

18-6947  
No.: \_\_\_\_\_

In The  
**SUPREME COURT OF THE UNITED  
STATES**

**ORIGINAL**

Lisa J. Gillard,  
*Petitioner*,

v.

People of the State of Illinois,  
*Respondent*.

Supreme Court, U.S.  
FILED

NOV 29 2018

OFFICE OF THE CLERK

On Petition for a Writ of Certiorari to the  
Supreme Court of the State of Illinois

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**PETITION FOR A WRIT OF CERTIORARI**

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LISA J. GILLARD  
Activist-Humanitarian

THE GILLARD INSTITUTE, INC.  
PO Box 805993  
Chicago, Illinois (USA) 60680-4121  
Email: lisajgillard@gmail.com

*Counsel of Record, Pro Se  
Attorney for Petitioner*

**QUESTION PRESENTED**

1. Whether the Illinois Supreme Court acted unconstitutional by depriving petitioner due process on a final judgment of a conviction of a battery?

### LIST OF PARTIES

The parties to the proceeding are:

1. Lisa J. Gillard, an individual citizen in the United States.
2. People of the State of Illinois, through the State's Attorney's Office in Cook County, Illinois.

### CORPORATE DISCLOSURES

1. Lisa J. Gillard is an individual citizen in the State of Illinois and in the United States of America; and d/b/a THE GILLARD INSTITUTE, INC., L. Jacqueline Gillard, and L. Jacqueline Gillard Films and Entertainment Company.
2. People of the State of Illinois is a body politic.

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## **PETITION FOR WRIT OF CERTIORARI**

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Petitioner Lisa J. Gillard respectfully prays that a writ of certiorari issue to review the judgments below.

### **OPINION BELOW**

The opinion of the Illinois Supreme Court appears at appendix A (motion for reconsideration of the order of September 26, 2018, denying petitioner for leave to appeal) is entered on November 1, 2018.

### **JURISDICTION**

The Illinois Supreme Court issued its decision on September 26, 2018. A copy is attached at appendix B. The decision by the Illinois Appellate Court for the First District and Fourth Division is entered on May 10, 2018. A copy is attached at appendix C. The jurisdiction of this Court is invoked under 28 U.S.C, §1257 (a).

## **CONSTITUTIONAL PROVISIONS**

### **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, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. Amend. V.

### **Fourteenth Amendment**

All persons 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. U.S. Const. Amend. XIV, sec. 1.

**Section 1964 of 28 Title of the U.S. Code**

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct cases therein.

29 U.S.C., § 1964.

**STATEMENT OF THE CASE**

1. Petitioner Lisa J. Gillard was convicted by a bench trial of a battery, 720 ILCS, § 5/12-3(a) (West 1992); A7 ¶ 16. This conviction arose out of a series complaints on mistreatment and discriminatory practices against black minorities and the poor against Northwestern Memorial Hospital, Prentice Hospital, Starbucks Corp., Fresh Market Café and Morrison's, Universal Protection Services, and Premier Security Corp. Petitioner's complaints lead to two civil suits in the Circuit Court of Cook County,

Illinois by petitioner and a malicious criminal conviction by complaining witness at Northwestern Memorial Hospital under the State of Illinois. The U.S. Supreme Court held that "Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every facet necessary to constitute the crime charged." *In re Winship*, 397 U.S. 355 (1970). In lieu of cross-examination testimony and other material fact evidence, there was a lack of evidence to convict. Petitioner appealed the conviction in the Illinois Appellate Court for the First District.

2. The plain language of the battery statute defined the offense in terms of contact that insults or provokes the victim not contact that injures the victim. *People v. Peck*, 260 Ill. App. 3d 812, 814 (1994) (The language of the battery statute clearly provides that a battery can be committed if the accused has contact with the victim "by any means" (720 ILCS, Section 5/12-3(a) (West 1992)). The element of contact of an insulting or provoking nature does not require

proof, for example, that the victim's testimony that the contact was insulting or provoking. *People v. Nichols*, 2012 IL App. (4<sup>th</sup>) 110519. Rather, "a particular physical contact may be deemed insulting or provoking based upon the factual context in which it occurs." *Peck*, 260 Ill. App. 3d at 814 (quoting *People v. d'Avis*, 250 Ill. App. 3d 649 (1993); A7 ¶ 16. The complaining witness testified under oath that "she used both hands and pushed him in the chest causing him to move backwards." A7, ¶ 16; ¶¶19-24, P. 21; ¶¶ 1-24, P. 22; ¶¶ 1-24, P. 23; ¶¶ 1-13, P. 24 (Trial Court Records). This statement was duly documented at least two separate occasions during oral testimony and during cross-examination.

3. Petitioner argued in her petition for a rehearing brief that prosecution failed to produce evidence sufficient to convict defendant *pro se* with a charge of a battery. These accounts in essence show a lack of due process under the Fifth and Fourteenth Amendments of the United States Constitution by the State of Illinois. Further, *People v. Shaw*, 2015 IL

App. (1<sup>st</sup>) 123157, is very instructive as to challenge the application of the weight of evidence in the wrongful and malicious opinion of the Illinois Appellate Court. Determining credibility is — the central issue — on all records. In *Shaw*'s decision, this court found that a surveillance video, as well as police testimony, directly contradicted the victim's testimony, rendering his testimony not *credible* as to a central issue. *Id.*, ¶ 26; (emphasis added). In doing so, the court noted that a trial court does not occupy a position that is superior to the appellate court when evaluating evidence that is not live testimony. *Id.*, ¶ 29 (citing *People v. Rodojcic*, 2013 IL 114197, ¶ 34). The court therefore concluded that a reviewing court will give great deference to the trial court's factual finding, including its credibility assessments, unless the record shows that those findings are against the manifest weight of the evidence. *Id.* ¶ 30; *People v. Shaw*, 2015 IL App. (1<sup>st</sup>) 123157; (emphasis added).

4. On trial court records, at security post 22, Mr. Campbell stated "she pushed me back again and

proceeded over to the Feinberg Pavilion." ¶ 23, P. 25 (Trial Court Records). Further, Campbell noted that defendant touched him again and security officers were present at station 22. ¶¶ 16-24, P. 33 (Trial Court Records). Mr. Campbell then agreed that security officers were sitting there when it happened during cross-examination. ¶¶ 4-12, P. 34 (Trial Court Records). Due to the nature and circumstances on this battery claim, as records reflect a "lawsuit defendant has filed against Northwestern Memorial Hospital alleging discrimination ...," A5 ¶ 11, the State's Attorney's subpoena of other security officers present during accounts of the alleged battery at station post 22 to corroborate oral testimony appeared plausible in light of the given set of facts. The corroboration of such witnesses would affirm the truthfulness of the oral testimony beyond a reasonable doubt. This case has come to a broader proposition; however, in criminal prosecution, every essential element of the offense must be proved beyond a reasonable doubt."

*Apprendi v. New Jersey*, 530 U.S. 466, 477 (2000). Due process, as a result, has an independent meaning in criminal convictions.

5. The Illinois Appellate Court herein confirmed that “defendant argues that the evidence at trial was insufficient to find her guilty of battery because Campbell’s testimony was perjured and that State failed to call other security guards, who were allegedly present when she encountered Campbell at hospital.” A8, ¶ 17. The court to this end affirmed that a reviewing court will give great deference to the trial court’s factual finding, including its credibility assessments, unless the record shows that those findings are against the manifest weight of the evidence. *Id.* ¶ 30. The court further stated that an appellate court “give[s] less deference to a trial court’s determination of fact when they are *based on evidence* other than *live witness testimony*.” *Id.* ¶ 29; (emphasis added). In this present case, the State was “required to prove beyond a reasonable doubt that she [Gillard] knowingly without legal justification, by any means

made *physical contact* with Campbell.” 720 ILCS, Section 5/12-3 (a) (2) (West 2014); *People v. Siguenza-Brito*, 235 Ill. 2d 213, 224 (2009) (State must prove each element of an offense beyond a reasonable doubt); A7, ¶ 14.

6. First, when a conviction is obtained by the presentation of testimony known to the prosecuting authorities to have been perjured, due process is violated. *Mooney v. Holohan*, 294 U.S. 103 (1935). Second, in the criminal context, basic freedom from incarceration and a prisoner’s interest are liberty interests. *Morrissey v. Brewer*, 408 U.S. 471 (1972); *Cleveland Board of Education v. Loudermill* 470 U.S. 7572 (1985) (“the Court separated the issue of whether due process is triggered from the question of how much process is ‘due.’”). Third, a court is to weigh the extent of an individual’s interest in additional procedure as well as its value and cost. *Matthews v. Eldridge* 424 U.S. 319 (1976) (“the Court held a post-termination evidentiary hearing to be sufficient due process in a disability-benefit termination case.”). The

reviewing court was mistakenly misguided on the federal provisions on due process rules in the state of Illinois criminal courts systems on this appeal.

7. Petitioner pointed out in her petition for leave to appeal at the Illinois Supreme Court the same premise of lack of evidence to convict. This prosecutorial misconduct was a violation of her due process and equal rights protections under the Fifth and Fourteenth Amendments of the U.S. Constitutions. Based on the lack of a video surveillance affirming the truthfulness of the testimony by complaining witness Brandon Campbell, coupled by footage from the initial alleged contact a public phone to station 22, there was beyond a reasonable doubt of defendant's guilt. The improbable or unsatisfactory result of a battery is accurate because without video surveillance and corroborating testimony by alleged other security officers present, Mr. Campbell's testimony clearly shows perjury under oath by Northwestern Memorial Hospital. 720 ILCS, Section 5/32-2. The Illinois

Supreme Court denied two petitions for fair and impartial hearing and review on this matter, which violated due process. Due Process Clause could protect substantive rights against state infringement.

*Bus v. Sebelius*, 132 S. Ct. 2566, 2599-2600 (2012).

8. Historically, the United States Supreme Court expanded its jurisdiction by holding the states to a substantive due process standard on reasonableness. *Allgeyer v. Louisiana*, 165 U.S. 578 (1897) (“the Court overturned a Louisiana law requiring all corporations doing business with Louisiana residents to pay fees to the state.”); *Lochner v. New York*, 198 U.S. 45 (1905) (“the Court found a maximum-hour statute unconstitutional.”); *Adair v. U.S.*, 208 U.S. 161 (1908) (“the Court voided a federal law barring dismissals of interstate common carriers worker because they were members of unions.”); *Coppage v. Kansas* 236 U.S. 1 (1915) (“the Court invalidated a state law barring yellow dog contracts.”); *Adkins v. Children’s Hospital*, 261 U.S. 525 (1923) (“the Court struck down the minimum- wage-setting powers of a District of

Columbia employment commission."). The predicating factors — such as individual due process and constitutional rights — on the reasonableness standard are the most compelling interests in this present case. Neither segregation nor privacy rights troll any sense of fundamental justice in the Illinois criminal courts, in which Lisa J. Gillard is a party.

9. The U.S. Supreme Court states, "[a] witness testifying under oath or affirmation violates this statute if she gives false testimony concerning a material matter with the willful intent to provide false testimony, rather than as a result of confusion, mistake, or faulty memory." *United States v. Dunnigan*, 507 U.S. 87, 94 (1993). Under the Illinois perjury statute in this present case, the rule states, as follows, in pertinent part: "Perjury. (a) A person commits perjury when, under oath or affirmation, in a proceeding or in any other matter where by law such oath or affirmation is required, he makes a false statement, material to the issue or point in question, which he does not believe to be true." (720 ILCS,

Section 5/32-2 (West 1992)). The materiality of the false statement, alleging a wrongful, malicious, and illegal charge of a battery, was also established by facts on trial court records within the bench court, appellee's brief by the State's Attorney's office, in the opinion of the Fourth Division by Illinois Appellate Court, and at the Illinois Supreme Court level.

10. First, the United States Supreme Court held that the knowing use of false testimony by a prosecutor in a criminal case violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution, even if the testimony affects only the credibility of the witness and does not directly relate to the innocence or guilt of the defendant. *Napue v. Illinois*, 360 U.S. 264 (1959). Second, under the *Brady* rule, the Supreme Court ruled that suppression by the prosecution of evidence favorable to a defendant who has requested it violates due process. *Brady v. Maryland*, 363 U.S. 83 (1963). Third, in the *Kyles* decision later in 1995, the prosecution failed to turn over evidence related to

multiple witness descriptions of the suspect which were inconsistent with one another, tape recordings and written statements of an informant which were inconsistent, a computer printout of automobile license numbers which indicated the defendant's car was not at the location where the informant had told police it was at the time of the crime, and evidence linking the informant to other crimes. *Kyles v. Whitley*, 514 U.S. 419, 115 S. Ct. 1555, 131 L.Ed.2d 490 (1995).

11. Hence, while reinforcing the *Bagley* holding, which "disavowed any difference between exculpatory and impeachment evidence for *Brady* purposes," the U.S. Supreme Court went further and found that the 14th Amendment places a duty on the prosecutors "to learn of any favorable evidence known to others acting on the government's behalf in the case, including the police." *Kyles v. Whitley*, 514 U.S. 419, 115 S. Ct. 1555, 131 L.Ed.2d 490 (1995); (citing *U.S. v. Bagley*, 473 U.S. 667 (1985)) ("the Court held that prosecution failed to turn over evidence related to

the government's failure to disclose the contacts in discovery did not violate the Due Process Clause. The state was required by due process to disclose evidence that was both favorable to the accused and material to either guilt or punishment, and that impeachment evidence fell within this requirement."). The regulations on a state court's procedural due process standards examine civil rights deprivations by the state governments, particularly in the criminal cases.

12. Petitioner now seeks a writ for certiorari from this Court the one most important question presented in this case.

#### REASONS FOR GRANTING THE PETITION

**THE COURT SHOULD GRANT THE WRIT TO DECIDE WHETHER A STATE COURT MUST APPLY TO DUE PROCESS IN CRIMINAL CONVICTIONS OR WHETHER STATE COURTS MAY USE A BROADER STANDARD IN CRIMINAL CONVICTIONS**

1. The United States Constitution is under attack in the state and federal courts nationwide due to a lack of integrity, due process, equal rights protections, and transparency by the judiciary, particularly for black minorities and the poor. *Smith v. Allright*, 321

U.S. 649 (1944) (“primary elections must be open to voters of all races.”); *Morgan v. Virginia*, 328 U.S. 373 (1946) (“a Virginia law that enforces segregation on interstate buses unconstitutional.”); *Browder v. Gayle*, 142 F. Supp. 707 (M.D. Ala. 1956) (“Bus segregation is unconstitutional under the Equal Protection Clause”); *Schuette v. Coalition to Defend Affirmative Action*, 572 U.S. \_\_\_ (2014) (“the Court questioned whether a state violates the Equal Protection Clause of the Fourteenth Amendment by enshrining a ban on race- and sex-based discrimination on public university admissions in its state constitution.); *Montgomery v. Louisiana*, 577 U.S. \_\_\_(2016) (“the Court held that its previous ruling in *Miller v. Alabama*, 567 U.S. 460 (2012) that a mandatory life sentence without parole should not apply to persons convicted of murder committed as juveniles, should be applied retroactively”); *Hicks v. United States*, 582 U.S. \_\_\_ (2017) (“Whatever one’s view on the propriety of our practice of vacating judgments [is] based on positions of the parties.”).

2. The Fifth Amendment of the U.S Constitution reads, as follows: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. *Bolling v. Sharpe*, 347 U.S. 497 (1954) ("segregated schools in the District of Columbia violate the Due Process Clause of the Fifth Amendment."); *Apteker v. Secretary of State*, 378 U.S. 500 (1964) ("the first case in which the US Supreme Court considered the constitutionality of personal restrictions on the right to travel abroad and passport restrictions as they relate to Fifth Amendment due process rights and First Amendment free speech, freedom of assembly and freedom of association rights.").

3. The central aim of the due process doctrine after all is to assure fair procedure when the government imposes a burden on an individual. The doctrine seeks to prevent arbitrary government, avoid mistaken deprivations, allow persons to know about and respond to charges against them, and promote a sense of the legitimacy of official behavior. *Giglio v. United States*, 405 U.S. 150 (1972) ("the Court held that the prosecution's failure to inform the jury that a witness had been promised not to be prosecuted in exchange for his testimony was a failure to fulfill the duty to present all material evidence to the jury, and constituted a violation of due process, requiring a new trial."); *Carey v. Piphus*, 435 U.S. 247 (1978) ("the Court held that public officials can be held financially liable for violating a student's due process rights under the Fourteenth Amendment."); *Vitek v Jones*, 445 U.S. 480 (1980) ("the Court found that due process must be afforded before an inmate in solitary confinement was transferred from a state prison to state mental hospital, where he would be forced to

undergo behavioral modification. The Court rejected the state's argument that inmates had already lost their liberty, so that transfer from one state institution to another shouldn't trigger a requirement of due process."); *United States v. Windsor*, 570 U.S. 744 (2013) ("the Court held Section 3 of the Defense of Marriage Act, which defines — for federal law purposes — the terms "marriage" and "spouse" to apply only to marriages between one man and one woman, is a deprivation of the equal liberty of the person protected by the Due Process Clause of the Fifth Amendment. The federal government must recognize same-sex marriages that have been approved by the states.").

4. The Fourteenth Amendment of the U.S. Constitution reads, as follows: All persons 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. *Brown v. Board of Education*, 347 U.S. 483 (1954) (“segregated schools in the states are unconstitutional because they violate the Equal Protections Clause of the Fourteenth Amendment.”); *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U.S. 1 (1971) (“the Court held that busing of students to promote racial integration in public schools is constitutional.”); *Batson v. Kentucky*, 476 U.S. 79 (1986) (“the Court held that prosecutors may not use peremptory challenges to dismiss jurors based on their race.”); *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995) (“the Court held that race-based discrimination, including discrimination in favor of minorities (affirmative action), must pass strict scrutiny.”); *Obergefell v. Hodges*, 576 U.S. (2015) (“Fourteenth Amendment requires states to license same-sex marriages and recognize same-sex marriages in all states.”).

5. The Fifth and Fourteenth Amendments of the U.S. Constitution guarantee the fundamental right by the constitutional provisions to all individuals, despite economic disadvantage, faith or criminal history, to exercise his or her civil rights as (a) a citizenship right; (b) a right to redress grievances; and (c) a due process right within all state and federal governments. *Mapp v. Ohio*, 367 U.S. 643 (1901); *Brown v. Board of Education*, 347 U.S. 483 (1954); *Loving v. Virginia*, 388 U.S. 1 (1967); *Roe v. Wade*, 410 U.S. 113 (1973); *Regents of University of California v. Bakke*, 438 U.S. 265 (1978); *Bush v. Gore*, 538 U.S. 98 (2000); *Obergefell v. Hodges*, 576 U.S. (2015). When a conviction is obtained by the presentation of testimony known to the prosecuting authorities to have been perjured, the due process [clause] is violated. *Mooney v. Holohan*, 294 U.S. 103 (1935). The clause cannot be deemed to be satisfied by mere notice and hearing if a State has contrived a *conviction* through a deliberate deception of Court and jury by the presentation of testimony known to be perjured.

Such a contrivance ... is as inconsistent with the rudimentary demands of justice as is the obtaining of the like resulting by intimidation. *Miller v. Pate*, 386 U.S. 1 (1967); *Apprendi v. New Jersey*, 530 U.S. 466, 477 (2000); (emphasis added).

6. The U.S. Supreme Court held that "Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every facet necessary to constitute the crime charged." *In re Winship*, 397 U.S. 355 (1970). In criminal prosecution, every essential element of the offense must be proved beyond a reasonable doubt. *Apprendi v. New Jersey*, 530 U.S. 466, 477 (2000). The U.S. Supreme Court mandates that the Fourteenth Amendment for proof beyond a preponderance of evidence in terminating parental rights. *Santosky*, 102 S. Ct. at 1402. Due process under the Fourteenth Amendment mandates a higher standard before State may permanently terminate parental rights." *Santosky v. Kramer*, 102 S. Ct. 1388 (1982). Due process is the critical question before all of us today.

7. In Illinois, on one hand, Supreme Court of Illinois shows contradictions under state and federal constitutional provisions. *In re Destiny P.* decision, under the Juvenile Court Act of 1987 (Act) (705 ILCS 405/5-101 (3), 5-603 (1) (West 2016), the trial court found these sections, which do not provide jury trials for first-time juvenile offenders charged with first degree murder, violate the equal protections clause of the U.S. Constitution. U.S. Const., amend XIV, sec. 1; Ill. Const. 1970, art 1, sec. 2. The trial court rejected respondent's argument that these sections were unconstitutional on due process grounds. The Illinois Supreme Court affirms the decision. *In re Destiny P.*, 2017 IL 120796.

8. In Illinois, on the other hand, Supreme Court of Illinois states, as follows: "When an Illinois circuit court finds a statute unconstitutional, Illinois Supreme Court Rule 603 (eff. Feb. 6, 2013) gives this court jurisdiction over the appeal. Whether a statute violates the U.S. Constitution is a question of law, which this Court review *de novo*. *People v. Madrigal*,

241 Ill. 2d 463, 366 (2011). Statutes are presumed to be constitutional, and “[t]o overcome this presumption, the party challenging the statute must clearly establish that it violates the constitution.” (Internal quotation marks omitted) *People v. Rizzo*, 2016 IL 118599, ¶ 23.

9. The Due Process Clause requires that the procedures used to determine the guilt or innocence of the defendant comport with “fundamental ideals on fair play and justice.” *In re Oliver*, 333 U.S. 257 (1948) (“Due Process ‘represent(s) a profound attitude of fairness between man and [wo]man, and more particularly between the individual and the government.’”); *Solesbee v. Balkcom*, 335 U.S. 9, 16 (1950) (“Due process is that which comports with the deepest notions of what is fair and right and just.”).

10. The U.S. Supreme Court must decide on whether a state court must apply due process in criminal convictions or whether a state court may use a broader standard for criminal hearings in Illinois, and reverse order with a \$51 million dollars remedy.

CONCLUSION

The petition for a writ of certiorari should be granted.

11-28-2018

Respectfully submitted,

*Amelia*

Activist and Humanitarian

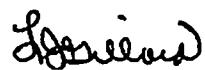
*Counsel of Record, Pro Se  
Attorney for Petitioner*

VERIFICATION

I, LISA J. GILLARD, hereby certify that under the penalty of perjury that the statements in this said document is true and accurate to the best of my ability and knowledge.

11-28-2018

Respectfully submitted,



Activist and Humanitarian

*Counsel of Record, Pro Se  
Attorney for Petitioner*