

No. 25-5244 ORIGINAL

Supreme Court, U.S.
FILED

JUL 14 2025

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Kristy Marie Richard
(Your Name)

— PETITIONER

vs.

Secretary, Department of Corrections "etal"
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Kristy Marie Richard DCH# D90273
(Your Name)

Lowell Correctional Institute - Annex
11120 N.W. Gainesville Rd.
(Address)

Orlando, FL 32802
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

In your "Guide for prospective indigent petitioners for Writ of Certiorari" you state "The primary concern of the Supreme Court is... to decide cases presenting issues of importance beyond the particular facts and parties involved." Please consider these questions for all indigent pro se litigants as the law should be fairly and equally given, especially for the wrongfully convicted.

- ① Is the AEDPA one year time limit Constitutional for an incarcerated indigent layman when considering the lack of access to obtain entire discovery in a timely manner, the lack of access to the law library, plus the inability to use the difficult to learn or understand legal material to know what or how to procedurally and effectively raise claims within a one year time limit as all claims have to be raised at a State Level first, also considering it is the same time given to a highly qualified attorney?
- ② When confronted with both standards of law one does not understand and the tenacity of the professionalism of the State Attorney or Attorney General to present their case before a Judge, is not the U.S. Constitutional guarantee of due process (fairness) that includes the assistance of counsel for one's defense violated when no actual assistance is provided for an incarcerated indigent layman during collateral and habeas proceedings, considering the AEDPA one year time limit?
- ③ Is it equally fair for an opposing attorney to prepare the Order for the deciding judge when against a pro se layman of law as a judge may be swayed to sign and date the already prepared Order, as it is easier?
- ④ In a constructive possession case with only circumstantial evidence that in the cumulative could overwhelmingly infer guilt, Is a fingerprint analyze a reasonable defense to raise on evidence found in a jointly occupied area to give the jury reasonable doubt when fingerprints found did not match to defendant but another occupant of jointly occupied area?
- ⑤ Should a Circuit Court grant a C.D.A. when it is facially evident trial counsel failed to pursue any defense and had a layman presented their claims with the skill of an attorney it would have been granted?
- ⑥ Will the court consider these questions even if they are not properly presented, considering I am an incarcerated indigent layman, who has attempted to learn how to properly utilize the law library to effectively raise claims, but due to rushing to meet the AEDPA one year time limit, I failed in that endeavor for not having enough time to learn what claims to present or how to raise them properly to meet the requirements to make them sufficient at a state or Federal level, then or now?

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:

- Secretary, Department of Corrections
- Florida Attorney General

RELATED CASES

- Richard v. Sec'y Dep't of Corr., No: 24-11910, (C.O.A.), 11th US. Circuit Court
Judgement entered, January 21st 2025 - Denied
- Rehearing denied, April 17th 2025
- Richard v. Sec'y Dep't of Corr., No: 5:22-cv-83-WWB-PRL (2254)
Judgement entered, February 21st 2024 - Denied US. Middle District of Florida
- Recusideration denied, March 20th 2024
- Richard v. State, No: 5D21-1824, (I.A.A.C.) 5th District Court of Appeal, Florida
Judgement entered, October 27th 2021 - Denied
- Rehearing denied, November 24th 2021
- Richard v. State, No: 5D20-2461 (3.85D Appeal) 5th D.C.A., Florida
Judgement entered, July 20th 2021
- Richard v. State, No: 5D19-0470 (Direct Appeal) 5th D.C.A., Florida
Judgement entered, July 23rd 2019 - P.C.A. - denied
- Richard v. State, No: 2018-CF-000844A (Trial) Citrus County Court, Florida
Judgement entered, January 8th 2019 - Guilty
Sentenced, February 12th 2019
- 3.800 denied October 2nd 2019
- 3.850 denied November 9th 2020

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TABLE OF AUTHORITIES CITED

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OTHER

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 unknown; 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 unknown; 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 January 21st, 2025.

☐ 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: April 17th 2025, 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 _____ (date) on _____ (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

Florida Statute § 90.402 "Circumstantial evidence must be strong enough to exclude every reasonable hypothesis of innocence."

STATEMENT OF THE CASE

1. I petition for a Writ of Certiorari from the U.S. Supreme Court on the 11th Circuit
2. Court's denial of my C.O.A. motion.
3. After an alleged undocumented information from unidentified person on possible unidentified drug activity
4. From possible unidentified person, Citrus County Sheriff's Office (C.C.S.O.) allegedly pulled trash on certain dates from
5. Said residence on search warrant affidavit. The trash was pulled from backyard off Lemon St. and not from a waste on Jefferson St.
6. The trash was pulled from a multi-unit with two separate units. Trash was pulled during the time the residence did not have
7. trash service. The trash revealed a prescription bottle and mail addressed to Lonnie Chester (who lived in opposite unit of defendant ^{me}).
8. No mail was addressed to me. Trash also revealed evidence of drug use that C.C.S.O. used to obtain a search warrant. The search
9. warrant described a single family home, though C.C.S.O. was aware prior to trash pull it was a multi-unit. The warrant or affidavit
10. did not particularly describe the person to have committed the alleged criminal activity or describe the drug activity that
11. took place, or that the home had multi-units with multiple families, ~~or~~ with particularity, or the persons expected to be
12. there at time of search. C.C.S.O. with warrant entered residence after I opened the door. Five different people were located at time
13. of search. Drugs that were not in plain view were found hidden in containers in different locations in common area of living room
14. in both units. I was not in actual possession or in proximity to any drug contraband. Two phones were photographed in proximity to
15. drug containers. I was owner of one of the phones that had vague drug logs. It contained a message for \$10.00 worth of drugs,
16. authored to and by another occupant at time of search, evident in transcript. I did not give consent to search phone, though officers
17. alleged I did. I denied guilt from onset of case. I am not guilty. I proceeded to trial because I was not willing to do time
18. for someone else's crime. Had I known I would be found guilty on a theory of guilt I would have taken the 8 year plea deal
19. presented by the Judge the day of jury selection, but my attorney led me to believe because I did not have possession I had nothing
20. to worry about. During trial my attorney presented no defense to refute the state's case against me. No fingerprint or D.N.A.
21. analysis was obtained. The full text transcript was not presented to reveal someone else was in use of phone as it clearly states "Hey Kevin"
22. Kevin Allen was listed as a witness, was present at trial, and was not called. Kevin would have testified that drugs were not mine and
23. that he was in use of my phone and that the texts were to and from him. Multiple substantial defenses to pursue and she attempted none.
24. A jury found me guilty based on a theory of guilt (speculation) presented by the state with only circumstantial evidence. Judge
25. Howard sentenced me to 40 years incarceration for trafficking 30 grams of methamphetamine, 5 simple possessions, my past record
26. (C.H.F.O.), and for being a drug user he believed could never be rehabilitated (over 6 years clean). I filed Direct Appeal, 3,800€,
27. 3,850 and appeal, I.A.A.C. 9,141, "2254" unit, and motioned for C.O.A. - all were denied. I have now filed for
28. Certiorari with the U.S. Supreme Court for review of the denial of my motion for C.O.A. and also to consider my questions
29. presented.

REASONS FOR GRANTING THE PETITION

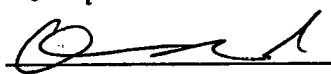
1. My conviction was a result of ineffective assistance of counsel in violation of the 4th, 5th, and 14th Amendments of
2. the U.S. Constitution that protects me from unconstitutional convictions and helps guarantee the integrity of the criminal
3. process by assuring trials are fundamentally fair.
4. In view of my trial, counsel failed to pursue any defense. I have presented "Claim Two" of my C.O.A. motion as it is the
5. strongest claim to prove prejudice and my innocence. Being drugs were found in jointly occupied areas, not in plain view,
6. nor was I found with drugs on my person or in hands reach, trial counsel's failure in performance to do a fingerprint analysis, to
7. show the jury fingerprints found on drugs seized did not belong to me but matched to another occupant located at time of
8. search, prejudiced me, as had she done this and presented and argued this to a jury as direct evidence in my innocence, as
9. well as compared it to the states overwhelming circumstantial evidence, it would have given enough reasonable doubt for a not
10. guilty verdict, changing the outcome of trial. This clearly meets the Strickland prong, especially because she presented no defense.
11. In Order denying C.O.A. motion, Judge Randy Burger denies "Claim Two" agreeing with the rationale of state's denial at post-
12. conviction level that "State's evidence against Petitioner was overwhelming" and "no showing of prejudice." The state overwhelmingly
13. conspired a theory of guilt with only circumstantial evidence, circumstantially showing guilt, is speculative.
14. Held in, U.S. v. Dorman, 860 F.3d 675 "No tangible evidence such as fingerprints or D.N.A. connected Dorman to the
15. contraband found." "Suspicion much less speculation is insufficient to demonstrate that the government has met its burden of proof."
16. Florida Statute §90.402 states "Circumstantial evidence must be strong enough to exclude every reasonable hypothesis of innocence."
17. Florida's Case law Hill v. State 873 So.2d 491, states, "In Florida where the only evidence of guilt is circumstantial no matter how
18. strong the evidence may suggest guilt a conviction cannot be sustained unless the evidence is inconsistent with any reasonable
19. hypothesis of innocence." Also held in Hill, "Moreover, Hill's statement even coupled with the items in plain view such as a wire whisk
20. and scale neither permit inference that he controlled the entire amount."
21. In review, it is evident I have met burden to prove the state court had no reasonable basis to deny post-conviction relief and that the
22. state court's application of the "Strickland standard" on this claim was unreasonable as I should not have been found guilty with
23. overwhelming circumstantial evidence, given the reasonable hypothesis that drugs belonged to another occupant of the jointly
24. occupied common area where drugs were located and even more so for counsel's failure to present forensic evidence defense to refute
25. state's evidence against me that would have given jury reasonable doubt.
26. Consider, Drayton v. Dretke 427 F.3d 886, who filed a "2254 writ. The U.S. Circuit Court agreed with U.S. District Court's
27. ruling "The district court found that defense counsel had failed the inmate in not obtaining expert forensic examinations of the path of
28. the fatal shot; that such an effort could have provided the jury with evidence that the fatal bullet had bounced off the pavement in front of the
29. victim and was fired some distance away." This colligates in the same aspect of my ineffective assistance of counsel claim as my
30. counsel failed me in not obtaining expert forensic examination of a fingerprint analysis, that such an effort could have provided the
31. jury with evidence that fingerprints found did not match to me but someone else in jointly occupied area, creating reasonable doubt.
32. In review, evidence of fingerprints was a reasonable trial strategy, even more so when no other defense was presented and
33. reasonable jurist would find the U.S. District Court's decision debatable or wrong as counsel was clearly ineffective to not raise this
34. defense, therefore showing "claim two" of C.O.A. motion deserves appealability, or other relief.
35. Also note that the text transcript was the only evidence (circumstantial) that inferred a required element of knowledge. The text
36. presented was not authored by or to me but another occupant (Kevin). Counsel failed to refute knowledge by failing to present to jury
37. the text transcript "Hey Kevin", by failing to call Kevin Allen a defense listed witnesses to testify that he was in use of my phone and the message
38. was to and from him, and by failing to motion to suppress as I did not author text. Facially evident trash pulls and search warrants for phone
39. and house could have been successfully challenged and evidence suppressed. These claims were raised in C.O.A. motion, I do not have
40. enough time to present them effectively without overwhelming the court.
41. Respectfully requesting a diligent review of case to consider questions asked and to grant certiorari as I have made a substantial
42. showing that my constitutional right to effective assistance of counsel has been violated and that reasonable jurist would disagree
43. with the U.S. District Court's decision. In 6 years from the time of Direct Appeal until now, my presentation in claims have somewhat
44. improved but not enough to present sufficiently then or now as there is not enough access or time to utilize the law library to learn
45. to do so, especially considering the AEDPA one year time limit. There are many wrongfully convicted that deserve justice but can't obtain it.
46. Humbly asking this court to consider to change the AEDPA one year time limit to file a "2254 writ to give indigent
47. incarcerated laymen of law a fair opportunity to pursue their collateral or habeas claims or consider to provide assistance of counsel for it.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kristy Richard

 DC# D90293

Date: 7-14-2025