

19-7137

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

Patrick Randell McIntosh PETITIONER  
(Your Name)

United States<sup>vs.</sup>  
of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the 11<sup>th</sup> Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Patrick Randell McIntosh #24876171  
(Your Name)

Medical Center for Federal Prisoners  
(Address) P.O. Box 4000

Springfield MO 65801-4000  
(City, State, Zip Code)

843-425-2332  
(Phone Number)

#### QUESTION(S) PRESENTED

1. Is narcissistic personality disorder an abnormal condition of the mind?
2. Is narcissistic personality disorder a mental defect under 18 U.S.C. 4243(e)?
3. Is the inmate a danger to others or their property due to narcissistic personality disorder?
4. Can criminality and future dangerousness be due to exogenous factors for the inmate has been in solitary confinement since November 2012?
5. Is the inmate's diagnosis an extension of his ethnocentric ideology?
6. Is the inmate's diagnosis an extension of his sexual orientation?
7. What is the legal definition of mind?

## LIST OF PARTIES

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

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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

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

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix 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☒ is unpublished.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 \_\_\_\_\_; 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☒ is unpublished.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[ ] is unpublished.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 October 15<sup>th</sup> 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: \_\_\_\_\_, 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 \_\_\_\_\_.  
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).

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## STATEMENT OF THE CASE

### A. Course of Proceedings and Disposition Below

On January 15<sup>th</sup>, 2013 McIntosh was indicted and charged with making threats against the President of the United States in violation of 18 U.S.C. § 871, unlawful possession of firearms while under felony indictment in violation of 18 U.S.C. § 922(n), threats to law enforcement in violation of 18 U.S.C. § 115(a), and threats by interstate communication in violation of 18 U.S.C. § 875(c). (Doc. 3, 66, Superseding Indictment.)

On July 5<sup>th</sup>, 2016 the Honorable Thomas W. Thrash Jr., at a bench trial, found McIntosh not guilty by reason of insanity as to all counts. (Doc. 172). On July 6<sup>th</sup>, 2016, the District Court Ordered that McIntosh be committed to the custody of the Attorney General for the purposes of conducting a psychiatric examination to determine whether or not McIntosh would create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease pursuant to 18 U.S.C. § 4243(b). (Doc.174).

On September 26<sup>th</sup>, 2016, McIntosh filed a pro se Notice of Appeal. (Doc. 182).

On April 11<sup>th</sup>, 2017, the District Court conducted a committal hearing pursuant to 18 U.S.C. § 4243(e). (Doc. 202). At the commitment hearing, the government relied on the testimony of Dr. Ashley Christiansen, the clinical psychologist at the Federal Medical Facility in Springfield, Missouri and introduced the risk assessment report regarding McIntosh. (Doc. 205, Sealed).

On April 24<sup>th</sup>, 2017, the District Court entered an Order committing the defendant to the custody of the Attorney General pursuant to 18 U.S.C. § 4243(e). (Doc. 206).

On June 5<sup>th</sup>, 2017, again, McIntosh filed a pro se Notice of Appeal. (Doc. 209).

On July 5<sup>th</sup>, 2017 this Court, on its own Motion, dismissed the aforementioned appeal for lack of jurisdiction as to Patrick McIntosh's Notice of Appeal (Doc.182) and allowed the Appeal on the commitment Order to proceed.

On August 20<sup>th</sup> 2018 this Court affirmed the District Court's Order of Commitment. (Doc.222) On November 14<sup>th</sup> 2018, McIntosh petitioned the United States Supreme Court for a Writ of Certiorari to the Eleventh Circuit. On January 14<sup>th</sup> 2019 the United States Supreme

Court denied Certiorari.

On November 26<sup>th</sup> 2018, the District Court held a second evidentiary hearing pursuant to Title 18 U.S.C. § 4247 to determine whether McIntosh should be released or committed to an appropriate facility. On November 28<sup>th</sup> 2018 the District Court entered an Order denying McIntosh's request to be released in contemplation of Title 18 U.S.C. § 4243(e). (Doc.228). The findings based on the second risk-assessment report. (Doc. 227, Sealed).

#### **B. Statement of the Facts**

On July 5<sup>th</sup>, 2016, the District Court found Patrick McIntosh not guilty by reason of insanity as to all four counts of the third superseding indictment after presiding over a bench trial. (Doc.172). On July 6<sup>th</sup>, 2016, the District Court ordered that McIntosh be committed to the custody of the Attorney General for a commitment assessment pursuant to 18 U.S.C. § 4243(b) and 4243(e).

On April 11<sup>th</sup>, 2017, the District Court conducted the first evidentiary hearing to determine whether or not McIntosh should be committed. (Doc.202).

On April 24<sup>th</sup>, 2017, the District Court entered an Order containing

its findings of fact and conclusions of law concerning McIntosh's commitment. The District Court found:

The Court finds that the defendant's release would create a risk of bodily injury to others no matter which burden of proof applies. There's overwhelming evidence that McIntosh is dangerous. The Court specifically relies upon Dr. Christiansen's description of McIntosh's history of demonstrating antisocial behavior and his pervasive pattern of disregarding and violating the rights of others beginning as early as age 12, such as making racist remarks at school, aggressive behavior at home and in domestic violence incidents, and a variety of assaultive behavior as an adult for which he incurred legal charges. McIntosh has repeatedly stated his desire to kill his father, his ex-girlfriend Lauren Wade, FBI agents, and state and federal prosecutors related to his case, even as recently as during Dr. Christiansen's evaluation. The Court also relies upon McIntosh's own admission that he intends to own firearms and repeated admissions that he intends to harm multiple people.

The Court finds credible and reliable Dr. Christiansen's conclusion that the results of three valid risk of violence assessment measures show that McIntosh is a high risk of danger to commit future violence against other people.

The Court also finds that the Defendant has not met his burden to show his risk of danger is not due to a present mental disease or defect. (Doc.206 - Pg.2, 4).

The District Court went on to note that:

The case law consistently indicates that labels applied by clinicians are not necessarily controlling to determine whether the defendant is suffering from a mental disease or defect, but rather the determination is a question of fact. See *e.g.*, *McDonald v. United States*, 312 F.2d 847,851 (D.C. Cir. 1962); *United States v. Murdoch*, 98 F.3d 472, 475 (9<sup>th</sup> Cir. 1996); *Gov't of V.I. v. Fredericks*,

578 F.2d 927, 932 (3d Cir. 1978); *United States v. Weed*, 389 F.3d 1060, 1072 (10<sup>th</sup> Cir. 2004); and *United States v. Lyons*, 731 F.2d 243, 246 (5<sup>th</sup> Cir. 1984). (Doc. 206 – Pg 3).

The District Court went on to opine that what doctors have labeled as personality disorder may be severe enough to constitute a mental disease or defect. The District Court relied on Dr. Christiansen's assessment that McIntosh suffers from narcissistic personality disorder with borderline, histrionic, and antisocial traits, and that McIntosh's personality disorder manifests itself with affective problems, including inappropriately intense anger, impulsivity, and a pervasive pattern of disregard for and violation of the rights of others. The District Court also found that McIntosh's constellation of symptoms from his personality disorder result in maladaptive behaviors. The District Court went on to state that "The Court agrees with Dr. Christiansen's assessment that McIntosh's personality disorder is severe, and results in significant difficulty in functioning within society's expectations and impairs his functioning in many areas."

The District Court then embraced the D.C. Circuit's definition of a mental disease or defect as "any abnormal condition of the mind which substantially affects mental or emotional processes and substantially

impairs behavior controls.” *McDonald v. United States*, 312 F.2d at 851.

The District Court went on to find that McIntosh has such abnormal conditions of the mind.

Based on these findings and conclusions, the District Court ordered McIntosh committed pursuant to 18 U.S.C. § 4243(e). (Doc. 206 – P 4).

On November 26<sup>th</sup> 2018, the District Court held a second evidentiary hearing pursuant to 18 U.S.C. § 4247 to determine whether or not McIntosh should be committed or released.

On November 28<sup>th</sup> 2018, pursuant to a second commitment hearing, the District Court denied McIntosh’s request to be released. (Doc.228).

### **C. Standard of Review**

A District Court’s finding of dangerousness under § 4243 is subject to clear error review. *United States v. Wattleton* 296 F.3d 1184, 1201 (11<sup>th</sup> Cir. 2002).

# ARGUMENT PROPOUNDED

The District's Court interpretation of a personality disorder as a mental defect contemplating Title 18 U.S.C. § 4243(e) is apposite to the propounded argument brought before this Court. The embraced case law is "any abnormal condition of the mind which substantially affects mental or emotional processes and substantially impairs behavior controls" (*McDonald v. United States* 312 F.2d at 851, D.C. Circuit 1962).

A personality disorder can not be correlated with an abnormal condition of the mind. Personality is intangible and has never been proven by psychologists to emanate directly from the mind. Personality emanates from the ego which is subsumed under the soul. Egocentricity is the

main component of all Cluster B personality disorders and can not be objectively observed by any truly empirical standards. The psychologist treating or evaluating will always have a biased view of the patient's supposed symptoms due to culture, race, sex, gender, mores, social norms etc. (Exhibit C page 1, 2, 5, 6, 9, 10).

The term "mind" has a broad denotation and should be defined *arguendo*. Any abnormal condition of the mind can not be determined in a court of law without a legal standard on which to base the argument propounded. The Appellant DEMANDS a legal definition to be rendered by



this court.

The only personality trait that can make the Appellant dangerous is Anti-Social Personality Disorder.

Its constellation pertains to a pervasive pattern of disregarding and violating the rights of others (Exhibit C page 1,2). The Appellant is a misogynist and racist (Doc.205) and considers it to be the main tenet of his ethnocentric ideology. This can not make the condition of the Appellant's mind abnormal or everyone who held an arrant view on race and sex would be mentally defective.

These views and symptoms can change and vary from culture to culture. Since defects of the mind are typically fixed (e.g. mental retardation, sundry neurological

disorders etc.) Anti-Social Personality Disorder or traits would not qualify to be in said legal category.

Histrionic Personality Disorder is another trait attributed to the Appellant. Its constellation pertains to a pattern of attention seeking behavior (Exhibit C page 5, 6). The statements made by the Appellant to Dr. Christiansen (Doc. 205) and Dr. Chavez (Doc. 227) during their risk assessments were made for shock value. Telling a psychologist that you are dangerous does not mean you are a substantial risk of causing future bodily harm to another person or serious damage to their property due to a present mental defect. The Appellant has no control over making inappropriate

Comments that evaluators miscontrue as true threats. (Threats do not cause bodily harm nor serious damage to another's property.)

The main personality disorder is Narcissistic Personality Disorder.

The Appellant's affinity for anthromorphism is a facet of his sexual orientation that emanates from the ego outlined in Dr. Chavez's risk assessment report (Doc. 227). The Appellant's predisposition is congenital and egocentric; treating the main constellation of the disorder would be archaic as well as cruel and unusual punishment. Psychology has in the past struggled with homosexual and transgender issues under the guise of therapy. The times must change!

The strictures imposed on the Appellant by society are contributing factors to his dangerousness. A pervasive pattern of disregarding and violating the rights of others is the Appellant resisting the social norms and mores of society before November 2012; not dangerousness due to an abnormal condition of the mind.

Dr. Lenzenweger is a leading expert on Cluster B personality disorders and has estimated that 9.1% of the United States' population has a personality disorder (Exhibit A).

Narcissistic Personality Disorder has ~~a~~ a prevalence of 20% among military personnel and 17% among of first year medical students

(Exhibit C page 13). The Appellant is a Millennial and his generation has a proclivity for egocentric behavior(s). Even though no direct psychological correlation has been made by doctors, the advent of social media is postulated as a major contributing factor in the increase of such egocentric behavior(s).

The Appellant does not have an abnormal condition of the mind due to the rate of prevalence of personality disorders in the United States. The Appellant is a product of his generation and narcissism is the "new normal" eschewing the current standards for personality disorders in the

DSM-5 manual (Exhibit A). Outside of the United States NPD is not recognized as a separate diagnostic entity (Exhibit C page 13). If the Appellant was not American he would not be committed due to a mental defect, but due to a different view on social norms and mores.

The Appellant has been held in solitary confinement since November 2012. Long term isolation can cause and increase aggression and induce impulsivity. The personality disorder and traits there of elucidated by Dr. Christiansen (Doc. 205) and Dr. Chavez (Doc. 227) in their reports are not due to an abnormal condition of the mind. The

Conditions of confinement are the true cause evinced by Dr. Stuart Grassian of Harvard Medical School

[Exhibit B page 5, 6 (l: e, g). A release would alleviate the Appellant; further confinement will cause him more harm and compound the personality disorder (if he so truly has one based on the United States' accepted social norms and mores).

## Reasons for Granting the Petition

1. Narcissistic personality disorder is so prevalent due to social media that the people of the United States deserve a determination as to whether it constitutes a mental defect.
2. The current president, Donald J. Trump, shows signs of narcissistic personality disorder. If I'm declared mentally defective he could be removed from office under the twenty fifth amendment to the U.S. Constitution.
3. This case is so unique that another one having similar facts will never be heard.
4. The United States Supreme Court nor U.S. Congress has ever defined the term mental defect or mind.
5. This case could present a viable question as to whether a sexual orientation is a disorder thus a mental defect. Those of the LGBTQ community have been falsely imprisoned in mental hospitals



through out history.

6. With men in the LGBTQ community having an affinity for socialist ideologies could a personality disorder then thus a mental defect be no more than arrant views.