

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Duane Montgomery — PETITIONER
(Your Name)

VS.

U.S.A — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

4th Cir.

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

PETITION FOR WRIT OF CERTIORARI

Duane Montgomery
(Your Name)

P.O. Box 1600
(Address)

Butler, NC 27509
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Inordinate delay between indictment and verdict form may under appropriate circumstances, constitute a violation of the Fifth Amendment to the United States Constitution.
2. Defendant is unable to pay the filing or docket fee violates the defendant's right to equal protection of the law guaranteed by the 14th Amendment.
3. Seventh Amendment's Guaranty of Right to Trial By Jury
 - claims against the government cannot be sued, except with its own consent,

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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TABLE OF AUTHORITIES CITED

CASES

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"Duncan v Tennessee (1972) 405 US 127,
31 L Ed 2d 86, 92 Sct 785 "

"United States v Constantine (1935) 296
US 287, 50 Sct 723, 80 L Ed 233, 35-2
USTC 9655, 36-1 USTC 9069 16 AFTR
1137. (Overrid on other grounds as stated
in United States v Smith (1952, SD Cal) 106
F Supp 9, 42 AFTR 437)

"United States v Martin Lumber Supply Co.
(1973, CAS Tex) 485 F 2d 1143 1973-2
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415 US 915, 94 Sct 1412, 339 L Ed 2d 470) "

STATUTES AND RULES

"CASPARI v Bohlen (1994) 510 US 383,
127 L Ed 2d 236, 114 Sct 948, 94
CDOS 1293, 93 Daily Journal DAR 2402,
7 FLW Fed S 764 "

"Phelps v United States Fed. Gov't (1994, CA8 Minn)
13 F 3d 735, cert den (1994) 511 US 1114,
128 L Ed 676, 114 Sct 2118, Remanded
Sub nom Phelps v United States Bureau of
Prisons (1995, CA8 Mo) 62 F 3d 1020 "

"Owens v United States (2004, CA7 Ind)
387 F. 3d 607 "

OTHER

"United States v Maguire (1979, CA1 Mass)
600 F 2d 330 cert den (1979) 444 US 876,
62 L Ed 2d 104, 100 Sct 139 "

"United States v Goodman (1979, CA8 Ark) 590
F 2d 705, cert den (1979) 440 US 985, 60 L Ed 2d
248, 98 Sct 1801 "

18 USC Sec 4245 illegitimate action

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 _____ 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: 1-3-2008, 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 _____.
A copy of that decision appears at Appendix _____.

☐ 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

1. Provision of the Fifth Amendment to the Constitution of the US:

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

Protection Against Double Jeopardy

Title 18 USC 3731

Title 28 USC sec 1915

Seventh Amend.

Fifth Amend

14th Amend.

SCt Rule 10

STATEMENT OF THE CASE

(*) A United States Court of Appeals Fourth Cir. has entered a decision in conflict with the decision of ~~and~~ another United States Court of Appeals 10th Cir on the same important matter. (Amend indictment)

2:12-cr-20392 & 5:14-cr-03279-H

Conflict

US v Wacker, 72 F.3d 1453, 1424 (10th Cir 1995).

Appeal to the Supreme Court for setting
Aside or dismissing indictment 18 USC sec
3731. Double Jeopardy civil Right Act 42 USC sec 2000h-
and/or

Except in the most Extraordinary circumstances
Civil Right Action 5:14-cr-03279-H 11-14-2014
28 USC sec 2255 2:13-cv-13606 10-3-2016

"Motion for Leave to File and accompanied by a Brief"

And
"Initial Pleading Complaint for Negligence"

And
"To Proceed ~~in~~ ~~in~~ FORM PAUPERIS"

"Rule 23 stays" Transcripts of record
And

2:12-cr-20392

2:13-cv-13606 28 USC sec 2255 10-3-2016

5:14-cr-03279-H 11-14-2014

~~5:16-cr-02218-BR~~

2:13-cv-02524-CJB-JCW

2:11-cv-~~02~~
02298-CJB-JCW

REASONS FOR GRANTING THE PETITION

Supreme Court Rule 23. Stays.

Dunn Montgomerly Motion an Application for a Stay
the enforcement of "Judgments". Requested relief
first sought courts. I need for presented
on appeal.

2:12-cr-20392, 5:14-CT-03279-W and
~~5:16-CT-0302218 BR~~. The record
or Transcripts.

Russell v United States, 369 ~~US~~ 749, 763-64.
9-L. Bd. 2d 240, 82 S. Ct. 1038 (1962).

Motion for Altering or Amending Judgment Rule 59(e)

2:12-cr-20392-1 & 5:14-CT-03279-W

to account for new evidence not available at trial,
to weigh evidence and set aside Jury's verdict,
verdict is contrary to the Grand Jury,

"Kirkwood v. Harris (1964, WD Mo) 229 F. Supp 904

Indictment 2:12-cr-20392-SJM-DR6 Doc. #3

Filed 6-13-2012, "Count 2" Interstate wire
transmission In Indictment filed on 6-13-2012

Prior to 8-5-2013, Amend Indictment.

Moves leave 15(a)(2) to Amend complaints, Fed R. Civ. P.
2:12-cr-20392 And 5:14-CT-03279-W

Motion for leave to file Complaint for Negligence

1. Civil Rights Act of 1964, As Amended, Title 42, USC sec 1983, sec 1988
And sec ~~2000f~~ 2000h-1.
2. Fed Tort Claims Act, Title IV 28 USC liable claims based upon
performance or failure to perform a discretionary function
or duty.
3. On Oct of 2011 to present, the defendants, have negligently
lost a right toe and entire left leg, a stroke and is now
needing heart surgery.
4. The defendants violated due Process rights by Issuing a
Mail Fraud Felony Arrest warrant without an Indictment.
in violation of Rule 7(A)(1) of the Fed. Rules of crim. Proc.

5. Judge Stephen T. Murphy, III, forges The Grand Jury, counts 4, 3, and 6 Forges or counterfeits to counts 1, 2 & 3.

6. Fed Rule 7, Indictment (c)(2) "Citation Error"
"A citation's omission is a ground to dismiss the indictment or information or reverse a conviction."

7. National Pollution Fund center pay claims businesses and individuals claims.

8. Therefore, the Plaintiff demands judgment against Defendants in the amount of \$2,000,000,000 (\$2 billion)

9. 28 USC sec 1915, Proceedings in forma pauperis Right under the Fed. Constitution of indigent defendant in crim. case.

Filing or docket fees, defendant's right to equal protection of the laws guaranteed by the Fourteenth Amend.

CONCLUSION

Montanez v. Sec'y PA. Dept of Corr., 2014 US App. LEVIS 15602 (3d Cir. PA. Aug. 14, 2014)

The petition for a writ of certiorari should be granted.

Yes Freedom

Respectfully submitted,

Duane Montgomery

Date: ~~2-13-2017~~
1-28-2018