006211

No. _____

ORIGINAL

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Supreme Court, U.S.
FILED
SEP 18 2000
OFFICE OF THE CLERK

IN RE: Gregory L. Veasey - PETITIONER

VS.

Ben Varner - RESPONDENT(S)

ON

PETITION FOR WRIT OF HABEAS CORPUS,

ORIGINAL WRIT.

TO

THE SUPREME COURT OF PENNSYLVANIA

PETITION FOR A WRIT OF HABEAS CORPUS,

ORIGINAL WRIT.

Gregory L. Veasey No. BA-7802

SCI - DALLAS, 1000 Follies Road

Dallas, Pennsylvania 18612

Phone No. (570) 675-1101

QUESTION(S) PRESENTED

Whether it is constitutional for a majority of the parties below to misapply law in order to circumvent the merit behind a Federal District Court Judges's request to rehear a second or successive habeas corpus §2254 petition regarding the "BEST EVIDENCE" which proves intentional evidence tampering and transcript distortion, in effect, denied due process and a fair trial?

JURISDICTION

1. On January 27, 1997, the Third Circuit Court of Appeals docketed Gregory Veasey's "Petition for Authorization Order to Appeal in the District Court," which was treated as a request for permission to file a second or successive habeas action. The petition was denied on February 7, 1997 for failure to make the prima facie showing required by 28 U.S.C. §2254(b) IN RE: Gregory L. Veasey No. 97-8011. See Appendix I.

2. On January 16, 1997, Petitioner's former private attorney, Ms. Jean E. Purnell, filed a Post Conviction Relief Act Petition on his behalf, in the Court of Common Pleas for Philadelphia County. Commonwealth v. Gregory L. Veasey, C.P. 8811/1120. The petition was denied on February 4, 1999.

3. On February 15, 1999, Petitioner filed a pro se appeal to the Superior Court of Pennsylvania. The appeal was denied on February 15, 2000. See Appendix S.

4. On March 16, 2000, Petitioner filed a pro se appeal to the Supreme Court of Pennsylvania. The date on which the highest state court decided my case was June 20, 2000. A copy of that decision appears at Appendix T.

The jurisdiction of this Court to entertain application for a writ of habeas corpus, original writ, is invoked under 28 U.S.C. §2241 & §2242.

STATEMENT OF THE CASE

1. Petitioner, Gregory Veasey, pro se, was arrested on September 23, 1988, and charged pursuant to Bills of Information filed by the District Attorney of Philadelphia. On July 10, 1989, Mr. Veasey was tried by a jury, Honorable George Ivins presiding. On July 14, 1989 the jury returned a verdict of guilty of Possession of Instrument of Crime and Murder - First Degree. Mr. Veasey was sentenced from one(1) to two(2) years on Bill No. 1122(PIC) and life imprisonment on Bill No. 1120. sentences to run concurrent. Post Verdict Motions were filed on July 20, 1989. They argued and denied on April 30, 1990 following a hearing on March 29, 1990. See Appendix A.

2. The Pennsylvania Superior Court affirmed the judgment of sentence on January 17, 1991. Commonwealth v. Veasey, 590 A.2d 378(Pa. Super. Ct. 1991). Petitioner raised three grounds upon appeal: (1) trial court error in admitting hearsay evidence; (2) trial court error in admitting a gun into evidence; (3) prosecutorial misconduct. On July 18, 1991, the Pennsylvania Supreme Court denied the petition for allocatur. See Appendix B & C.

3. On November 4, 1992, the Honorable Louis H. Pollak adopted the Report and Recommendation of the United States Magistrate Judge Edwin E. Naythons and denied Gregory Veasey's petition for writ of habeas corpus on its merits. Veasey v. Ryan, Civil Action No. 91-7241. See Appendix D.

4. On December 14, 1992, Judge Pollak denied request for reconsideration of that disposition. See Appendix E.

5. The Third Circuit Court of Appeals denied Gregory Veasey's certificate of probable cause to appeal on June 23, 1993. Rehearing was denied on July 16, 1993. Veasey v. Ryan, No. 93-1014. See Appendix F & G.

STATEMENT OF THE CASE

6. On November 1, 1993, the United States Supreme Court denied Petitioner's petition for a writ of certiorari. Veasey v. Ryan, No. 93-6012. See Appendix H .

7. On January 27, 1997, the Third Circuit Court of Appeals docketed Gregory Veasey's "Petition for Authorization Order to Appeal in the District Court," which was treated as a request for permission to file a second or successive habeas action. The petition was denied on February 7, 1997 for failure to make the prima facie showing required by 28 U.S.C. §2254(b). IN RE: Gregory Veasey No. 97-8011. See Appendix I .

8. On January 16, 1997, Petitioner's former private attorney, Ms. Jean E. Purnell, filed a Post Conviction Relief Act Petition on his behalf, in the Court of Common Pleas for Philadelphia County. Commonwealth v. Gregory L. Veasey, C.P. 8811/1120.

9. On April 20, 1998, the United States District Court for the Eastern District of Pennsylvania docketed a second or successive habeas corpus petition that was filed by Mr. Veasey; Petitioner here challenged the inordinate inexcusable delay of his Post Conviction Relief Act Petition. Veasey v. Larkins, 98-CV-2040.

10. On July 3, 1997, Ms. Jean E. Purnell withdrew as counsel. On August 12, 1997, Ms. Patricia M. Dugan was appointed by the court to represent Mr. Veasey. On July 30, 1998, Ms. dugan filed a no merit(Finley) letter stating that the issues were meritless. See Appendix J .

11. On July 16, 1998, District Court Judge Louis H. Pollak received a copy of Petitioner's "Petition of Objection to Counsel's Finley Letter Pursuant to P.C.R.A. Application.

Thereafter, on July 16, 1998, Judge Pollak Ordered that the case was a second or successive 28 U.S.C. §2254 petition, and accordingly submitted it to the Third Circuit Court of Appeals for consideration. See Appendix K.

12. On September 15, 1998, the United States Court of Appeals for the Third Circuit denied Petitioner's application to file a second or successive habeas petition under 28 U.S.C. §2254(b) for the reason that the underlying allegation of the claim, that there was "evidence tampering and transcript distortion," was previously presented to the Third Circuit Court and rejected in an order dated February 7, 1997. See Appendix L.

13, On February 4, 1999, the Court of Common Pleas for Philadelphia County denied Mr. Veasey's Post Conviction Relief Act Petition. See Appendix M.

14. On February 15, 1999, Petitioner filed a pro se appeal to the Superior Court of Pennsylvania. The appeal was denied on February 15, 2000. See Appendix S.

15. On March 16, 2000, Petitioner filed a pro se appeal to the Supreme Court of Pennsylvania. The date on which the highest state court denied allocatur was June 20, 2000. See Appendix T.

REASONS FOR NOT MAKING APPLICATION TO THE DISTRICT COURT OF THE DISTRICT IN WHICH THE APPLICANT IS HELD

1. On November 4, 1992, the Honorable Louis H. Pollak adopted the Report and Recommendation of the United States Magistrate Judge Edwin E. Naythons and denied Gregory Veasey's petition for writ of habeas corpus on its merits. Veasey v. Ryan, Civil Action No. 91-7241. See Appendix D.

2. On January 27, 1997, the Third Circuit Court of Appeals docketed Gregory Veasey's "Petition for Authorization Order to Appeal in the District Court," which was treated as a request for permission to file a second or successive habeas action. The petition was denied on February 7, 1997 for failure to make the prima facie showing required by 28 U.S.C. §2254(b) IN RE: Gregory L. Veasey No. 97-8011. See Appendix I.

3. On January 16, 1997, Petitioner's former private attorney, Ms. Jean E. Purnell, filed a Post Conviction Relief Act Petition on his behalf, in the Court of Common Pleas for Philadelphia County. Commonwealth v. Gregory L. Veasey, C.P. 8811/1120.

4. On April 20, 1998, the United States District Court for the Eastern District of Pennsylvania docketed a second or successive habeas corpus petition that was filed by Mr. Veasey; Petitioner here challenged the inordinate inexcusable delay of his Post Conviction Relief Act Petition. Veasey v. Larkins, 98-CV-2040.

5. On July 3, 1997, Ms. Jean E. Purnell withdrew as counsel. On August 12, 1997, Ms. Patricia M. Dugan was appointed by the court to represent Mr. Veasey. On July 30, 1998, Ms. Dugan filed a no merit(Finley) letter stating that the issues were meritless. See Appendix J.

REASONS FOR NOT MAKING APPLICATION TO THE DISTRICT COURT OF THE DISTRICT IN WHICH THE APPLICANT IS HELD

6. On July 16, 1998, District Court Judge Louis H. Pollak received a copy of Petitioner's "Petition of Objection to Counsel's Finley Letter Pursuant to P.C.R.A. Application," which included transcriptional evidence of transcript distortion. Thereafter, on July 16, 1998, Judge Pollak Ordered that the case was a second or successive 28 U.S.C. §2254 petition, and accordingly submitted it to the Third Circuit Court of Appeals for consideration. See Appendix K.

7. On September 15, 1998, the United States Court of Appeals for the Third Circuit denied Petitioner's application to file a second or successive habeas petition under 28 U.S.C. §2244(b) for the reason that the underlying allegation of the claim, that there was "evidence tampering and transcript distortion," was previously presented to the Third Circuit Court and rejected in an order dated February 7, 1997. See Appendix L.

STATEMENT OF THE ISSUES INVOLVED

The questions presented by instant petition for a writ of habeas corpus, original writ, are as follows:

A. Whether trial counsel was ineffective for failing to raise the issue of intentional evidence tampering and transcript distortion on appeal.

B. Reargument is necessary on whether the court erred in admitting certain hearsay testimony.

C. Reargument of whether the prosecutor's misconduct was such as to require a new trial.