

No. 19-6029

IN THE

Supreme Court of the United States

FRANK JEFFS, Petitioner

vs.

MR. OBERLANDER, Superintendent,
COURT OF COMMON PLEAS of Philadelphia, PA.

On Petition For Writ O Certiorari
To The Court of Common Pleas of Philadelphia, PA. and
Pennsylvania Supreme Court

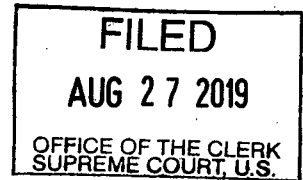
PETITION FOR WRIT OF CERTIORARI

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ORIGINAL



CONSTITUTIONAL PROVISIONS, STATUTORY LAW AND REGULATIONS INVOLVED

1. U..S Constitution Article I Sec. 9 ¶2
2. Statutory Provisions:
 - a. 42 Pa.CD.SD.A. §6504, §721 and §726
3. Ordinances/Regulations:
 - a. U.S. Supreme Court Rule 10[b] and 12.4
 - b. Pennsylvania Supreme Court Per Cerium Order of July 15, 2019

TABLE OF CITATIONS

<u>Com. v. GARCIA</u> , 474 Pa. 449; 378 A.2d 1199 [1977].....	<u>5</u> , <u>8</u>
<u>U.S. v. YAZZIE</u> , 188 F.3d 1178 [1999].....	<u>5</u> , <u>8</u>
<u>SWAIN v. PRESSLEY</u> , 430 U..S 372, 51 L Ed. 2d 411, 97 S.Ct. 1224 [1977]....	<u>6</u> , <u>8</u>

QUESTIONS PRESENTED FOR REVIEW
IN ACCORDANCE TO RULE 10[b]

1. Is not the Pennsylvania Supreme Court required in its Per Curiam [ORDER] to "...decide the issues, and make findings of facts of facts and conclusions of law with respect thereto. If the court finds that...[2] the sentence imposed was not authorized by law or is otherwise open to collateral attack, [3] that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court 'shall' vacate and set aside the judgment and shall discharge the prisoner..." even in a habeas corpus action in which the Commonwealth refused to file an official response; by filing a Letter of No Response, rather than to deny the Writ of Habeas Corpus without justifying its decisions when denying the petition, that was filed pursuant to 42 Pa.C.S.A. §721, §726, §6504 and the United States Constitution Article I Sec. 9 ¶12, when Petitioner had produced official documents to substantiate the merit of his unlawful prosecution, [a] based upon the victim's criminal history as being an aggressor [as provided in Petitioner's Motion for ROR Bail and attached exhibits] and [b] the Commonwealth had failed to file its information against Petitioner prior to trial; but not until just before jury deliberations on March 31, 2006 [as noted in the Docket Entries on pages 8/9 attached herewith]?

2. When the Commonwealth of Pennsylvania as the Primary Respondent refused to file an official response to contest to the merit of the claims against Petitioner's unlawful prosecutions; for premeditated first-degree murder and the March 31, 2006's Amended Information [for Involuntary Manslaughter], which is required of the Commonwealth to file both prior to trial, according to a decision by the Pennsylvania Supreme Court and the Tenth Circuit supporting the same decision; in order to give the jury the right to determine whether the Commonwealth had met its burden of proof, that Petitioner had committed "premeditated" first-degree murder, or if Petitioner was guilty of only involuntary manslaughter because he had acted in self-defense, should the Pennsylvania Supreme Court have granted Petitioner the relief he's entitled to as a matter of law; when there was No Return contestation to the habeas corpus being granted, when the refusal to contest to the merit of a claim by law is an admission of guilt, when the Respondent's reply to the Writ of Habeas Corpus proves Petitioner was prosecuted without the Commonwealth's Information being filed prior to trial; but only just before jury deliberations, and the DOC's institutional Record's Dept. reveals that the DOC does not have a Sentencing Order giving the DOC statutory authority to detain Petitioner.

JURISDICTIONAL AUTHORITY
PURSUANT TO RULE 12.4

Petitioner has served over eight[8] years in addition to the maximum five[5] years sentence required for involuntary manslaughter; for a first-degree murder conviction [for which there is no Sentencing Order substantiating a sentence of LIFE], because he was convicted by a jury based upon charges filed on March 31, 2006 after trial, despite the Commonwealth's witnesses out of court statements and trial testimony that Petitioner had confessed to them that Petitioner thinks he committed a homicide in self-defense, which the witnesses had not witnessed, which violated Petitioner's right to be found guilty of involuntary manslaughter alone; especially when the Commonwealth failed to produce any evidence to prove Petitioner had intentionally premeditated committing first-degree murder beyond a reasonable doubt, which the Commonwealth was required to do; but was prosecuted before a jury without first filing its Information prior to trial; to give counsel time to prepare a defense, which counsel had not objected to, which authorizes this Court pursuant to Article I Sec. 9 ¶2 to intervene to vacate the Pennsylvania Supreme Court's Per Cerium [Order] of July 15, 2019, and the court of common pleas Civil Commitment Order DC300B pursuant to 42 Pa.C.S.A. §9764, seeing the DOC indirectly admits that it fails to possess a Sentencing Order to detain Petitioner, and Petitioner's convictions are based upon a jury's failure to understand the laws governing first-degree murder requirements to be proven by the Commonwealth and need for acquittal, and Petitioner's unlawful prosecution for offenses not being filed prior to trial, and the Commonwealth's witnesses' testimonial evidence only supported Petitioner's confession for a lesser offense than that of first-degree murder; which the witnesses had not witnessed; which Petitioner obviously tried challenging in a Writ of Habeas Corpus [attached herewith] in the Pennsylvania Supreme Court to no avail; despite the official documents presented in support of Petitioner's Motion for ROR Bail [attached herewith]; which appellate, PCRA and federal court habeas corpus counsel all had failed to pursue challenging, which the Pennsylvania Supreme Court should not have dismissed without justifying why; when Petitioner's documentary evidence presented herewith proves Petitioner was prosecuted without being officially charged by the Commonwealth in an Information prior to trial and the DOC reveals that it is detaining Petitioner without a Sentencing Order signed by a Sentencing Judge of the Court of Common Pleas of Philadelphia, PA. that authorizes the DOC to detain Petitioner for a sentence of LIFE.

CONCISE STATEMENT OF THE CASE

Petitioner filed a Writ of Habeas Corpus in the Pennsylvania Supreme Court pursuant to 42 Pa.C.S.A. §721, §726, §6504 and Article I Sec. 9 ¶2 of the U.S. Constitution, to challenge his unlawful prosecution and conviction of first-degree murder and Information amendment for involuntary manslaughter dated March 31, 2006 after trial but just before jury deliberations, in violation of the ruling noted in Commonwealth v. GARCIA, 474 Pa. 449; 378 A.2d 1199 [1977] and U.S. v. YAZZIE, 188 F.3d 1178 [1999], based upon the Commonwealth's witnesses' out of court and trial testimony supported Petitioner's confession to them that he thinks he committed the lesser offense that was committed in self-defense; which even the witnesses had not witnessed, neither of which was filed by the Commonwealth prior to trial and thus prevented counsel from being able to prepare a proper defense until the day of trial; for which trial counsel asked the court to give the jury instructions on involuntary manslaughter after the introducing of the Commonwealth's witnesses' testimony supporting Petitioner's confession; which counsel failed to have suppressed when knowing prior to trial that the Commonwealth could not meet its burden of proof for first-degree murder, and had not demanded that the Commonwealth's prosecution be dismissed due to lack of jurisdiction seeing the Commonwealth's Information had not been filed prior to trial, and Petitioner's confession be suppressed for lack of a prima facie case; that was based merely upon Petitioner's confession alone.

Shortly after Petitioner filed his habeas corpus, and motion for appointment of counsel...the Respondent was directed to file either an Answer or Letter of No Response by April 18, 2019; but the Commonwealth failed to file a response; until too late when asking for permission to file a Nunc Pro Tunc to file its Letter of No Response, which the Commonwealth was granted the right to do; despite Petitioner's objections.

Petitioner thereafter filed for a motion of judgment that the writ be granted in support of Petitioner's motion for ROR Bail and attached exhibits, which the Respondent was directed to file a response to by April 29, 2019 which the Commonwealth failed to do; until granted the right to file its Nunc Pro Tunc Letter of No Response..

Petitioner then filed another motion for judgment asking that the writ be granted, but the Pennsylvania Supreme Court issued its Per Curium [Order] on July 15, 2019 which denied granting Petitioner the relief he's entitled to,

which violated this Court's ruling noted in SWAIN v. PRESSLEY, 430 U.S. 372, 51 L. Ed. 2d 411, 97 S.Ct. 1224 [1977] [as noted under "ARGUMENT[S]" in ¶11].

This Petition for Writ of Certiorari was thus filed within less than sixty[60] days of that order, which fails to justify its decisions to deny all Petitioner's motions and relief sought; which this Court In PRESLEY Id. dictates that a court must provide, when either denying or granting the merit of the petition's claims and relief sought.

SUMMARY OF ARGUMENT

The Pennsylvania Supreme Court's Per Curium [Order] is not in compliance with judiciary mandatory responsibilities of justifying its decisions for denying its granting Petitioner the relief he seeks and is entitled to, because it lacks justifying its decisions in violation of this Court's rulings in PRESSLEY Id. because it deprives Petitioner of particular issues to challenge on appeal, in support of the Commonwealth's [1] refusal to file an official response contesting to the merit of Petitioner's convictions and detainment, [2] grounds for appointment of counsel that warrants an evidentiary hearing based upon the official documents provided in Petitioner's motion for ROR Bail and exhibits thereto, [3] all prior counsels' failure to challenge trial counsel's failure to pursue a suppression hearing to have Petitioner's confession suppressed based upon the Commonwealth's lack of actual evidence supporting premeditated first-degree murder and involuntary manslaughter which the Commonwealth is required to prove beyond a reasonable doubt, and the Commonwealth knew the victim had a criminal history of violence, and [4] failure to file an official Information prior to trial; which all counsels failed to pursue challenging, which entitles Petitioner to the relief he seeks and is entitled to when the Commonwealth refused to contest the merit of Petitioner's unlawful prosecution for offenses the Commonwealth had not introduced any evidence to prove Petitioner had committed with malice and had premeditated committing first-degree murder, and had failed to introduce any evidence to the contrary that Petitioner had not committed the lesser offense in self-defense; other than witnesses who Petitioner had confessed to, that supported Petitioner's confession during trial; but witnesses who had not witnessed the offense itself, which no other evidence after the fact had proven Petitioner had premeditated committing any intentional offense; which trial counsel failed to challenge the court's jurisdiction of based upon the Commonwealth not filing a timely Information until after trial; all of which the Pennsylvania Supreme Court has ignored and should not have; seeing the Commonwealth's official documents attached to Petitioner's motion for ROR Bail proves every claim raised before it and in this petition.

ARGUMENT[S]

According to this Court's decisions in PRESSLEY [heretofore] a court, when issuing an order, must "...grant a prompt hearing thereon, determine the issues, and make findings of facts and conclusions of law with respect thereto." Its failure to do so, violated Petitioner's XIVth Amendment rights of due process of access to the courts, to challenge the issues raised and its reasonings for denying the merit of the claims and relief sought, whether or not the Respondent files an official response.

The court refusal to comply to its mandatory responsibilities to justify its decisions for granting and/or denying the Petitioner the relief he seeks and is entitled to is a violation of the court's Oath of Professional Responsibilities and Conduct, which deprives the Petitioner the right to properly challenge the court's unexplained reasons for denying either the merit of the claims and/or relief sought; which prevents the Petitioner from knowing exactly what issues to challenge on appeal.

As a result, the Petitioner was prejudiced against his challenging his unlawful prosecution; convictions and sentence as a result of evidence the Commonwealth presented to the jury, which never should have been introduced as evidence when it failed to file a timely Information prior to trial, in violation of the ruling noted in GARCIA, 474 Pa. 449; 378 A.2d 1199 [1999] and U.S. v. YAZZIE, 188 F.3d 1178 [1999] because Petitioner is left with now challenging the Pennsylvania Supreme Court's improper decision process before this Court; based on the Commonwealth's waiving its right to file an official response, to contest to the merit of the claims against the Commonwealth of Pennsylvania's unlawful prosecution, conviction for first-degree murder, counsel's request for involuntary manslaughter jury instructions, and trial counsel's coercing Petitioner into waiving the introducing of the victim's criminal history convictions [and dismissed cases in Camera] that proves the victim was the aggressor as he was towards others.

CONCLUSION

It's for these reasons raised herein that Petitioner seeks from this Court an Order Vacating the Pennsylvania Supreme Court's Per Cerium Order of July 15, 2019, denying Petitioner's habeas corpus despite the documents presented with Petitioner's Motion for ROR Bail, and Petitioner's convictions; for which the DOC says it does not have a Sentencing Order signed by a Sentencing Judge to substantiate Petitioner's detainment for LIFE...other than a DC300B Civil Commitment Order, which according to FD.R.Crim.P. Rule 702[b] expired sixty[60] days after being issued...in support of the Court granting Petitioner an Order of Discharge, and either an Order Granting Petitioner a new trial or Recommendation that the Commonwealth agree to consider accepting a plea agreement from Petitioner...

Respectfully submitted,


Petitioner