
Appellate Clinic

March 31, 2026

Honorable Scott S. Harris, Clerk
Supreme Court of the United States
1 First Street, NE
Washington, D.C. 20543

Re: No. 25-726, Alan Lane Hicks v. Jonathan Frame

Dear Mr. Harris,

I write in response to Solicitor General Williams’s letter dated March 25. The West Virginia Supreme Court of Appeals’ decision confirmed that the state trial court’s dismissal of Petitioner Alan Hicks’s petition for postconviction relief was facially inadequate. That should have served as another indication of the ineffective state-court process, but instead, the Fourth Circuit relied on the fact of late-breaking state-court movement as itself dispositive on the effectiveness question.

This development underscores the error in the Fourth Circuit’s decision below. As explained in the petition and reply brief, the Fourth Circuit erred by giving dispositive weight to a late-breaking state decision—now confirmed to be erroneous and a nullity—instead of conducting the totality-of-the-circumstances analysis applied by other circuits. As a result, Hicks faces even more proceedings and delay after over 27 years of a state-court process that has never engaged with the merits of his postconviction claims.

This Court’s intervention is warranted to resolve that circuit conflict, particularly in light of the increased practical stakes the question presented poses in this very case. At a minimum, this Court should grant, vacate, and remand the case to allow the Fourth Circuit to reconsider its flawed approach in light of the state court’s vacatur of the decision the Fourth Circuit had deemed dispositive.

Sincerely,

/s/ Steven J. Alagna
Steven J. Alagna
Counsel for Petitioner

cc: Michael R. Williams, counsel for Respondent



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