

19-5808

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
AUG 31 2019
OFFICE OF THE CLERK

Sean M. Donahue

(Your Name)

— PETITIONER

vs.

Commonwealth of Pennsylvania — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Superior of Court of Pennsylvania

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

PETITION FOR WRIT OF CERTIORARI

Sean M. Donahue

(Your Name)

625 Cleveland Street

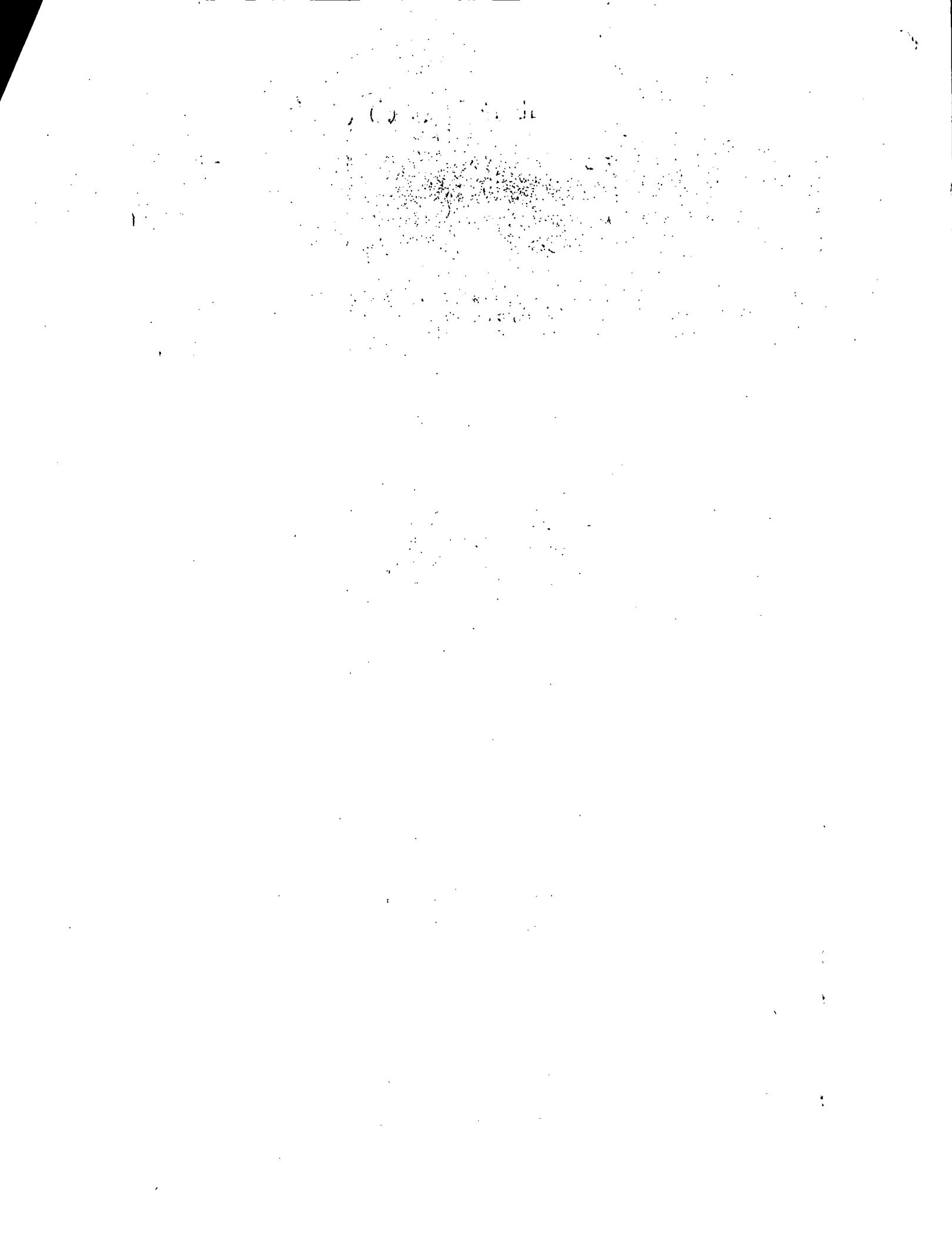
(Address)

Hazleton, PA 18201

(City, State, Zip Code)

570-454-5367

(Phone Number)



QUESTIONS PRESENTED

1. ARE THE ACTIONS DESCRIBED IN THE EMAIL IN QUESTION ARE PROTECTED BY THE US SECOND AMENDMENT?

SUGGESTED ANSWER: YES

2. IS THE LANGUAGE USED IN THE EMAIL IN QUESTION IS PROTECTED BY THE US FIRST AMENDMENT?

SUGGESTED ANSWER: YES

3. IS THE LANGUAGE USED IN THE EMAIL IN QUESTION IS PROTECTED BY THE PENNSYLVANIA LABOR ANTI-INJUNCTION ACT OF JUN. 2, 1937, P.L. 1198, No. 308?

SUGGESTED ANSWER: YES

4. IS THE ARREST AND PROSECUTION APPEALED HEREIN CONSTITUTED RETALIATORY AND SELECTIVE PROSECUTION.

SUGGESTED ANSWER: YES

5. GIVEN THE TOTALITY OF THE CIRCUMSTANCES, IS NEITHER CRIME NOR PROBABLE CAUSE?

SUGGESTED ANSWER: YES

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LIST OF PARTIES

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

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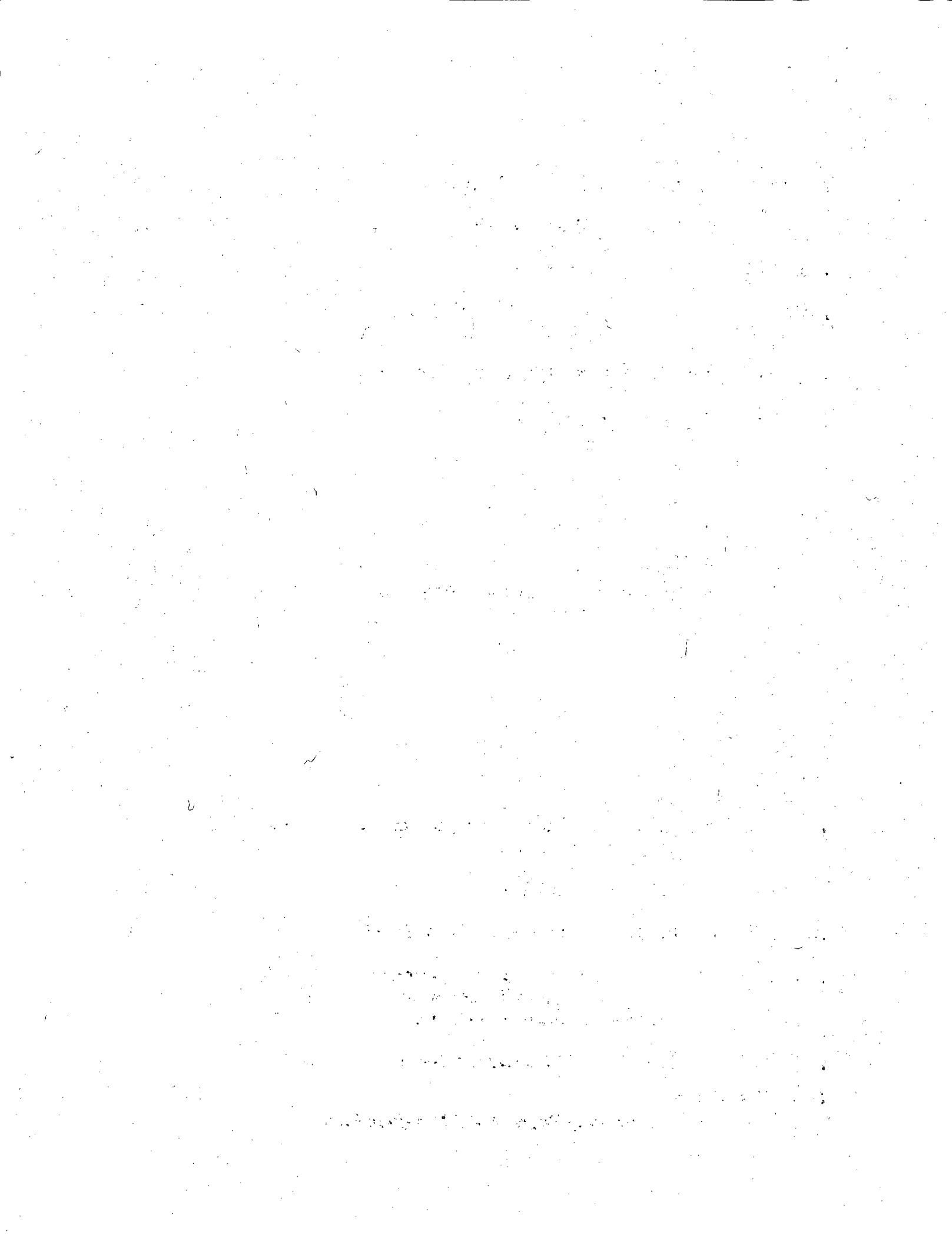
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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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 is unpublished.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.3 to the petition and is

reported at No. 1949 MDA 2017, J-S39039-18; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ **Trial Court** court appears at Appendix A.4 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 April 23, 2019. A copy of that decision appears at Appendix A.2.

A timely petition for rehearing was thereafter denied on the following date: June 5, 2019, and a copy of the order denying rehearing appears at Appendix A.1.

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

"The freedom of speech and of the press which are secured by the First Amendment against abridgment by the United States are among the fundamental personal rights and liberties which are secured to all persons by the Fourteenth Amendment against abridgment by a State.

The safeguarding of these rights to the ends that men may speak as they think on matters vital to them and that falsehoods may be exposed through the processes of education and discussion is essential to free government. Those who won our independence had confidence in the power of free and fearless reasoning and communication of ideas to discover and spread political and economic truth. Noxious doctrines in those fields may be refuted, and their evil averted, by the courageous exercise of the right of free discussion. Abridgment of freedom of speech and of the press, however, impairs those opportunities for public education that are essential to effective exercise of the power of correcting error through the processes of popular government. "

(Thornhill v. Alabama, 310 U.S. 88, 95 (1940))

"A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

(District Of Columbia v. Heller ,554 U. S. 570, 576 (2008))

"...it has always been widely understood that the Second Amendment, like the First and Fourth Amendments, codified a pre-existing right."

(id p592)

"...the right secured in 1689 as a result of the Stuarts' abuses was by the time of the founding understood to be an individual right protecting against both public and private violence." (id 593-4)

"... the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action...." (Brandenburg v. Ohio, 395 U.S. 444, 447-8 (1969))

" the mere abstract teaching . . . of the moral propriety or even moral necessity for a resort to force and violence is not the same as preparing a group for violent action and steeling it to such action." (id p448)

US Sixth Amendment;
Brady v. Maryland, 373 U.S. 83 (1963);
Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009);
234 Pa.R.Crim.P. 573(B)(1)

Pennsylvania LABOR ANTI-INJUNCTION ACT Act of Jun. 2, 1937, P.L. 1198, No. 308

STATEMENT OF THE CASE

The Petitioner was wrongfully and falsely convicted of the Pennsylvania offence of terroristic threats. (18 Pa C.S. §2706(a)(1)) (APPENDICES A.6, A.7, A.8 PDF pp222-224, N.T. P175-176) The allegedly threatening speech was protected speech under the US First Amendment that did not rise to the level of a “true threat”. (APPENDICES A.5, A.7, A.10, A.11; *Perez v. Florida*, 580 U. S. _ (2017), *Justice Sotomayor, Concurring*) Police violated Freedom of Speech (*ibid*, APPENDIX A.5, A.7, B.2 p6, p22, 17 page response to p22), Freedom of Religion (APPENDICES A.5, A.7; B.1 p10, B.2 p6, p22, p4-5 of 17 ¶(6), id p12¶(43), id p15-16 ¶(55); D.8 Hearing Transcript (Hr’g.T.) pp4-7) and attorney client privilege (id pp3-5 ¶¶(1),(2),(3), (6), (7), pp15-16 ¶(55), APPENDICES A.8 PDF pp3-15, N.T. 3-12; C.1,C.2,C.3; D.8 Hr’g.T. pp18-23). The prosecution failed to prove the Petitioner sent the email (id p9¶(16), APPENDICES A.5, A.7, A.8; D.7 Hr’g.T. pp129-130; D.8 Hr’g.T. pp23-25) or that the alleged victim was terrorized (id¶(19), APPENDICES

A.5,A.7,A.8). The warrant was invalid.(id p4¶(5), D.5) There was no intent to threaten a crime of violence, nor was there any such threat. (id p9¶(12), (13), (14), (17); APPENDICES A.10, A.11) The witnesses were tainted and their testimony was poisonous fruit. (id pp3-4 ¶(1),(2),(3), APPENDIX A.8 pp3-15, N.T. 3-12) (*Silverthorne Lumber Co., Inc. v. United States*, 251 U.S. 385 (1920); *Nardone v. United States*, 308 U.S. 338 (1939)) There was no *prima facie* case. (APPENDICES A.5, A.7, A.10, A.11)

The prosecution intercepted and used attorney client privileged communications and Prayer Books (*ante ¶1*) (*Com. v. Smith*, 853 A.2d 1020, Pa. Super. Ct. 2004; *Mapp v. Ohio*, 367 U. S. 643, 655 (1961); *Segura v. United States*, 468 U.S. 796, 804 (1984); *Hudson v. Michigan*, 547 U. S. 586, 591 (2006); *Davis v. United States*, 564 U.S. 229, 236-237 (2011); *Taylor v. Alabama*, 457 U. S. 687, 691 (1982); See 42 U.S.C. §1983; *Monell v. New York City Dept. of Social Servs.*, 436 U. S. 658, 690 (1978); *Kaupp v. Texas*, 538 U.S. 626, 628, 633 (2003)), which were provided to witnesses and the alleged victim to study before trial. (APPENDICES B.1 p11; C.1,C.2,C.3) Police officers, alleged witnesses and the alleged victim repeatedly lied during hearings and trial. (Compare Testimony of DeAndrea at APPENDIX D.5 to D.5 SUPPLEMENTS and to A.8.5 Defendant's Exhibit 2; Compare Testimony of Zipovsky at APPENDIX A.8 to A.8.1 SUPPLEMENT GC_746236; Compare Testimony of Salavantis at APPENDIX A.8 TO A.8.2 SUPPLEMENT and to A.8.3 SUPPLEMENT) Considering the totality of the context, (*Illinois v. Gates*, 462 U.S. 213 (1983); *Utah v. Strieff*, 579 U.S. __ (2016);

Brown v. Illinois, 422 U.S. 590 (1975)) at least five state and federal law enforcement agencies repeatedly confirmed over several years that there was no criminal activity and there were no pending acts of terrorism in the making. (*Gates supra; Strieff supra; Brown supra; Segura supra; Davis supra; Taylor supra; Hudson supra; Monell supra; United States v. Leon, 468 U.S. 897 (1984)*)

All criminal threats must be a "true threat". (*Watts v. United States, 394 U.S. 705, 708 (1969); Virginia v. Black, 538 U.S. 343, 359-360 (2003); Elonis V. US, S.Ct., 575 U. S. (2015); id p16; id THOMAS, J., dissenting, pp1-2, p12.; id ALITO, J. concurring pp1- 2; State Of Connecticut v. Nina C. Baccala (SC 19717), 163 A.3d 1, 326 Conn. 232 (2017); State v. Burkert, 135 A.3d 150 (N.J. Super. App. Div. 2016); Commonwealth v. Pappert, 2570 EDA 2012, (Pa. Superior Ct.), APPENDICES in O; State v. Wooden, Supreme Court Of Missouri, No. SC92846 (2013); State Of Nebraska v. Darren J. Drahota, 280 Neb. 627, 788 N.W.2d 796 (2010); People v Golb, 23 N.Y.3d 455, NY Slip Op 3426; 2014 WL 1883943*) Therefore, the standard for determining a "true threat" must be uniform, narrowly defined and must apply to all threats charges. (*Gooding v. Wilson, 405 U.S. 518 (1972)*)

When charges were filed against the Petitioner, there still existed a Pennsylvania labor dispute exemption statute for criminal acts of harassment (YEAR 2010- 18 Pa C.S. §2709(e), APPENDIX F.1), stalking (YEAR 2010- 18 Pa C.S. §2709.1(e), APPENDIX F.2) and threats to use weapons of mass destruction during labor disputes. (*ibid,ibid, "LABOR ANTI-INJUNCTION ACT" Act of Jun. 2, 1937, P.L. 1198, No. 308, Repealed via Act of Nov. 4, 2015, P.L. 224, No. 59*)

(APPENDICES F.1, F.2, F.5, F.6) Dismissals of criminal charges based on that exemption were previously extended by Pennsylvania trial courts to apply to charges of terroristic threats. (APPENDICES F.3, F.4)

No crime of violence was ever threatened by the Petitioner. (APPENDICES A.5, A.7, A.10, A.11, A.8) The second trial judge, seeing the Petitioner as the victim, rightfully dismissed the case by granting *Habeas Corpus*. (APPENDICES A.10, A.11) The state appealed and one charge of terroristic threats was reinstated, leaving the charge of harassment dismissed. (APPENDIX A.9) The third trial judge wrongfully failed to dismiss the case based on many valid grounds. (APPENDICES A.8; D.5; A.8.5)

The sole piece of evidence that was alleged to be a crime was a single email; Commonwealth Exhibit 5. (APPENDIX A.8.4 CX5) The jury failed to acquit on the grounds that the actions described in that email were clearly and explicitly expressed within the specifically defined and particular context of state sanctioned tyranny (*Heller supra* p598, p600, p613, p668,) and violent police atrocities (*Heller supra* pp593-5; *McDonald v. Chicago*, 561 U. S. 742, 775-76, (2010), p888 n32 *Stevens Dissenting*, p919 *Breyer, J., Dissenting*) having already been carried out as retaliation during a labor dispute. (APPENDICES F.1, F.2, F.3, F.4, F.5) All alleged hypothetical actions in defense of life and liberty against the government and alleged future actions by the sender that were inferred by police would have been protected actions under the US Second Amendment. (*Heller supra*; *McDonald supra*; *Bad Elk v. United States*, 177 U.S. 529, (1900)) The physical and tyrannical

actions by police in the instant case legally justify the very same second amendment actions that police alleged to be a “true threat” of a crime of violence. (*id, id, id*)

The Petitioner was repeatedly victimized by threats of false arrest and tyrannical physical harm by angry police officers who claimed to be under great pressure by government officials to arrest the Petitioner. After years of warnings to stop the daily email campaigns berating government actors, the police finally arrested the Petitioner and brought the daily emails to an end. (*Hartman v. Moore, 547 U.S. 250 (2006); U.S. v. Armstrong, 517 U.S. 456, 458 (1996); United States v. Gutierrez, 990 F.2d 472, 476 (3th Cir. 1993); Nieves v. Bartlett 587 U. S. __ (2019)*)

Chronology of Tyranny and Corruption

In early 2008 Pennsylvania State Troopers confirmed that the Petitioner had not committed a crime by sending emails and that no other criminal activity was occurring. They entered the Petitioner’s home uninvited and without a warrant and threatened him with future physical force and arrest if he continued to send emails to Arlen Specter and Ed Rendell. (APPENDIX G.1 p6) The Petitioner willfully disobeyed them.

On December 4, 2009, a Pennsylvania State Troopers and two Penn State University Police confirmed that the Petitioner had not committed a crime by sending emails and that no other criminal activity was occurring. The trooper said that he was getting increased pressure from the state labor secretary and governor’s office to arrest the Petitioner and that he would eventually find something that he could use to arrest the Petitioner. He threatened the Petitioner with the future use

of lethal force. The Penn State officers did the same thing. One dangled an engraved sniper bullet from a keychain attached to a notebook to threaten the Petitioner. Both Penn State officers failed to arrest Coach Jerry Sandusky who molested children for years but they found time to police emails. (APPENDICES G.1 p5; G.2) One of the two Penn State officers was eventually arrested for entering into a high speed car chase using a police car to chase down his son. (APPENDIX G.2, Part IV)

On November 13, 2012, the Petitioner requested assistance from multiple law enforcement agencies. (APPENDIX H)

On December 1, 2010 state employees invited the Petitioner to an unemployment office for help getting a good job. However, it was a trick in which Elaine Stalfa asked the Petitioner to come into her office, she shut the door and then proceeded to threaten and antagonize the Petitioner into an argument. The Petitioner ultimately filed private criminal charges against her. The charges were approved and the DA refused to withdraw the charges at the request of the PA Department of Labor and Industry. However, the DAs office never showed up to prosecute Stalfa. The state reimbursed Stalfa for attorney fees and both she and the state remained forever resentful and repeatedly retaliated against the Petitioner over the matter. (APPENDICES in G.3)

On January 27, 2011, state labor officials coordinated retaliation against the Petitioner for his having filed criminal charges against Stalfa. (APPENDIX G.4)

On March 3, 2011, USDOL Security Officer (Special Agent) Tom Holman gave an order to cut the Petitioner off from federally funded labor department services. (APPENDIX G.5.1)

On March 9, 2011, Holman confirmed that the Petitioner was not engaged in criminal activity. (APPENDIX G.5.2)

On March 29, 2011 Holman assigned two additional special agents to confirm that the Petitioner was not engaged in criminal activity (APPENDIX G.5.3)

On April 6, 2011, "two federal agents" from the US Labor department, "Agent Walker and Agent McKivigan" confirmed that the Petitioner was not engaged in criminal activity. Both the agents disparaged the Petitioner's military service.

(APPENDICES G.5.3, G.6)

On October 21, 2011, Hazleton Police Officer Wetzel confirmed that the Petitioner was not engaged in criminal activity. (APPENDIX G.7.1)

On November 22, 2011, Wetzel again confirmed that the Petitioner was not engaged in criminal activity. Stalfa called police and lied to them by telling them that the Petitioner was outside the building getting ready to attack it. The responding police officer called the Petitioner's home. The Petitioner answered the phone. (APPENDIX G.7.2)

On December 15, 2011, Hazleton Police Chief Robert Ferdinand confirmed that the Petitioner was not engaged in criminal activity. (APPENDIX G.8)

During this same timeframe, an FBI agent from the Scranton, Pennsylvania office confirmed that the Petitioner was not engaged in criminal activity.

On August 21, 2012, US DOL Special Agent Dale Wilson confirmed that the Petitioner was not engaged in criminal activity. (APPENDIX G.10)

On July 22, 2013, Hazleton Police Officer Zola (the Local Magistrate's Son) confirmed that the Petitioner was not engaged in criminal activity. (APPENDIX G.11)

On July 22, 2013 Lenehan confirms that the armed security guard at the unemployment office (CareerLink) had been given a photo of the Petitioner and orders to shoot and kill him. (APPENDIX G.13)

On July 22, 2013, the state labor department tried to get the state welfare department to preemptively ban the Petitioner from welfare services. (APPENDIX G.14)

On July 22, 2013 Robert Pisko filed a complaint against the Petitioner because he feared the Petitioner would file a criminal complaint against him first. (APPENDIX G.15)

On July 23, 2013, Stalfa began a "grass-roots effort" to instruct subordinate state employees, with whom the Petitioner never interacted, to file false criminal complaints against the Petitioner. (APPENDIX G.12)

On July 24, 2013, Beth Nolasco, with whom the Petitioner never met nor interacted, filed a false complaint about the Petitioner. (APPENDIX G.16)

On August 2, 2013, Danielle Makara, with whom the Petitioner never met nor interacted, filed a false complaint about the Petitioner. (APPENDIX G.17)

On August 20, 2013, Robert Pisko requested permission to file criminal charges against the Petitioner but the state labor department declined his request because it didn't fit their entrapment strategy. (APPENDIX G.18)

This pattern of government harassment continued until the state labor department finally pressured Pennsylvania to convict the Petitioner on threats charges but to what end? The Petitioner is still unemployed and still needs assistance getting a professional job that rewards him for his education and also covers the costs of both living and student loans. Federally funded unemployment offices are still charged with providing those services. (*US Title 38; Public Law 107-288, 107th Congress; Hire Our Heroes Act; Workforce Innovation and Opportunities Act*) No problems were solved and greater problems were created.

On August 21, 2012, the police assaulted and terrorized the Petitioner in a vicious and violent nighttime, silent, blacked out, no knock backdoor raid with a highly armed police Special Operations Group wearing military gear and brandishing fully automatic weapons and C4 explosives. (APPENDIX B.1, APPENDICES in I)

After nightfall and while in his second floor bedroom, the Petitioner heard noises downstairs and called 911. (APPENDIX B.3) Upon discovering that the intruders were police, the Petitioner informed 911. (*id*) The Petitioner passively surrendered and then was handcuffed and patted down twice. (APPENDIX B.4)

After a few minutes went by, the Petitioner was walked backwards by police from the living room area into the kitchen of his parent's home. He was then turned

around by police officer to face an aggressive battlefield style interrogation by four additional officers who pointed loaded submachineguns and pistols at his head and chest. The four officers were formed into a police firing line. The tyrannical and tortuous interrogation that occurred within the sanctity of his own family's home was done with the approval of the local Scranton, Pennsylvania, FBI, the pentagon and Laurie Brown of the CIA's general counsel office.

Police used physical and psychological torture to interrogate the Petitioner under the guise of rooting out domestic terrorism. Some secret federal court granted covert approval of a secret federal warrant that allowed police to act in this manner, perhaps a FISA warrant. The secret warrant has not yet been discovered or released.

This event justifies the Petitioner's use of the US Second Amendment to protect and defend himself, his life and liberty at large from the tyrannical hands of the police officers, the law enforcement institution and institutions and the government(s) at large that attacked him, took him into captivity and tortured him on the night of August 21, 2012; The Night of The Wronging. (*Heller supra*; *McDonald supra*, *Elk supra*)

Tyranny (1)

In 1775, American colonists used lethal force against the British Army, which policed the colonies for the crown. The rebellious use of force against the crown was a just action from which liberty was born. Instead of telling colonists what to do and what not to do, the crown's militarized cops in the colonies should have kept

their mouths shut, did what the private colonists told them to do and not done what the private colonists told them not to do. They disobeyed the private colonists' orders and demands and got exactly what they deserved. (*Heller supra*; *McDonald supra*, *Elk supra*) The armed colonists then codified their esteemed status above that of peasantry. (*See Declaration of Independence, United States of America, July 4, 1776*).

Tyranny (2)

The American peasantry was formally defined as a class and recognized into law by the 14th Amendment of the US Constitution, which thenceforth granted unto the peasants the title of US Citizen. Enforcement statutes such as 42 U.S. §1981 (Public Law:14 Stat. 27–30) (APPENDIX J.3) codified the reduction in liberty status of white American with limited economic means and limited political stature from being individual free Americans to a new subjugated status of servitude as member of the labor class; duel “*citizens of the United States and of the State wherein they reside*”. Thenceforth, whites who were of low or common stature were treated by the law no differently than the law treated the blacks. This reduction in status was a tyranny against which all white men had a God given inalienable right to revolt. (*Heller supra*; *McDonald supra*, *Elk supra*)

Tyranny (3)

In 1897, Luzerne County, Pennsylvania, Deputies ambushed and gunned down white coal miners in Lattimer, Pennsylvania (less than 2 miles to the Petitioner's north). (APPENDIX J.4) The miners marched in a parade calling for

better wages and better work conditions. They were unarmed and did not fire on police. Because American liberty had died in 1865, firing on police was no longer allowed and government officials throughout the US had long since become what the British aristocracy once was. Thereafter, maintaining order and control of the peasantry took priority over protecting individual liberty. Had it instead been the deputies who were ambushed by the miners, the deputies would have been allowed to return fire. The actions of the deputies would have been deemed legal because post rebellion law considers the lives of its beta enforcing lackeys, (the police), to be of much greater value than the lives of the peasants, (the citizens).

The Petitioner avers that the Luzerne County Deputies should have kept their mouths shut, did what the private citizenry told them to do and not done what the private citizenry told them not to do. They disobeyed the private citizenry and should have gotten what they deserved. The private citizenry should have immediately armed itself and launched an aggressive lethal combat counterattack against the police deputies. (*Heller supra; McDonald supra, Elk supra*) However, because the miners were brainwashed and socially conditioned to the subjugation and servitude of working class laborers, they failed to exercise their God given right to counterattack.

Tyranny (4)

In 1934, a Justice of the Peace, county detective and the owner of a brothel, joined by others, fired on election eve parade marchers in Kelayres, Pennsylvania (less than 5 miles to the Petitioner's south). (APPENDIX J.5) The election

marchers did not return fire and likely were not armed. Because liberty had long since died, shooting at police officers who engaged in tyranny and atrocity had become "subrationally unthinkable" to the coal mining Pennsylvanians.

Instead of choosing to live, the peasant families were obedient to the Pennsylvania State Police and state Attorney General Office. The peasants were required by new norms and laws to patiently bleed, die and wait for rescue by those who were authorised to effect combat rescue. Self rescue from tyranny had long since been redefined as resisting arrest. (*Elk supra*) Taking an armed stand against tyranny had long since been redefined as grounds for summary execution.

(*Tennessee v. Davis*, 100 U.S. 257 (1879); See also *Pontifications of Federal and State Law Enforcement Officers on this topic APPENDIX J.1*) Had it instead been the state troopers and Attorney General's deputies who were fired upon, their privilege to initiate a combat counterattack would not have been questioned. Their actions would have been deemed legal because post rebellion law considers their lives to be of far greater value than the lives of the peasants, (the citizens).

The Petitioner avers that the local Justice of the Police, country detective, owner of the brothel and other officials involved in the shooting should have kept their mouths shut, did what the private citizenry told them to do and not done what the private citizenry told them not to do. They disobeyed the private citizenry and should have gotten what they deserved. (*Heller supra*; *Elk supra*; *McDonald supra*) The private citizenry should have immediately armed itself and launched an

aggressive lethal combat counterattack against the public officials (*id,id,id*) but it failed to do so.

In 2012, South African Police ambushed and gunned down striking mine workers in Rustenburg, South Africa (within arms reach of the Petitioner via both online streaming video and the traditional family tv set)¹. South African police forced miners away from the location of their strike and into a different location in which they were corralled by barriers, vehicles, concertina wire and a police firing line. The police officers then ambushed and gunned down the striking miners in smaller and more manageable summary execution groups². The miners armed themselves with knives, machetties and blunt instruments but were ultimately killed. (APPENDIX J.2)³

The Petitioner avers that in applying the American standards of 1775, the South African police officers involved in the shooting should have kept their mouths shut, did what the miners told them to do and not done what the miners told them not to do. They disobeyed the private citizenry and should have gotten what they deserved. (*Heller supra; Elk supra; McDonald supra*) The private citizenry should have immediately armed itself with adequate firepower (guns, grenades, artillery and covert international paramilitary support) and launched an aggressive lethal combat counterattack against the South African police (*id,id,id*) but they failed to

¹<https://www.cnn.com/videos/bestoftv/2012/08/17/ac-south-africa-miner-strike-violence.cnn>

²<https://youtu.be/zA2DVSV1GXs>; <https://youtu.be/XPBMtLE-x4k>

³<https://archive.opengazettes.org.za/archive/ZA/2015/government-gazette-ZA-vol-601-no-38978-dated-2015-07-10.pdf>

do so. In the end, the double standard of criminal culpability for wrongs against police but civil culpability for wrongs by police granted unto surviving families a legal settlement but they were denied their inalienable God given right to counter attack and kill the belligerents who formed the police firing line. (*id,id,id*)

Trained and Experienced to Fight Tyranny (1)

The Petitioner is an honorably discharged US military veteran who served five years in an all volunteer counterterrorist unit (APPENDIX K).

“ ‘Military men belong to a profession, which may be useful, but is often dangerous.’ — ‘The enjoyment of liberty, and even its support and preservation, consists in every man’s being allowed to speak his thoughts, and lay open his sentiments.’ ” (Journal of the Continental Congress, 1904 ed., vol. I, pp.104-114, 110; APPENDIX P)

Tyranny (5)

On July 10, 2017, the Petitioner was convicted of terroristic threats and of sending an email on August 17, 2012 (APPENDICES A.8, A.8.4 CX5, A.8.5; C.2; F.7) that started with;

[Trained and Experienced to Fight Tyranny (2)]

“Dear Luzerne County District Attorney Stephanie Salevantis,

The firing squad used by police in South Africa against mine workers demanding higher pay that reported yesterday by CNN, is exactly the kind of threat that was made against me by Corporal Wetzel if I attempt to use the Hazleton Career Link. He made it very clear to me that he will use police power to prevent me from going to that facility.” (APPENDIX A.8.4 Commonwealth Exhibit 5, ¶1)

The first paragraph of the email clearly and explicitly establishes that the forthcoming message is being communicated within the narrow constraints of the context of a state sanctioned atrocity, similar to those cited above (*ante*). The

entirety of the remainder of the email MUST be read within the context of a citizen interacting with a police department whose officers are guilty of atrocities (*ante*).

"He made it very clear to me that he will use police power to prevent me from going to that facility." (id)

(i.e. *The threat of atrocity.*) (*Heller supra, McDonald supra, Elk supra*)

The email went on to state;

[Trained and Experienced to Fight Tyranny (3)]

"I am getting tired of you ignoring me and am no longer asking you to stop ignoring me. I am now telling you. The idea that law enforcement thinks that it can use force to take away my rights is unacceptable to me. If you do not respond by telling me that you will investigate the matter, I will prepare myself to face off against a police firing line that will be the result of any attempt by me to use an unemployment office." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶2)

The second paragraph clearly and explicitly establishes that the forthcoming message is being communicated within the even tighter constraint of a labor dispute (APPENDICES in F; *ante p6*), during which police officers, by that time, will have already committed an atrocity against the sender as a means of exacting police revenge for his having engaging in the protected activity of going to a federally funded "unemployment office".

"I will prepare myself to face off against a police firing line that will be the result of any attempt by me to use an unemployment office." (id)

(i.e. *The sender expects to be made the victim.*) (*Heller supra, McDonald supra, Elk supra*)

The third paragraph stated;

[Trained and Experienced to Fight Tyranny (4)]

"I will not allow you to let a corporal get away with threatening me with police power. If charges are not brought against Corporal Wetzel, Elaine Stalfa, their security guard, Alan Smith, Lucy Ann Vierling and the employees in Harrisburg responsible for illegally denying me access to my rights, I WILL Re-SECURE MY RIGHTS in my capacity as a citizen soldier at large. Because you have allowed a law enforcement officer to wrongfully threaten me with the wrongful use of force and false arrest, despite my not having committed a crime, I must anticipate that the corporal and the Hazleton Career Link Staff will follow through on their threat to use force to prevent me from accessing an unemployment office and to prevent me from making them do their jobs. I will prepare myself to defend myself against these threats and police reinforcements." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶3)

The third paragraph clearly states that the sender will not stand by and allow law enforcement and other state actors to violate his inalienable fundamental right to liberty, nor his substantive right to use an unemployment office. (*Heller supra*, *McDonald supra*, *Elk supra*) The sender clearly states that police and other state actors abused their official powers by threatening to shoot him and threatening to inflict other forms of physical harm. The sender demands that the police and other state actors be criminally charged and arrested. The sender clearly anticipated that state actors will make good on their threats by physically attacking him, shooting him and killing him if he attempts to use an unemployment office.

It is indisputably clear that the sender is explicitly limiting the context of the forthcoming message to an even tighter constraint. The sender is communicating within a very narrowly defined and particular circumstance in which police officers and other state actors would have already made good on their threats to physically harm the sender. Within this clearly defined context, the police and state actors in question would have already committed violent atrocities that would constitute both

crimes against the sender and would also have been acts of state sanctioned tyranny. This tyranny is precisely the type of event for which the fathers of our land codified God's Second Amendment into the US Constitution.

"In interpreting [the second amendment], we are guided by the principle that "[t]he Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary as distinguished from technical meaning...,[which] excludes secret or technical meanings that would not have been known to ordinary citizens in the founding generation." (Heller at 576-7)

"[T]he Second Amendment implicitly recognizes the pre-existence of the right and declares only that it "shall not be infringed."... "[t]his is not a right granted by the Constitution. Neither is it in any manner dependent upon that instrument for its existence. The second amendment declares that it shall not be infringed . . ." (Heller at 592)

Paragraph three clearly and explicitly states that despite the sender's never having committed a crime, and despite the police having already repeatedly communicated to the sender their conclusions that he hadn't ever committed a crime, the police still continuously threatened him with the use of police violence.

Paragraph three specifically states that police officers threatened to commit an atrocity against the sender by shooting and killing him if they were ever presented with an opportunity to do so. Threats of police violence are "true threats" (*Gooding supra, Elonis supra, Commonwealth v. Knox, 190 A.3d 1146 (Pa. 2018), Heller supra, McDonald supra, Elk supra*).

"...Americans understood the 'right of self-preservation' as permitting a citizen to 'repe[l] force by force' when 'the intervention of society in his behalf, may be too late to prevent an injury'..." (Heller 594-5)

Paragraph three further states that police threatened they would get away with committing an atrocity because they are the police. They would lie and say

that the sender had committed a crime that justified shooting him. Paragraph three states the sender's belief that the police would do this even though they knew full well that the sender had not committed a crime. Paragraph three must be read in the context of the police, state and federal labor department actors intending to orchestrate an event that they could use as an excuse to physically harm and kill the sender. (*Heller supra*, *McDonald supra*, *Elk supra*)

"...despite my not having committed a crime, I must anticipate that the corporal and the Hazleton Career Link Staff will follow through on their threat to use force to prevent me from accessing an unemployment office and to prevent me from making them do their jobs." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶3)

(*Hartman supra*; *Armstrong supra*; *Gutierrez supra*; *Bartlett supra*)

The fourth paragraph stated;

[Trained and Experienced to Fight Tyranny (5)]

"As it stands now, the only people trying to avoid going into a courtroom over this matter are the Hazleton Police Department, the Hazleton Career Link Workers, the PA Department of Labor and Industry, the US DOL, the L/S WIB and you, the DA. The very person who is supposed to intervene and see to it that societies troubles are brought before a jury and judge. Now, your allowing an officer and Career Link workers to use threats of wrongful use of force as a means of taking my rights away triggers the use of the US Second Amendment and Section 13 of the PA Constitution. I consider you to be an illegal oppressive force that has repeatedly threatened the use of both false arrest and physical police force to prevent me from using the Hazleton Career Link and to prevent me from making the Career Link Workers, the Workforce Investment Board Workers and the PA L&I workers do their jobs. I have exhausted all possible peaceful means to resolve this problem and my every attempt has been repeatedly ignored." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶4)

Paragraph four clearly and explicitly states that the sender wants to take his PREVIOUSLY EXISTING disagreements with the labor department and the police

into a courtroom. The paragraph also states that rather than allow the antecedent issues to get before a judge, the police and other state actors are threatening the sender with the unlawful use of lethal force and are planning to entrap the sender into escalating confrontations that they intend to initiate so that the resulting confrontation that goes before the court, rather than the antecedent cause and matters being complained of by the sender. (*Heller supra, McDonald supra, Elk supra*)

The fourth paragraph also states that the chief county law enforcement officer, the local District Attorney, is supposed to be taking up the reigns and intervening to protect the fundamental rights of the sender. The email complains that it is precisely because the local DA ignored the sender and refused to intervene on his behalf that the local police and labor department officials became so emboldened as to become absolutely certain that they could successfully entrap the sender into an escalating event and then use that event to get away with violently beating him, shooting him and killing him. (*Heller supra, McDonald supra, Elk supra*) Paragraph four must be read within the narrow context of labor department workers and police having already begun conspiring to find or manufacture an excuse to violently and viciously attack, physically harm, shoot and kill the sender. The sender is clearly seeking higher police protection from an already existing "true threat". (*Gooding supra*)

"Now, your allowing an officer and Career Link workers to use threats of wrongful use of force as a means of taking my rights away triggers the use of the US Second Amendment and Section 13 of the PA Constitution." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶4)

Paragraph five states;

[Tyranny (6)]

"When asked by Judge Zola on February 2, 2011, is anyone preventing me from using the Career Link, Elaine Stalfa and Alan Smith testified, under oath; "No". Judge Zola said that because I did not attempt to physically go there, I cannot claim that I am being physically kept out of the facility and he further claimed that I misinterpreted the situation. However, I did not misinterpret the situation, Elaine Stalfa and Herbert Alan Smith lied under oath. In so doing, they perjured themselves. The entire hearing took place in front of three Hazleton Police Officers who heard the entire thing. After the hearing was over, I was told by Career Link workers that I had pissed people off and that they were told by their boss, Stalfa and Vierling, that they would be fired if they assisted me in any way in gaining employment. A separate workforce counselor in Philadelphia was told the same thing. Anyone caught assisting me will be fired. (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶5)

Paragraph five of the email clearly states that the sender attempted to raise the antecedent matters in court but that the local magistrate would not allow him to do so. The magistrate instead instructed the sender that he must first physically go to the unemployment office and attempt to get services, that the state actors and police must then use physical force to attack and harm the sender and that once those events occur, the sender would have standing in court on the antecedent matters. (*Heller supra, McDonald supra, Elk supra*)

The sender is clearly complaining to the DA, the chief local law enforcement officer, about the conspiracy that was unfolding against him. Paragraph five must be read within the narrow context of the email explicitly accusing government officials and a magistrate of criminal conspiracy to attempt to manipulate the

sender into a situation that police and state actors can intentionally escalate into an excuse to physically assault and kill the sender. (*18 U.S. Code § 373 (a)*) (*Gooding supra*)

"Judge Zola said that because I did not attempt to physically go there, I cannot claim that I am being physically kept out of the facility..."
(APPENDIX A.8.4, Commonwealth Exhibit 5, ¶5)
Paragraph six states;

[Tyranny (7)]

"I was told by Career Link workers that they were backed by the FEDS. I then applied to the Federal DOL to test this theory and was offered a job in Washington that I cannot afford to take. I have been told by a trooper that specific people in government have it in for me and that is all there is to it. I can do nothing other than leave Pennsylvania. I have been told by Career Link Workers several times that I am to be barred from employment in our county and that I must leave and start a new life elsewhere. (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶6)

The sender is clearly complaining that law enforcement officers, "trooper[s]", local police and state labor department actors have told him on numerous occasions that he must leave town; His town; His birthplace; The place these people came to when they took take state labor department and law enforcement jobs and disfranchised the local population, including the sender, from those employment opportunities. Paragraph six must be read within the narrow context of police and government officials having already criminally abused their official powers.

(Brandenberg supra, Thornhill supra, Gooding supra)

"I have been told by a trooper that specific people in government have it in for me and that is all there is to it. I can do nothing other than leave Pennsylvania." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶6)

The seventh paragraph states;

[Trained and Experienced to Fight Tyranny (6)]

"I I fought to get something in writing but the Erica Koub, of Corbett's office, refused to provide any documentation and just insisted that an executive Pennsylvania Decision had been made to deny me access to services. Yudichack's office secured a letter from PA L&I GC who stated the denial of access to federally funded Career Link services is in retaliation for having filed charges against Elaine Stalfa and for contacting the Secretary of L&I, which she feels is not my place to do." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶7)

Paragraph seven clearly states that the sender filed charges against a state labor department actor, Stalfa, and that he complained directly to the Secretary of the state labor department "L&I" (Labor and Industry). Paragraph seven must be read within the narrow context of police and labor department officials having already retaliated against the sender by conspiring to abuse their powers to deny him access to and services from the federally funded but state run unemployment office. (*Hartman supra; Armstrong supra; Gutierrez supra; Bartlett supra*)

"... a letter from PA L&I GC who stated the denial of access to federally funded Career Link services is in retaliation for having filed charges against Elaine Stalfa and for contacting the Secretary of L&I,..." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶7)

Paragraph eight states;

[Trained and Experienced to Fight Tyranny (7)]

"This is ILLEGAL. This is Harassment. This is Official Oppression. This complaint is falling on deaf ears. Therefore, I will ring the bell that is heard around the world and your summary denial of my rights will be physically challenged. I will not stand there and die at the hands of a corporal or any other officers in a firing line intended to keep me from using my rights." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶8)

The sender is explicitly stating that when they attack him, he will not just lie there and die. (*Heller supra, McDonald supra, Elk supra*) The sender is explicitly stating that the ultimate end result of state labor department actors and Hazleton police officers attacking him, shooting him and killing, within the context of a labor dispute, will be widespread global media coverage; “..the bell that is heard around the world...”. The sender refuses to stand there, be beaten, get shot and die.

Instead, if he is physically attacked by police and state labor department workers, he will fight back. The sender is explicitly stating that within the “totality of the context” of state sanctioned acts of tyranny and atrocity during a labor dispute, the Second Amendment of the US Constitution guarantees his INALIENABLE RIGHT to fight back, to arm himself and to return gunfire. (*Heller supra, McDonald supra, Elk supra*) The sender is clearly describing himself as the defender of liberty circa 1775 American colonial values and he is applying those colonial values within the narrow context of tyrannical atrocities having already been carried out by police and state actors as a means of retaliation during a labor dispute. Paragraph eight must be read within the narrow context of police officers having already begun to physically assault, shoot and kill the sender. (*id, id, id*)

“I will not stand there and die at the hands of a corporal or any other officers in a firing line intended to keep me from using my rights.”
(APPENDIX A.8.4, Commonwealth Exhibit 5, ¶8)

Paragraph nine is one line that states;

[Trained and Experienced to Fight Tyranny (8)]

“ ‘Give me Liberty or Give me Death’ but not necessarily my own!”(id ¶9)

The sender is repeating, verbatim, the words of Patric Henry, March 23, 1775.⁴ The Petitioner recited those same lines in his second grade school play, Monsignor Molino Elementary School⁵⁶ (1976), the year of the American Bicentennial. The sender harmonized the words of Patrick Henry with those of GEneral George Patton;

[Trained and Experienced to Fight Tyranny (9)]

"No dumb bastard ever won a war by going out and dying for his country. He won it by making some other dumb bastard die for his country."

Paragraph nine must be read within the narrowly defined context (*Gooding supra*) that it is long settled that our nation accepts and incorporated Patrick Henry's message into the US Constitution, such that when the beta enforcing lackeys of the reigning government use tyrannical force to control the citizenry, the citizenry has an inalienable right, and a duty, to arm itself and fight back by launching a lethal counterattack, circa 1775. Patton's alleged comments clearly embodied Henry's values. Henry's values are our values and our values are both constitution and law. (*Heller supra, McDonald supra, Elk supra*)

Paragraph ten states;

[Trained and Experienced to Fight Tyranny (10)]

⁴ <https://www.history.org/almanack/life/politics/giveme.cfm>

⁵ Monsignor Molino Elementary School, 224 East 4th Street, Hazleton, Pennsylvania, now taken over by hispanic immigrants and called the Hazleton Integration Project, it is a source of local racial strife funded by US tax dollars that are made available by jewish lobbyists and public officials who hate white people.

⁶ The 1976 school play was held at the Bishop Hafey High School 9th Grade Annex, now Our Lady of Grace Center at 300 W13th Street Hazleton, Pennsylvania).

"You have until COB Monday Morning to assure me that I will be given access to services, that the Career Link will do its job, that charges will be filed against Corporal Wetzel, Elaine Stalfa, Alan Smith, the Career Link Security guard and both Frank DeAndrea and Rbert Ferdinand. You have denied me access to democracy. You have denied me access to the services available through the executive branch of government, the legislature has denied me access to relief through the legislative branch of government and the judicial branch of government has denied me access to relief through its channels. You are conspiring to create a circumstance that enables you to get me on something.. The Magistrate says that I must actually physically go to the Career Link and the corporal and Career Link staff say that I will be arrested for something if I attempt to do so. You then ignore my every e-mail complaint to resolve the matter peacefully and you do so just so that you can put me into a position that forces me to be the physical aggressor and approach a police station or a government office. That is why you won't act on an e-mail. You are trying to set me up and the magistrate is assisting. It is a coordinated conspiracy and Judge Zola is part of it. You are trying to trap me just like you try to trap drug dealers and other criminals. In doing so, you are harassing me."

(APPENDIX A.8.4, Commonwealth Exhibit 5, ¶10)

In paragraph ten, the sender puts a deadline on the government's remaining time to act on his complaint, otherwise he will go over the local DAs head and complain to the next level.⁷ He explicitly demands that state actors and police officers be charged with crimes. He complains that their threatening him constitutes a denial of his "access to democracy". He complains that each of the

⁷ The email's date was August 17, 2012. All electronic and hard copies An August 19, 2012 letter addressed to the Luzerne County President Judge were seized by police during the raid. The prosecution was asked many times for copies of this letter but refused to release it before trial. After trial, the prosecution still refused to release the letter, alleging that it had lost all seized evidence several years before the trial. (APPENDIX D.8, Hearing Transcript October 23, 2017 pp5-8) 6 months after trial, only after post verdict procedures were complete and direct appeal matters were finalised, the police resecured the previously lost computers from wherever they allegedly lost them to. (APPENDIX L.1) The electronic copy of the August 19, 2012 letter to the president judge of Luzerne County was on the opening screen of a laptop computer (i.e. the computer desktop), right where the Petitioner repeatedly told his attorneys they would find it. (APPENDIX L.2)

three branches of government have denied him access to remedies but insists that he is entitled to a remedy that is to his satisfaction. The sender accuses the local DA of conspiring with local police, the local magistrate and other state actors to trick and coerce the sender into an escalating event that they can use as an excuse to physically attack, shoot and kill him. (18 U.S. Code § 373 (a))

The sender is clearly communicating that government actors have intentionally stuck him into a conundrum. The magistrate refuses to grant him standing in court to address the antecedent matters unless he first goes to the unemployment office and gets physically confronted by state actors and police who will first use violent and lethal force against him. Only then may the sender have standing in court. The sender is explicitly expressing his growing fear of police and state actors who are conspiring to harm him as soon as the opportunity presents itself. (*Heller supra; McDonald supra, Elk supra*)

Paragraph ten must be read within the narrow context of the magistrate, the DA, police and state actors having already begun to intentionally coerce the sender into going to the unemployment office so that they can then lie and say that he is the "aggressor" and then use that as an excuse to use violence to harm him, shoot him and kill him. (18 U.S. Code § 373 (a)) Police and government officials are harassing him. They are being very cunning, sneaky and manipulative in the way that they are going about it and they are going to cut him off at the pass before he can get his communication to the local president judge. (*Thornhill supra; Broadrick v. Oklahoma, 413 U.S. 601 (1973)*)

"You are trying to set me up and the magistrate is assisting. It is a coordinated conspiracy and Judge Zola is part of it." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶10)

Paragraph eleven states;

[Tyranny (8)]

"PA L&I, Corporal Wetzel, Elaine Stalfa and Vierling have taken upon themselves to label me an enemy of the state of PA and repeatedly conducted their business as if they are backed by the FEDS. Things have been repeatedly altered and moved around in my home, as if someone had entered. Yet, noting was stole. That is intel collection, not burglary." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶11)

In paragraph eleven, the sender is explicitly accusing the police and state actors of falsely labeling him as an "enemy of the state". (*Heller supra; McDonald supra; Elk supra; Thornhill supra; Broadrick supra; Gooding supra; Hartman supra; Armstrong supra; Gutierrez supra; Bartlett supra*) The email complains that this false accusation was used as an excuse to target him for a violent combat assault by police and as an excuse to engage in covert intelligence collection, including covert entry. (18 U.S. Code §373 (a)) *Gates supra; Strieff supra; Brown supra; Segura supra; Davis v US supra; Taylor supra; Hudson supra; Monell supra; Leon supra*) Paragraph eleven must be read within the narrow context of the sender candidly and explicitly accusing law enforcement of having previously conducted covert entry into his home and of actively preparing to launch an impending combat assault on him at his home. (*Heller supra*)

"[T]he right to keep and bear arms as a fundamental right deserving of protection. Senator Samuel Pomeroy described three 'indispensable' safeguards of liberty under our form of Government.'....:

"...if the cabin door of the freedman is broken open and the intruder enters for purposes as vile as were known to slavery, then should a well-loaded musket be in the hand of the

occupant to send the polluted wretch to another world, where his wretchedness will forever remain complete..." (McDonald 775-6)

Paragraph twelve states;

[Trained and Experienced to Fight Tyranny (8)]

"Absolutely no one from any level of law enforcement may contact me without a warrant from a judge to do so. There was an article in the paper about an overstuffed arms locker under the control of the Luzerne County Sheriff. I want the sheriff to tell me how I can take ownership of a weapon and protective gear from the county arms locker. I want the FBI to provide me with a vest, kevlar plates and kevlar helmet. I want the FBI or some other federal law enforcement agency to order the Hazleton Police Department and all other local law enforcement to not approach me without first coordinating with federal officers and I want all federal officers to be ordered to inform me anytime local law enforcement intends to act." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶12)

In paragraph twelve, the sender communicates his belief that state actors and local police are committed to tricking and forcing him into an escalating circumstance and using it as an excuse to attack, shoot and kill him. (18 U.S. Code § 373 (a)) The sender asks for protection from federal agents. The sender explicitly asks that the FBI provide him with protective gear so that he can protect himself from an impending police atrocity, similar to those described herein (*ante*). (*Heller supra*; *McDonald supra*; *Elk supra*) He asks the sheriff to provide him with the means necessary to fight back and return fire, as is his US Second Amendment right.

The sender goes out of his way to decelerate and interrupt the local police plan to find an excuse to attack his home and kill him. He explicitly instructs federal law enforcement to impose constraints on the local police that prevent them

from approaching him without a warrant. He also instructs federal law enforcement to inform him any time that local police are planning on attacking and killing him so that he can protect himself from falling victim to an impending murder via police atrocity. (*Heller supra; McDonald supra; Elk supra*)

The sender is not trying to go rogue and escape the law. He is arguing that the law and constitution are on his side, not the side of local police, (*id, id, id*) and he is reaching out to higher echelons of law enforcement for help to fend off oppression and tyranny. Paragraph twelve must be read within the narrow context of the sender fearing for his life from police and government officials and turing to higher echelons of government to stop a violent police attack before it occurs.

"I want the FBI or some other federal law enforcement agency to order the Hazleton Police Department and all other local law enforcement to not approach me without first coordinating with federal officers and I want all federal officers to be ordered to inform me anytime local law enforcement intends to act." (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶12)

Paragraph thirteen states;

[Trained and Experienced to Fight Tyranny (9)]

"Law Enforcement may only contact me through my attorney and I will only have an attorney when Judge Zola orders that one be appointed to represent me in this string of matters. The FBI may ship the Kevlar items and accompanying webbing and vest via UPS. It may not include electronic surveillance devices. I forbid it. The sheriff may deliver two weapons and associated equipment and ammunition. One weapon must me a US manufactured black rifle, 7.62 and other must be a 45 pistol. The sheriff must also grant me an exception to test-fire the weapons into the ground or into a barrel filled with dirt or water. The sheriff must grant me an exception; allowing me to jog and walk the streets with the gear and weapons when I leave the house and all law enforcement must be told to stay away from me. Law enforcement is bound by the US constitution to enable me to defend myself from the wrongful threat of the use of physical force and wrongful arrest and

imprisonment. IT IS THEIR DUTY!!!! I EXPECT THEM TO CARRY IT OUT!!!!" (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶18)

In paragraph thirteen, the sender asks for an attorney to protect him from a violent police attack. He tells the FBI how they can deliver protective gear to him. He also instructs the FBI to stop the covert police surveillance because he forbids it. He instructs the local sheriff how he can deliver weapons that the sender can use to fend off an impending violent police atrocity, similar to the ones cited herein. (*ante*)

Paragraph thirteen must be read within the narrow context of the sender candidly and explicitly recognizing the US Second Amendment right to form and maintain a "well regulated militia". He asks for permission to clear weapons into a safety barrel filled with water or sand. He seeks permission to train and go on neighborhood patrols to prepare to defend himself from an impending violent police atrocity. He reiterates the US Second Amendment rights to defend against, fight back and counterattack illegal violent brutal police atrocities of the kind cited herein (*ante*). (*Heller supra; McDonald supra; Elk supra*)

The sender repeatedly asks for federal law enforcement intervention to order local police to stay away from him. The sender is not fleeing recognized authority but instead making candid and explicit requests to it. He is complaining that a makeshift militia of one that is being involuntarily called to arms by illegal circumstances. He accuses police and government officials of abusing their power and of conspiring to find an excuse to launch a violent combat attack on his home so that they can harm and kill him with an undeserved and unjust impunity. (18 U.S.

Code § 373 (a)) The sender's instinct and logic is to turn to higher state and federal authority but that authority abandons him and fails to come to his aid.

"Law enforcement is bound by the US constitution to enable me to defend myself from the wrongful threat of the use of physical force and wrongful arrest and imprisonment. IT IS THEIR DUTY!!!! I EXPECT THEM TO CARRY IT OUT!!!!" (APPENDIX A.8.4, Commonwealth Exhibit 5, ¶13)

The state did not introduce any other evidence that it alleged to be criminal.

Trained and Experienced to Fight Tyranny (10)

On August 19, 2012, the Petitioner drafted and signed a letter to the local county president judge. (APPENDIX L.2; *ante p29, n9*) The Petitioner intended to send the letter as an attachment to a mass email to many government officials and to the media. Not yet knowing the judge's email address, he was unable to do so.

Before the Petitioner could send the letter via regular mail, a Police Special Operations Group conducted a covert, after nightfall, entry into the Petitioner's parents' home, where they proceeded to carry out a violent and destructive blacked out nighttime raid that they then presented to the media as being their local covert Bin Laden raid. Local journalists showered the small town swat team with media coverage. The August 19, 2012 letter changes the outcome of the case to one with no probable cause or crime.

Tyranny (9)

At the time of the arrest, the Petitioner used many different email addresses. This was necessary because a County Commissioner named Maryann Petrilla ordered the county's computer consultant to block all emails from the Petitioner to

any public offices and officials. Thus, shutting him off from access to the government. Sometimes, even if the Petitioner changed his email address, the county computer system would identify the Petitioner as the sender and block him from communicating to any government or elected official. Petrilla's doing so was an act of tyranny. (*Thornhill supra; Brodarock supra; Brandenburg supra*) Petrilla and others used the Petitioner's circumstance as an excuse to get state funding for security contractors. (APPENDIX M.1) Petrilla's tyrannical actions greatly added to the frustration that the Petitioner was experiencing in his life.

Tyranny (10)

Stalfa used the Petitioner as an excuse to get funding for private security contractors. Other state employees and contract employees used the Petitioner as an excuse to get permission to bring guns to work. At trial Elaine Stalfa testified that she armed the security guards (APPENDIX G.3.10) in two cities with guns, which got them pay raises for the added risk and responsibility of carrying a gun. She also hired training providers to train the staff to attack by the Petitioner. (APPENDIX A.8 PDF pp78-82, N.T. pp62-65) Funding for local security companies became dependant on the Petitioner being classified as a terroristic threat. (APPENDICES M.1, M.2) Police also received funds for SWAT equipment, machineguns, training grants and other funding based on the Petitioner being classified as a mass shooter threat. If that classification was removed, several employees would no longer be allowed to bring guns to work, their salaries would be

reduced and money for security contractors would have to come out of local office budgets instead of from special funding from the state.

Tyranny (11)

Zipovsky seized, read and used the Petitioner's Prayer Books to build the instant case. (*ante p4*, APPENDICES A.8 PDF p105, N.T. p83; B.1 p10) Anderson later lied about this fact at a post trial hearing. (APPENDIX D.8 October 23, 2017 Hr'g. pp4-8) The Prayer Books were inadmissible and their use was poisonous fruit from the poisonous tree. Because Zipovsky built his investigation upon the knowledge that he derived from Prayer Books, in which each entry for decade began with "Dear God..." and because Zipovsky thoroughly read and studied both Prayer Books and other poisonous fruit before he testified, the trial must be quashed and struck and the criminal case expunged.

Tyranny (12)

Salavantis and Zipovsky read privileged communications to Kulick, who twice solicited information about the case from the Petitioner as part of his defense practise and expressing interest in representing the Petitioner at trial. Kulick and law partner and brother then shipped the Petitioner's privileged communications around to police officers and the DAs office in an effort to curry favor in other cases. (*ante p4*; APPENDICES C.1, C.2,C.3)

Harmful Error

At post sentencing, the Petitioner attempted to raise numerous ineffectiveness issues along with direct appeal. Kelly, the court appointed appellate

counsel, the trial court and the prosecution insisted that Pennsylvania case law did not allow this to be done. (APPENDIX D.8 October 23, 2017 Hr'g. pp26-27, See entire transcript D.8) At a later hearing, Kelly, the court again insisted that ineffectiveness issues and direct appeal issues could not have been raised together. The state changed its argument to one that the ineffectiveness should have been raised simultaneously. Otherwise the Petitioner must choose between either direct appeal issues or ineffectiveness issues. (APPENDIX D.10) As it turns out, all were deceptive with the Petitioner during post sentencing. (APPENDIX D8) There is a great deal of Pennsylvania case law that governs unitary review of both direct appeal and ineffectiveness issues. (*Commonwealth v. Holmes*, 79 A.3d 562, 563-64 (Pa. 2013); *Commonwealth v. Delgros* 183 A.3d 352 (Pa. 2018)) Counsel ineffective because he abandoned the Petitioner on this point. (*Ross v. David Varano*; *PA State Attorney General PA State Attorney General, Appellant*, No. 12-2083, 712 F.3d 784 (2013); *Strickland v. Washington*, 466 U.S. 668 (1984); *United States v. Cronic*, 466 U.S. 648 (1984); *Commonwealth v. Pierce*, 515 Pa. 153, 527 A.2d 973, 975 (1987)).

Bad Stipulation

The Petitioner repeatedly instructed defense counsel Mantagnos not to stipulate to anything. Mantagnos persistently badgered the Petitioner on the matter and eventually stipulated against the Petitioner's will. The state could not have proven their case with circumstantial evidence because they had already agreed to a forensic standard of evidence. Despite the state having lost all evidence several years before trial (*ante p29 n7*; APPENDICES D.5 June 26, 2017 Hr'g.

pp129-130; D.8, Hearing Transcript October 23, 2017 pp5-8; L.1, N.1-N.9; E.1-E.9)

Mantagnos still stipulated in an effort to curry favor with the prosecutor in other cases. Counsel ineffective because he abandoned the Petitioner on this point. (*Ross supra; Strickland supra; Cronic supra; Pierce supra*).

Wiretap Violation

The circumstantial evidence that was adduced (APPENDIX A.8.4 CX2) clearly came from a wiretap. CX2 contains the electronic letterhead of the sender of the email, not a recipient. (*Commonwealth v. Rodney Collins, No. No. 473 CAP, [J-137-2006], pp40-41, (Pa. 2008)*) The only way to get that email is to log directly into the sender account and print it. No wiretap warrant was ever released by the state authorizing it to do so. The Petitioner was denied his US Sixth Amendment Right to confront the initial collector of the evidence. The warrantless chain of custody was poisonous fruit and knowledge of this fact was evidence beneficial to the defense. Because the circumstantial evidence is inadmissible and because no other evidence was adduced to prove “who done it”, knowledge of the chain of custody was exculpatory evidence and had to be released. (*Brady supra; Melendez-Diaz supra; 234 Pa.R.Crim.P. 573(B)(1); Smith supra; Strieff supra; Brown supra; Mapp supra; Segura supra; Hudson supra; Davis supra; Taylor supra; Monell supra; Kaupp supra*)

Retaliatory and Selective Prosecution

Salavantis admits to engaging in retaliatory and selective prosecution (APPENDIX A.8 PDF 146-147, N.T. pp115-116);

"Towards me, I didn't think they were threatening towards me."(id)

As a matter of policy, emails that were threatening towards other people were not prosecuted.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

The actions described in the email in question are protected by the US Second Amendment.(*ante*)

The language used in the email in question is protected by the US First Amendment.(*ante*)

The language used in the email in question is protected by the *Pennsylvania LABOR ANTI-INJUNCTION ACT of Jun. 2, 1937, P.L. 1198, No. 308.*(*ante*)

The arrest and prosecution appealed herein constituted retaliatory and selective prosecution.(*ante*)

Given the *Totality of the Circumstances*, there is neither crime nor probable cause. (*ante*)

CONCLUSION

The Petitioner for a Writ of Certiorari should be granted

The foregoing document is true in fact and belief and submitted under penalty of perjury.

Respectfully Submitted,

Aug 31, 2019
Date


Sean M. Donahue