

No. 18-6740

IN THE
SUPREME COURT OF THE UNITED STATES

Lena Lasher — PETITIONER
(Your Name)

Bureau of Professional and
Occupational Affairs, State Board of Pharmacy ^{vs.} RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO The Rehearing to
Supreme Court of Pennsylvania Middle District
Commonwealth Court of Pennsylvania

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

LL
PETITION FOR WRIT OF CERTIORARI TO The Rehearing

Lena Lasher
(Your Name)

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FEB 21 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Petition for the Rehearing

“Injustice anywhere is a threat to justice everywhere.” - in honor of

Dr. Martin Luther King, in his Letter from a Birmingham Jail

QUESTIONS PRESENTED

An important function of the Supreme Court is to resolve disagreements among lower courts, as well as its own Court, about specific legal questions, especially with respect to conflicting decisions in other courts, such as:

1. Do the Defendants have the right knowingly commit perjury at the Defendant's trial, and then rely on that perjury at the Plaintiff's State Board hearing by conducting a hearing in her abstentia without her knowledge and in violation of the “Fair Notice/Warning Rule”, to revoke her pharmacist license, preventing her from defending her license? **Napue v. Illinois, 360 U.S. 264 (1959). Leonard Morse v. John Fusto 13-4074**
2. Did the Pennsylvania State Board of Pharmacy (PA BOP) violate that same pharmacist's equal protection clause when their own direct representatives committed perjuries against the Plaintiff at her criminal trial? The PA BOP claims that they revoked the Plaintiff's license because of the conviction, but their own actions showed they acted deceitfully to ensure that conviction. **Napue v. Illinois, 360 U.S. 264 (1959). Truong v. Hassan, 829 F.3d 627, 631 (8th Cir. 2016)**
3. Did the PA BOP violated the Equal Protection Clause by revoking the Plaintiff's pharmacist license when they revoked the license of one pharmacist, who is an Asian female of Vietnamese descent, while taking no actions against others, pharmacists (Steven Goloff and Daniel Geiger) and technicians (James Barnes and Albert Buck), each white male, who confessed their own “crime” (guilty by admission) at the Plaintiff's trial, even confessing they violated the same pharmacy law of which the Plaintiff was convicted? **Creason v. City of Washington, 435 F.3d 820, 823 (8th Cir. 2006). United States v. Armstrong, 517 U.S. 456, 465 (1996).**
4. Did the PA BOP violate that same pharmacist's equal protection clause when they made an agreement prior to the Plaintiff's trial to not revoke one of those pharmacists' license for his own crimes in return for testimony against the Plaintiff? **Creason v. City of Washington, 435 F.3d 820, 823 (8th Cir. 2006). United States v. Armstrong, 517 U.S. 456, 465 (1996).**
5. A material factual or legal matter was overlooked in the decision in that the Petitioner believes the court has overlooked or misapprehended the following:

A. Administrative Procedure Act (“APA”) Neb. Rev. Stat. 38-1,102 and Neb. Rev. Stat. 84-917

“Any person aggrieved by a final decision in a disciplinary proceeding under the UCA is entitled to judicial review in accordance with the Administrative Procedure Act (“APA”)”

STATEMENT OF THE CASE

The United States Supreme Court stressed that a defendant’s due process rights are violated both when a prosecutor knowingly presents false testimony and when he knowingly fails to correct such perjury. The Court also held that the same rule applies even when the false testimony concerns only the witness’s credibility, since “a lie is a lie, no matter what its subject.” Napue v. Illinois, 360 U.S. 264 (1959). Here, the lies that brought about this wrongful conviction were perpetrated by the Defendants themselves through Pennsylvania Board of Pharmacy inspector **Inspector Thomas Bat**, who **lied and deceived the jury to secure a wrongful conviction**. In turn, the Pennsylvania Board of Pharmacy revoked the Plaintiff’s license, without her knowledge, covering up Inspector Bat’s perjuries. Napue v. Illinois, 360 U.S. 264 (1959). **Leonard Morse v. John Fusto 13-4074**

Further, the Plaintiff can establish a violation of substantive due process rights by Inspector Bat, an executive official, by showing (1) that the official violated one or more fundamental constitutional rights and (2) that the conduct of the executive official was shocking to the contemporary conscience.” Truong v. Hassan, 829 F.3d 627, 631 (8th Cir. 2016) (internal quotations and citations omitted). “To be conscience shocking, the government action must be ‘truly irrational, that is, something more than … arbitrary, capricious, or in violation of state law.’” Draper v. City of Festus, 782 F.3d 948, 953 (8th Cir. 2015) (quoting Weiler v. Purkett 137 F.3d 1047, 105 (8th Cir. 1998) (en banc)). The Plaintiff can prove the Defendants’ perjuries, via a suppressed exculpatory video recordings, which contradicted the Defendants’ testimonies at the Plaintiff’s trial.

Further, the Defendant’s actions rise to the “conscience shocking” level, as detailed in this Petition for a Rehearing, as a result of its conduct of a kangaroo court, conducting a hearing in the Plaintiff’s abstentia, preventing her to defend herself, and only a higher court can stop this misconduct.

PROCEDURAL HISTORY

1. The Plaintiff, Lena Congtang (Lasher) was licensed by the Pennsylvania Board of Pharmacy (PA BOP “Board”) since 5/13/2005.
2. On June 3, 2016, the Board issued a Final Order Adopting Proposed Adjudication and Order (the “Final

Order") in the matter captioned commonwealth of Pennsylvania, Bureau of Professional and Occupational Affairs v. Lena T. Congtang, R.Ph., a/k/a Lena T. Lasher, R.Ph., File Number 15-54-06435, Docket No.: 1692-54-15, revoking the Plaintiff's pharmacist license. However, the Plaintiff was UNAWARE of this order, as stated in her Petition for Review under Issue #2

3. Prior to the Plaintiff's trial, the PA BOP showed their bias against the Plaintiff when they made a deal with another pharmacist (Steven Goloff) agree to not act against his license for alleging dispensing oxycodone illegally if he testified against the Plaintiff. In so doing, the PA BOP violated the Equal Protection Clause and chose to help ensure the wrongful conviction against the Plaintiff while ignoring the self-confessed crime of another pharmacist. The PA BOP also had one of their direct representatives to make perjuries while testifying against the Plaintiff at her criminal trial. The PA BOP revoked the Plaintiff's pharmacist licensed due to the "conviction". The Plaintiff's license was also revoked because of her race, national origin, and sex and therefore further reinforced by the other coordinating agencies which is a violation of the Constitution (Amendment 5 and 6), by going to trial and exercising her constitutional rights; others (white males) who have testified at Plaintiff's trial that they committed the crime (guilty by admission) were not punished by the PA BOP. This is discriminatory, a deprivation of the Plaintiff's civil rights, and is a violation of substantial due process.

4. The Plaintiff requested on several occasions prior to trial, during trial, and prior to sentencing for the production of the pharmacies' video recordings, for the presentation to the jury and judge, to show her actual innocence. When the video recording was, finally formally requested, the Government advised the Plaintiff that they never had possession of the video tape recording. The Government's denial of the Plaintiff's request for the video surveillance and the suppression of the video, despite its many references at trial was extremely prejudicial, and in violation of Brady.

While incarcerated, on 7/27/2016 in the 3500 material, the Plaintiff discovered the Government had accessed the Aver DVR video recordings.

On November 7, 2016, through the Plaintiff's own investigation, she received verification from FOIA that the Government not only had the original video surveillance recording, of which they returned, this very crucial piece of evidence, to the Defendant Peter Riccio, without providing a copy to the Plaintiff.

The video recording, the best evidence rule, was finally turned over to Ms. Mitchell, Camp Unit Manager, on July 4, 2017; the Plaintiff viewed the video recording, for the first time, on August 31, 2017. Upon the first review after extensive litigating for possession the Plaintiff noticed that the video recording was **TAMPERED** with. This further violation of the Plaintiff's constitutional right, due to the video recording suppression and tampered with, the validity of a Brady Violation (exculpatory evidence) as well as prosecutorial misconduct occurred. The Plaintiff can affirm this wrongful action due to the fact the Prosecutors failed to delete/extract those recorded times from the back up cameras.

In this case, the video recordings, the best evidence rule:

- A. Proved the Plaintiff's **ACTUAL** innocence in that they showed the Plaintiff followed rules and regulations of pharmacy law in that she properly counted, labeled and stored, destroyed medications properly (via MURP), and dispensed medications with valid prescriptions which were verified by doctors; this was contradicted by the Government's witnesses sworn testimony, including those of the PA BOP's pharmacy inspector **THOMAS BAT**.
- B. **Affirmed the Plaintiff's wrongful conviction which was based on perjured testimony, including those of the Pennsylvania Board of Pharmacy's inspector **THOMAS BAT**, prosecutors' made-up law, "planted"/tampered/ suppressed/withheld evidence.**

Whereby a case is determined based on the aspect of obtaining knowledge regarding government's misbehaviors, suppressions, misrepresentation and falsely creating fraudulent evidence through witnesses and material alterations, post conviction information obtained allows the Plaintiff to raise these claims upon appeal.

FACTS

1. On October 13, 2015 the Plaintiff through her counsel, Adam L. Brent, requested a hearing.
2. On January 8, 2016 the PA BOP conducted the "hearing" without the Plaintiff's presence; Plaintiff's counsel was also not present is an indication the Plaintiff did not have legal representation. The hearing proceeded in **abstentia** to protect the PA BOP's perjuries at the Plaintiff's trial, as detailed below.
3. On June 3, 2016, the "Final Order" was sent to the Plaintiff's attorney of record. However, the Plaintiff's attorney, Adam Brent, NEVER contacted the Plaintiff. Previously, and as per the PA BOP's policies, all notices, hearings, and pleadings must be mailed to both counsel and involved pharmacist via regular and certified mail.

However, to protect the PA BOP's perjuries at the Plaintiff's trial, the PA BOP conducted the "hearing" without the Plaintiff's presence on January 8, 2016 and further conceal the "Order" from her by not sending it to her.

4. In the Plaintiff's letters to the PA State Board of Pharmacy (10/31/2016, 3/31/2017, 4/17/2017, 7/10/2017, and 8/9/2017) the Plaintiff asserted that she desired and requested an in-person hearing to deliver witnesses which would confirm her testimonies. Due to her imprisonment and limited resources to do legal work, she requested aid to subpoena witnesses. At the hearing, the Plaintiff would expect to have expert witnesses to corroborate her testimony and that of the suppressed video recordings.

The defendant agencies failed to deliver the required information which further causes additional delay damage and undue hardship for the Plaintiff. In fact, the Pennsylvania State Board of Pharmacy (PA BOP) did not respond to any of the Plaintiff's letter until April 11, 2017. On April 17, 2017, the Plaintiff received, for the FIRST time, the "Final Order", as she stated in her Petition for Review under issue #2, in a letter to the PA BOP dated April 17, 2017. If the Plaintiff did not initiate contact with the PA BOP, she would have never received nor known of the "Final Order."

After many letters to the PA BOP for the address of the Pennsylvania Commonwealth Court, the Office of General Counsel finally respond to her request on a letter dated August 28, 2017 (132 days later) – See Appendix K), but she did not receive this letter until September 2017.

The aforementioned constitute FRAUD, NEGLIGENT, and a BREAKDOWN in the Administrative Process, whereby causing a late filing of the Plaintiff's appeal.

5. PA. R.A.P. 1512(1) requires a petition for review be filed within thirty (30) days after the entry of the order sought to be reviewed. However, the Plaintiff did not received the Board's "Final Order" until April 17, 2017 - **318 days later.**

6. Appellate Court's (Honorable Judge J. Wesley Oler's, Jr.) Judgment entered on December 28, 2017 granting respondent's motion to quash; however the order lacked statute(s) and the fair notice/warning rule. Further, Honorable Judge J. Wesley Oler, Jr. was mistaken by stating that the Plaintiff did not seek to file a (late) appeal. Clearly in her Petition for Review , she requested the Board's June 3, 2016 order to be reversed, thus appealing the order.

INTRODUCTION

The Plaintiff's Petition for Allowance of Appeal should have been granted for the following reasons:

I. The appellate court erred entering in quashing the appeal by not providing a citation to a statute stating a time limit on appeals. The appellate court denied the Plaintiff's constitutional due process right by denying her Petition for a hearing. Claiming that the appeal was not "timely" ignores the reality that PA BOP violated the disclosure requirements of fair notice when they revoked her license and in that she was not given fair notice or warning of when the appeal must be filed.

The appellate court's decision conflicts with the United States Supreme Court on the same question; the question of "Fair Notice/Warning" Rule. Carl Olsen vs. Eric Holder 610 F. Supp. 2 985, 2009 U.S. Dist. LEXIS 35300. See U.S. v. Kevin Lamont Brewer 766 F. 3d 884; 2014 U.S. App. LEXIS 17454 No. 13-1261 (8th Circuit 9/10/14). Thus the issue involves the constitutionality of a statute of the Commonwealth.

II. the appellate court violated the Plaintiff's rights under the Equal Protection Clause, which will be detailed below.

These matters are of substantial public importance that require prompt and definitive resolution by the United States Supreme Court. The appellate court has so far departed from accepted judicial practices and so abused its discretion as to call for the exercise of the United States Supreme Court's supervisory authority.

ARGUMENTS

The Hearing proceeded in abstentia at which the only evidence presented to the hearing examiner was documentation of the criminal conviction, which was based on the PA BOP's perjuries at the Plaintiff's trial, and the voluntary surrender of a NJ pharmacist license which was based on a fraudulent NJ BOP "consent order" conducted via EXTORTION, and is now under litigation in the District Court of Newark, NJ. NJ BOP forced the Plaintiff to surrender her pharmacist license via a FRAUDULENT Consent Order which should be considered NULL and VOID because it was based on an 11/29/2012 Indictment that was DROPPED approximately EIGHT months PRIOR to her signing the consent order, or else they would revoke it, is extortion, a federal crime, in that it violates her substantive due process right to a hearing to pursue her occupation. Most harmfully, the Defendants in NJ libeled her by posting the fraudulent consent order on the

internet to defame, embarrass, harm, shame and humiliate her. To this day, the fraudulent consent order is still posted on the internet. Because the “NJ consent order” was used by the PA BOP to revoke the pharmacist license, the Plaintiff need to inform this Court that she only signed the consent order under the duress of the Board’s threat to REVOKE her pharmacist license. By basing their threats and their actions and decisions on an indictment that was dropped eight months prior to the board’s demand that she sign the consent order, the board committed fraud against her, a Vietnamese female. (Thus, fraud was also made through a purposeful omission of material facts: that the 11/29/2012 Indictment forming the basis of the consent order was dropped eight months prior to her signing the consent order. Nondisclosure of this fact makes the other statements in the consent misleading.). By using this NJ consent order as a basis to revoke the Plaintiff’s pharmacist license is clearly a violation of the plaintiff’s due process right to a fair hearing; she was not there to defend why her license should not be “revoked”. **Then the PA BOP committed FRAUD** against the Plaintiff by concealing the hearing from her, by not informing her by not sending the “Order” that they revoked her pharmacist license, thus FRAUD is now committed by the PA BOP. The PA BOP violated the Plaintiff’s due process and equal protection clause by conducting a hearing in the Plaintiff’s absence. **Leonard Morse v. John Fusto 13-4074**

To reiterate, the denial of a hearing is a violation of the Plaintiff’s substantial due process right; it prevents her from showing physical evidence and facts which proves her innocence and supports the decision as to why her pharmacist license should not be revoked. Yet the PA BOP and PA Counsel did not answer any of her requests nor petition for review.

The hearing is a means to prove not only the perjuries, and thus fraud, committed by the PA BOP’s pharmacy inspector THOMAS BAT but also the proof of innocence to present evidence which contradicted the Government and its witnesses’ testimonies. As a result of Brady violation and violation of due process, and with the profound and compelling facts and exhibits of evidence that clearly prove the conviction was wrongly achieved, the Plaintiff’s appeal must be granted.

The denial of a hearing causes a further violation of the suppression and withholding of evidence and corroboration of facts to prove the Plaintiff’s credibility.

Unfortunately, her requests were unanswered/ignored by the PA BOP and PA Counsel.

As reflected by the entire record of this case, the PA BOP relied on a conviction and discrimination to revoke Lena Lasher's license, which was wrongfully achieved due to the Government's witnesses perjuries, suppression of evidence by the prosecutors (a Brady Violation - Brady v. Maryland 373 U.S. 83, 10 L Ed 2d 215, 83 S Ct 1194), and withheld evidence by the trial Judge. Whereby, others (**white male pharmacists and technicians**) who confessed to the "crime", including prostitution and theft of narcotics and other miscellaneous items from various pharmacies, were not punished by the PA BOP while the Plaintiff, an Asian female of Vietnamese descent was violated.

I. Violation of the Fair Notice Act

A. The Plaintiff was denied her due process right under the Fifth amendment and PA BOP violated the disclosure requirements of fair notice discussed in Carl Olsen vs. Eric Holder 610 F. Supp. 2d 985, 2009 U.S. Dist. LEXIS 35300.

"5 U.S.C.S. Sec. 553(b) provides in part that general notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include (1) a statement of the time, place, and nature of public rule making proceedings; (2) reference to the legal authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved." (See Carl Olsen v. Eric Holder 610 F. Supp. 2d 985; 2009 U.S. Dist. LEXIS 35300).

"5 U.S.C.S. Sec. 553(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date". Carl Olsen v. Eric Holder 610 F. Supp. 2d 985; 2009 U.S. Dist. LEXIS 35300. US v. Kevin Lamont Brewer 766 F.3d 884; 2014 U.S. App. Lexis 17454 No. 13-1261 (8th circuit 9/10/2014).

In the Plaintiff's case, on June 3, 2016, PA BOP violated the disclosure requirements of fair notice by revoking the Plaintiff's pharmacist license without her knowledge and purposely not contacting the Plaintiff about her revoke order. This violation of fair notice preventing her from appealing their decision in a "timely manner." In fact, the Plaintiff did NOT receive the "Final Order" until April 17, 2017 – 318 days later; it was impossible for the Plaintiff to appeal and "timely file" the "final order" of June 3, 2016 within the required time of 30 days. The PA BOP knew the Plaintiff was incarcerated; they held a hearing to revoke her pharmacist

license, in the absence of the Plaintiff and by evidence to counter their assumptions. The Board could have sent the "Final Order" to the Plaintiff, but they did not. By concealing the "Final Order" from the Plaintiff, and by not answering the Plaintiff's letters of 10/31/2016, 3/31/2017, 4/17/2017, 7/10/2017, and 8/9/2017 requesting a hearing in regard to her pharmacist license, the PA BOP protected perjured testimonies including perjured testimony of their own inspector Thomas Bat, presented at the Plaintiff's criminal trial. Denying the Plaintiff a hearing is also denying her a chance to expose their inspector's perjured and deceptive testimony regarding Dr. Haytmanek. Bat's sworn testimony directly contradicts the findings of the PA Board of Medicine's own set of investigation about the same incident. This amounts to a fraud on the Court perpetrated by the Board. "Fraud on the Court also exist where witness", in this case, Inspector Thomas Bat of the Pennsylvania Board of Pharmacy, and attorney Maloney, "conspire to conceal perjured testimony". *Rozier v. Ford Motor Co.* 573 F. 2d 1332, 1338 (5th Cir. 1978)

Due to being incarcerated and with no access to internet, the Plaintiff requested multiple times from the Board for the Pennsylvania Commonwealth Court's address; however, the Board purposely did not give the Plaintiff the Pennsylvania Commonwealth Court's address when she first requested for it and thus prevented her from further timely filing or timely appealing the "Final Order", and then denied her appeal due to "failure to appeal within the thirty days" of the "Final Order" when they never informed her they revoked her pharmacist license, until 318 days later after the Board's "Final Order". By not giving the address when the Plaintiff first requested for it is a way for the PA BOP to violate her fair notice; the Office of General Counsel Board did not respond to her request until August 28, 2017 (132 days later), but she did not receive this letter until September 2017.

The Plaintiff then immediately petitioned the Court for the Review, which was docketed by the Court on September 6, 2017. Upon receipt of the Petition for Review from the Pennsylvania Commonwealth Court, the Plaintiff immediately filed the Petition for Review, which was on October 24, 2017; thus was timely filed per the Chief Clerk's letter of September 29, 2017. Therefore, the Petitioner's Petition for Review should have been "timely filed" due to the Board's fraud, negligent, and BREAKDOWN in the administrative process for not "timely":

1. Notifying the Petitioner of the "Final Order" and

2. Giving the Petitioner the Pennsylvania Commonwealth Court's address when requested

Whereby preventing her from timely appealing.

B. It is affirmed that the Honorable Judge J. Wesley Oler Jr. Denied the Petitioner's her due process by:

1. Denying her appeal, when she could not have timely appeal to begin with, without stating any statute that allowed him to.

2. After contacting the Board in regard to the revoke order, the Board NEVER gave the Petitioner her "fair" notice or warning regarding the date the Petitioner must file her appeal by, since it was impossible for her to file within the 30 days of the Board's June 3, 2016 order - 318 days AFTER the final order of 6/3/2016 was issued.

Thus, Honorable Judge Oler's order should be considered null and void in that it was ordered without regard to statute nor fair notice/ warning, whereby violating the Petitioner's precious constitutional right.

II. Violation of the Equal Protection Clause

The Petitioner claims a plausible Equal Protection Clause violation in that the Pennsylvania Board of Pharmacy racially, national origin, and sexually discriminated against her.

“The Equal Protection Clause of the Fourteenth Amendment requires that States treat similarly situated persons alike.” *Creason v. City of Washington*, 435 F.3d 820, 823 (8th Cir. 2006). The Pennsylvania Board of Pharmacy's actions had both a discriminatory effect and was motivated by a discriminatory purpose. See *United States v. Armstrong*, 517 U.S. 456, 465 (1996) as stated below.

In this case, the Plaintiff's license was revoked based on her race, national origin, and sex because other white male pharmacists, including but not limited to pharmacists Steven Goloff and Daniel Geiger and technicians James Barnes and Albert Buck who also dispensed the same “fulfillment prescriptions” which the prosecution alleged were invalid, were not reprimanded by the Pennsylvania Board of Pharmacy. This is discriminatory, a deprivation of plaintiff's civil rights, by treating the Plaintiff differently from similarly situated person, Goloff and Geiger, who also hold a Pennsylvania pharmacist licenses and dispensed the same form of prescriptions as the Plaintiff did, were allowed to keep their Pennsylvania pharmacists' licenses active.

Further, pharmacist Goloff, at the Petitioner's trial, admitted to illegally using cocaine, marijuana and prostitutes, as well as stealing oxycodone (a narcotic) and other miscellaneous items from various pharmacies.

Violations Goloff freely admitted to under oath at the Petitioner's trial result in penalties of imprisonment and fines under Section 402 and 403 of the Controlled Substances Act. Further, PRIOR to the Plaintiff's trial, the PA BOP already violated the Plaintiff's Equal Protection Clause and the governing PA pharmacy law (PA27.12(b)(2) by:

- 1. making a deal with Steven Goloff , white male (prosecution's witness) that they would not come after him for his dispensing of oxycodone on October 2, 2012, in exchange for his testimony, "blaming his dispensing of oxycodone onto the Plaintiff when she was not there.**
2. the nature of PA BOP inspector Bat was about his inspection of Steven Goloff but his testimony was about the Plaintiff even though he NEVER inspected the plaintiff.

Therefore, PA BOP has a hand in ensuring this wrongful conviction. **Leonard Morse v. Fusto 13-4074**

More shockingly, in exchange for falsely testifying against the Plaintiff, both Goloff and Geiger were not punished by the PA BOP; this is discriminatory, a deprivation of the Petitioner's civil rights, and is a violation of substantial due process as well as the Equal Protection Clause. But this Petitioner can show conclusively that both Goloff and Geiger perjured themselves against the this Petitioner for that favorable treatment by the PA BOP. Denying a hearing helps keep their misdeeds hidden and furthers the injustice carried out against the Petitioner

REASON FOR GRANTING THE Rehearing

This Petition for the Rehearing must be granted for the following reasons:

I. Not only that the decision of the Appellate Court and the PA Supreme Court erroneous, but the national importance of having the Supreme Court decide the issue to prevent a miscarriage of justice, which involve issues of Perjuries, a Violation of the Fair Notice Act and the Equal Protection Clause, in the form of perjured testimonies by the Defendants, a hearing proceeded in absentia, and allowing white males who admitted to committing the "crime" to shift blame at the Plaintiff with no reprimandation; and 2) this hearing is of concern to any health care professional working – where a pharmacist illegally shifted blame onto other pharmacists. For instance, pharmacists Goloff and Geiger ADMITTED to committing ALL five crimes (guilty by admission) in their pharmacy practice in Hellertown Pharmacy, including theft of drugs, one being a repeated offender. Yet, they were not prosecuted in exchange for shifting the blame onto the Plaintiff.

Nothing happened to their pharmacist licenses. This is discriminatory a deprivation of the Plaintiff's civil rights, a violation of the governing pharmacy law, and is a violation of due process.

The importance of this case is not only to the plaintiff but to others similarly situated in that the hearing conducted in abstentia, allowing a shifting of blame, is a denial of due process of law, which has national importance because it affects health care professionals across the whole country, especially since the PA BOP cites actions by other states that is part of their justification for their own action against the Plaintiff; thus an **Allowance of Appeal** for a hearing is warranted, **to stop the Defendants from protecting those who confessed crimes encouraged by the prosecutors knowing that they were going to get away with their crimes for shifting blame to the Plaintiff.** The Board of Pharmacy is not meant to be a rubber stamp for the Federal Government. With regard to licensing pharmacists, they are expected to have the expertise and independent agency and latitude of discretion to access the facts for themselves. This is why hearings are granted and the real facts of the matter openly discussed and assessed. This hearing is to show physical evidence and facts to support "the decision as to why the Plaintiff's pharmacist license should be reinstated to active. By denying her due process and thus avoiding doing the actual work that goes along with being a Board member, they did a disservice to all Pharmacists and cheated the Plaintiff out of her right to due process.

It is an unconstitutional action and a deprivation of rights to conduct a hearing in absence of the Plaintiff's presence, further violating her due process right to access and to display the truth to the people. The PA BOP conducted a hearing without any representation of the Plaintiff's being there was their motivation and needs to protect their inspector from the consequence of his perjuries. Prosecutors' witnesses confess their guilt and testified against the Plaintiff by shifting blame onto her. Rather holding them to the same standard the Plaintiff was held to, Inspector Bat helped the witnesses in shifting the blame for their alleged crimes onto the Plaintiff and he did that assisting by committing perjury on the stand testifying against the Plaintiff even though he did NOT inspect her.

Thus, Everything traces back to **their lying Inspector Bat, to protect their inspector's lies on the stand.** The Board wants to deny due process in that people go on the stand to lie, confess their own crime, shift the blame; the inspector gets on the stand and shift blame onto the pharmacist he NEVER inspected.

The aforementioned deceptions committed by the Defendants, and their use of perjured testimony, the intentionally misrepresentation of material facts, the ignoring of the rules of best evidence, in order to obtain a conviction warrant an Allowance of Appeal for a hearing. Napue v. Illinois, 360 U.S. 264 (1959) Leonard Morse v. John Fusto 13-4074

“ The established principle that a State may not knowingly use false testimony to obtain a tainted conviction does not cease to apply merely because the false testimony goes only to the credibility of the witness. Pp. 360 U. S. 269-270.” **Napue v. Illinois, 360 U.S. 264 (1959)**

Equal clause protection was also violated because the PA BOP took NO action against the prosecutors witnesses, the ones who confess to their guilt. This is a crime of moral turpitude.

II. To correct an erroneous decision of the Appellate court and the PA Supreme Court denying an Allowance of Appeal for a Hearing in the plaintiff's case that was erroneous in many ways. In this case, the Hearing is a means to prove not only the Defendants' violations of the Plaintiff's due process right but their conduct of FRAUD to cover up their perjuries at the Plaintiff's trial. **Napue v. Illinois, 360 U.S. 264 (1959).**

Leonard Morse v. John Fusto 13-4074

III. To resolve multiple conflicts between the decision of which review is sought and decisions of other appellate courts including the Second Circuit Luis Noel Cruz v US 11-cv-787 (JCH) March 29, 2018, the First Circuit in Owens v. United States, 236 F. Supp. 2d 122, 144 (D. Mass. 2002), on the same issue.

An important function of the Supreme Court is to resolve disagreements among lower courts about specific legal questions. The following questions were specifically addressed by the First Circuit in *Owens v. United States*, 236 F. Supp. 2d 122, 144 (D. Mass. 2002), and a minimum standard observed, all of which were ignored in the denial of this Petitioner's motion. On what grounds may a court deny a hearing to cover the PA BOP's inspector Bat's perjuries?

Unless the files and records show that a Petitioner's guilt is self evident, the hearing should be granted. In support of Owens and citing *David v. United States*, 134 F.3d 470, 477 (1st Cir.1998), the First Circuit decided that “Owens' allegations were neither 'so evanescent or bereft of detail that they cannot reasonably be investigated,' nor 'threadbare allusions.'” David, 134 F.3d at 478. Nor were Owens' allegations unsubstantiated.” *Owens v. United States*, 236 F. Supp. 2d 122, 144 (D. Mass. 2002).

This Plaintiff's request exceeds the criteria established by the law and observed by the first circuit in Owens. Here, the motion and the files and records of the case conclusively show that the plaintiff is actual innocence with actual physical evidence. The Plaintiff is asking for the admission of multiple types of evidence which in each case is better evidence, in accordance with the principles of best evidence, than the evidence the Defendants used at the hearing, which is based on extortion and perjured testimonies, to contradict the Defendants' perjured testimonies at the Plaintiff's trial. The lack of ability to present that critical evidence, further undermined the truth and advanced the perjured testimony. See Demarco v United States 928 F.2d 1074 (11th cir. 1991). For example:

A. The plaintiff is asking for the admission of evidence in the form of an inventory and bill of laden of "butalbital" and other controlled substances which were allegedly in possession of the fulfillment pharmacies where she was accused of allegedly committed the supposed crimes. Additionally The plaintiff is asking for an indication of which medicines are considered "addicted pain medications" by the court.

1. The matter at hand is there were **no evidence at trial that the pharmacies ever carried "Butalbital."**
2. **Fioricet and Tramadol were both NOT controlled substances at the time of dispensing**, but the misbranding criteria described at trial for them was a standard only for controlled substances.
3. **No controlled substances nor any "addicted pain medications" were dispensed by the plaintiff via the "fulfillment pharmacies"**, as the District Court claimed in denying the plaintiff her bail pending appeal.

As a result of a Brady violation and violations of due process, and with the profound and compelling facts and exhibits of evidence that clearly prove the revocation of the Plaintiff's pharmacist license was wrongly achieved, the plaintiff is confident that granting this Petition for Rehearing will lead to a granting of the Hearing and to her pharmacist license being immediately restored. The extent to which the Allowance of Appeal for a hearing requested here will undo the Defendants' case, and thus show the Appellate Court and the PA Supreme Court's dismissal is erroneous, is detailed and enumerated above.

Thus, the petition for a rehearing must be granted under the due process criteria of Owens v. United States, 236 F. Supp. 2d 122, 144 (D. Mass. 2002), Napue v. Illinois, 360 US 264, 3 L ED 2D 1217 and Brady v. Maryland, 373 US 83, 10 L Ed 2d 215. The request is very reasonable for a fair hearing without deception and

slide of hand. Other circuits had agree it is only fair for the PA BOP to prove their case without relying on such deception and slide of hand.

CONCLUSION

The Plaintiff, Lena Lasher, sincerely believes that she can justifiability rely on the United States Supreme Court case **Haines v. Kerner** 404 U.S. 519 (1972), which clearly states that "all Pro-Se litigants must be afforded the opportunity to present their evidence and that the Court should look to the substance of the complaint rather than form."

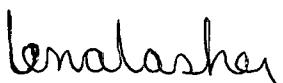
As evidenced in this Petition for Rehearing, the appellate court's and PA Supreme Court decision conflicts with the United States Supreme Court on the same question of **LIES (Napue v. Illinois, 360 U.S. 264 (1959). Leonard Morse v. John Fusto 13-4074**, "Fair Notice/Warning" Rule. U.S. v. Kevin Lamont Brewer 766 F. 3d 884 (8th Circuit 9/10/14) the question presented is one of such substantial public importance as to require prompt and definitive resolution by the United States Supreme Court. The issue also involves the constitutionality of a statue of the Commonwealth. Shockingly, the appellate court and PA Supreme Court has so far departed from accepted judicial practices and so abused its discretion as to call for the exercise of the United States Supreme Court's supervisory authority and thus has erroneously entered an order quashing or dismissing an appeal with lack of statute(s) and the fair notice/warning rule, and cover up of perjured testimonies, as well as an Equal Protection Clause violation, as discussed above.

For the foregoing reasons, the Petitioner prays the Honorable Supreme Court will grant this petition for rehearing. The evidence is pertinent for the correction of the criminal judgment.

CERTIFICATE

I certified that this rehearing is restricted to the grounds specified in Rule 44.2 and that it is presented in good faith and not for delay.

Respectfully submitted,



Lena Lasher, Pro - Se

February 15, 2019