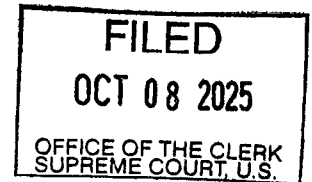


25-7671

ORIGINAL

NO: 25-1935

IN THE SUPREME COURT OF THE UNITED STATES



BARRY MORRIS (PRO SE PETITIONER)

VS.

JOHN BARWICK/WARDEN (RESPONDENT)

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

PETITION FOR A WRIT OF CERTIORARI

BARRY MORRIS (PRISONER ID# N42509)
PINCKNEYVILLE CORRECTIONAL CENTER
5835 STATE ROUTE #154
PINCKNEYVILLE, ILL 62274-3410

QUESTIONS PRESENTED

Whether a criminal defendant is legally entitled to a Certificate of Appealability where:

- (1) It is demonstrated that a substantial showing of the denial of a Constitutional right has occurred.
- (2) The United States District Court's procedural ruling is at least debatable.

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CITATIONS OF THE OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS
AND ORDERS ENTERED IN THE CASE

- (1) The ORDER of the Seventh Circuit Court of Appeals (Appeal # 25-1935/ 7/21/2025)
as EXHIBIT "A" in the attached Appendix.
- (2) The DOCKET TEXT ORDER of the U.S. District Court (Case # 3:24-cv-02400-DWD)
As EXHIBIT "BBB" in the attached Appendix
- (3) The MEMORANDUM & ORDER of the U.S. District Court (Case # 3: 24-cv-2400_DWD)
as EXHIBIT "AAA" in the attached Appendix.

STATEMENT FOR JURISDICTION

This Honorable United States Supreme Court has full subject matter jurisdiction pursuant to 28 U.S.C 1254 (1) to review the denial of Petitioner's meritorious request for Certificate of Appealability by the U.S. Court of Appeals for the Seventh Circuit, since this said Petition for Writ of Certiorari was timely filed pursuant to 28 U.S.C 2101(c).

STATUTORY AND CONSTITUTIONAL PROVISIONS

The statutory right of a state prisoner to seek federal habeas corpus relief is expressly guaranteed in 28 U.S.C 2254 and the standard for such relief under "AEDPA" is set forth in 28 U.S.C 2254(d)(1).

The 14TH Amendment to our United States Constitution is hereby invoked which expressly provides:

" All persons born or naturalized in the United States of America, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. "

STATEMENT OF THE CASE

- (1) On August 27, 2002, Petitioner was arrested by the Chicago Police Dept for the murder of Ricky Pierce.
- (2) In October of 2002, Petitioner was indicted for First Degree Murder, Aggravated Unlawful Restraint, and Discharge of a Fire-Arm.
- (3) On October 14, 2005, following a short bench trial, Petitioner was found guilty of First Degree Murder, Home Invasion, and Aggravated Unlawful Restraint: and on February 2, 2006 was sentenced to 71 years of imprisonment.
- (4) On March 1, 2006, Petitioner, through his court-appointed public appellate defender, filed his direct appeal (Appeal #1-06-0652) and on November 25, 2008 the Illinois Appellate Court/First District affirmed his wrongful conviction.
- (5) On December 17, 2008, Petitioner's Post-Conviction Petitioner was timely filed by his said court-appointed public appellate defender; however said court-appointed public appellate defender presented only a few minor issues and lied to the court about his investigator interviewing Petitioner's material witnesses.
- (6) More important, Petitioner's said court-appointed public appellate defender wilfully failed to present well-documented evidence in his said Post-Conviction Petition that Petitioner's said court-appointed trial public defender wilfully failed Interview and call (3) known and available material defense witnesses and how each of them could had testified during the bench trial as to Petitioner's bizarre behavior before and after the subject murder in support of Petitioner's viable insanity defense.
- (7) On March 12, 2013, Petitioner's Post-Conviction Petition was dismissed pursuant to the State's motion and Petitioner Notice of Appeal was timely filed.

- (8) On November, 20, 2013, the said dismissal of Petitioner's said Post-Conviction Petition was affirmed on appeal.
- (9) In August of 2016, Petitioner court-filed his initial pro se Petition for Federal Habeas Corpus Relief under 28 U.S.C. 2254 with the Northern District Federal Court of Illinois based on the aforementioned and longstanding ineffective assistance of counsel with regard to the wilful failure to present his viable incompetency defense during his said bench trial. Morris v Hutchinson, 16 CV 10243 (N.D. Ill. 2016).
- (10) On November 9, 2016, Petitioner's initial pro se Petition for Federal Habeas Corpus Relief was summarily dismissed after a preliminary review under Rule 4 of the Rules Governing Section 2254 cases.
- (11) On March 8, 2018, Petitioner retained Atty Robert L. Caplan for his Successive Post-Conviction Petition; however said Successive Post-Conviction Petition was Never filed by Atty Caplan due to 64 MONTHS OF UNEXCUSABLE DELAYS BY PETITIONER'S SAID RETAINED COUNSEL; to which Petitioner was forced to file an ARDC complaint against Atty Caplan on AUGUST 23, 2023.
- (12) On June 21, 2021, Petitioner timely filed his pro se Appeal with the U.S. Court of Appeals/ Seventh Circuit from the said dismissal of his said initial Federal Habeas Corpus Petition; which was eventually denied.
- (13) On November 29, 2023, Petitioner court-filed his Successive Post-Conviction Petition with (3) supporting sworn affidavits (See attached EXHIBITS "AA—"CC") in Appendix; which was summarily denied on January 26, 2024 WITHOUT NOTICE TO PETITIONER DUE TO HIS INVOLUNTARY TRANSFER FROM WESTERN ILLINOIS CORRECTIONAL CENTER TO PINCKNEYVILLE ILLINOIS CORRECTIONAL CENTER ON FEBRUARY 15, 2024.

- (14) In June 2024, Petitioner court-filed his pro se Illinois State Habeas Corpus Petition with the Illinois State Supreme Court based on the aforementioned Constitutional claim of wilful ineffective assistance of counsel through his said court-appointed trial public defender and his said court-appointed appellate public defender for his direct appeal and post-conviction proceedings; all of which highly infected and tainted his entire criminal legal process in wilful violation of his protected 6th Amendment Right to effective assistance of counsel and his protected 14th Amendment right to due process of the law.
- (15) On September 27, 2024, the Illinois State Supreme Court summarily denied Petitioner's said State Habeas Corpus Petition with no ruling on its merits.
- (16) On October 30, 2024, Petitioner court-filed his second Federal Habeas Corpus Petition under 28 U.S.C. 2254, based on the aforementioned ineffective assistance of counsel through the wilful failure of his said court-appointed trial public defender to prepare and present the said well-supported and available evidence as to his viable insanity defense during his said bench trial, which foreseeably resulted in Petitioner's wrongful conviction.
- (17) On November 4, 2024, Petitioner's said second Federal Habeas Corpus Petition was summarily dismissed, without prejudice, for lack of subject matter jurisdiction due to a procedural issue, as stated in the attached Memorandum & Order of the U.S. District Court Judge Dugan/ EXHIBIT "AAA" in Appendix.
- (18) In March of 2025, Petitioner timely filed his pro se FRCP Rule 60(B)(1) Motion for Relief from the Court's said Memorandum & Order/ EXHIBIT "AAA"; which was summarily denied on May 29, 2025 again based on the same procedural issue, as stated in the attached ORDER/ EXHIBIT "BBB" in Appendix.
- (19) In May of 2025, Petitioner timely filed his pro se Notice of Appeals with the said U.S. District Court and his APPLICATION FOR A CERTIFICATE OF APPEALABILITY; which was summarily denied by the United States Court of Appeals for the Seventh Circuit in its attached July 21, 2025 ORDER/ EXHIBIT "A" in Appendix.
- (20) Thus, to redress and further litigate his aforementioned and well-documented Constitutional violations of this 6th and 14th Amendment rights, Petitioner respectfully and timely submits his following Writ of Certiorari.



REASONS FOR GRANTING WRIT OF CERTIORARI

- (1) There are significant split decisions in the various United States Appellate Circuit Courts concerning the Standard of Review for a Certificate of Appealability, as succinctly addressed by this United States Supreme Court in Slack v McDaniel, supra,
- (2) This well-documented widespread of judicial misapprehension of this Honorable Court's aforementioned Standard of Review for a Certificate of Appealability concerns extremely important national interests and has adversely impacted on many Constitutionally protected rights of Federal Habeas Corpus petitioners under 28 U.S.C 2254.

< I > SIGNIFICANT SPLIT DECISIONS IN VARIOUS US. APPELLATE CIRCUIT COURTS
CONCERNING THE STANDARD OF REVIEW FOR A CERTIFICATE OF APPEALABILITY
AS SUCCINCTLY ADDRESSED BY THIS HONORABLE COURT IN SLACK V MCDANIEL.



- (1) Easterwood v. Champion, 213 F3d. 1321 (10th Cir. 2000)

The petitioner's requested Certificate of Appealability was eventually granted due to the U.S. District Court's error in dismissing the petitioner's Federal Habeas Corpus Petition that was significantly based on a substantial competency claim and wrongfully considered time-barred under 28 U.S.C 2244(d).

- (2) Miller-Eli v Cockrell, 261 F3d. 445 (5th. Cir. 2001)

The U.S Court of Appeals Court erroneously evaluated and denied the petitioner's requested Certificate of Appealability under 28 U.S. C. 2253 (c)(2) and the aforementioned holding by this Honorable Court in Slack v McDaniel, supra.

- (3) Morton v Gilbert, Appeal # 18-35027 (9th. Cir. 2018)

The U.S. Court of Appeals erroneously denied the petitioner's requested Certificate of Appealability indirect conflict with this Honorable Court's holding in Slack v McDaniel, supra.

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(4) Johnson v Dretke, 442 F. 3d. 901 (5th Cir. 2006)

The U.S. Court of Appeals erroneously denied the petitioner's Certificate of Appealability due to an alleged failure to timely comply with 28 U.S.C.2244 (b) for a successive Federal Habeas Corpus Petition.

(5) Shannon v Newland, 410 F.3d. 1083 (9th. 2005)

The U.S. Court of Appeals erroneously denied the petitioner's Certificate of Appealability due to the petitioner's alleged failure to comply with 28 U.S.C. 2244(b) with an untimely filed Federal Habeas Corpus Petition and for the alleged no showing of a violation of a constitutional right through improper jury instructions.

< II > THE WELL-DOCUMENTED AND WIDESPREAD OF JUDICIAL MISAPPREHENSION OF THIS COURT'S AFOREMENTIONED COA STANDARD OF REVIEW CONCERNS EXTREMELY IMPORTANT NATIONAL INTEREST AND HAS ADVERSELY IMPACTED ON THE MANY CONSTITUTIONALLY PROTECTED RIGHTS UNDER 28 U.S.C. 2254.



(1) The fundamental and legally protected right of a state prisoner to seek Federal Habeas Corpus Relief from his/her wrongful conviction is expressly guaranteed in 28 U.S.C 2254 and the standard of review for such relief is set forth in 28 U.S.C 2254 (d).

(2) Moreover, this fundamental right is also legally protected under the 14th Amendment to our United States Constitution, which expressly provides:

" All persons born or nationalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any laws which shall abridge the privileges or immunities of U.S. citizens; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person the equal protection of the law. "

(3) More important, in the realm of Federal Habeas Corpus appeals for prisoners, there exists a critical, yet often misunderstood element known as a CERTIFICATE OF APPEALABILITY (COA) ; which serves as an extremely important legal procedural gateway to appellate review for the prisoner petitioners seeking relief from unconstitutional imprisonment.

- (4) It is extremely important to note that a recent and well-published legal study examined the COA granting process in the United States Court of Appeal for the 11th Circuit in comparison to other U.S. Courts of Appeal; which reflected a significant difference in the rate of which COAs for non-capital crimes are granted (8.44 %) to the rate at which capital crimes are granted (58.3 %) as well as the personal frequency of COA grants by individual federal circuit court judges ranging from 2.33% to 25.81%.

“ Certificates of Appealability in Federal Habeas Corpus cases in the U.S. Courts Of Appeal: A study “ Yale University Law Journal Jan. 17, 2020.

- (5) Thus, the subject COA Standard of Review is an extremely critical element of the legal procedural process for the fundamental and protected Constitutional rights of countless state prisoners throughout the United States for Federal Habeas Corpus relief pursuant to 28 U.S.C 2254; and has been grossly misapprehended and/or disregarded by many Circuit Courts of the U.S. Court of Appeals, and thus warrants this Honorable Court's review through Petitioner's Writ of Certiorari herein submitted.

ARGUMENT

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- (1) CONTRARY TO THE ATTACHED AND TOTALLY BASELESS ORDER OF THE U.S. COURT OF APPEALS FOR THE SEVENTH CIRCUIT/ EXHIBIT "A", THE ATTACHED AND UNDISPUTED RECORD CLEARLY REFLECTS THAT PETITIONER HAS MADE A SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT IN FULL COMPLIANCE WITH 28 U.S.C 2253(C)(2) UNDER WELL-SETTLED AND CONTROLLING LAW.

- (1) It has been well-settled and expressly underscored by this Honorable U.S Supreme Court for more than 40 years that a "substantial showing of the denial of a Constitutional right" pursuant to 28 U.S.C 2253, includes a showing that reasonable jurists could debate whether the subject federal habeas corpus petition should have been resolved in a different manner; or that the issues presented were adequate to deserve encouragement to proceed further. Barefoot v Estelle, 463 U.S. 880 (1983)

- (2) Moreover. It has been well-settled and expressly underscored by this Honorable United States Supreme Court that a criminal defendant is denied his 6th Amendment Constitutional right to effective assistance of counsel where a criminal defense counsel wilfully fails to investigate and present available psychological and character evidence in support of a viable insanity defense. Strickland v Maryland, 466 U.S. 668 (1984).

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- (3) Likewise, consistent with the aforementioned holding in Strickland v Maryland, supra., the United States Court of Appeals for the 4th Circuit held that the defense counsel's failure to fully investigate and present evidence of the defendant's brain injury and mental illness constituted ineffective assistance of counsel in wilful violation of the defendant's 6th Amendment Constitutional right to effective assistance of counsel. U.S. v Runyon, 983 F.3d. 716 (4th. Cir. 2020)
- (4) More important, it has been well-settled and firmly established under Illinois law since 1974 that a criminal defendant is NOT required to present expert testimony in order to satisfy his/her burden of proof as to a viable insanity defense. People v Redmond, 59 Ill. 2d. 328 (1974); People v Smothers, 55 Ill. 2d. 172 (1973) , and People v Childs, 51 Ill. 2d. 247 (1972).
- (5) Moreover, under well-settled Illinois law, lay witness personal observations as to the defendant's mental state of mind or behavior to support a viable insanity defense are NOT confined to only the time of the subject crime; but also allows lay opinion testimony based on such observations of the defendant as late as 3 ½ hours after the subject crime. People v Lassiter, 133 Ill. App. 2d. 353 (1st Dist. 1971).
- (6) Here, consistent with the aforementioned holdings in Strickland v Maryland, U.S v Runyon, supra., and the above-mentioned (4) Illinois decisions, the attached well-documented record (EXHIBITS "B", "BB", "BBB", "CC" AND "D") clearly reflect the following well-documented and undisputed material evidentiary facts to fully support Petitioner's 6th Amendment Constitutional claim for ineffective assistance of counsel under well-settled and controlling law:

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- (A) Prior to the subject murder involving Petitioner on August 27, 2002, Petitioner had a well-documented history of serious mental illness, self-medicating, drug abuse and short term professional assistance by a mental illness therapist and a psychiatrist just before the subject murder. (See attached sworn affidavit of Derrick Morris/EXHIBITS "B", "BB" and "BBB")
- (B) More specifically, in July and August of 2002, Petitioner was observed with extremely bizarre behavior and talking to himself and indicated that he was hearing voices when there was no one present; and early in the morning on the day of the subject murder shooting, Petitioner sounded like he was out of breath and said he was going to kill himself. (See attached sworn affidavit of Michele Lee/ EXHIBIT "CC")
- (C) Moreover, in late July of 2002, after Petitioner's wife left him, Petitioner was extremely mentally unstable, very depressed, and not with reality at all. (See attached sworn affidavit of Ethan Morris/ EXHIBIT "D")
- (D) Before Petitioner's trial, Petitioner's public defender, Atty Dayna Woodbury, was fully informed of Petitioner's aforementioned and well-documented history of serious mental illness and extremely bizarre behavior by both Derrick Morris and Michele Lee, and both expressly underscored that they were wanting to testify for Petitioner. However, despite said full knowledge of such invaluable information concerning Petitioner's well-documented history of serious mental illness well before and on the day of the subject murder, Petitioner's said public defender wilfully failed to call Derrick Morris and/or Michele Lee as material defense witnesses to support Petitioner's viable insanity defense under well-settled and controlling Illinois law. (See attached sworn affidavit of Derrick Morris/ EXHIBIT "B", "BB", and "BBB" and the attached sworn affidavit of Michele Lee/ EXHIBIT "CC")
- (E) Likewise, Petitioner's post-conviction public defender, Atty Lindsey Huge, or any investigator, wilfully failed to contact Derrick Morris, Michelle Lee, or Ethan Morris, as material defense witnesses to support his said insanity defense during Petitioner's post-conviction proceedings. (See attached sworn affidavit of Derick Morris/ EXHIBIT "B", "BB", sworn affidavit of Michelle Lee/ EXHIBIT "CC" and sworn affidavit of Ethan Morris/EXHIBIT "D")

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(F) In addition, Petitioner's criminal court record clearly reflects that Petitioner's mitigation report fully documented that Petitioner had serious multiple mental health issues at the time of the subject murder due to post-traumatic stress from losing loved ones throughout his childhood. (Cl. 126) Petitioner's father had physically abused his mother and in an effort to protect his mother, Petitioner hit his father with a bat and killed him. (Cl. 126). Petitioner also lost his high school girlfriend to Lupus and experienced the death of his maternal aunts and uncles. (Cl. 127). Petitioner had " recurrent and intrusive recollections of his mother's beating and the end result of his father's death. (Cl. 127) According to the mental health illness expert who authored the said mitigation report, when Petitioner lost his wife, it " triggered PTSD reactions " (Cl. 128).

(7) Therefore, in direct contradiction to the attached and totally baseless Order of the U.S. Court of Appeals for the Seventh Circuit/ EXHIBIT "A" in Appendix, and totally consistent with the aforementioned holdings in Strickland, Runyon, and the (4) Illinois case decisions mentioned above, the attached and undisputed record clearly documents that Petitioner has MADE A SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT in full compliance with 28 U.S.C. 2253 (c)(2) under well-settled and Controlling law.

(II) THE RECORD CLEARLY REFLECTS THAT PETITIONER HAS FULLY SHOWN THAT THE U.S. DISTRICT COURT'S PROCEDURAL RULING IN DISMISSING PETITIONER'S FEDERAL HABEAS CORPUS PETITION PURSUANT TO 28 U.S.C. 2244(B)(1),(3)(A) WAS AT LEAST DEBATABLE UNDER WELL-SETTLED AND CONTROLLING LAW.

- (1) It has been well-settled and expressly underscored by our U.S. Supreme Court for more than 45 years that a second Federal Habeas Corpus Petition court-filed under 28 U.S.C. 2254 SHALL NOT BE DISMISSED PURSUANT TO 28 U.S.C. 2244 UNDER CERTAIN CIRCUMSTANCES. SUCH AS AN INCOMPETENCY CLAIM, as expressly stated by the U.S. District Court about Petitioner's Federal Habeas Corpus Petition in their attached Memorandum & Order/ EXHIBIT "AAA" in Appendix. Panetti v. Quarterman, 551 U.S. 930 (2007)
- (2) Moreover, in Stewart v Martinez-Villareal, 523 U.S. 637 (1998), our U.S. Supreme Court specifically underscored that a second federal habeas corpus petition court-filed under 28 U.S.C 2254 involving an incompetency claim, as clearly found in Petitioner's subject Federal Habeas Corpus Petition, would be LEGALLY TREATED AS A SINGLE PETITION UNDER 28 U.S.C 2244 (B) (2)(A-B). See also Slack v McDaniel, 529 U.S. 493 (2000).
- (3) However, in direct conflict with the aforementioned holdings in Panetti, Steward, and Slack, supra., the U. S. District Court erroneously dismissed Petitioner's subject Federal Habeas Corpus Petition under 28 U.S.C. 2244 (B)(1)(3)(A).
- (4) Instead, consistent with the aforementioned and controlling holdings in Panetti, Steward, and Slack, supra., the U.S. District Court should had readily found and concluded that Petitioner's subject Federal Habeas Corpus Petition was a single and NOT a second/successive Petition under 28 U.S.C 2244 (B)(2)(A-B).

- (5) Thus, the aforementioned dismissal of Petitioner's Federal Habeas Corpus Petition by the U.S. District Court is clearly debatable under well-settled and controlling law.

CONCLUSION

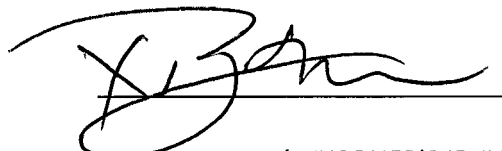
- (1) In Hahn v United States, 524 U.S. 236 (1998) this Honorable U.S. Supreme Court firmly held and expressly underscored that pursuant to 28 U.S.C 1254(1), this Court has statutory subject matter jurisdiction to review the denial of a request for a Certificate of Appealability by a circuit court judge or panel of a Federal Court of Appeals.

- (2) Here, the U.S. Court of Appeals for the Seventh Circuit in its attached and totally baseless ORDER/ EXHIBIT "A" in Appendix, erroneously denied Petitioner's request for a Certificate of Appealability based on an unsupported finding of no substantial showing of the denial of a Constitutional right and made no mention of the aforementioned procedural dismissal of Petitioner's Federal Habeas Corpus Petition, in direct conflict with this Honorable Court's two part (COA) Standard of Review, as succinctly mandated in Slack v McDaniel, 529 U.S. 473 (2000)

(3) WHEREFORE, consistent with the aforementioned landmark holding by this Honorable Court in *Hahn v United States*, supra., and based on the various reasons stated above, this Honorable U.S. Supreme Court should readily grant Petitioner's factually and legally well-supported Writ of Certiorari, and find that Petitioner is legally entitled to a Certificate of Appealability, since he has fully proven the following:

- (1) A substantial showing of the denial of a Constitutional right has occurred, and
- (2) The U.S. District Court's aforementioned procedural ruling is at least debatable under well-settled and controlling law.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Barry Morris', written over a horizontal line.

BARRY MORRIS (PRISONER'S ID # N42509)
PRO SE PETITIONER
PINCKNEYVILLE CORRECTIONAL CENTER
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