

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CHRISTOPHER REED, *PRO SE* – PETITIONER

VS.

MARK GARMAN, ET AL. – RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO

Pennsylvania Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Christopher Reed, *pro se*
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Questions Presented

Did the State of Arkansas, Tennessee and Commonwealth of Pennsylvania violate the Uniform Criminal Extradition Act by not following Federal laws on extradition process?

Did the Pennsylvania "Supreme Court, by not applying their precedent as to Art. 4 § 2, cl.2, which they claim to be bound by procedurally default Writ of Habeas Corpus by allowing the District Attorney to defeat the Writ and not ordering Hearing on issue which is not on record?

The Pennsylvania Supreme Court was passed this question:

If extradition was unlawful and petitioner was forcibly seized and placed into Involuntary Servitude by the District Attorney of Cumberland County, Court of Common Pleas of Cumberland County, and the Department of Corrections, made to work for slave wages, did this amount to Human Trafficking?

Did the United States Court of Appeals for Third Circuit of Pennsylvania misapply and/or procedurally default 28 U.S.C. 2244 (b)(2) by stating petitioner did not make Prima Facie showing of his claim by Due Diligence?

Is the appropriate inquiry into whether the claimed error of law [is] "a fundamental defect which inherently results in a complete miscarriage of justice" and does it present exceptional circumstances for a Writ of Habeas Corpus?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

[X] For cases for state courts:

The date on which the highest state court decided my case was March 27, 2018. A copy of that decision appears at Appendix ___ A _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

Constitutional and Statutory Provisions Involved

Uniform Criminal Extradition Act

18 U.S.C. § 3182 - Stats may regulate procedure for extradition of fugitives from justice, but such procedure must conform to Constitutional requirements applicable to all states.

42 Pa.C.S.A. § 9121 et seq.

42 Pa.C.S.A. § 9136

19 P.S. § 191.10

19 P.S. § 191 - 14 - 17

Section 14 of the Act provides that a police officer may arrest a person if he has reasonable information that the accused has been charged in the courts of another state with a crime punishable by imprisonment for a term exceeding one year. "But when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the grounds for the arrest..." (emphasis added) Section 15 requires that "if from the examination before the Judge or magistrate it appears that the person held is the person charged with having committed the crime alleged..., the judge or magistrate must, by a warrant reciting the accusation, commit him to the county Jail for such a time, not exceeding thirty days..., as will enable the arrest of the accused to be made under a warrant of the Governor." Section 17 provides that if the accused is not arrested under a Governor's warrant within thirty days, a judge may recommit him for up to sixty days.

42 Pa.C.S.A. § 6505

Any person who shall fail or refuse to respond to a writ or to an order issued under this chapter or who shall change the place of detention of any person for the

purpose of defeating the writ, or shall without express authorization from a judge of a court of record, recommit on substantially the same facts and circumstances any person set at large upon Habeas Corpus, or shall do any act for the purpose of defeating the writ or order, commits a misdemeanor of the second degree.

U.S.C.A. Const. 4

U.S.C.A. Const. Art. 4 § 2, cl. 2

U.S.C.A. Amend. XIV § (1)

U.S.C.A. Const. 5

U.S.C.A. Const. 6

28 U.S.C. § 2244

28 U.S.C. § 2254

28 U.S.C. § 2244 (d) (2) and (3)

28 U.S.C. § 2254 (b) (1) (B) (i)

42 Pa.C.S.A. § 721 (1) Jurisdiction of Pennsylvania Supreme Court

STATEMENT OF THE CASE

Petitioner was seized by Arkansas State Police on "April 14, 2003, Petitioner was never taken before a judge/magistrate in Arkansas before being transported across State lines to Shelby, County, Tennessee (Memphis) where, after being detained for fourteen (14) days, he was then transported across multiple state lines to "Cumberland County, Pennsylvania (Carlisle), violating The Uniform Criminal Extradition Act. 18 U.S.C 3182 / 42 Pa.C.S.A. § 9121 et seq, and

"a person charged in any state with Treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime." U.S. Const. Art. 4 § 2, cl.2.

The Court of Common Pleas of Cumberland county never inquired into ANY extradition documents/warrants and/or proceedings prior to commencing the Criminal Case (CP-21-CR-0001038-2003). Petitioner believes and therefore avers that the Court of Common Pleas of Cumberland County, Pennsylvania never had subject matter jurisdiction for restraining of and/or detaining of Petitioner. [Appendix C].

The Commonwealth had failed to produce the requisite papers in court within thirty (30) days provided by the Uniform Criminal Extradition Act 42 Pa.C.S.A. § 9136. 19 P.S. § 191-14-17.

[Section 14] "of the act provides that a police officer may arrest a person if he has reasonable information that the accused has been charged in the courts of another state with a crime punishable by imprisonment for a term exceeding one (1) year." But when so arrested the accused must be taken before judge/magistrate with all practicable

speed, and complaint must be made against him under OATH setting forth the ground for the arrest... (emphasis added). [Section 15] requires that "if from examination before the judge/magistrate it appears that the person held is the person charged with having committed the crime alleged..., the judge or magistrate must, by a warrant reciting the accusation, commit him to the County Jail for such time, not exceeding thirty (30) days..., as will enable the arrest of the accused to be made under a warrant of the Governor." [Section 17] provides that if the accused is not arrested under a Governor's warrant within thirty days, a judge may recommit him for up to sixty (60) days: Commonwealth ex re. Knowles v. Lester, 223 Pa.Super. 519; 302 A.2d 412 (Pa.Super 1973).

On January 9, 2004, Petitioner was coerced into accepting a guilty plea agreement on criminal case before Hon. Judge Kevin A. Hess, who accepted the conditions of plea agreement. The only rational explanation for Judge to accept the agreement was the Commonwealth would not be able to establish a *Prima Facie* case against Petitioner, since court never had subject matter jurisdiction. No warrants on record. [Appendix D & F].

The Governor's Warrant and/or all warrants pertaining to Petitioner's extradition were never presented to court appointed counsel and/or any counsel.

The failure of the Commonwealth to proceed in a timely fashion is violative of the Uniform Criminal Extradition Act and entitles Petitioner to a dismissal of foregoing criminal case and/or immediate release from unlawful restraint. 19 P.S. 191.10.

The Court of Common Pleas of Cumberland County, in direct contravention of controlling authority, and over Petitioner's seizure, has even chosen to ignore the federal laws that govern extradition providing subject matter jurisdiction of the criminal case.

The Commonwealth has on numerous Petitioner and/or filings to the Court of Common Pleas of Cumberland County, and Superior Court of Pennsylvania as well as Pennsylvania Supreme Court for Middle District, been notified of the miscarriage of justice. The above mentioned Courts have previously decided and/or the lack thereof, in Petitioner's previous filings and/or Criminal Appeal process, have continuously stated they have subject matter jurisdiction over Petitioner and his case. [Appendix F].

Upon notification by Clerk of Courts of Cumberland County, stating there are no warrants found in record [Appendix D], Petitioner realizing the court never had jurisdiction, timely filed Writ of Habeas Corpus on January 8th, 2018, to the Pennsylvania Supreme Court per 42 Pa.C.S.A. § 721 (1), which granted Original Process and ordered respondents to file answer/no answer within fourteen (14) days of service [Appendix B]. The Supreme Court of Pennsylvania ordered Petitioner to serve another copy of Habeas Corpus on District Attorney of Cumberland County for second time. Neither former District Attorney, nor anyone at District Attorney's office, responded and/or refused to answer thereby defeating the writ: 42 Pa.C.S.A. § 6505 [Appendix B and G].

(6505 Interference with the writ prohibited)

"Any person who shall fall or refuse to respond to a writ or to an order issued under this chapter, or who shall change the place of detention of any person for purpose of defeating the writ, or shall, without express authorization from a judge of a court of record, recommit on substantially the same facts and circumstances any person set at large upon a habeas corpus, or shall do any act for the purpose of defeating the writ, or the order, commits a misdemeanor of the second degree."

The Supreme Court of Pennsylvania, upon no response by District Attorney, denied the Writ of Habeas Corpus on March 27, 2018, and procedurally defaulting the

writ by not ordering a hearing to determine the true nature of Petitioner's detention as to proper documents/warrants existed in this criminal case. The Supreme Court, as well as the Superior Courts of Pennsylvania, has stated in precedent case law that they are bound by U.S.C.A. Const. Art. 4 §2, cl.2: Commonwealth ex rel. Aronson v. Price, 412 Pa. 493, 194 A.2d 881 (1963); also Commonwealth ex rel Banks v. Hendricks, 430 Pa. 578, 243 A.2d 438 (Pa. 1968) and Commonwealth v. Valentin, 448 Pa. 522, 672 A.2d 338 (Pa.Super. 1996) [Appendix A].

Petitioner timely filed a 28 U.S.C. 2244 and 28 U.S.C. 2254 petition on April 23, 2018, to the United States Court of Appeals for the Third Circuit of Pennsylvania for approval to file a second or successive petition. [Appendix I-J] which was denied citing Petitioner has not made a Prima Facie showing that claims "could have been discovered previously through the exercise of Due Diligence." The courts throughout all appeals have continuously stated they have jurisdiction; alternatively there are extraordinary circumstances to justify equitable tolling: Pace v. Digugliemo, 554 U.S. 408, 125 S.Ct. 1807, L.Ed.2d 669, 2005 [Appendix H].

Thus, in one sense at least, Petitioner's Pennsylvania conviction rests on a violation of federal law, not all violations of federal law justify Habeas Corpus relief; however, as the Supreme Court has noted:

"The appropriate inquiry [is] whether the claimed error of law [is] "a fundamental defect which inherently results in a complete miscarriage of justice," and whether "it present[s] exceptional circumstances where the need for the remedy afforded by the Writ of Habeas Corpus": Davis v. U.S., 333, 346, 41 L.Ed.2d 109, 94 S.Ct. 2298 (1973) (Quoting Hill v. U.S., 368 U.S. 424, 429, 7 L.Ed.2d 417, 82 S.Ct. 468 (1962)).

The trial, conviction, and sentence of Petitioner, under the circumstances here disclosed, deprive him of his liberty without due process of law in violation of the Fifth Amendment.

Petitioner's conviction in violation of the rights guaranteed by the Fifth and Sixth Amendments is a nullity and he is entitled to be released upon writ of Habeas Corpus: Johnson v. Zerbst, 304 U.S. 458

REASONS FOR GRANTING THE WRIT

The writ of certiorari should be granted for the following:

The Supreme Court of Pennsylvania chose not to make an opinion on issue presented to them and denied the writ on March 27, 2018. The Commonwealth chose not to respond because they cannot produce documents and/or no warrants as stated by Clerk of Courts of Cumberland County [Appendix D]. To deprive a citizen of his only effective remedy would not only be contrary to the "rudimentary demands of justice" but destructive of Constitutional guaranty specifically designed to prevent injustice: Cf. Mooney v. Holohan, supra. (294 U.S. 112, 79 L.Ed 794, 55 S.Ct. 340); Johnson v. Zerbst, 304 U.S. 467.

A state court and/or the United States Court of Appeals for the Third Circuit of Pennsylvania has decided an important question of federal law that has not been, but should be, settled by this court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

When application of a state-law bar depends on a Federal Constitutional ruling, the state-law prong of Court's holding is not independent of Federal Law, and the United

States Supreme Courts Jurisdiction is not precluded: Foster v. Chatman, 136 S.Ct. 1737.

It is fundamental that this court's only power over state judgments is to correct them to the extent that they incorrectly adjudge federal rights: Coleman v. Thomas, 501 U.S. 722, 729, 111 S.Ct. 2546, 115 L.Ed.2d 640 (1991).

There being no doubt of the authority of the Congress to thus liberalize the Common Law procedure on Habeas Corpus in order to safeguard the liberty of all persons within the jurisdiction of the United States against infringement through any violation of the Constitution or a law or treaty established, hereunder, it results that under sections cited a prisoner in custody pursuant to the final judgment of a state court of criminal jurisdiction may have a judicial inquiry in a Court of the United States into the very truth and substance of the cause of his detention, although it may become necessary to look behind and beyond the record of his conviction to a sufficient extent to test the jurisdiction of a state court to proceed to a judgment against him... it is open to the courts of the United States upon an application for a writ of Habeas Corpus to look beyond forms and inquire into the very substance of the matter: Johnson v. Zerbst, 304 U.S. 468-70, citing Moore v. Dempsey, 261 U.S. 86, 67 L.Ed 543, 43 S.Ct 265.

Provision of Constitution on interstate extradition, together with Acts of Congress on subject, are part of Supreme law of the land and therefore part of law of every state: Spiak v. Scay, (1946) 185 Va. 710, 40 Se.2d 250.

Federal law, not state law, is supreme and governs on extradition: Ex Parte Riccardi, 1948) 68 Ariz. 180, 203 P.2d 627.

The judgment of conviction pronounced by a court without jurisdiction is void, and one imprisoned thereunder may obtain release by Habeas Corpus: Re: Neilson, 131 U.S. 176, 33 L.Ed. 118, 9 S.Ct. 672, Supra.

A Governor's Grant of extradition is Prima Facie evidence that the Constitutional and Statutory requirements have been met: Cf. Bassing v. Cady, 208 U.S. 386, 392, 393, 52 L.Ed 540 (1908).

Prima Facie case that prisoner is legally held is made out when return to writ of Habeas Corpus shows due demand and requisition for prisoner by executive of another state from which he has fled, copy of indictment found or affidavit made before magistrate charging alleged fugitive with commission of crime, certified as authentic by executive of state making demand, and warrant of Governor authorizing arrest: State v. Parrish, (1941) 242 Ala. 7, 5 So.2d 828.

The Extradition Clause and its implementing Statute, 18 U.S.C. § 3182, no longer maybe considered in isolation from the Fourth Amendment. The Court also relies on what is described as the 'clear and explicit' language of the extradition clause:

'The right of the people to be secure in their persons... against unreasonable... seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing... the persons... to be seized.'

The words of the Amendment provide no grounds for a distinction between "seizures" of persons for extradition and seizures of persons for any other purpose. Neither do they distinguish between an extradition warrant and the usual arrest warrant: Michigan v. Doran, 439 U.S. 295, 296, 99 S.Ct. 530 (1978).

U.S. Const. Amend. XIV §.1 provides that no state shall deprive any person of life, liberty, or property without Due Process of law, this clause imposes procedural limitations on states power to take away protected entitlements.

As stated by the United States Supreme Court:

"Under the Supremacy Clause, 'No court, state or federal, may serve as an accomplice in the willful transgressions' of federal laws that bind judges in every state." Lee v. Florida, 392 U.S. 378, 386, 88 S.Ct. 2096, 20 L.Ed.2d 1166(1968).

CONCLUSION

The Pennsylvania Supreme Court on merits of Petitioner's Habeas Corpus granted [original process] to proceed on issue raised and is now before this Honorable Court. The grant of Habeas Corpus is conditioned upon the exhaustion of remedies available in state courts, though not where "circumstances exist that render such process ineffective to protect rights of the applicant." 28 U.S.C. 2254 (b)(1)(B)(ii).

Where a state court has ruled on the merits of a claim, Habeas Corpus relief is conditioned upon concluding that a state court's decision is contrary to or unreasonably applies from clearly established federal law, or unreasonably determines the facts in light of the evidence: White v. Wheeler 136 S.Ct. 456, 193 L.Ed.2d 384 (2015).

Where imprisonment is unlawful, the court "can only direct [prisoner] to be discharged: Ex Parte Bollman, 8 U.S. 75 4 Cranch 75, 136 2.L.Ed 554 (1807).

Petitioner asks this Honorable Court to grant certiorari and reverse the order of the Third Circuit Court of "Appeals and remand case to the Pennsylvania Supreme Court for hearing to produce on record all extradition warrants and/or all warrants or to be discharged from illegal and/or unlawful detention and immediately released.

Date: June 18, 2018

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D. K. K.", is positioned below the "Respectfully Submitted," text.