

25-5108

UNITED STATES SUPREME COURT

Howard Griffith,

Pro Se

Defendant/Petitioner,

VS.

New York State,

Represented by Bradley Wayne Oastler,

District Attorney of the State of New York/County of Onondaga

Plaintiffs/Respondent

On Petition for Writ of Certiorari to the

New York State Court of Appeals

**Motion for Reconsideration of Motion for Leave to Proceed
In Forma Pauperis**

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QUESTION PRESENTED

If a defendant can demonstrate that the conviction for his/her sexually violent offense is unconstitutional, should it be deemed to be a further violation of his/her constitutional rights if, because he/she is a sex offender, the "Clean Slate Act" does not authorize him/her to have his/her criminal record sealed?

The legislative intent of the "Clean Slate Act" is to curb discrimination.

LIST OF PARTIES

Howard Griffith, Pro Se
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Petitioner

People of the State of New York, County of Onondaga
505 South State Street, 4th Floor,
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Respondent

RELATED CASES

“People v Griffith, 43 N.Y.3d 963 (2025)”
New York State Court of Appeals
April 15, 2025

“People v Moss, 2025 NY Slip Op 01673”
New York State Court of Appeals
March 20, 2025

“People v Griffith, KA 24-01886”
Supreme Court of the State of New York, Appellate Division/Fourth Department
December 9, 2024

“People v Griffith, 2001-0883-1”
Onondaga County Court
January 29, 2002

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**New York State Assembly
A.1029-C: “Section 1”**

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Utah, Connecticut, California, New York

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TABLE OF AUTHORITIES

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I, Howard Griffith, respectfully request that the Court reconsiders granting *in forma pauperis*.

DECISIONS BELOW

On October 6, 2025, the Court decided: “The motion for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.” (*see* “Exhibit I”) The Court’s decision is in essence of the decision of the New York Court of Appeals which was published as “43 N.Y.3d 963 (2025)” and entered on April 15, 2025. (*see* “Exhibit A”)

JURISDICTION

The first motion to reconsider [] was taken as a petition for rehearing [] on October 28, 2025 and returned on November 4, 2025, requiring correction. (*see* “Rule 44.6”) (*see* “Exhibit L”)

CONSTITUTIONAL PROVISIONS INVOLVED

- 5th Amendment of the United States Constitution: “No person shall be deprived of life, liberty, or property, without due process of law.”
- 14th Amendment of the United States Constitution: “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

STATEMENT

In my **STATEMENT OF THE CASE** [of my dismissed petition], (*see* pages 1-7 of “Exhibit K”) I demonstrated in paragraphs (1) and (2) what the basis of my case was with regard to how I was convicted of “Rape, 1st []” in the Onondaga County Court, how the judgment of the case was rendered on January 29, 2002, and how I had taken collateral attacks to challenge it. In paragraph (3), I presented how the “Clean Slate Act” was signed on November 16, 2023, (effective November 16, 2024), and the legislative intent for the “Clean Slate Act”

(S.7551-A/A.1029-C) is to establish a “Clean Slate” for defendants with criminal records, via the “automatic sealing of convictions”, (NY [C]riminal [P]rocedure [L]aw § 160.57) to curb discrimination. (*see* “Exhibit E”) However, I also demonstrated that defendants who were convicted of “sex offenses” were not provided with these liberties. (*see* “Exhibit F”) In paragraph (4), I demonstrated how I had taken a Motion for Extension of Time to Take an Appeal on the Common Law of Writ of Error Coram Nobis in the Supreme Court of the State of New York, Appellate Division/Fourth Department, on November 18, 2024, based on the claim:

“Obviously, when considering CPL § 160.57, in considering whether or not defendants’ criminal records should be able to be sealed, lawmakers have considered that defendants who were convicted of sex offenses, sexually violent offenses, and Class A felonies deserve more discrimination than defendants who were convicted of different types of offenses. However, when considering CPL § 160.57, in considering that Defendant was convicted of a ‘sexually violent offense’, he should not have to be subject to more discrimination than defendants who were convicted of offenses other than sex offenses, sexually violent offenses, or Class A felonies because he should never have been convicted of that offense. Therefore, CPL § 160.57 going into effect violates Defendant’s 5th and 14th Amendment Rights of the United States Constitution and his Rights to the New York State Constitution with regard to §§ 6 and 11 of Article I because, unlike other defendants, it keeps him in a position where he may have to be subject to discrimination that he doesn’t deserve.” (*see* page 2 of “Exhibit B”)

I also explained how I made arguments in my motion that my conviction was unconstitutional. I told the Court that the People didn’t respond to my motion. In paragraph (5), I explained that the Appellate Division denied my Motion without stating why. (*see* “Exhibit D”) In paragraph (6), I explained how I had taken an application to request leave to appeal to the New York Court of Appeals and showed how I explained that there were only “two exceptions” that were previously considered in the Court of Appeals to grant an extension of time to take an appeal, via coram nobis; I explained how I suggested to the Court of Appeals that the Appellate Division denied my motion because my cause for taking my action did not fall into one of those “two exceptions”. I explained that I suggested how a “third exception” should be considered regarding

how a new law going into effect causes a further violation of rights based on an unconstitutional conviction. I explained that I claimed that the Appellate Division did not determine whether or not the “Clean Slate Act” going into effect has caused a violation of my constitutional rights and I explained how I established that, in an appeal, the Court of Appeals would have to decide if that may be considered and that, with an appeal being ruled in my favor, my motion could be reconsidered. In paragraph (7), I showed how the People responded to my application on Feb. 11, 2025, as I demonstrated that they considered that my argument was “conceivably a question of law”, regarding the expansion of the power of writ of error coram nobis, yet contested how my argument was not properly before the court given the posture of the case. (see page 2 of “Exhibit C”) I explained to the Court that, before leave could have been granted, due process would have required that the Court of Appeals needed to determine that my conviction was unconstitutional, being with regard to whether or not it was because my cause for taking my action did not fall into one of those “two exceptions”, regarding how the Appellate Division did not say why they denied my motion. I explained that it couldn't have been considered that it was because my cause for taking my action didn't fall into one of those “two exceptions” if it had been determined that my conviction wasn't unconstitutional. I showed that the People never objected to my argument that my conviction was unconstitutional and showed how they supported that my motion was denied because I failed to pursue the statutory procedure. I also showed that the People made an objection to support that nothing about how the “Clean Slate Act” went into effect was unconstitutional being with regard to how it “does not allow a blanket sealing of all convictions.” (see page 2 of “Exhibit C”) In paragraph (8), I showed how the Court of Appeals denied my application on April 15, 2025, without providing any reason for denial. I supported that the Court of Appeals denied my application, as, until it could be determined that the “Clean Slate Act”

going into effect caused a violation of my constitutional rights, it couldn't be considered if a "third exception" could be considered for writ of error coram nobis.

REASONS TO RECONSIDER THE MOTION

My DECISION BELOW was Essential to the Cause for "People v Moss (2025)":

In my **REASONS FOR GRANTING THE WRIT** [], (see pages 7-8 of "Exhibit K") I presented "People v. Moss, 2025 NY Slip Op 01673 [*1] March 20, 2025" for the Court:

"Defendant has been convicted of a series of sex crimes... The prior conviction's constitutionality was not reviewed on direct appeal in the 2006 action, because defendant did not timely file a notice of appeal and the Appellate Division then denied defendant's pro se motion to take a late appeal under CPL 460.30... defendant had put forth substantial evidence that his 2006 guilty plea was unconstitutionally coerced... The People countered that the resentencing court had not overturned defendant's 2006 conviction, and that the override must be applied because the conviction remains on defendant's criminal record... We... now affirm."

(see pages 2-5 of "Exhibit H") I didn't explain it to the Court that the People's objection to my argument regarding how the "Clean Slate Act" going into effect has caused a violation of my constitutional rights was essential to the cause in "People v Moss, id." The arguments in my case were completed before "People v Moss, id." was decided, and my application was denied after it was decided. The People supported that the conviction for the sex offense remaining on Moss's criminal record, although having been determined to be unconstitutional and not having been able to be taken with a late appeal, satisfied the cause for him to suffer further prosecution which the Court of Appeals affirmed. The Court of Appeals affirming the argument in "People v Moss, id." affirmed the argument that nothing about how the "Clean Slate Act" went into effect was unconstitutional, because, if it had been supported that it was unconstitutional that a sex offender's unconstitutional conviction had to remain on his/her criminal record, that would have satisfied the cause to reject the People's argument in "People v Moss, id." The People's

arguments that objected to my arguments were pending while “People v Moss, id.” was being decided. These affirmations were essential for the [d]etermination of my establishment that the Court of Appeals needed to decide if the “Clean Slate Act” going into effect may be deemed to have caused a violation of my constitutional rights, and they were, both, in essence of not being authorized to take a late appeal. Merit supports that it was [d]etermined a violation [] couldn’t have been the case. This supports that my **QUESTION PRESENTED** was answered by the Court of Appeals, and the Supreme Court should consider this instead because “Clean Slate” laws which deny sex offenders the authority to have their criminal records sealed have recently gone into effect in states around the country. I presented how some of these types of laws have recently gone into effect in Utah, Connecticut, and California. (see “Exhibit F”)

Sex Offenders with Unjust Convictions Fall into the Category of a “Suspect Classification” with Regard to “Clean Slate” Laws:

My argument supports that sex offenders with unjust convictions fall into the category of a "suspect classification", regarding how “Clean Slate” laws don't provide them liberty to have their criminal records sealed, making them subject to undeserved discrimination. These are violations of their 14th Amendment Rights of the United States Constitution. The Court should review this with “strict scrutiny”.¹ I am trying to have a precedent established that will assist sex offenders with these injustices into being authorized to have the right to challenge their convictions again to be able to alleviate being subject to discrimination. After the precedent is established, I will be able to have the Court of Appeals reconsider my application as the People considering my argument “conceivably a question of law” preserves my argument in New York.

¹ San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 2 (1973): “*This is not a proper case in which to examine a State's laws under standards of strict judicial scrutiny, since that test is reserved for cases involving laws that operate to the disadvantage of suspect classes... It has not been shown to discriminate against any definable class.*” (“Lumpenproletariat” are described as a class of a lower stratum of the working class, which includes people like beggars, deviants, and criminals. [see “Exhibit M”])

Neither my Petition nor my Jurisdictional Statement were Frivolous or Malicious:

Rule 39.8 states: “If satisfied that a petition for writ of certiorari, jurisdictional statement, or petition for extraordinary writ is frivolous or malicious, the Court may deny leave to proceed *in forma pauperis*.” In the jurisdictional statement of my July 7, 2025 petition, I stated: “The decision below was entered on April 15, 2025. My first petition was taken on June 23, 2025. Rule 14.5 applies. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).” (*see* page 1 of “Exhibit K”) In my July 7, 2025 petition, I needed to correct the way I introduced my argument in my first petition. However, I didn't change what was presented in my **STATEMENT OF THE CASE** besides editing the first paragraph to make the same presentation with fewer words. I also made no changes to the **REASONS FOR GRANTING THE WRIT**, but I changed the date and signature on the eighth page of my petition. I am attaching my first petition dated June 23, 2025, without the attachments, for the record. (*see* “Exhibit J”). The appendices of my first two petitions, “Exhibits A-H”, are the same as “Exhibits A-H” in this motion. My motion for leave to proceed *in forma pauperis* is reproduced at “Exhibit N”. This will demonstrate that the jurisdictional statement was not frivolous or malicious, and I’ve explained above how my petition was not frivolous or malicious.

CONCLUSION

I respectfully request that the United States Supreme Court reinstates and grants my petition for writ of certiorari, grants my motion for leave to proceed *in forma pauperis*, and provides any additional relief that may be deemed to be just and proper.

Dated: November 13, 2025


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