

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

NICHOLAS EDWARDS pro se — PETITIONER  
(Your Name)

vs.

SECRETARY, JOHN WETZEL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF PENNSYLVANIA EASTERN DISTRICT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

NICHOLAS EDWARDS  
(Your Name)

#GM-8660

SCI BENNER TWP, 301 INSTITUTION DR.  
(Address)

BELLEFONTE, PA 16823  
(City, State, Zip Code)

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(Phone Number)

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**QUESTION(S) PRESENTED**

1. WHETHER THE STATE WRIT OF HABEAS CORPUS UNDER 42 PA. CONS. STAT. §§6501-6505, WHERE THE VALIDITY OF THE STATE STATUTES ON THE GROUNDS ITS BEING REPUGNANT TO THE CONSTITUTION, TREATIES OR LAWS OF THE UNITED STATES.
  
2. WHETHER PETITIONER SECOND PCRA PETITION MAY BE REVIEW WHEN PETITIONER DID INVOKE TWO EXCEPTION TO THE STATUTE 42 PA. C.S.A. §9545 (b)(i)(ii) AND A CLAIM OF MISCARRIGE OF JUSTICE AND INNOCENT, WHERE PETITIONER FEDERAL CONSTITUTION RIGHTS WERE VIOLATED BY TRIAL AND APPEAL COUNSEL'S.

## 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 is unpublished.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 is unpublished.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 \_\_\_\_\_ 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 is unpublished.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 SUPERIOR court appears at Appendix B 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).

For cases from **state courts**:

The date on which the highest state court decided my case was 1-9-2018. 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

### U.S. CONST., AMEND. VI

IN ALL CRIMINAL PROSECUTION, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM; TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE.

### U.S. CONST., AMEND. XIV

SECTION 1. ALL PERSON BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

## STATEMENT OF THE CASE

ON NOVEMBER 9, 2005, A JURY TRIAL COMMENCED BEFORE THE HONORABLE KATHRYN STREETER LEWIS. ON NOVEMBER 21, 2005, THE JURY FOUND THAT PETITIONER GUILTY OF FIRST DEGREE MURDER (18 PA. C.S.A. 2502) CARRYING FIREARMS WITHOUT A LICENSE (18 PA. C.S.A. 6106), POSSESSING AN INSTRUMENT OF CRIME (18 PA. C.S.A. 907) AND CRIMINAL CONSPIRACY (18 PA. C.S.A. 903).

THE INCIDENT THAT GAVE RISE TO MR. EDWARDS CONVICTED TOOK PLACE ON JULY 2, 2002 NEAR A HOUSE LOCATED AT 2838 JASPER STREET, IN PHILADELPHIA. THE COMMONWEALTH ALLEGED THAT PETITIONER AND TRAVIS HENDRICKS AND XAVIER EDMONDS WERE STANDING OUTSIDE THE HOUSE WHEN NICHOLS ALLEGED STRUCK HENDRICKS IN THE ELBOW WITH A BAT AND EDMONDS WRESTLED EDWARDS TO THE GROUND. DURING THE ATTACK, EDWARDS TOLD HENDRICKS AND EDMONDS TO STAY OFF HIS BLOCK. APPARENTLY, THERE WAS A DISPUTE OVER ALLEGED DURG TERRITORY.

AT TRIAL, TRAVIS TESTIFIED THAT ON JULY 4, 2003, AT APPROXIMATELY 9:00 P.M. EDMONDS, WALTER STANTON, JAMES HOWARD, AND A MAN REFERRED TO AS "RABBIT" WERE STANDING OUTSIDE THE HOUSE AT 2838 JASPER STREET. TRAVIS WAS STANDING IN THE DOORWAY OF THE HOUSE AND HE TURNED TO GO UPSTAIRS WHEN HE HEARD THE SCREECH OF CAR BRAKES. HE TESTIFIED THAT HE TURNED AND SAW THE PETITIONER HANGING OUT THE BACK WINDOW OF A SILVER CAR. TRAVIS TESTIFIED THAT PETITIONER GOT OUT OF THE CAR, WALK TOWARDS EDMONDS AND PULLED A GUN FROM HIS SHIRT. HELD A GUN TO THE BACK OF EDMONDS HEAD A SHOT HIM TWICE. TRAVIS TESTIFIED THAT HE WENT INTO THE HOUSE AND CALLED THE POLICE.

XAVIER EDMONDS WAS TAKEN TO TEMPLE UNIVERISTY AND PRONOUNCED DEAD FROM MULTIPLE GUN SHOT WOUNDS AT 9:21 PM WHILE AT THE HOSPITAL, THE POLICE REMOVE3D EDMONDS PANTS AND FOUND 18 PACKETS OF COCAINE IN THE BACK POCKET. ON AUGUST 9, 2003, THE APPELLANT WAS ARRESTED AND CHARGED WITH FIRST DEGREE MURDER, CRIMINAL CONSPIRACY, CARRYING A FIREARM WITHOUT A LICENSE AND POSSESSING AN INSTRUMENT OF CRIME.

ON FEBRUARY 3, 2006, JUDGE STREETER-LEWIS SENTENCED THE APPELLANT TO LIFE WITHOUT PAROLE FOR FIRST DEGREE MURDER (18 PA. C.S. 2502), 20 to 40 YEARS FOR CRIMINAL CONSPIRACY (18 PA. C.S. 903) , AND 18 TO 48 MONTHS FOR CARRYING A FIREARM WITHOUT A LICENSE (18 PA. C.S. 6106). NO FURTHER PENALTY WAS IMPOSED FOR THE CONVICTION FOR POSSESSION AN INSTRUMENT OF CRIME (18 PA. C.S. 907). DANIEL ALVA, ESQUIRE, REPRESENTED THE APPELLANT FOR THE TRIAL AND SENTENCING.

APPELLANT FILED A DIRECT APPEAL TO THE PENNSYLVANIA SUPER COURT, FOLLWING THE REINSTATEMENT OF THE APPELLANT'S RIGHTS TO FILE AN APPEAL, NUNC PRO TUNC. ON JULY 9, 2009, THE SUPERIOR COURT AFFIRMED THE JUDGMENT OF SENTENCE. ON AUGUST 10, 2009, THE APPELLANT FILED A PETITION FOR ALLOWANCE OF APPEAL WITH THE PENNSYLVANIA SUPREME COURT, ON FEBRUARY 5, 2010, THE PENNSYLVANIA SUPREME COURT DENIED THIS PETITION. MITCHELL STRUTIN, ESQUIRE REPRESENTED THE APPELLANT FOR THE DIRECT APPEAL.

ON JUNE 8, 2010, THE APPELLANT FILED A PRO SE PETITION FOR RELIEF UNDER THE POST CONVICTION RELIEF ACT (PCRA). INTHIS PRO SE PETITION, HE RAISE ABOUT TEN(10) CLAIMS. ON MARCH 16, 2011, ELAYNE C. BRYN, ESQUIRE, WAS COURT APPOINTED TO REPRESENT MR. EDWARDS FOR HIS POST CONVICTION RELIEF ACT PETITION.

ON MAY 25, COUNSEL FILED AN AMENDED PCRA PETITION ONLY RAISING TWO (2) CLAIMS THAT TRIAL COUNSEL WAS INEFFECTIVE BECAUSE HE (1) FAILED TO CALL ALIBI WITNESS AT TRIAL AND (2) FAILED TO FILED RULE 600, SPEEDYTRIAL MOTION TO DISMISSED. ON APRIL 4, 2013, JULY 11, 2013 AND SEPTEMBER 23, 2013 THE HONORABLE BENJAMIN LERNER CONDUCTED A PCRA EVIDENTIARY HEARING.

ON AUGUST 21, 2014, WHILE DEFENDANT EDWARDS APPEAL FROM THE THE DENIAL RELIED ON HIS FIRST PCRA PETITION WAS STILL PENDING IN THE SUPERIOR COURT, EDWARDS FILED A STATE HABEAS CORPUS PETITION ALLEGING THAT HE IS BEING ILLEGAL DETENTION OF THE STATUTE 6501-6505 IS UNCONSTITUTIONAL. ON MARCH 2, 2015 SUPERIOR COURT AFFIRED THE DENIAL OF RELIEF ON EDWARD FIRST PCRA PETITION AND ON JULY 29, 2015, THE PENNSYLVANIA SUPREME COURT DENIED DEFENDANT PETITION FOR ALLOWANCE OF APPEAL. ON AUGUST 4, 2015, DEFENDANT MAILED HIS SECOND PCRA PETITION IN WHICH GOT LOST IN THE MAIL. SO ON DECEMBER 29, 2015, DEFENDANT FILED SECOND PCRA.

ON APRIL 26, 2016, THE PCRA COURT ISSUED A PA. R. CRIM. P. 907 NOTICE OF INTENT TO DISMISS, EXPLAINING THE PCRA PETITION WAS AND DEFENDANT CLAIM FOR STATE HABEAS CORPUS RELIEF ALSO FAILED.

ON MAY 10, 2016 DEFENDANT FILED A PRO SE RESPONE TO THE RULE 907 NOTICE CONTENDING THAT TWO (2) STATUTORY EXCEPTIONS APPIED TO DEFENDANT PCRA PETITION. ON AUGUST 9, 2016 THE TRIAL COURT DISMISSED BOTH THE PCRA PETITION AND DENIED THE STATE WRIT OF HABEAS CORPUS PETITION WITHOUT PROVIDED A REMEDY UNDER THE STATE STATUTE WHICH THE GENERAL ASSEMBLY LEGISLATIVE INTENDED, UNDER THE CONSTITUTION.

## REASONS FOR GRANTING THE PETITION

A STATE COURT OR A UNITED STATES COURTS OF APPEALS 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.

THIS CASE IS IMPORTANT FOR THE ISSUES IT RAISES AS TO THE PROPER ALLOCATION OF FUNCTIONS BETWEEN THE STATES AND FEDERAL DISTRICT COURTS AND FEDERAL COURTS OF APPEALS. THIS COURT HAS CONSISTENTLY RECOGNIZED THAT THE PROPER OBSERVANCE OF THE DIVISION OF FUNCTIONS BETWEEN ALL COURTS IS IMPORTANT IN EVERY CASE, ESPECIALLY IN CASE WHERE THE DISTRICT COURT HAS BEEN ASKED TO ISSUE AN EFFECTIVE REMEDY TO CURE UNCONSTITUTIONAL CONDITIONS IN PUBLIC INSTITUTIONS. SEE, HUTTO V. FINNEY, 437 U.S. 678 (1978).

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

NICHOLAS EDWARDS

Date: 2-1-2018