

RECEIVED

JAN 19 2022

RONALD BLANDING

Petitioner # 283641

v.

warden, Tyger River corr. inst.
Respondent

S.C. SUPREME COURT

Writ of Certiorari

2022-GP-18-

Indictment no: 2001GS18-0085

warrant no: G448323

Petitioner Respectfully

Alleges and shows:

That, RONALD BLANDING #283641 the petitioner makes writ of certiorari relief application on his own, that place where said petitioner is imprisoned and restrained of Liberty in Tyger River Correctional Institution. Petitioner contends that his conviction and sentence was in violation of the United States Constitution and the South Carolina Constitution.

Petitioner Argues his rights violated when he was brought in the jurisdiction of the Court by forcible abduction. Petitioner Argues when New York officials and South Carolina officials did not have the proper documents and extradition treaty papers to extradite him to South Carolina.

Petitioner Argues declaring the Law unconstitutional on separation of power grounds.

Page 2 of ~~10~~ (10)

Petitioner Argues judge failed to Rule on (All) his issues and failed to state Required findings of fact and He failed to Rule on (All) his motions filed in his original (P.C.R.) Application filed on October 2, 2006, petitioner Argues He received his hearing on February 16, 2010.

Petitioner Argues on May 17, 2008 the Honorable Edgar W. Dickson dismissed His case with prejudice. Petitioner states on February 16, 2010 the court did (not) actually determine any facts but should have. Petitioner Argues the state determination of fact finding procedure the court used was inadequate.

Petitioner Argues the court made conclusions without looking at the evidence presented in trial when He denied his (P.C.R.) petition on May 17, 2008 with prejudice and without Ruling on All his issues and All his motions.

Petitioner Argues his claims rested on incorrect law and law was unreasonably applied. Petitioner Argues the state interpreted some of that evidence incorrectly and based a Ruling on this misinterpreted evidence. Petitioner Argues state ignored legally relevant facts that it needed to consider to reach the right result.

Petitioner Argues when defendant explicitly alleges a violation of his fourteenth Amendment due process rights his claim is fairly presented.

Petitioner Argues He filed another (P.C.R.) Application on July 15, 2015 only to be denied with prejudice by the same Judge Edgar W. Dickson on December 28, 2016.

which He felt was a conflict of interest, when His case was put before the same Judge Edgar W. Dickson who did (not) rule on (All) His issues and motions and denied His Application with prejudice on His original (P.C.R.) application filed on October 2, 2006.

Petitioner Argues He filed a (3) Third (P.C.R.) Application only for the state to put my case before the same judge who denied my original (P.C.R.) Application on October 2, 2006 and my (2) Second (P.C.R.) Application on December 28, 2016 which I filed a motion for the judge to Recuse Himself from my case with the Rochester county clerk of court on February 16, 2021

Petitioner Argues Sunzan v. Henry,
513 U.S. 364, 365-66 105 S. Ct. 887, 888 130 L. Ed.
865 (1995) (Noting that if state courts are to be
given the opportunity to correct rights they must
surely be alerted to the fact that the prisoners
are asserting claims under the United States
Constitution.

Petitioner Argues Term "bias" and pre-
judice as used in recusal statute cannot be a
favorable or unfavorable disposition or opinion that
is somehow wrongful or inappropriate or unde-
rreserved.

Petitioner Argue the dismissal with pre-
judice relates to Applicant's post-conviction relief
Action in Floyd v. State, 303 S.C. 298 400 S.E.
2d 145 (1991)

Petitioner Argues After He filed motion to
recuse for this judge to remove himself from
my case with the clerk of court my case was
still put before this judge Edgar W. Dickson my
case and my case was denied again by him on
September 23, 2021

page (5) of (10)

Petitioner argues his state appointed (P.C.R.) Attorney showed malice when he intentionally failed and refused to file an propose order and 59(e) in his defense, which resulted in a procedural bar on his issues and all his motions, when counsel failed to make an motion to alter or amend judgement.

Petitioner argues he asked his (P.C.R.) Attorney on numerous occasions to file propose order and 59(e). See pages (39-40) and third (3) post-conviction relief & filed copy of letters were Attorney made comment on filing propose order and 59(e)

Petitioner argues (none) of his motions were ruled on along with numerous issues in his original (P.C.R.) Application filed on October 2, 2006.

This is just five (5) issues out of numerous issues he filed in first, second and third (P.C.R.)

- (1) amendment of indictment (P.C.R.) original page (44-45)
- (2) no probable cause (P.C.R.) original page (48-50)
- (3) double jeopardy (P.C.R.) original page (45-48)
- (4) Alibi witness (P.C.R.) original page (72-73)
- (5) face accuser (P.C.R.) original page (11-13)

page (6) of (10)

Petitioner would like to bring to your attention on all these issues that was procedural barred and state ignored legally relevant facts that it needed to reach the right result and the judge never ruled on any of his motions.

Petitioner argues if the (P.C.R.) court fails to address a claim as required by S.C. Code Ann. § 17-27-80 counsel for applicant must make a motion to alter or amend the judgement. Petitioner argues if post-conviction counsel does not amend the pro-se applicant has (no) way to have all supporting grounds heard.

Petitioner argues in Bostick v. Stevenson, 589 F.3d 160 (4th Cir. 2009) the fourth circuit court found that prior to the supreme court of south Carolina November 5, 2007 in Marlar, south Carolina courts had (not) uniformly and strictly enforced the failure to file a motion pursuant to Rule 59(e) as a procedural bar, 589 F.3d 162-65 accordingly for matters in which there was a (P.C.R.) ruling prior to November 5, 2007, the court will (not) consider any failure to raise issues pursuant to Rule 59(e) to effect a procedural

Petitioner argues the right to seek appellate review of the denial of (P.C.R.) is expressly authorized by state law S.C. Code ANN. § 17-27-100 supreme court Rule 50(9)

Petitioner argues Anders requires appellate counsel to brief arguable issues despite counsel's belief the appeal is frivolous as a safeguard of the right to appeal. Petitioner argues in applying Anders on (P.C.R.) the state have recognized a prisoner's right to the assistance of appellate counsel in seeking review of denial of (P.C.R.)

Petitioner argues criminal law key 998(18) 1181.5(2) demand was required on appeal from denial of post-conviction relief where post-conviction court dismissed movant's ineffective assistance of counsel allegations without making findings of fact on specific allegations raised violating statute and precluding appellate review code 1976 § 17-27-80 U.S.C.A. Const. Amend. 6

Petitioner argues when defendant explicitly alleges a violation of his fourteenth Amendment due process rights his claims is fairly presented. Petitioner argues Scarpa v. Dubois, 38 F.3d 1, 6 (1st Cir. 1994) See also

Abdurrahman v. Henderson, 897 F.2d 71, 73 (2d Cir. 1990) (finding that defendant's citation to Strickland v. Washington in a brief to the appellate division was sufficient to alert the court that the defendant was raising a federal claim regarding ineffective assistance of counsel since Strickland is the leading U.S. Supreme Court case on that issue.

Petitioner argues under Rule 28 U.S.C. § 2244(d)(1)(A) 2000 and 28 U.S.C. § 2244(d)(1)

(B) 2000 The merits of the factual dispute was not resolved in the state hearing. Petitioner argues the fact-finding procedure employed by the state court did not adequately provide a full and fair hearing. Petitioner argues the judge did not afford the applicant a full and fair hearing.

Petitioner argues the judge passes solely on the legal sufficiency of the alleged facts; although the factual allegations must be accepted as true, conclusory statements and opinions need not be credited. Petitioner argues if the judge determines that the motion is both timely and legally sufficient he or she will proceed no further and another judge will be assigned to the proceeding.

Petitioner Argues 28 U.S.C. § 144 (district judge shall be disqualified if party files timely and sufficient affidavit showing personal judicial bias or prejudice); 28 U.S.C. § 455 (a) (any justice, judge or magistrate shall disqualify himself or herself in any proceeding if impartiality might reasonably be questioned); *Id.* § 455 (b) (any justice, judge or magistrate shall disqualify himself or herself in circumstances involving actual bias, a probability of bias or personal knowledge of proceeding).

Petitioner Argues Hurles v. Ryan, 650 F.3d 1301, 1314 (9th Cir. 2011) (due process violated because judge improperly participated in special action to defend her own ruling, made troubling comments about simplicity of case before witnesses were called and questioned competence of defendant's attorney).

Petitioner Argues once a § 144 recusal motion has been filed, the judge whose impartiality has been challenged examines the affidavits without input from counsel, to determine whether the allegations, if true warrant disqualification.