

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

IN THE

SUPREME COURT OF THE UNITED STATES

Peter Cruz — PETITIONER  
(Your Name)

vs.

Massachusetts — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Peter Cruz  
(Your Name)

MCI Shirley, Medium, P.O. Box 1218

(Address)

Shirley, MA 01464-1218

(City, State, Zip Code)

None.

(Phone Number)

**QUESTION(S) PRESENTED**

Whether, pursuant to the Fifth and Fourteenth Amendments to the United States Constitution, the petitioner can be punished with a sentence of life without parole, when he was never charged, tried, nor convicted of first degree murder, the only sentence in Massachusetts attached to first degree murder.

## 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:

Maura Healey, Attorney General, 1 Ashburton Place, Boston, MA 02108  
Anthony D. Guilluni, District Attorney, Hampden County, 50 State  
Street, Springfield, MA 01102

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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 is unpublished.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 is unpublished.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 is unpublished.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 Massachusetts Supreme Judicial 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 is unpublished.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 April 13, 2018. A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: May 1, 2018, and a copy of the order denying rehearing appears at Appendix B \_\_\_\_\_.

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**

United States Constitution, Fifth Amendment.

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, . . ."

United States Constitution, Article VI, 2 Supreme Law

United States Constitution, Fourteenth Amendment.

Pursuant to Supremacy Clause, the United States Constitution is applicable to the States.

Massachusetts General Law, chapter 265 § 1, Murder defined, and punishment also defined.

Massachusetts General Law, chapter 274 § 2, Accessory Before the Fact.

## STATEMENT OF THE CASE

Petitioner Peter Cruz was indicted for an accessory before the fact to murder, in violation of G.L.c. 274, § 2, and for being an accessory before the fact to armed robbery according to the Memorandum of Decision and Order before a Single Justice of the Massachusetts Supreme Judicial Court.

However, Peter Cruz was never accused, charged, indicted nor convicted of First Degree Murder as defined by G.L. c. 265, § 1.

Yet, Peter Cruz was punished pursuant to G.L.c. 265, § 1, and received a sentence of life without parole. He was not even at the crime scene when the victim was murdered during the masked armed robbery.

The actual killer of the victim was allowed to plead guilty to manslaughter and received a sentence for Manslaughter which carries a maximum sentence of 20 years, and is now at liberty. The second person who was at the scene of the crime was also allowed to plead guilty to manslaughter and he too is now at liberty. Both other two defendants received this favorable treatment in exchange for testifying against Petitioner Peter Cruz.

## REASONS FOR GRANTING THE PETITION

The punishment of Peter Cruz for First Degree Murder, and imposition of a life sentence without possibility for parole is the exclusive penalty pursuant to Massachusetts statutes for First Degree Murder.

The punishment imposed on Peter Cruz for First Degree Murder violates the United States Constitution Fifth Amendment Grand Jury requirement and as applied to the States via the Fourteenth Amendment of the United States Constitution which is paramount and supreme pursuant to the Supremacy Clause of Article VI of the United States Constitution, and contrary to this Court's holding in Jackson v. Virginia, 443 U.S. 307 (1979).

The imposition of a First Degree Murder sentence without having obtained a Grand Jury Indictment for First Degree Murder violates Due Process as defined by this Court in the aforementioned Jackson holding, and should be summarily reversed by this Court to instruct the Massachusetts Supreme Judicial Court to vacate the punishment for First Degree Murder in the present case.

Peter Cruz has suffered a stroke, and wheelchair bound and has cognitive problems which require that he seek assistance in preparing legal documents and asks this court to extend a degree of leeway in his pleading.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Peter Cress

Date: 5-9-18