

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA, ROANOKE DIVISION

Keith Edward Moss v. Chadwick S. Dotson

Moss · No. 7:24-cv-00071 · Decided March 30, 2026

SUMMARY

The United States District Court for the Western District of Virginia considers Keith Edward Moss’s petition for a writ of habeas corpus under 28 U.S.C. § 2254, challenging Virginia convictions and sentence arising from assaults on law-enforcement and correctional officers. The court addresses exhaustion, procedural default, and the adequacy of state procedural grounds. The opinion grants the respondent’s motion to dismiss and denies Moss’s motion for summary judgment.

CASE DETAILS

COURT	United States District Court for the Western District of Virginia, Roanoke Division
WRITING FOR THE COURT	Robert S. Ballou
JURISDICTION	United States District Court for the Western District of Virginia, Roanoke Division
DECIDED	March 30, 2026
DOCKET	7:24-cv-00071
DISPOSITION	dismissed
PROCEDURAL POSTURE	Petition for federal habeas corpus under 28 U.S.C. § 2254; respondent moved to dismiss and petitioner moved for summary judgment.
STANDARD OF REVIEW	On the motion to dismiss, the court accepted well-pleaded factual allegations as true and assessed whether the petition stated a plausible entitlement to relief under Rule 12(b)(6). Federal habeas review was governed by 28 U.S.C. § 2254, including exhaustion, procedural default, the deferential standards in § 2254(d), and the presumption of correctness for state factual findings under § 2254(e)(1). Summary judgment was governed by Federal Rule of Civil Procedure 56.
PRECEDENTIAL VALUE	unpublished
PARTIES	Keith Edward Moss v. Chadwick S. Dotson

TOPICS

federal habeas corpus

post-conviction relief

fourth amendment

ineffective assistance

due process

PRACTICE AREAS

federal habeas corpus

post-conviction relief

criminal procedure

constitutional law

QUESTIONS PRESENTED

1. Whether Moss's claims were procedurally defaulted because Virginia courts rejected them under an independent and adequate state procedural rule or because he failed to present them to the state's highest court.
2. Whether Moss could obtain federal habeas relief based on alleged unlawful seizure, excessive force, false arrest, or failure to appear personally before a magistrate.
3. Whether an allegedly unlawful original arrest deprived the Virginia circuit court of jurisdiction over later charges and convictions.
4. Whether conclusory allegations that criminal records were forged stated a cognizable federal habeas claim.
5. Whether alleged violations of Virginia procedural statutes rendered Moss's convictions or sentence void ab initio or otherwise warranted federal habeas relief.
6. Whether Moss was denied effective assistance of counsel when appointed counsel declined to file proposed dismissal motions.
7. Whether the evidence supported probable cause despite Moss's later acquittal on some charges.
8. Whether an allegedly unlawful arrest gave Moss a right to resist or justified dismissal of charges arising from later assaults on correctional officers.

HOLDINGS

1. Moss's claims were procedurally defaulted where Virginia courts rejected them because they should have been raised on direct appeal, and claims not presented to Virginia's highest court would now be barred. Moss failed to establish cause and prejudice to overcome the defaults.
2. Moss could not obtain federal habeas relief on his unlawful-seizure claim because Virginia afforded him a full and fair opportunity to litigate the Fourth Amendment issue, and *Stone v. Powell* therefore barred federal habeas review.
3. Alleged excessive force and false arrest did not provide grounds to dismiss Moss's criminal convictions in habeas proceedings, and failure to bring him personally before a magistrate violated, at most, state law and did not establish a federal constitutional violation.
4. An allegedly unlawful original arrest did not deprive the Virginia circuit court of jurisdiction over charges for which Moss was later indicted and convicted.
5. Alleged violations of Virginia procedural statutes did not render Moss's convictions or sentence void ab initio and did not provide a basis for federal habeas relief absent a federal constitutional violation.

6. Moss failed to establish ineffective assistance because counsel's refusal to file futile dismissal motions was not deficient performance and caused no prejudice.
7. Moss's acquittal on some charges did not invalidate the earlier probable-cause determination; sworn testimony that he spit on an officer was sufficient to support probable cause.

KEY QUOTATIONS

"A federal court may grant a petitioner habeas relief from a state court judgment "only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States."" (Discussion section II(B))

"A judgment that is void ab initio, or "void from the beginning," is "so affected by a fundamental infirmity that it is no judgment at all."" (Discussion section III(B)(1))

"The substance of all the definitions of probable cause is a reasonable ground for belief of guilt. And this means less than evidence which would justify condemnation or conviction." (Discussion section III(B)(6))

FACTUAL BACKGROUND

Police officers encountered Moss near a convenience store after receiving a report that one of two men outside the store displayed a firearm. After officers detained and searched Moss, he became combative and was arrested; he subsequently engaged in multiple physical confrontations with jail and correctional officers over several days. A Virginia jury acquitted Moss of some charges but convicted him of eight assaults, two malicious wounding, and obstruction of justice. Moss later challenged the arrest, magistrate proceedings, counsel appointment, discovery, trial procedures, and sentence through state proceedings and this federal habeas petition.

PROCEDURAL HISTORY

Moss was convicted in the Lynchburg Circuit Court of eight counts of assault and battery of law-enforcement or corrections officers, two counts of malicious wounding, and misdemeanor obstruction of justice, and received an active sentence of 16 years and 12 months. The Virginia Court of Appeals affirmed his convictions after granting a delayed appeal, and Moss did not seek review in the Supreme Court of Virginia. His state habeas claims and motion to vacate were rejected on procedural or jurisdictional grounds. The federal court held that the claims were exhausted and procedurally defaulted, and alternatively denied them on the merits.

DISPOSITION

dismissed

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 679 (2009)
- Coleman v. Thompson, 501 U.S. 722, 730-32, 750, 756-57 (1991)
- O'Sullivan v. Boerckel, 526 U.S. 838, 842 (1999)
- Kasi v. Angelone, 300 F.3d 487, 501-02 (4th Cir. 2002)

- *Breard v. Pruett*, 134 F.3d 615, 619 (4th Cir. 1998)
- *Bassette v. Thompson*, 915 F.2d 932, 936-37 (4th Cir. 1990)
- *Stone v. Powell*, 428 U.S. 465, 494 (1976)
- *Doleman v. Muncy*, 579 F.2d 1258, 1265 (4th Cir. 1978)
- *Sallie v. North Carolina*, 587 F.2d 636, 639 (4th Cir. 1978)
- *Hendon v. Hayes*, No. 1:24-cv-173-GCM, 2024 WL 4808427, at **4, 6 (W.D. N.C. Nov. 15, 2024)
- *Heck v. Humphrey*, 512 U.S. 477, 484 (1994)
- *Jones v. Town of Marion*, 508 S.E.2d 921, 924 (Va. Ct. App. 1999)
- *King v. Jones*, 824 F.2d 324, 326-27 (4th Cir. 1987)
- *Armell v. Commonwealth*, 505 S.E.2d 378, 379 (Va. Ct. App. 1998)
- *Town of Front Royal v. Dawkins*, No. 6588, 1983 WL 210258, at *1 (Warren Co. Cir. Ct. Mar. 30, 1983)
- *Payton v. New York*, 445 U.S. 573, 591 (1980)
- *Langford v. Joyner*, 62 F.4th 122, 124 (4th Cir. 2023)
- *Lebedun v. Commonwealth*, 501 S.E.2d 427, 434 (Va. Ct. App. 1998)
- *Frye v. Commonwealth*, 345 S.E.2d 267, 273 (Va. 1986)
- *Horne v. Commonwealth*, 339 S.E.2d 186, 190-91 (Va. 1986)
- *Van Sant v. Commonwealth*, 295 S.E.2d 883, 886 (Va. 1982)
- *Poe v. Caspari*, 39 F.3d 204, 207 (8th Cir. 1994)
- *Barker v. Wingo*, 407 U.S. 514, 515 (1972)
- *United States v. Dugan*, 136 F.4th 162, 170 (4th Cir. 2025)
- *Weatherford v. Bursey*, 429 U.S. 545, 559 (1977)
- *Brady v. Maryland*, 373 U.S. 83, 87 (1963)
- *Hannah v. Commonwealth*, 899 S.E.2d 621, 626-27 (Va. 2024)
- *Mast v. A.A.*, 925 S.E.2d 665, 682 (Va. 2026)
- *Porter v. Commonwealth*, 661 S.E.2d 415, 426 (Va. 2008)
- *Fuld v. Palestine Liberation Org.*, 606 U.S. 1, 11-14 (2025)
- *Rawls v. Commonwealth*, 683 S.E.2d 544, 549 (Va. Ct. App. 2009)
- *Collins v. Shepherd*, 649 S.E.2d 672, 676, 678 (Va. 2007)
- *Battista v. Battista*, No. 0586-24-4, 2025 WL 3006419, at *4 (Va. Ct. App. 2025)
- *Johnson v. Zerbst*, 304 U.S. 458, 465-66 (1938)
- *United States v. Marshall*, 872 F.3d 213, 218 (4th Cir. 2017)
- *Waley v. Johnston*, 316 U.S. 101 (1942) (per curiam)
- *Gerstein v. Pugh*, 420 U.S. 103, 125-26 (1975)
- *Strickland v. Washington*, 466 U.S. 668, 687-90 (1984)
- *Michigan v. DeFillippo*, 443 U.S. 31, 36 (1979)
- *Slayton v. Commonwealth*, 582 S.E.2d 448, 451 (Va. Ct. App. 2003)
- *Hamilton v. Commonwealth*, 817 S.E.2d 343, 352 (Va. Ct. App. 2018)

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