

No. _____

19-5590

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

" LEVAR LEE SPENCE "

(Your Name)

vs.

THOMAS L. MCGINLEY, ET AL.

— PETITIONER

FILED

JUL 30 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

" LEVAR LEE SPENCE [ML-6447] "

(Your Name)

SCI-COAL TOWNSHIP, 1 Kelley Drive

(Address)

Coal Township, Pennsylvania [17866]

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Was your petitioner, being without any assistance of an attorney, denied due process and equal protection of the law when the federal courts refused (mandatory) de novo review?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

THOMAS L. MCGINLEY, SUPERINTENDENT

DAVID: W. SUNDAY, DISTRICT ATTORNEY

JOSH SHAPIRO, ATTORNEY GENERAL

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APPENDIX B	District Court Opinion (December 18, 2018)
APPENDIX C	U.S.C.A. REHEARING DECISION (May 30, 2019)
APPENDIX D	District Court Magistrate's Report (February 14, 2017)
APPENDIX E	Objections to the Report (February 21, 2017)
APPENDIX F	State Supreme Court Opinion (January 3, 2018)

See also Supplemental Appendices 1-10(A):

1. HABEAS CORPUS and application receipt (2-2-17)
2. TRANSFER ORDER (3-6-17)
3. STAY ORDER (5-22-17)
4. SHOW CAUSE ORDER (4-19-18)
5. RESPONDENT'S RETURN (7-9-18)
6. PETITIONER'S REBUTTAL (7-25-18)
7. SUPPLEMENTAL MEMORANDUM (7-31-18)
8. Letter in response of dispositive order (4-26-19)
9. Supplemental Detailed petition for writ of certiorari (6-22-19)
10. Notarized Affidavits 10(A). Civil Complaint

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

HAINES V. KERNER, 404 U.S. 519 (1972)

CONE V. BELL, 556 U.S. 449 (2009)

CULLEN V. PINHOLSTER, 563 U.S. 170 (2011)

TIMBS V. INDIANA, 586 U.S. ____ (2019)

STATUTES AND RULES

28 U.S.C. 2254(d): An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim —

28 U.S.C. 636(b)(1)(B): Notwithstanding any provision of law to the contrary.... Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination...

OTHER

See Addendum.

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 A 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 B to the petition and is

☒ reported at 2018 U.S. Dist. LEXIS 212280, 17-CV-0881; 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 _____ 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 April 24, 2019.

☐ 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: May 30, 2019, and a copy of the order denying rehearing appears at Appendix C.

☐ 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 _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

See Addendum please.

STATEMENT OF THE CASE

In this case, there is no production of trial transcript with which the previous courts could have had made a lawful judgment.

There is no answer to the allegations of the petitions, under federal habeas rule, by the respondent parties in any prior proceeding whatsoever.

Also, there is no adjudication on the merits by any person, party, court, justice, or judge whatsoever, and no facts are in dispute.

However, your petitioner was denied habeas corpus notwithstanding. See Addendum.

REASONS FOR GRANTING THE PETITION

The federal courts neglected established Federal law regarding claims not adjudicated on the merits, Cullen v Pinholster, 563 U.S. at 186; parties without any assistance of an attorney, see Haines v Kerner, 404 U.S. at 520; and, failure or refusal of respondent in answering on the merits of federal habeas petitions, 28 U.S.C. 2248. Timbs v. Indiana, 586 U.S. — (2019). See Addendum.

The sum of Supreme Court of the United States Rules [10(cas) and 20.4(cas)] should provide the vehicle for making lawful judgment under emergency rule. A writ of habeas corpus is attached hereto. See Addendum.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,
"LEVAR LEE SPENCE"

By: Levar Lee Anthony Spence

Date: July 28, 2019