

CLD-125

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **25-1110**

VERNON MONTGOMERY,
Appellant

v.

WARDEN JAMES T VAUGHN CORRECTIONAL CENTER; ET AL.

(D. Del. Civ. No. 1:22-cv-01023)

Present: KRAUSE, PHIPPS, and SCIRICA, Circuit Judges

Submitted are:

- 1) Appellant's Request for a Certificate of Appealability under 28 U.S.C. § 2253(c)(1);
- 2) Addendum by Appellant in Support of Certificate of Appealability;
- 3) Motion to Include 3 Paragraph Addendum to Motion for Certificate of Appealability;
- 4) Motion to Stay C.O.A proceedings pending Motion for Remand in District Court; and
- 5) Document in Support of Appeal, filed April 28, 2025

in the above-captioned case.

Respectfully,

Clerk

(continued)

RE: Vernon Montgomery v. Warden James T Vaughn Correctional Center, et al.
C.A. No. 25-1110
Page 2

ORDER

Appellant Montgomery's motion to include a three-paragraph addendum to his petition for a Certificate of Appealability is granted; however, Appellant's request for a Certificate of Appealability is denied. See 28 U.S.C. § 2253(c). Jurists of reason would agree, without debate, that the District Court properly dismissed Appellant's habeas petition and denied the relief requested therein, for essentially the reasons set forth in the District Court's opinion. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000). More specifically, Appellant's claims are barred by Stone v. Powell, 428 U.S. 465 (1976), or inexcusably procedurally defaulted. Montgomery's motion to stay proceedings and remand to the District Court is also denied.

By the Court,

s/ Cheryl Ann Krause
Circuit Judge



A True Copy:

Patricia S. Dodsweit

Patricia S. Dodsweit, Clerk
Certified Order Issued in Lieu of Mandate

Dated: May 29, 2025
Tmm/cc: Vernon Montgomery
Andrew J. Vella, Esq.

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT
CLERK

UNITED STATES COURT OF APPEALS
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790
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TELEPHONE
215-597-2995



May 29, 2025

Vernon Montgomery
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

Andrew J. Vella
Office of Attorney General of Delaware
Delaware Department of Justice
820 N French Street
Carvel Office Building
Wilmington, DE 19801

RE: Vernon Montgomery v. Warden James T Vaughn Correctional Center, et al
Case Number: 25-1110
District Court Case Number: 1:22-cv-01023

ENTRY OF JUDGMENT

Today, **May 29, 2025**, the Court issued a case dispositive order in the above-captioned matter which serves as this Court's judgment. Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App.

P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. A party seeking both forms of rehearing must file the petitions as a single document. Fed. R. App. P. 40(a).

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,
Patricia S. Dodszuweit, Clerk

By: s/Timothy, Case Manager
267-299-4953

cc: Randall C. Lohan

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

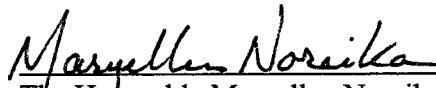
VERNON MONTGOMERY,)
Petitioner,)
v.) C.A. No. 22-1023 (MN)
BRIAN EMIG, Warden, and ATTORNEY)
GENERAL OF THE STATE)
OF DELAWARE,)
Respondents.)

ORDER

At Wilmington, this 8th day of January 2025, for the reasons set forth in the Memorandum Opinion issued this date;

IT IS HEREBY ORDERED that:

1. Petitioner Vernon Montgomery's Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (D.I. 1; D.I. 12) is **DISMISSED**, and the relief requested therein is **DENIED**.
2. Petitioner's Motion for Reconsideration (D.I. 49), his Motion for Summary Judgment (D.I. 51) and his Motion to Include New Case Ruled in 2024 (D.I. 54) are **DENIED** as moot.
3. The Court declines to issue a certificate of appealability because Petitioner has failed to satisfy the standards set forth in 28 U.S.C. § 2253(c)(2).



The Honorable Maryellen Noreika
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

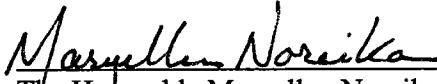
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The Honorable Maryellen Noreika
United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 25-1110

VERNON MONTGOMERY,
Appellant

v.

WARDEN JAMES T VAUGHN CORRECTIONAL CENTER;
ATTORNEY GENERAL OF THE STATE OF DELAWARE

(D. Del. Civ. No. 1:22-cv-01023)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO,
BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES,
CHUNG, and ¹SCIRICA Circuit Judges

The petition for rehearing filed by Appellant Vernon Montgomery in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

¹ Judge Scirica's vote is limited to panel rehearing only.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: July 11, 2025
Tmm/cc: Vernon Montgomery
Andrew J. Vella, Esq.

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