

SEPT - 15 - 2025

SEP 18 2025

25A397

NOV. 24 - 1933

OBE E JOHNSON

PETITIONER - APPELLANT

VS

HARRY FELICIANO - MALDONADO; SANTIAGO AMARO - AMARO
RESPONDENT - APPELLEESAPPLICATION ADDRESSED TO AN INDIVIDUAL JUSTICE
TO AN INDIVIDUAL JUSTICE

REQUESTING FOR A CERTIFICATE OF APPEALABILITY

TO THE HONORABLE INDIVIDUAL JUSTICE

COMES NOW PETITIONER - APPELLANT OBE E. JOHNSON
AND BEFORE THE HONORABLE INDIVIDUAL JUSTICE
RESPECTFULLY STATES CHARGES AND PLAYS AS
FOLLOWSFACTS

I APPEAL THE DENIED OF THE UNITED STATES
COURT OF APPEALS FOR THE FIRST CIRCUIT HAS
DENIED TO ISSUE ME A CERTIFICATE OF APPEAL
ABILITY OR JUDGMENT ENTERED MAY - 14 - 2025 AND
ALSO THE DISTRICT COURT OF PUERTO RICO DENIED
TO ISSUE A CERTIFICATE OF APPEALABILITY

(PRECISE)

On May 25-2010 a conspiracy commenced among the Commonwealth of Puerto Rico Department of Justice, Federal Judges Attorney Prosecutor, Magistrate Justice to rule against me to rip-off the criminal case no Judges that is reasonable will get involved within conspiracy to rule against another party,

Memorandum in Support of a Certificate of Appealability, that would entitle me to habeas corpus relief, to obtain release from illegal custody - prison,

HOW TO PRESENT NEW EVIDENCE THAT WASN'T HEARD DURING STATE'S COURT CASE

A Federal court hearing a habeas claim is limited to both (a) the facts as presented in your state court proceedings and (b) the factual findings of the state court. This is the default rule. Remember that in almost all circumstance your claims must have first been heard by a state court before you can raise them in a habeas corpus, petition,

if you want to expand the record because

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OF (NEW EVIDENCE) you should attempt to do so in state court first even if you cannot introduce the new evidence in state court this will still help you when trying to introduce it in federal court for your habeas petition.

the default rule means that generally speaking evidence you or your counsel did not submit during those state proceedings cannot be considered by the federal court, the federal court is also not allowed to reverse factual findings by the state court unless you can rebut the correctness of the state court's conclusion by clear and convincing evidence. you may also argue that the state court's decision was unreasonable in light of the evidence presented, under 28 USC 2254(d)(2) even then recall that you are still limited to the evidence presented in state court,

generally, you can only establish new facts when there is new evidence the default rules are subject to narrow and rare exceptions discussed in this section of the module when facts are in dispute you may be entitled to an (evidentiary hearing) or otherwise to expand the record to resolve that dispute

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POTENTIALLY EVEN ALTERING THE STATE'S FACTUAL FINDINGS IN VERY NARROW CIRCUMSTANCES

FOR THE MOST PART THIS SET OF RULES IS SET OUT IN 28 U.S.C. 2254(e)

- ① In a habeas corpus proceeding - a determination of a factual issue made by a state court shall be presumed to be correct the applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence
- ② If the applicant has failed to develop the factual basis of a claim in state court proceedings the court shall not hold an evidentiary hearing unless the claim relies on
 - (i) a new rule of constitutional law made retroactive or
 - (ii) a factual predicate that could not have been previously discovered through the exercise of due diligence and
- ③ the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense

TO SUMMARIZE IN ORDER TO RECEIVE AN EVIDENTIARY HEARING YOU NEED TO SHOW THAT THERE IS

- ① A question of fact which,

(5)

② WAS NOT DEVELOPED IN STATE COURT

③ BECAUSE OF THE STATE'S ERROR

IF A CLAIM WAS NOT DEVELOPED IN STATE COURT BECAUSE OF THE PETITIONER'S ERROR (ERROR BY YOU AND/OR YOUR ATTORNEY) YOU MAY STILL BE ENTITLED TO AN EVIDENTIARY HEARING IF YOU CAN DEMONSTRATE THAT THERE IS A QUESTION OF FACT AND YOU CAN DEMONSTRATE BOTH ④ CAUSE AND INNOCENCE

① WHAT IS THE DIFFERENCE BETWEEN A QUESTION OF FACT AND A QUESTION OF LAW,?

YOU ARE ONLY EVER ENTITLED TO AN EVIDENTIARY HEARING WHEN THERE IS A DISPUTE ABOUT A QUESTION OF FACT. A QUESTION OF FACT MEANS THAT YOU AND THE STATE DISAGREE ABOUT WHAT ACTUALLY HAPPENED. A QUESTION OF LAW ON THE OTHER HAND MEANS THAT YOU AND THE STATE AGREE THAT EVENT X, Y, & Z OCCURRED BUT YOU DISAGREE ABOUT WHETHER THOSE EVENTS MEAN THAT YOUR CONSTITUTIONAL RIGHT VIOLATED.

SOMETIMES IN A CASE THERE WILL BE NO OR FEW RELEVANT DISPUTED QUESTION OF FACT. FOR EXAMPLE IN *GIDEON V WAINWRIGHT* 372 U.S. 335 83 S. CT 792 (1963) BOTH GIDEON AND THE STATE AGREED THAT HE HAD NOT BEEN

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appointed a lawyer they disagreed about whether that meant that his Sixth Amendment right to a fair trial was violated because the state did not provide him an attorney when he could not afford one, requesting an evidentiary hearing will be most useful either

- ① because you have found new evidence relating to your constitutional claim OR ② because the state court system never provided you with an evidentiary hearing to prove that something happened to you that violated your constitutional rights,

- ② did the state court develop the factual basis of the claim in state court

this refers both whether the state court answered the question of fact and whether they heard particular evidence if the state court has already answered the question of fact and heard all of the evidence that you have to show you are not entitled to an evidentiary hearing if the state court did not develop the factual basis of the claim the court will move on to the next question,

- ③ was this a result of the petitioner's error or the state error

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if the state court did not fully develop the factual basis of a claim - for example if they never considered evidence you are trying to present now when considering your constitutional claim the federal court asks whose fault it was you want to convince them that the state was to blame,

when the state was to blame for the failure to develop the facts fully in state court you get a mandatory hearing. At minimum you must have requested ideally more than once an evidentiary hearing for your claim in state court. if you are reading this now and you or someone you are assisting is still in state court make sure to fully develop all of the claims in state court

request discovery of documents request appointment of investigators and experts request evidentiary hearing to present your witnesses and evidence if you do not do so now you likely forfeit your chance to do so in your habeas petition even if such evidence can prove your innocence it may even be helpful to type the words Evidentiary Hearing requested on the front page of your state petitions to leave no doubt because of this requirement you should ask for

8

discovery of evidence in state court even if you are extremely unlikely to succeed for example you may request subpoenas of witnesses or evidence from prosecution even if you think it's highly unlikely that you will get it because doing so will demonstrate later on that the lack of development was not your fault

the Supreme Court has previously listed five situations in which the state may be to blame

- ① the merits of the factual dispute were not resolved in state court
- ② the state factual determination is not supported by the record as a whole
- ③ the fact finding procedure was not adequate to be evidence of a full and fair hearing
- ④ there is a substantial allegation of newly discovered evidence (see the next question)
- ⑤ there is another reason to indicate that the state trial of fact didn't offer a full and fair hearing,

some of these have been partially though not fully supplanted by AEDPA and the new standard in 28 USC 2254(e) namely even if one or multiple of the above occurred in your

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CASE THE COURT WILL LIKELY SAY IT WAS STILL THE PETITIONER'S ERROR IF YOU OR YOUR COUNSEL DID NOT AT LEAST REQUEST AN EVIDENTIARY HEARING

YOU BEAR THE BURDEN OF PROVING THAT THE STATE WAS THE REASON AN ISSUE WAS NOT FULLY DEVELOPED IN STATE COURT IF YOU CANNOT CONVINCE THE FEDERAL COURT THAT THIS IS TRUE THEY WILL RULE IT WAS THE PETITIONER'S ERROR (YOUR ERROR) AND YOU WILL NOT BE ALLOWED TO EXPAND THE RECORD OR IN 2254(D)(1) PROCEEDING CHALLENGE STATE DETERMINATIONS OF FACT UNLESS YOU FALL INTO THE FOLLOWING LIMITED EXCEPTION,

④ CAN YOU DEMONSTRATE CAUSE AND INNOCENCE

IF THE STATE DETERMINES THAT YOU OR YOUR COUNSEL WERE AT FAULT YOU ARE STILL ENTITLED TO AN EVIDENTIARY HEARING AND YOU ARE ENTITLED TO EXPAND THE RECORD IN LIMITED CIRCUMSTANCES IF YOU CAN DEMONSTRATE ① CAUSE AND ② INNOCENCE

CAUSE SIMPLY MEANS THAT IT WAS NOT POSSIBLY YOUR FAULT THAT YOU DID NOT PRESENT THIS EVIDENCE OR MAKE THIS FACTUAL CLAIM EARLIER BY STATUTE A COURT WILL ONLY FIND CAUSE WHERE

10

- (i) Your claim is based on a new retroactive right recognized by the Supreme Court (the new law exception) this requires that after your state case ended the Supreme Court decided a new constitutional rule applicable to your case and made it explicitly retroactive meaning it applied to past cases as well as future ones) OR
- (ii) Your claim is based on new evidence that could not have been discovered earlier by due diligence this due diligence barrier is a high one to meet it requires that even if you'd previously made reasonable or better efforts to uncover the evidence you still wouldn't have been able to do so earlier

Hopefully both of these sound familiar these are essentially identical to two of the most important exceptions to the one year time limit discussed previously in this module,

innocence here means that you must also demonstrate to the court that but for the constitutional violation, no reasonable factfinder would have you guilty in other words if the state had not violated your constitutional rights no reasonable judge or jury could

11

HAVE FOUND YOU GUILTY OF THE CRIME FOR WHICH YOU WERE CONVICTED. YOU MUST DEMONSTRATE THIS BY CLEAR AND CONVINCING EVIDENCE. YOU SHOULD ALSO KNOW THAT EVEN IF YOU DEMONSTRATE BOTH OF THESE THINGS THE SUPREME COURT HAS INDICATED THAT, IN MOST CASES YOU MUST STILL FIRST SEEK AN EVIDENTIARY HEARING THROUGH AVAILABLE STATE COURT PROCEDURES.

THE ALLEGATION OF CONSPIRACY OR WRONGFUL ACT OF FEDERAL COURT JUDGES MAGISTRATE JUSTICE CITED IMPROPERLY OR SUBSTANTIVE VIOLATION, CDA and bail denials ABUSE OF DISCRETION,

WHEREFORE I RESPECTFULLY PRAY THE UNITED STATES SUPREME COURT WASHINGTON SHOULD PLEASE GRANT - ISSUE ME A CERTIFICATE OF APPEALABILITY AND ORDER MY RELEASE FROM ILLEGAL CUSTODY - PRISON WITHIN THE COMMONWEALTH OF PUERTO RICO.

DATE SEPTEMBER - 15. 2025

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GOD BLESS YOU ALL

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