

No. 25-5971

ORIGINAL

Supreme Court, U.S.
FILED

AUG 21 2025

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In the
Supreme Court of the United States

Jeffrey Rivard-Petitioner

vs.

State of Vermont-Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO
VERMONT SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

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SUPREME COURT, U.S.

Questions Presented

I. Whether the Vermont Supreme Court's denial of Petitioner's right to file a pro se motion to vacate and modify probation based on newly discovered evidence and constitutional errors violates the Due Process Clause of the Fourteenth Amendment.

II. Whether the use of expunged and sealed records in presentence investigation report without jury instruction on the Batterer's Intervention Program undermines fundamental fairness and warrants Supreme Court review.

PROCEEDINGS BELOW

Court Docket No. 1370-11-19 wmc Date: August 20th, 2025

Ruling: Denied, Pro se filing prohibited by Judge John Treadwell

Vermont Superior Court, Criminal August 08th, 2023

Alleged Jury conviction for domestic assault; without Judgment of Conviction
probation imposed by deferred sentencing

Vermont Supreme Court August 19th 2025 Denial of motion to vacate or modify
probation

TABLE OF CONTENTS

Questions Presented.....	i
Parties to the Proceeding.....	i
Corporate Disclosure Statement.....	i
Proceedings Below.....	ii
Table of Contents.....	ii
Table of Authorities.....	ii
Opinions Below.....	1
Jurisdiction.....	1
Constitutional and Statutory Provisions.....	1
Statement of the Case.....	1
Reasons for Granting the Petition.....	3
Conclusion.....	9
Appendix A: Vermont Supreme Court Order.....	A1
Appendix B: Superior Court Sentencing Order.....	B1

TABLE OF AUTHORITIES

Constitutional Authority

U.S. 14 Const. Am.....	1
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Cases

<i>Brady v. Maryland</i> , 373 U.S. 83 (1963).....	3
<i>Gagnon v. Scarpelli</i> , 411 U.S. 778 (1973).....	3
<i>Strickland v. Washington</i> , 466 U.S. 668 (1984).....	4

Statutes

28 U.S.C. § 1257(a).....	1
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Rules

Sup. Ct. R. 14.....	2
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OPINIONS BELOW

The Vermont Supreme Court's unpublished order denying Petitioner's motion to vacate or modify probation is reproduced at Appendix A. The Superior Court's sentencing order is reproduced at Appendix B.

JURISDICTION

The Vermont Supreme Court entered its order on July 25th, 2025, and denied rehearing on August 19th, 2025. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fourteenth Amendment to the United States Constitution provides that no State shall deprive any person of life, liberty, or property without due process of law.

STATEMENT OF THE CASE

In October 2022, Petitioner was allegedly convicted by a jury in the Vermont Superior Court of domestic assault. The court imposed probation and ordered completion of the Vermont Batterers' Intervention Program.

The Vermont Court inconsistently applied length of probation for 2 years where comparably to much worse actual domestic violence crimes are learned of

gathering 1 year probation order within the Vermont Judiciary with no other treatment or monitoring or fine ordered in those cases.

A violation of probation (VOP) charge was filed but has lain dormant for approximately ten months and appears retaliatory.

Petitioner discovered post-sentence that the presentence investigation report relied on:

The PSI omitted education which would be a positive attribute and left a typo for 18 "years" well outside statutory maximum sentencing guidelines to 13 Vermont Statute Annotated 1042. The Windham Court's Judge John Treadwell refused to correct the clerical error claiming no rights were inviolate.

A prior "bad act" from Commonwealth of Massachusetts, which had been dismissed with prejudice and has been expunged;

A sealed juvenile matter from State of Maine;

A matter upheld by forged judgment and commitment at sentencing from York District Court Maine from 2001 for theft to collateral consequences despite prose status which is a fraud on the court accompanied by two other 2001 Dockets from York District Court.

A deferred disposition Maine refuses to acknowledge actual innocence by affirmation within concluded before October 21 2005 petition could be heard.

Omission of Witness Statement toward mutual throwing of items by sworn witness testimony at trial by affiance Officer Craig Winkler from his affidavit.

Summary of counts which do not constitute a crime and one which seems to have been refuted, recanted, otherwise disproven at trial leaving all that over 1 scratch

....without considering the Black Mountain Inn was found with bed bugs and fleas in a state of disrepair causing an intolerable living condition without mens rea jury instruction during a displacement during a local apartment rental scam either which caused a loss of medication

Prosecutorial arguments referencing Petitioner as a batterer without any corresponding jury instruction or evidence/witness or expert testimony on the Batterers' Intervention Program.

Petitioner filed a pro se motion in the Vermont Supreme Court to vacate or modify probation on the grounds of newly discovered evidence and due process violations. The Vermont Supreme Court denied the motion without opinion.

REASONS FOR GRANTING THE PETITION

The Vermont Supreme Court's blanket refusal to allow a pro se motion to vacate or modify probation conflicts with this Court's decisions in *Brady v. Maryland* and *Gagnon v. Scarpelli*, which recognize the due process right to

challenge unconstitutional sentencing practices.

There is a split among state and lower federal courts on whether expunged or sealed records may be used in sentencing and probation determinations, especially when the defendant appears pro se.

The absence of a jury instruction on the Batterers' Intervention Program, coupled with reliance on expunged and sealed records, deprived Petitioner of a fair sentencing process and a meaningful opportunity to be heard. The failure of Attorney Christopher Montgomery to even hash over a minor detail such as the typo for 18 years or address defendant was enrolled in college or in the objection to summary of facts is well below standard by *Strickland v Washington*.

This case presents a recurring and important question of federal law affecting the integrity of probation revocation proceedings nationwide.

CONCLUSION

The petition for a writ of certiorari should be granted.

APPENDIX

Appendix A: Order of the Vermont Supreme Court Denying Motion to Vacate or Modify Probation

Appendix B: Superior Court Sentencing Order and Presentence Investigation Report



Jeffrey Rivard, pro se

Dated at West Brattleboro, Windham, Vermont

Year of our Lord August 20th, 2025

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