNITED STATES V HIGGS 141 S. CT 208 L. ED 2D 582 (2021)** “ of great impotence in habeas jurisprudence” (**SCHULP ID.**) that are supported by evidence that is convincingly reveal the factual innocence of the petitioner as it it’s a clear fact that he did not know his then girlfriend was being held against her will when she got out to pee, interacted with a sexual interaction, drove home while he sleep or when she invited him into her home after. This is undoubtedly an extraordinary case that the government power of its fair discretional review is prayed for in order for the extraordinary case when such colorful showing of constitutional violations resulted in his innocence. The narrow case of one who so deserves of the public interest that no person is held in violation of the constitution. This court is prayed it will resolve the questions so that the enforcement of federal law (**28 U.S.C 2254 (A)**) is combined with this case.

CONCLUSION

Congressman Leahy, addressed congress during the Improving American Security act of 2007 that a Habeas Corpus “provides a check against arbitrary detention and constitutional violations. It guarantees an opportunity to go to court with an aid of a lawyer to prove ones innocence” The fact during the Habeas Corpus Reform held on November 17, 1993 Congressman Mr. Durenberger address: “ the 14th amendments of our constitution prohibits from violation the right of Americans that are guaranteed by the constitution. The **Habeas Corpus Act of 1867** was enacted to ensure that state courts do not violated the 14th or the bill of rights when they punish the criminal accused.... It is particularly frightening when the state commits a crime by violating constitutional rights in its zeal to punish crimes. What kind of misbehavior by

the state threatens the liberty of American that's why I believe that the constitutional right should be zealously protected in our constitution."

This addresses, show the presidents and compelling reasons why the courts discretion is the last hope an innocent person has to invoke his liberties are protected and not used as a tool to continue the unlawful detention. The fact the element clause of the 14th amendment is shattered within the record as the essential element of Knowing" is not proven and without his trial counsel error in not protecting the petitioners right by ensure the essential mistake of fact defense was presented and without this plain error the lower court, the district court, and the appeal court would have never heard the matter. By the appeal court' not carefully reviewing the material that showed the district courts abuse of discretion by basing its c finding on a dismissed and unchallenged matter shows this petitioner has never been had an opportunity to litigate his claim, and he asks the court for his last chance. Petitioner prays the majority of the justices will secure the importance of the great writ gives the exceptional reasons why the court grants its discretionary power by giving its grace and restoring the lost liberties.

THEREFORE; the above named petitioner, Devon Delehoy (pro se) hereby respectfully moves the court to grant the sought relieve by making an order under the following terms:

1. **MAKE AN ORDER;** the court grants the petition for rehearing denying the order the writ of certiorari.
2. **MAKE AN ORDER;** vacating the order denying the writ of certiorari.
3. **MAKE AN ORDER;** grant the writ of certiorari.
4. **MAKE AN ORDER:** Remand the case back to the 8th circuit court of appeal under the finding in **UNITED STATES V SIMPSON 44 4TH 1093, 119 2022 WL 3350604 8TH CIRC 2022).**

Respectfully submitted on this 28th day of October 2025.

Devon Delehoy
1600 N. Drive
Sioux Falls SD 57117

CERTIFICATE OF SERVICE

IT COMES NOW; the above named petitioner Devon Delehoy (pro se) hereby certifies that a true and correct copy of the foregoing action Petition for rehearing was sent by 1st class mail with sufficient postage provided by the institution and was mailed to the below named party and mailed to below indicated addresses on this 28th day of October 2025.

South Dakota Attorney General
C/o Sarah Thorn
1302 east Highway Ste 1
Pierre SD 57117

Devon Delehoy
1600 N. Drive
Sioux Falls SD 57717

CERTIFICATE OF THE UNREPERSENTED PERSON

THE UNREPERSENTED PERSON, Devon Delehoy here forth presents the petition for rehearing in good faith and not to delay.

Devon Delehoy
1600 N. Drive
Sioux Falls SD 57717

10-27-25



Subscribed and duly sworn before me on
This 28th day of October 2025

Merrae Duncan
Notary public/ Clerk of court
If notary, my commission expires

3/24/2031