

1 No. 9-5424

IN THE
SUPREME COURT OF THE UNITED STATES

TERRY SULLIVAN, *Petitioner*,

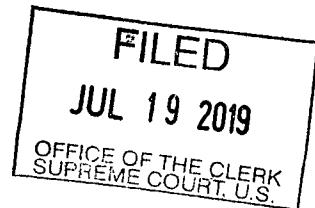
v.

CITY OF MISSOULA, *Respondent*.

ORIGINIAL

ON PETITION FOR A WRIT OF CERTIORARI
TO THE MONTANA SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI



TERRY SULLIVAN
Pro Se

4908 Rattlesnake Drive
Missoula, Montana 59802
Telephone: (406) 721-4106

QUESTION PRESENTED

Does Petitioner's conviction for disorderly conduct by allegedly uttering the word "effing" violate the First and Fourteenth Amendments.

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Petitioner respectfully petitions that a writ of certiorari issue to review the judgment below.

OPINION BELOW

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is unpublished.

JURISDICTION

The date on which the highest state court decided the case was April 23, 2019. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISION INVOLVED

The Fourteenth Amendment to the United States Constitution states "...nor shall any State deprive any person of life, liberty, or property, without due process of law."

STATEMENT OF THE CASE

For purposes of the constitutional guaranty of freedom of expression, a state court conviction for disorderly conduct by means of allegedly uttering the word "effing" within the hearing of another man rests solely upon "speech," the only "conduct" which the state punished being the fact of communication. A state lacks power to punish a person for uttering the word "effing; such a person cannot, consistently with the First and Fourteenth Amendments, be punished for uttering the word "effing." A conviction resting squarely upon a person's exercise of the freedom of speech protected from arbitrary governmental interference by the Constitution cannot stand. A state may not, consistently with the First and Fourteenth Amendments, make the utterance of the word "effing" a criminal offense or prohibit utterance of the word "effing." Expression must be erotic in some significant way in order to fall within the state's power to prohibit obscene expression. It cannot plausibly be maintained that the word "effing" uttered in a private verbal argument between two men would conjure up such psychic stimulation in the other man.

The state applied numerous conflicting procedural bars and rules to prevent Petitioner from obtaining relief from the wrongful charge and conviction, in violation of the Fourteenth Amendment due-process requirements. The mechanistic application of said rules defeated the ends of justice.

Petitioner was severely adversely impacted by having his Constitutional rights violated without legal recourse. This petition follows.

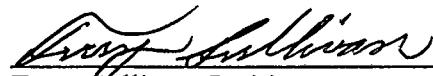
REASONS FOR GRANTING THE PETITION

This Court should grant certiorari because: 1) the issue it presents is of great constitutional significance; 2) the conviction conflicts with this Court's precedential decisions prohibiting convictions for utterance of a word such as "effing;" and 3) the conviction and denial of Due Process create a new threat to the Free Speech and Due Process Clauses.

CONCLUSION

For the above and foregoing reasons, Petitioner respectfully requests the issuance of a writ of certiorari to the Montana Supreme Court. This Court should grant the petition and reverse the court below.

Respectfully submitted,



Terry Sullivan, Petitioner

Date: July 10, 2019