

FEB 20 2019

OFFICE OF THE CLERK

18-8164  
No.IN THE  
SUPREME COURT OF THE UNITED STATESGeoffrey W. Freeman — PETITIONER  
(Your Name)vs.  
State of Illinois — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Illinois

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

PETITION FOR WRIT OF CERTIORARI

Geoffrey W. Freeman N 48838  
(Your Name)P.O. Box 1000

(Address)

Menard, Illinois 62259

(City, State, Zip Code)

(Phone Number)

ORIGINAL

**QUESTION(S) PRESENTED**

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whether the state of Illinois' void-for-vagueness doctrine is contrary to, and unreasonably applied, when federal due process is alleged by state petitioner's?

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## 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[ ] is unpublished.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[ ] is unpublished.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 1A 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[ ] is unpublished.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[ ] is unpublished.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: \_\_\_\_\_, 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 1-29-19. A copy of that decision appears at Appendix 7.

[ ] A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix 7A.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including 7A (date) on 7A (date) in Application No. —A—.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

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XIV Amend's Due Process Clause

V Amend's Due Process Clause

STATEMENT OF THE CASE

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ON February 26, 1981, Petitioner  
was charged with (3) counts of murder,  
pursuant to Illinois Revised Statutes,  
(1979), ch. 38, pars. 9-1. On  
February 9, 1984, petitioner was convicted  
by Jury Trial of Murder, and on  
March 9, 1984, sentenced to Natural  
Life. On July 1, 1987, the  
entire scheme that petitioner was convicted  
and sentenced under was Repealed,  
and the entire homicide statute changed.  
That on November 25, 2018, Petitioner  
made his Void-For-Vagueness Challenge to the  
pre-84-1950 provisions. On 1-29-19 his  
Petition was denied. Petitioner's appeal,

REASONS FOR GRANTING THE PETITION

The Supreme Court of Illinois' 'void-for-vague' state jurisprudence is inconsistent and absolutely contrary to this Court's holdings in Johnson v. United States, 135 S.Ct. 2551 (2015), and the substantive holdings in Welch v. United States, 136 S.Ct. 1257 (2016), and the re-affirmation of both in Sessions v. Dimaya, No. 15-1498 (Apr. 17, 2018).

The Supreme Court of Illinois' 'void-for-vague' jurisprudence allows that court to declare publicly that a pre-P.A. 84-1450 statute is inconsistent, confusing, and fails to provide guidance as to what burdens of proof apply, while simultaneously denying to those charged and convicted under that same statute any relief under Due Process. Such is made abundantly clear as follows:

## Reasons For Granting The Petition (Cont'd)

- 1.) That on February 26, 1981, Petitions was formally charged with "Murder" under Ill. Rev. Stat. ch. 38, (1979), par. 9-1, No. 81-C-001317-81, Hon. Richard J. Petranca, presiding. (deceased)
- 2.) That on March 9, 1984, Petitions was sentenced to a term of natural life pursuant to the (1979) homicide statute enacted in (1961).
- 3.) That the Supreme Court of Illinois declared the (1979), and more so the (1961) Homicide Statute to be confusing, inconsistent, and unworkable. See: People v. Hoffer, 106 Ill.2d 47 (1985), cf. People v. Wright (1986), 111 Ill.2d 18; People v. Jeffries, 164 Ill.2d 104, 111, 122-123 (Ill. 1995), see also: People v. Newell, 219 Ill. App. 3d 333 (1991).

Reasons for Granting the Petition  
(Cont'd)

- 4.) That the Illinois legislature, in response to the Court's Hoffer and Wright decisions, in the debate on P.A. 84-1450, (Eff. 7-1-87), found that the (1961), pre- 84-1450 enactment required Repeal, and change, due to it being "confusing, inconsistent, and not understood." (Debate Minutes of P.A. 84-1450, ex.)
- 5.) That the homicide statute of (1961) failed to provide guidance on the substantive issue of which party (state or defendant) bears the burden of proving the necessary mitigating factors of Voluntary Manslaughter, cf. Ill. Rev. Stat. (1979), pars. 9-1, 9-2 and Ill. Rev. Stat. (1987), Ch. 38, par. 9-1, 9-2.)
- 6.) That the Homicide statute adopted in (1961) (Ill. Code of Procedure of 1961, eff. on Jan. 1, 1962) was void due to it being vague, incomplete, inconsistent, and confusing from its inception.

Reasons For Granting The Petition  
(Cont'd)

- 7) That the drafters of the Criminal Code of 1961 (homicide Law) recognized the obsolescence of "Malice Afore thought", and in response to such, eliminated any reference to it in the New (1961) homicide Code.
- 8.) Additionally, voluntary Manslaughter was no longer described as A killing without Malice afore thought. (see, Ill. Rev. Stat. Ch. 38; par. 9-2(b)) (1961)
- 9.) That under the (1961) Codification, Voluntary Manslaughter could be proved only if all the "elements" of Murder were proved. Like Murder, voluntary Manslaughter involved an unjustified homicide performed intentionally or knowingly.

## Reasons For Granting The Petition (Cont'd)

10.) That with the elimination of "Malice Aforethought", voluntary manslaughter were no longer inherently different crimes. Instead, they were the same crime, an unjustified killing performed intentionally or knowingly.  
(See: People v. Pappos, 381 Ill. 90, 44 N.E.2d 896 (1942) ("element that distinguishes Murder from manslaughter is Malice"))

11.) That under the (1961) enactment, voluntary manslaughter was no longer a lesser included offense of Murder. Since voluntary manslaughter required more findings than Murder, while composed of identical "elements" of Murder.  
(See: Ill. Rev. Stat. Ch. 38, Par. 2-9 (1985))

## Reasons for Granting The Petition (Cont'd)

12.) That despite this glaring fact, the Supreme Court of Illinois and its judiciary continued to refer to Voluntary Manslaughter as an "included offense" of Murder. For instance, this Court insisted that voluntary manslaughter had a "less culpable" mental state than Murder. Hoffer, 106 Ill.2d 186, 194 (1985). The Supreme Court of Illinois failed to confront the fact that Illinois, by legislative enactment, recognized only four mental states (Ill. Rev. Stat. ch. 38, pars. 4-4, 4-5, 4-6, and 4-7) (1985).

13.) That because of this glaring confusion and inconsistency, the Illinois high court created a new mental state via Sponte, and contrary to Separation of Powers.

## Reasons for Granting the Petition (Cont'd)

14.) That under the (pre-1961) law, a jury considering both Murder and Voluntary Manslaughter would first consider the Murder verdict. If they found the defendant guilty of Murder, it was not necessary to consider the Manslaughter verdict, since Murder included Malice, Manslaughter was not a possibility.

15.) That if the jury found defendant not guilty of Murder, they would then have to decide whether Manslaughter, the lesser-included offense, had been established.

16.) However under the New (1961) Code, this procedure was reversed. Now, a "Not Guilty" on Murder precluded any further inquiry; if the elements of Murder had not been established, then voluntary manslaughter could not exist. Additionally, a finding of "Guilty" of Murder was merely the beginning of the voluntary manslaughter inquiry, for voluntary manslaughter was simply "Murder plus mitigating circumstances."

## Reasons For Granting the Petition (Cont'd)

16.) (Cont'd) Thus, a "not guilty" verdict of Murder a fortiori meant "not guilty" of voluntary manslaughter, while a "guilty" verdict of voluntary manslaughter by definition included a finding of "guilty" of murder.

17.) The (1961) Code failed to provide which side should bear the burden of proving those circumstances and what standard of proof should be applied.

18.) Further, over (20) years after the (1961) Code eliminated the concept of "malice aforethought", Illinois Courts continued to expand that malice was a necessary element of Murder. (See, People v. Barnes, 111 Ill. App. 3d 669, 676 (1st Dist. 1982); People v. Evans, 92 Ill. App. 3d 874, 879 (2d Dist. 1981); People v. Cowen, 68 Ill. App. 3d 437, 441 (1st Dist. 1979); People v. Tiller, 61 Ill. App. 3d 785, 794 (5th Dist. 1978); People v. McCord, 46 Ill. App. 3d 389, 392 (1st Dist. 1972))

## Reasons for Granting the Petition (Cont'd)

19.) Post (21) years after the adoption of the Code in (1961), neither the Appellate Courts of Illinois or high Court could explain precisely why it was wrong for a trial Judge to tell a Jury "If you find defendant guilty of Murder, then you do not consider voluntary manslaughter". People v. Pastorino, 90 Ill App.3d 921, 923, (1st Dist. 1980), rev'd, 91 Ill.2d 178, 188 (1982)

20.) Post (23) years after the adoption of the Code in (1961) the Appellate Courts of Illinois nor high Court had any understanding that an acquittal on Murder based on Second prong of Voluntary Manslaughter on double Jeopardy grounds. People v. Krogstif, 115 Ill App.3d 734 (2d. Dist. 1983)

## Reasons For Granting The Petition (Cont'd)

21.) That (24) Years after the Adoption of the (1961) Code, the Illinois high Court continued to refer to voluntary Manslaughter as a "lesser-included offense" of Murder. See: People v. Pratt, (1970), 46 Ill.2d 99, 102.

22.) Likewise, while ignoring the (1961) Codes insistence that only (4) Culpable Mental States exist in Illinois Criminal Law, the Supreme Court of Illinois, in (1985) insisted that somehow the voluntary Manslaughter homicide statute, included a "unique state of mind" shared by no other offense in the entire Criminal Code, Hoffer, 106 Ill.2d at 194, yet, less than a year later (8 months to be precise), the Illinois high Court, without any reference to Hoffer, declared "the definition of voluntary Manslaughter in our Criminal Code does not contain language distinguishing" it from Murder in regard to the defendant's intention or mental state. People v. Wright, 111 Ill.2d 18, 28 (1986)

Reasons for Granting The Petition  
(Cont'd)

State Void-For-Vague Jurisprudence:

23.) Under Current Illinois law, the expressed Confusion, Ambiguity, Unworkability and inconsistency of the (1961) Criminal Homicide Code rendered it both facially and as applied, unconstitutional.

See: City of Chicago v. Morales,  
177 Ill.2d 440, 448 (1997), AFF'D,  
527 U.S. 41 (1999).

24.) But as clearly applies, & shown here, the (1961) Code (Homicide) is unconstitutionally vague, its terms are indeed indefinite, it compelled Separation of Powers violations, and Judicial Officers of Common Intelligence were compelled to guess at its meaning, and on multiple occasions, differed as to its application, all contrary to this Courts Void-for-Vague Jurisprudence.

Reasons for Denying The Petition  
(Cont'd)

25.) That the confusion as to the (1961) Criminal Homicide Codes meaning, and its differing applications, is clearly demonstrated by the Illinois high Courts findings in Hoffer, supra, Wright, supra, Pastorino, supra, and Pratt, supra.

26.) And because no explicit standards were provided as to "Burden of proof" in the (1961) Homicide statute, such failed to lawfully regulate the discretion of the Judiciary.

The state of Illinois' failure to strike down the Pre-84-1450 Homicide Scheme is contrary to this Courts void-for-vague jurisprudence.

27.) Applying this Courts void-for-vague holdings to petitioner's position, warranted a finding that the pre-84-1450 Homicide statutes were most certainly void-for-being vague, for the following reasons.

## Reasons For Granting The Petition (Cont'd)

28.) This Court, as recently as (2018), has made it clear that, "All laws ought to be expressed in such a manner as that its meaning may be unambiguous, and in such language as may be readily understood by those upon whom it is to operate". Sessions v. Demaya, 584 U.S. (2018) No. 15-1498, citing: McCull v. Mayor and Alderman of Jersey City, 39 N.J. L. 38, 42 (1876)

29.) Further evidence that 84-1450's predecessor statutes were contrary to this Courts void-for-vagueness holdings is, it was left to judges to decide the various requirements, penalties and burden of proof standards, in the pre- 84-1450 provisions, evidencing a complete abdication by the Illinois legislature to exercise its responsibility for setting the standard of criminal law. See: Smith v. Logue, 415 U.S. 566, 575 (1974) / Jordan v. DeGeorge, 341 U.S. 223, 242 (1951).

Reasons For Granting The Petition  
(Cont'd)

30.) Specifically stated, the (1961) homicide Code transferred legislative power to Judges and prosecutors, leaving them the job of shaping a vague Statutes contours through their enforcement decisions. Sessions v. Dimaya, 584 U.S. (2018), op. at page (8) (Gorsuch, J.) citing. Grayned v. City of Rockford, 488 U.S. 104-108, 189 (1972)

31.) This Court re-affirmed its stance that, due process protections against vague laws, are not to be avoided by the simple label a state chooses to fasten upon its conduct or its Statute. G. Accio v. Pennsylvania, 382 U.S. 399, 402 (1966)

## Reasons For Granting The Petition (Cont'd)

32.) Associate Justice Gorsuch observed recently that:

"The implausible fact is that, this isn't your every day ambiguous statute. It leaves the people to guess about what the law demands - and left judges to make it up. You cannot discern answers to any of the questions this law begets, by resorting to the traditional canons of statutory interpretation.

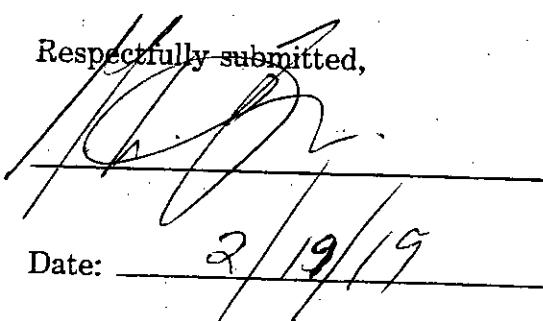
No amount of spring at the statute text, structure, or history will yield a clue. Nor does the statute call for the application of some pre-existing body of law, familiar to the judicial power. The statute does not even ask for application of common experience. Choice, pure and raw is required. Will not judgement dictate the result".

Dimaya, No. 15-1498, op. at 17 (Gorsuch, J.)

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H. J. B.", is written over a horizontal line. Below this line, the date is written.

Date: 2/19/19

(20)