

25-5648
S.C.D.T.U.S case NO.

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JUN 24 2025

OFFICE OF THE CLERK

IKEIE RANARDO SMITH - PETITIONER
VS
TERRY WILKINS, (Warden) - RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Dated: August 19, 2025

Ikeie A Smith
IKEIE A SMITH #369273
Ionia Correctional Facility
1576 W. Bluewater Hwy.
Ionia, MI 48846

QUESTIONS PRESENTED

- I. IS MICHIGAN COURT RULE (MCR) 7.205 (E)(4) A ADEQUATE STATE PROCEDURAL GROUND TO PRECLUDE REVIEW OF A FEDERAL CLAIM, WHERE THE MICHIGAN COURT OF APPEALS ("MCOA") ENTERED A ORDER GRANTING LEAVE TO FILE SUPPLEMENTAL BRIEF AND ACCEPTED PETITIONER'S SUPPLEMENTAL BRIEF FOR FILING?
- II. DID PETITIONER SATISFY THE REQUIREMENT OF 28§2254(b) BY RAISING HIS CLAIMS IN THE MCOA AND APPLICATION FOR LEAVE IN THE MSC?

LIST OF PARTIES

[v] All parties appear in the caption of the case on the cover page.

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(case no. 2:19-cv-12172)

Appendix A – United States District Court opinion and order denying petition for writ of habeas corpus.

(case no. 24-1793)

Appendix B – United States Court of Appeal order denying application for certificate of appealability.

Appendix C – United States Court of Appeal denial of petition for panel rehearing.

Appendix D – United States Court of Appeal denial of petition for rehearing en banc.

(case no. 355049)

Appendix E – Michigan Court of Appeal opinion and order denying appeal.

Appendix F – Petitioner's motion for leave to file supplemental brief in the MCOA

Appendix G – Petitioner's supplemental brief to MCOA.

Appendix H — MCDA order granting motion to file supplemental brief and acceptance of supplemental brief.

(case no. 355049)

Appendix I — Michigan Supreme Court denial of application for leave to appeal.

(case no. 164861)

TABLE OF AUTHORITIES CITED

CASES

Beard v Kindler, 558 US 53 (2009)

Lee v Kenna, 534 US 362 (2002)

Smith v Digmon 434 US 332 (1978)

STATUTES

28 § 2254 (b)

MICHIGAN COURT RULE

MCR 7.205 (E)(4)

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

The opinion of the United States District Court appears at Appendix A to the petition and is unpublished. (2024 U.S. Dist Lexis 143931)

The opinion of the United States Court of Appeals appears at Appendix B to the petition and is unpublished. (2025 U.S. App Lexis 8555)

The opinion of the Michigan Court of Appeals appears at Appendix E to the petition and is unpublished. (2022 Mich App Lexis 4933)

JURISDICTION

The date on which the United States Court of Appeals decided my case was February 20, 2025.

[v] A timely petition for en banc rehearing was denied by the United States Court of Appeals on the following date: April 10, 2025, and a copy of the order denying rehearing appears at Appendix

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

STATEMENT OF THE CASE

After an unsuccessful direct appeal, Petitioner timely filed petition for writ of habeas corpus in the United States District Court, with a motion to hold petition in stay and abeyance. Petition was accepted and stay was granted. Petitioner timely filed motion for relief from judgment (MFRJ) in Michigan State trial court, to no avail. (Raising issues not relevant to this petition) Subsequently Petitioner filed application for leave to appeal in the Michigan Court of Appeals (MCOA), challenging the trial court's denial of his MFRJ. MCOA granted Petitioner's application for leave to appeal and ordered Remand to trial court for appointment of counsel. (In Michigan Court's once a defendant is granted leave, the appeal proceeds by right.)

Trial court appointed appellate counsel Robert Tomak. Petitioner requested that Tomak raise several issues on remand, that Mr. Smith was unable to raise in his MFRJ, because MIDOC thwarted his access to the law library. Tomak refused to raise the issues. Tomak timely submitted a lack luster brief in MCOA after remand. Tomak was fired due to breakdown in attorney-client relationship. Petitioner retained appellate counsel Vinson Carter. Carter agreed to raise the issues Tomak refused to raise after remand.

Carter filed motion for leave to file supplemental brief with ^{FN:1} supplemental brief attached. (Appendix F and G) MCOA entered a order accepting the brief.

FN:1 The claims relevant to this are: Argument 1 and Argument 2 (A), (B) of the attached supplemental brief. (Appendix G)

(Appendix H) After oral argument MCOA entered a opinion and order refusing to address the merit of the claims raised in Mr. Smith's Supplemental brief. (Appendix E).

Subsequently Petitioner filed application for leave to appeal in the (MSC) Michigan Supreme Court, raising the same issues from his supplemental brief to the MCOA, to no avail. Petitioner timely reopened the case in the United States District Court (USDC). USDC entered a opinion and order denying habeas relief. The court concluded the claims relevant to this petition were procedurally defaulted. Despite Mr. Smith's assertion that MCR 7.205(E)(4) is inadequate to preclude habeas review.

Petitioner timely filed notice to appeal in the United States Court of Appeals. Mr. Smith filed motion for certificate of appealability (COA). Explaining COA should be granted because the state court applied an inadequate procedural ground to his claims, COA was denied.

Petitioner timely filed petition for panel rehearing / rehearing en banc, to no avail. Petitioner timely files petition for writ of certiorari to this honorable court.

Lastly, it is undisputed that the claims relevant to this petition were raised in Petitioner's supplemental brief in the MCOA and raised in a application for leave to appeal in the MSC. Completing one full round in the Michigan Appellate courts.

The aforementioned claims were raised in his amended habeas to the USDC. The title of the claims were worded differently from the way they were worded in the Michigan state courts.

However the substance of the claims were argued identically in the state and federal court. The USDC concluded that the claims were procedurally defaulted without full analysis of Petitioner's exhaustion in the Michigan state appellate courts. Specifically the USDC never acknowledged that MCOA entered a order accepting Petitioner's supplemental brief. (Appendix H) The court only recognized that Mr. Smith raised the claims in a motion for peremptory reversal. (Smith v Howard 2024 US Dist Lexis 143931 at 17-19.) Also Mr. Smith did file the aforementioned motion for peremptory reversal, the motion was irrelevant concerning exhaustion. Petitioner believes that the USDC and USCA overlooked or ignored the fact that the claims were raised in his supplemental brief to the MCOA and the MSC. Due to the fact that the federal courts never acknowledged the brief in the opinions.

REASONS FOR GRANTING THE PETITION

1. MCR 7.205(E)(4) IS INADEQUATE STATE PROCEDURAL GROUND TO PRECLUDE REVIEW OF A FEDERAL CLAIM, WHERE THE MCOA ENTERED A ORDER GRANTING LEAVE TO FILE SUPPLEMENTAL BRIEF AND ACCEPTED PETITIONER'S SUPPLEMENTAL BRIEF FOR FILING.

Petition for writ of certiorari should be granted to reaffirm inadequate state procedural rulings can not preclude habeas review of a federal claim(s) raised by Petitioner or similarly situated individuals. The question whether a state procedural ruling is adequate is itself a question of federal law. (Beard v Kindler, 558 US 53, 60 (2009))

After application for leave to appeal was granted by the MCOA, Petitioner filed motion for leave to file supplemental brief with Supplemental brief attached. (Appendix F and G) Subsequently MCOA entered a order accepting Petitioner's supplemental brief. (Appendix H) After oral argument MCOA enter a opinion and order denying Mr. Smith's appeal. (Appendix E) The court concluded that the issues raised in his brief were "outside the scope of the appeal", see (1D). Pursuant to MCR 7.205 (E) (4) which states "[unless otherwise ordered] the appeal is limited to the issues in the application and supporting brief.

Petitioner concludes MCR 7.205 (E) (4) is a inadequate state ground to preclude review of his federal claims to the USDC on

REASONS FOR GRANTING THE PETITION

MCR 7.205(E)(4) is A INADEQUATE STATE
PROCEDURAL

habeas review. The rule only limits review of claims not raised in the application for leave to appeal [unless otherwise ordered]. In this case there exist an order entered by the MCOA accepting Mr. Smith's supplemental brief. The court ignored its own order.

Ordinarily MCR 7.205(E)(4) is a adequate procedural rule to preclude the review of claims not raised in the application for leave. However its worth repeating — "The Court Entered A Order Accepting the Brief". Therefore the application of this generally sound rule, in this case was exorbitant and served no legitimate purpose. Petitioner has demonstrated the rule was "inadequate to stop consideration" of the relevant claims raised in his supplemental brief.

The USDC never address^d or analyzed the fact that the issues the court concluded procedurally defaulted, were raised in a supplemental brief. None of the facts in this argument were address by the USDC or USCA. Therefore a fair conclusion concerning exhaustion could not be made.

habeas review. The rule only limits review in the Michigan appellate courts, to issues raised in the application for leave to appeal [unless otherwise ordered]. In this ~~case~~ there exist an order entered by the MCDA accepting Mr. Smith's supplemental brief. (Appendix H) Ordinarily MCR 7.205(E)(4) is a adequate procedural rule to support the stated

11. DID PETITIONER SATISFY THE REQUIREMENT OF 28 § 2254(b) BY RAISING HIS CLAIMS IN THE SUPPLEMENTAL BRIEF IN THE MCOA AND APPLICATION FOR LEAVE IN THE MSC?

The MCOA entered a order accepting Petitioner's Supplemental brief. (Appendix H) Subsequently MCOA entered a order applying an inadequate procedural state rule, refusing to address the merit of the claims within the brief. (Appendix E) The court ignored it's own order that allowed the claims in the supplemental brief to become apart of the appeal.

This court has held "whether an exhaustion requirement has been satisfied cannot turn upon whether a state court chooses to ignore in its opinion a federal constitutional claim squarely raised in a habeas petitioner's brief in the state court." (Smith v Dugmon, 434 US 332, 333 (1978))

Petitioner concludes that the claims raised in his Supplemental brief were squarely presented in the state court, and the MCOA erroneously choose to ignore the merit of those claims.

The United States District Court overlooked or ignored the aforementioned facts finding that petitioner did not satisfy habeas exhaustion requirement.

OPINIONS BELOW

The opinion of the United States District Court at Appendix A to the petition and is unpublished. (2024 U.S. Dist Lexis 143931)

CONCLUSION

Petitioner has shown that 7.205 (E)(4) was inadequately applied in his case. The United States District Court erroneously concluded the aforementioned claims were procedurally defaulted, however the court reviewed the merits of the claims applying AEDPA. The claims ~~should~~ should have been reviewed de novo, because the state courts erroneously refused to review the merit of the claims.

WHEREFORE, Petitioner Ikeie Smith requests:

- A. This court grant certiorari and review the questions presented.
- B. That this court remand to United States Court of Appeal for review, with order to grant Certificate of Appealability.
- C. That this court remand to United States District Court with instructions to review Petitioner's claims de novo.
- D. That this court grant such other, further, and/or different relief as the court may deem just and proper under the circumstances.

Dated: August 9, 2025

Respectfully Submitted,
Ikeie Smith
Ikeie Smith #369273
Ionia Corr. Fac.
1576 W. Bluewater Hwy.
Ionia, MI 48446

CONCLUSION

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