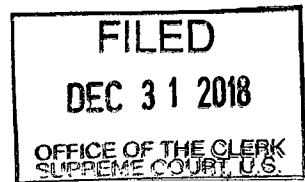


ORIGINAL

No. 18-9135



IN THE
SUPREME COURT OF THE UNITED STATES

Joseph Clifford MALCOMB — PETITIONER
(Your Name)

vs.

BEAVER COUNTY COURTS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Joseph Clifford MALCOMB BW3347
(Your Name)

10745 Rte 18
(Address)

ALBION, PA. 16475
(City, State, Zip Code)

NONE
(Phone Number)

Question(s) Presented

1) Was the Petitioner entitled to a sentence Modification / Reduction of (10) years when the (O.G.S.) offense gravity score was changed from Felony (1) to a Felony (2) by the United States Legislature and Beaver County Courts?

ANSWER: YES, (Appendix- I).

2) Was the Petitioner denied Due Process of Law under the 14th amendment, by the Beaver County Courts for their failure to review these very relevant facts in Appendix-I in numerous appeals filed by the Petitioner, yet, continued to deny the Petitioner any relief, and violated the Petitioner's well established liberty interest rights?

ANSWER: YES,

3) The Petitioner has been incarcerated and detained Unlawfully and Unconstitutionally, several times after 12-11-2001, on this Beaver County Sentence at case docket Cr. 2375 of 1991, in error of rule of law?

ANSWER: YES,

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☐ is unpublished.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 A to the petition and is

- ☒ reported at 98 WAL 2018; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the SUPERIOR court appears at Appendix C to the petition and is

- ☒ reported at 809 WDA 2018; 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 10-3-2018.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 10-3-2018, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

Statement of the Case

On or about June 19th 1991, the petitioner committed the crime of burglary (18 Pa. C.S. 3502-A) of the Sterling Fox Bar and Grill located in Beaver County, Center Township, Monaca Pennsylvania. The petitioner was not arrested for this crime until December 11th 1991.

The petitioner was unable to post bond and remained incarcerated in the Beaver County Jail. The petitioner was represented by the Beaver County Public Defender's Office for all proceedings before the Court.

The petitioner stopped the Jury trial in May 1992 because of ineffective counsel and agreed to accept the open ended plea agreement of (26) months, a month later the petitioner came before the Court to be sentenced by Judge Kunselman who declared at sentencing, that I would receive the maximum allowed by law for a Felony (1) burglary (240) months. So the over-all sentence was (26) Months to (240) Months.

The petitioner was re-incarcerated for the first parole violation in^h January 1999 and was sent to S.C.I. Cresson. While in the law-library an inmate asked me about my case and the research I was doing, so I explained my case and he assured me that the Statute for my particular Burglary (18 Pa. C.S. 3502-A), had been changed by the legislator (Appendix- H) for the Burglary of an Unoccupied structure not made for overnight accommodations, were no persons are present, the petitioner immediately filed a timely appeal (P.C.R.A.) based on this "Newly Discovered" information.

The petitioner filed numerous Pro Se appeals in 2009, 2010, 2011, and 2012, and filed a Pro Se lawsuit in 2012, for several violations of my Constitutional rights, due process rights and liberty interest rights being violated. The petitioner tried to obtain counsel after release from prison in 2013, which did not work out.

The petitioner continued to try to fight for my rights Pro Se until 2014, until I gave up, because I do not know the law, I could not find help and because I could not have worded anything anymore clearly before the Third Circuit Court of Appeals, supported with Certified Record and case-law, yet they continued to deny everything I filed in my own behalf.

The petitioner returned to prison again in 2016 for a parole violation and new criminal charges, and filed the present Motions in this case in Beaver County for modification of sentence Nunc Pro Tunc, filed a timely appeal to Superior Court and the Pennsylvania Supreme Court, because I am serving a sentence (27) years after sentencing, clearly beyond the lawful maximum allowed by law for a Felony (1) burglary, of not more than (240) months that should have expired on 12-11-2011, and should have been reduced to (10) years by legislative decision. (see Appendix- H).

The petitioner Humbly requests review by this Honorable Court of the facts set forth herein that clearly shows prejudice, bias and due process violations. It clearly shows that the petitioner is being illegally and unconstitutionally detained at this time in violation of the petitioner's well established liberty interest rights.

REASONS FOR GRANTING THE PETITION

A) The petitioner has suffered severe cruel and unusual punishment for years, as a direct result of the (O.G.S.) offense gravity score being changed between 1999 and 2009, (see Appendix- I), without the petitioner's sentence being changed in accordance with law.

B) This acknowledgement of this (O.G.S.) change, would have changed the petitioner's maximum date of sentence from 12-11-2011 to 12-11-2001, by more than (10) years, the Beaver County Courts have denied the petitioner's 14th amendment rights, and due process of law.(see Appendix- F).

C) The various Appeals that have been being filed by the petitioner in the Beaver County Courts over the years, have been ignored by the Beaver County Courts, showing prejudice, bias and ill will by the Beaver County Courts against the petitioner. Each of these Appeals that were filed were supported with numerous documents from the Certified Record in support for relief, yet were denied within days of being filed, without a hearing or consideration of the ramification of the severe injury of the petitioner's liberty interest rights since 2001.

D) This Appeal should be Granted because error of law has clearly occurred in this case. Petitioner is but a layman of the law, without the funds to afford competent counsel to represent the petitioner on Appeal, and this error has caused liberty interest rights violations for (17) years.

E) Although the petitioner has tried for years to correct this undisputable recognizable error that is supported by the Certified Record, the petitioners remains incarcerated unconstitutionally on case Cr. 2375 of 1991 of Beaver County at this time and humbly requests review.

CONCLUSION

Wherefore, based on the aforesaid information set forth herein, and documents from the Certified Record of Beaver County Courts for case Cr. 2375 of 1991, The petition for Writ of Certiorari should be Granted.

The Petitioner Humbly Prays that this Honorable Court will review the issues raised by the Pro Se Petitioner concerning the error of law, that has prejudiced the petitioner the last (17) years. In The Best Interest of a Fair Administration of Justice, The Petitioner Humbly Prays For Relief.

Date: April 4th 2019

CC: File J.C.M.

District Attorney

Solicitor General

Respectfully Submitted,

Joseph C. Malcomb

Joseph C. Malcomb (Pro Se)