

No. 25-5919

IN THE
SUPREME COURT OF THE UNITED STATES

Kevin Griffin, Petitioner,

v.

New York, Respondent(s).

On Petition For A Writ Of Certiorari To The
New York State Court of Appeals

PETITION FOR REHEARING

Kevin Griffin, 04A6249
P.O. Box 1000
Woodbourne, NY 12788-1000

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SUPREME COURT, U.S.

KEVIN GRIFFIN, Petitioner,

v.

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PETITION FOR REHEARING

Petitioner is unsure as to why the Writ of Certiorari was denied, the only reason petitioner can think of is that petitioner didn't clearly explain the complex constitutional issues involved.

Petitioner is respectfully requesting this Honorable Court to conduct a rehearing with the understanding that petitioner is not an attorney. Petitioner strongly believes that had the search warrants been suppressed by the State Courts, petitioner would not have been convicted. The State clearly violated not only petitioner's Due Process Rights but also violated clearly established constitutional law and Supreme Court precedents. These violations go deeper than the State Courts, back to the District Attorney's Office and County Court who unconstitutionally prosecuted and convicted petitioner.

The Supreme Court stated in Cupp v. Naughton, 414 U.S. 141, 146 (1973) that a court may overturn a conviction resulting from a state trial ..., it must be established not merely that the [State's action] is undesirable, erroneous, or even 'universally condemned,' but that it violated some right which was guaranteed to the defendant by the Fourteenth Amendment.

Petitioner had a constitutional right to privacy in his home and person which was violated by the State's unconstitutional search warrants in violation of petitioner's Due Process Rights.

When specific guarantees of the Bill of Rights are involved, this Court has taken special care to assure that prosecutorial conduct in no way impermissibly infringes them. Donnelly v. DeChristoforo, 416 U.S. 637, 643 (1974).

Investigator Kevin McGrath committed perjury by stating that there were no audio or video recordings of petitioner's interrogation, which is in the trial transcripts.

Regarding the Brady violations, it is unconceivable how the Court of Appeals (the Appellate Division) denied petitioner's claims when a Judge (Judge Kim) even stated that petitioner's statements were video taped. This is after the People's witness (McGrath) blatantly denied at trial of any audio or video recordings. The video would have shown that petitioner requested counsel prior to the statements.

Now the People are attempting to locate the video after another FOIL request (Br. Ex-2). As of this date petitioner still has not received an answer from the Orange County District Attorney's Office from the December 31, 2025 letter, well over the 20 days. Maybe this Court can order the video.

The New York State Court of Appeals failed to enforce the Fourteenth Amendment's Due Process Clause's Equal Protection of the Laws, including the Fourth Amendment.

It is unknown why the Court of Appeals refused to adhere to the Fourteenth Amendment's Due Process Clause. The Court failed to give an answer. As stated in petitioner's Writ of Certiorari, the District Attorney's Office will not be taking any action to support the vacating of petitioner's conviction. Even if it involves Constitutional violations. The Fourteenth Amendment has been in effect since 1868, the Fourth Amendment since 1791, and N.Y.S. refuses to follow the Constitution.

These are complex constitutional issues for a pro-se person and petitioner prays that this Honorable Court appoints counsel to represent petitioner.

Petitioner prays that this Honorable Court grants this Writ of Certiorari.

Dated: March 2, 2026

Respectfully submitted,


Kevin Griffin

I declare under the penalty of perjury that the foregoing is true and correct to the best of petitioner's knowledge.

Executed on: March 2, 2026


Kevin Griffin

No. 25-5919

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PETITION FOR REHEARING

Petitioner, Kevin Griffin respectfully petitions this Honorable Court pursuant to Supreme Court Rule 44.1 for a rehearing of this case before a full Member Court.

Ordinarily it is exceedingly rare for this Court to grant a rehearing. But this case warrants a rehearing due to the Constitutional violations, the Fourteenth Amendment's Due Process Clause and Fourth Amendment violations which have been granted in previous cases regarding petitioner's same issues by the Supreme Court, Circuit Courts, District Courts and State Courts. The U.S. Constitution and Supreme Court decisions are the Laws of the Land and the Court's decision in this case could reasonably affect other New York cases.

On December 31, 2025 the Associated Press printed an article where Chief Justice Roberts stated the Constitution is 'firm and unshaken'. Congressman Green made a statement (unknown date) that 'if the Constitution is not enforced then it is meaningless'. The Constitution should supersede any errors made by a pro-se petitioner.

Petitioner prays that this Honorable Court grants this rehearing for the following reasons.

PETITIONER'S FOURTEENTH AMENDMENT'S DUE PROCESS RIGHTS AND FOURTH AMENDMENT RIGHTS WERE VIOLATED BY THE STATE.

A. The State Courts Failed to Follow the U.S. Constitution.

State Courts may not disregard a controlling constitutional command in their own courts, Martin v. Hunter Lessee, 14 U.S. 304 (1816).

N.Y.S.'s highest court, the Court of Appeals stated: All Courts are, of course, bound by the U.S. Supreme Court's interpretation of Federal Statutes and the Federal Constitution People v. Kin Kan, 78 NY2d 54 (1991). The State Courts refuse to follow the U.S. Constitution and their own rulings.

A warrant is facially unconstitutional if it fails to comply with any of the Fourth Amendment requirements which includes petitioner's Due Process Rights. Groh v. Ramirez, 540 U.S. 551 (2004); Davis v. U.S., 564 U.S. 229 (2011); Stanford v. Texas, 379 U.S. 476 (1965); U.S. v. Purcell, 967 F.3d 159, 178 (2d Cir. 2020) bars the prosecution from introducing evidence obtained by way of a Fourth Amendment violation.

The State Court Judges took oaths to uphold the U.S. Constitution. The State Courts reversed other case regarding the same Fourth Amendment issues as petitioner, People v. Melamed, 178 AD3d 1079, 1080 (2d Dept. 2019); People v. Wiggins, 229 AD3d 1095 (4th Dept. 2024) but refused to reverse petitioner's case. The State Courts failed to uphold the Constitution and their oaths of Office.

B. Petitioner's Due Process Rights Were Violated As The Search Warrants Failed To State Any Crime Pursuant To The Fourth Amendment By Way Of Fourteenth Amendment.

The Fourteenth Amendment is source of the Supreme Court's power to decide whether defendant in state proceeding received a fair trial, that is, whether his deprivation of liberty was without due process of law. Danforth v. Minnesota, 552 U.S. 264, 278 (2008).

The State Courts decisions were clearly contrary to the U.S. Constitution's Fourth and Fourteenth Amendments and Supreme Court decisions. U.S. Const. Amends. IV & XIV; Art. VI cl2.

The Supreme Court held that State prisoners are entitled to the benefits of any Supreme Court decision that came down before their conviction became final. Danforth v. Minnesota, 552 U.S. 264, 278 (2008).

Groh v. Ramirez, 540 U.S. 551 (2004) was decided just prior to petitioner's case and the issuing judge, Judge DeRosa still ignored not only Supreme Court precedent but the Fourth and Fourteenth Amendments as well.

Petitioner has provided this Court with substantial evidence (Ex.-1) that the search warrants failed to state any crime in relation to the items sought to be seized.

U.S. v. Grubbs, 547 U.S. 90, 101 (2006) quoting Groh v. Ramirez, @ 554-555, 563 and n.6 (... "officers leading a search team must make sure they have a proper warrant that in fact authorize the search and seizure they are about to conduct"). The officers should have known the warrants were unconstitutional and should not have conducted the search according to those warrants.

Petitioner was denied his Due Process Rights when the search warrants failed to state any crime in relation to the items sought to be seized (Ex.-1). No Courts can show where the warrants state any crime, because they don't in violation of the Fourth Amendment.

Petitioner's case raises the same factual search warrant issues as in People v. Melamed, supra; People v. Wiggins, supra; U.S. v. Galpin, 720 F3d 436, 445 (2d Cir. 2013); U.S. v. George, 975 F2d 72, 75-76 (2d Cir. 1992). The State Courts are bound by the Constitution. Not by who has an attorney and who doesn't.

C. The Search Warrants Failed to Unequivocally Incorporate Any Supporting Documents Denying Petitioner of His Due process Rights to the Equal Protections of the Laws Pursuant to the Fourteenth and Fourth Amendments.

This case warrants reconsideration as the search warrants plainly failed to meet the requirements of the Fourth Amendment (Ex.-1).

The Fourth Amendment requires particularity in the warrants not the supporting documents. Groh, supra; Massachusetts v. Sheppard, 468 U.S. 981, 988 (1984); U.S. Const. Amends. IV & XIV.

Given that the requirement is set forth in the text of the Constitution, that no reasonable officer could believe that a warrant that failed to comply with the Constitution was valid. Groh, supra.

Pursuant to the Groh decision, Judge DeRosa should never have issued the warrants as presented to him. Judge DeRosa ignored the Constitution and Supreme Court decisions.

Had the State Courts followed the Constitution in this case as they did in Wiggins, supra and Melamed, supra, the search warrants, warrant application and petitioner's statements would have been suppressed. The Courts don't get to pick and choose what cases to grant because a defendant has an attorney versus those who don't. That is not what the Constitution states or is intended for.

The warrants 'must' contain 'deliberate and unequivocal language of incorporation.' U.S. v. Wey, 256 F.Supp.3d 355 (SDNY 2017). Nowhere in the warrants does it state that the application was attached to the warrants, thereby the warrants were issued without probable cause.

Numerous State, Federal and Supreme Court cases have been granted with the same issues as this case, but this case has continuously been denied. If the Constitution is not going to be enforced equally then as Congressman Green stated, it's meaningless, which I don't think it is.

Pursuant to the Fourth amendment the warrants must particularly describe the items to be search and seized. The warrant at bar states Any, All, A, Other, which are not descriptions but general instructions as to what to seize.

The police were authorized to search petitioner's vehicle not seize it. The poice seized it anyway.

Correspondence was seized without specifying personal, financial, business or any other correspondence. A closed white cardboard box was opened, search through and seized without a warrant. Petitioner had an expectation of privacy regarding the contents of the box in his own home. The box has the same expectation of privacy as a suitcase. Nothing in the box linked petitioner to the residence.

Inv. Solomon TT885 @4-5 stated:

I opened the lid and I searched inside the box for any evidence relative to this case.

Other firearms were seized without any warrants. The only weapon in the warrants was any .22 caliber firearm. Not one item was particularly described and the warrants failed to meet the Fourth Amendment requirements.

Due top the warrants failure to incorporate the affidavit or any supporting documents, there can be no written assurance that Judge DeRosa actually found probable cause to search for and seize every item mentioned. Groh, supra; McDonald v. U.S., 335 U.S. 451, 455 (1951).

The uniformly applied rule is that a search warrant conducted pursuant to a warrant that fails to conform to the particularity requirement of the Fourth Amendment by virtue of the Fourteenth Amendment is unconstitutional. Stanford v. Texas, 379 U.S. 476 (1965).

D. Petitioner Was denied His Due Process Rights to the Effective Assistance of Counsel in Violation of the Sixth and Fourteenth Amendments.

The Supreme Court held trial counsel's failure to investigate and preserve potentially helpful evidence (search warrants) constitutes ineffective assistance. Williams v. Taylor, 529 U.S. 362 (2000); Strickland v. Washington, 466 U.S. 668 (1984). Counsel's failure to litigate Fourth Amendment claim is the principle allegation of ineffective assistance and there is a reasonable probability that the outcome would have been different. Kimmelman v. Morrison, 477 U.S. 365, 375 (1986).

Trial counsel failed to preserve the fact that the search warrants failed to meet the particularity requirement of the Fourth Amendment by way of the Fourteenth Amendments Due Process Clause.

PETITIONER'S FOURTEENTH AMENDMENT RIGHTS WERE VIOLATED PURSUANT TO NAPUE AND BRADY.

Over 50 years ago the Supreme Court held that the Fourteenth Amendment cannot tolerate a State criminal conviction obtained by the knowing use of false testimony. Miller v. Pate, 386 U.S. 1 (1967).

On 2/25/25 this Court in Glossip v. Oklahoma, 604 U.S. 226 (2025) concluded that the prosecution's failure to correct false testimony violated the Due Process Clause and Napue.

The N.Y.S. Appellate Division Second department People v. Schwartz, 240 AD2d 600 (1977) stated: prosecutors failure to correct misstatements of witnesses constituted reversible error. In petitioner's case the record is clear and convincing evidence of perjured testimony by the State's key witness Inv. Kevin McGrath.

Inv. McGrath blatantly lied during trial stating there was no video recordings of petitioner's statements. Judge Kim stated there was. Petitioner received a FOIL answer from the District Attorney's Office stating they need 20 days to locate the requested FOIL request (Ex.-2). If there was no video the People would have said so. Now they are attempting to locate the video that Judge Kim referenced to.

Petitioner has established the fact that the prosecution knowingly and intentionally used perjured testimony by Inv. Kevin McGrath to obtain a conviction in violation of the Fourteenth Amendment's Due Process Clause.

Under the Fourteenth Amendment, favorable evidence is subject to constitutionally mandated disclosure when it could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict Cone v. Bell, 556 U.S. 449 (2009); Youngblood v. W.V., 547 U.S. 867, 869 (2006); Weary v. Cain, 577 U.S. 385 (2016).

Petitioner was denied his Due Process Rights as the State withheld material evidence (video), Brady v. Maryland, 373 U.S. 83 (1963); Smith v. Cain, 565 U.S. 73, 75 (2012) as stated in petitioner's brief which if the video was shown would have led to the suppression of petitioner's statements and the outcome of the case would have been different.

N.Y.S. Court of Appeals held it to be the duty of every Judge and every Court to examine its own decisions, and the decisions of other Courts without fear, and to review without reluctance. Baker v. Lorillard, 4 NY 257, 261 (1850). The State Courts failed to follow its own decisions and well as the Supreme Court decisions and the Fourteenth Amendment's Due Process Clause.

Petitioner Was Denied His Due Process rights to the Equal Protection of the New York State Penal Law 265.20 (a)(1)(b).

New York State has refused to follow their own Penal Law Criminal possession of a Weapon in the Fourth Degree PL 265.20 (a)(1)(b) which is a violation of the Equal Protection Clause of the Fourteenth Amendment's Due process Clause. It is unknown why the State's Higher Courts are reluctant to admonish their own lower Courts for failing to follow the Constitution and the State's Laws.

Petitioner was clearly exempt from criminal possession of a weapon in the fourth degree PL 265.20 (a)(1)(b).

SUMMARY

This Honorable Court now has the opportunity to correct an injustice in the State's judicial system. The N.Y.S. Courts are required to follow the Constitution and the State's Laws, it is unknown why they fail to do so. No law, rule or ordinance is more important than the Constitution.

These issues in petitioner's writ should be addressed and reversed by the full member Court, and a new trial ordered with instructions to the State to follow the Constitution.

CONCLUSION

WHEREFORE Petitioner humbly prays that this Honorable Court reconsider the January 12, 2026 denial of petitioner's petition for writ of certiorari and it is respectfully submitted that this petition for rehearing be granted.


Dated: January 22, 2026

Respectfully submitted,


Kevin Griffin

I declare under penalty of perjury that the foregoing is true and correct to the best of petitioner's knowledge.

Executed on: January 22, 2026


Kevin Griffin

No. 25-5919

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SUPREME COURT OF THE UNITED STATES

Kevin Griffin - Petitioner,

v.

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PROOF OF SERVICE

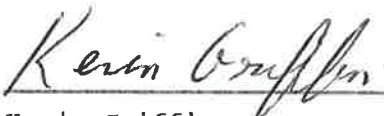
I, Kevin Griffin, do swear or declare that on this date, March 2, 2026 as required by Supreme Court Rule 29 I have served the enclosed **Petition for Rehearing Corrections** on each party to the above proceeding or that party's counsel, and every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third party commercial carrier for delivery within 3 calendar days.

The name and address of those served are as follows:

Hon. Letetia James
N.Y.S. Attorney General
The Capitol
Albany, NY 12224

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: March 2, 2026


Kevin Griffin