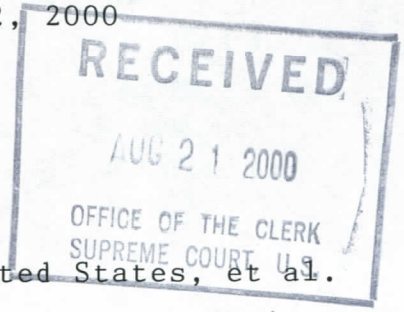
August 12, 2000



Clerk's Office
Francis J. Lorson
United States Supreme Court
1 First Street, N.E.
Washington, D.C. 20543-0001

Re: Ronald Boyer v. United States, et al.

00-5812

Dear Mr. Lorson:

I am writing in response to your letter dated August 8, 2000. In that letter you stated: "please return your properly prepared petition for a writ of habeas corpus and motion for leave to proceed in forma pauperis as required by Rule 39 to my personal attention."

Pursuant to your request I am doing just that; however, there is some additional history to this case that you may need, which may be relevant to your filing my petition. I wish to be perfectly candid with your office and this Court.

Before my petition was initially returned for having allegedly failed to file in a timely manner pursuant to Rule 13.1. I was concerned that the Court had not received my petition, so I sent another copy to this Court, together with my motion and affidavit for leave to proceed in forma pauperis. After I sent the second copy I received the letter from M. Blalock, stating that my petition was being returned as untimely. That is when I wrote the letter to Mr. Suter concerning the inapplicability of Rule 13.1's 90 filing period in relation to habeas corpus petitions.

Before I received your response to my letter, asking me to return my "properly prepared petition for a writ of habeas corpus," I received back the second copy of my petition, together with the enclosed letter from Loretta S. Ruffin.

In response to this I would just like to respectfully add the following in hopes that my petition will finally be filed.

First of all, in response to the allegation that my "petition does not show how the writ will be in aid of the Court's appellate jurisdiction." All one need to do is reveiew the petition and they would have discovered at page 8, "Reason For Granting The Writ,"

I gave several significant reasons why this writ would be in aid of the Court's appellate jurisdiction.

Second, in response to the allegation that I did not show "what exceptional circumstances warrant the exercise of the Court's discretionary powers."

What can be more exceptional than the constitutional challenge I presented therein. In my petition I challenged whether the "gatekeeping" provision of the AEDPA, set forth in 28 U.S.C. § 2244(b) and § 2255 has effectively suspended the writ of habeas corpus in relation to jurisdictional defects that have otherwise been nonwaivable, nor subject to a procedural default, for over one hundered years, all in violation of Article I § 9 Clause 2 of the United States Constitution.

Moreover, while this Court's decision in **Felkner v. Turpin, ___ U.S. ___, 116 S.Ct. 2333, 135 L.Ed.2d 827 (1996)**, upheld the "gatekeeping" provision from an attack under the suspension clause. The Court was not called upon, nor did it expressly address whether the "gatekeeping" provision was constitutional firm, when Congress did not expressly authorize review in second or successive petitions for a "jurisdictional" defect, when such claims are non-waivable, nor subject to procedural default.

Third, in response to the allegation that I did not show "why adequate relief cannot be obtained in any other form or from any other court. Again, if my petition would have been reviewed pages 2-7, set forth clear historical background of all the various remedies and attempts in the various courts seeking corrective relief. Yet I am never able to get past the "gatekeeping" provision, nor will any court address my constitutional attack on the "gatekeeping" provision.

Lastly, I understand that this Court has rules and procedures that must be complied with, and cannot be just cast to the wind. However, most pro se inmate litigants have very little legal knowledge, and the majority are functionally illiterate. When a pro se litigant attempts to comply with the rules to the best of his ability, they must be given some leeway and consideration. They must be held "to less strigent standards than formal pleadings drafted by lawyers." **Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972).** I do understand, that this Court inundated with rambling, unintelligible, pro se petitions, and the line must be drawn. However, prior to my incarceration, I owned and operated a legal service in St. Louis, Missouri. I have drafted for law firms

many post-conviction motions, appellate briefs (state & federal), and even certiorari petitions to this very court, which law firms were glad to attach their professional signature to my writing and research. Thus, it makes me wonder if it is just the volume of work this Court is overwhelmed with, together with the stigma attached to pro se inmate pleadings, that has caused my petition to bounce back and forth like a ping-pong ball.

When I was in law school at St. Louis University, I was young an idealistic, I believed that right was right, and precedent was respected. I'll bet you felt the same way initially. Then in real practice you find out, being right does not always mean you win.

In closing, I can't help but remembering when this Court was open to all, to administer justice, even if it was not popular for the times. It was a poor and illiterate, pro se inmate petition, drafted on yellow legal paper by hand, from a man in the Florida prison system, named Clarence Earl Gideon; which set a landmark Sixth Amendment right to counsel precedent, that still endures today. I would hate to think of how many men that would have continued languishing in prison, without having been afforded the right to representation, had some clerk exalted form over sunstance.

That aside, thank you very much for taking the time to respond to my earlier letter, and for the consideration I am sure that my petition will receive before this great Court.

Very truly yours,

Ronald L. Boyer

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cc: file