

Supreme Court, U.S.
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No. 19-7397

IN THE SUPREME COURT OF THESE UNITED STATES OF AMERICA

Bert Hudson, Pro se Petitioner

v.

Pennsylvania Board of
Probation and Parole, Respondent

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

PETITION FOR WRIT OF CERTIORARI

ORIGINAL

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QUESTIONS
PRESENTED FOR REVIEW

QUESTION #1

Here in these United States of America where we have all pledged "...justice for all", is this Honorable High Court's supervisory authority called for when state courts deviate from reality and our rule of law to the point of disingenuously misapplying, misinterpreting, and outrightly disregarding unambiguous statutory requirements along with constitutional mandates for due process, equal protection, and separation of powers to arbitrarily reconstruct and enhance statutorily and constitutionally sound individualized life with parole sentences into one-size-fits-all life without parole sentences by legislating from the bench with incredible result-oriented decisions?

QUESTION #2

Is a mandatory sentence to life imprisonment without the possibility of parole constitutional or unconstitutional?

PARTIES
TO THIS PROCEEDING

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IN THE SUPREME COURT OF THESE UNITED STATES OF AMERICA

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully requests a writ of certiorari issues to review the judgement below.

OPINIONS BELOW

The opinion, order, and judgement of The Supreme Court of Pennsylvania is attached to this petition marked APPENDIX A, but I don't know if or where it's reported or published.

The opinion, order, and judgement of The Commonwealth Court of Pennsylvania is attached and marked APPENDIX B, but I don't know if or where it's reported or published.

JURISDICTION

The opinion, order, and judgement of The Supreme Court of Pennsylvania was entered on March 26, 2019.

Jurisdiction for this Honorable Supreme Court of these United States of America is invoked under 28 U.S.C. §1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

1. Article I, Section I of our United States Constitution provides:

"All legislative Powers herein granted shall be vested in a Congress..."

2. Article IV, Section 2 of our United States Constitution provides:

"The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States."

3. Amendment V of our United States Constitution provides:

"No person shall be...deprived of life, liberty, or property, without due process of law...."

4. Amendment VIII of our United States Constitution provides:

"...nor cruel and unusual punishments inflicted."

5. Amendment XIV, Section 1 of our United States Constitution provides:

"...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws."

STATEMENT OF THE CASE

I'm still thoroughly heartbroken and so ashamed to admit I killed Mr. William Phillips. I was convicted of second degree murder and sentenced to life imprisonment in 1979.

After learning my sentence is actually one day to life in accordance with our rule of law, I applied to the Parole Office here at SCI Greene in 2017 to be reviewed for parole. I was denied a parole review. My appeal of this denial to our Parole Board's main office in Harrisburg was also denied.

For the first time, respondent raised federal due process and equal protection issues with their OBJECTIONS to the Petition for Review I filed in our Commonwealth Court of Pennsylvania. My Petition for Review was also summarily denied.---APPENDIX B.

Then, on page 22 of my APPELLANT'S BRIEF in our Pennsylvania Supreme Court, I addressed these constitutional issues raised by appellee including the federal QUESTION #2 presented for review in this petition. Our Pennsylvania Supreme Court denied my appeal (APPENDIX A), so I've filed this PETITION FOR WRIT OF CERTIORARI in my quest for the "...liberty and justice..." we've repeatedly pledged one another as fellow Americans.

Once again, as in Furman and Miller, Pennsylvania courts have departed so far from reality and our rule of law as to call for an exercise of this Honorable Court's supervisory powers on these constitutional questions of national importance that transcend the particular facts and parties involved in this petition. This isn't a miscarriage of justice. It's an abortion.

REASONS FOR GRANTING THIS WRIT

QUESTION #1

Here in these United States of America where we have all pledged "...justice for all", this Honorable Court's supervisory authority is certainly called for when state courts deviate from reality and our rule of law to the point of disingenuously misapplying, misinterpreting, and outrightly disregarding unambiguous statutory requirements along with constitution mandates for due process, equal protection, and separation of powers to arbitrarily reconstruct and enhance statutorily and constitutionally sound individualized life with parole sentences into one-size-fits-all life without parole sentences by legislating from the bench with incredible result-oriented decisions outside of our constitutional boundaries.

ARGUMENTS AMPLIFYING THIS REASON FOR GRANTING THIS WRIT

People like me who have committed serious crimes such as second degree felony murder rightly deserve to be punished in accordance with our rule of law, but two wrongs don't make a right. At the behest of state agencies like our Parole Board, state courts must not be allowed to fabricate a tangled web of deceit with duplicitous and disingenuous misapplications and misinterpretations of laws to arbitrarily legislate their own brand of justice from the bench with an outright disregard of unambiguous statutory requirements and constitutional mandates.

State courts must not be allowed to abandon the truth, justice, and egalitarianism of our American Dream. This is as unAmerican as a 37 dollar bill is fake. Such grievous wrongs must be righted. This Honorable High Court's supervisory authority is called for to review, resolve, and redress such egregious injustice.

Pennsylvania courts have arbitrarily disregarded the clear and concise mandates of this High Court's 1972 decision in Furman and the constitutionally sound new statutes our General Assembly intentionally enacted in direct response to those mandates thereby breaking our constitutional boundaries.

As I've pointed out seven ways to Sunday for our Pennsylvania Supreme Court with a Judicial Notice attached to this petition as Appendix C, all of this is so reminiscent of the incredible and arbitrary rule of the King of England. Our founding fathers did not revolt to replace one tyrant in a purple robe thousands of miles away with thousands of tyrants in black robes right here at home. Our constitutional boundaries must be respected.

This Honorable Court could weigh in on the incredible and arbitrary misapplications, misinterpretations, and outright disregard of clear and concise statutory requirements and constitutional mandates by our Pennsylvania Parole Board and courts. However, ruling on the much broader injustice of automatic, mandatory, one-size-fits-all sentences to life without the possibility of parole being unconstitutional would serve to redress these underlying statutory issues as well.

QUESTION #2

A mandatory sentence to life imprisonment without the possibility of parole is unconstitutional.

ARGUMENTS AMPLIFYING THIS REASON FOR GRANTING THE WRIT

While I'll never agree with such arbitrary nonsense, I must accept the fact our Supreme Court of Pennsylvania has ruled our statutory laws required a sentence in my case of mandatory life imprisonment without the possibility of parole, so I will focus in on pointing out this sentence is patently unconstitutional.

| | |
|--------|--|
| 1972 | 2012 |
| FURMAN | INDIVIDUALIZED SENTENCING SAFEGUARD HEARINGS |
| U.S. | MILLER |
| | U.S. |

When the state seeks to deem a person to be beyond redemption and take away their civil rights, liberties, and freedoms forever by imposing the extreme sentence of life imprisonment without the possibility of parole, no moral or constitutional authority exists for the state to do so automatically. The due process and equal protection guarantees in the 14th Amendment of our United States Constitution deprive states of the authority to impose the extreme sentence of life imprisonment without the possibility of parole automatically. Individualized sentencing safeguard hearings must be conducted before the state may impose this extreme sentence.

As in other modern democracies around the world, most states simply impose a severe sentence of life imprisonment with the possibility of parole which is ample to keep anyone incarcerated for the rest of their life. Some states impose the extreme sentence of life imprisonment without the possibility of parole after conducting an individualized sentencing safeguard hearing to satisfy due process. So, equal protection and the privileges and immunities citizens are entitled to by Section 2 of Article IV and Section 1 of Amendment XIV in our United States Constitution are being violated by the few states imposing the extreme sentence of life imprisonment without the possibility of parole automatically.

The automatic nature of the extreme sentence to mandatory life imprisonment without the possibility of parole being imposed by a few states like Pennsylvania violates the privileges and immunities of citizens, due process, and equal protection.

The automatic nature of the extreme sentence of mandatory life imprisonment without the possibility of parole relieves states of their constitutional due process and equal protection burdens of conducting an individualized sentencing safeguard hearing to prove a person is morally corrupt, depraved, and incapable of rehabilitation and redemption before imposing the extreme sentence of life imprisonment without the possibility of parole. However, nothing in our United States Constitution relieves any state of these mandatory due process and equal protection burdens.

On one end, due process requires individualized sentencing safeguard hearings to be conducted before a state may impose the extreme sentence of death upon adults thereby rendering all state statutes to the contrary unconstitutional. (Furman v. Georgia, 408 U.S. 238, 92 S.Ct. 2726 (1972)) On the other end, due process requires individualized sentencing safeguard hearings to be conducted before the state may impose the extreme sentence of life imprisonment without the possibility of parole upon juveniles thereby rendering all state statutes to the contrary unconstitutional.---Miller v. Alabama, 567 U.S. 460, 132 S.Ct. 2455, (2012).

So, equal protection requires the same due process for every other person facing the extreme sentence of life imprisonment without the possibility of parole between the constitutional mandates expounded on in Furman and Miller. To satisfy the privileges and immunities of citizens, due process, and equal protection, individualized sentencing safeguard hearings must be conducted in every other case where the state seeks to impose the extreme sentence of life imprisonment without the possibility of parole between Furman and Miller.

No room exists in our United States Constitution for any state to legislate automatic discrimination against individuals being subjected to the extreme sentence of life imprisonment without the possibility of parole between the constitutional mandates set forth in Furman and Miller requiring individualized sentencing safeguard hearings. No room exists in our United

States Constitution for any state to treat similarly situated citizens differently between Furman and Miller when they are facing the extreme sentence of life imprisonment without the possibility of parole. All persons being subjected to the extreme sentence of life imprisonment without the possibility of parole are entitled to the same privileges and immunities of citizens, due process, and equal protection constitutionally afforded in Furman on the one end and Miller on the other end, namely, individualized sentencing safeguard hearings.

The automatic nature of the extreme sentence of mandatory life imprisonment without the possibility of parole violates the privileges and immunities of citizens, due process, and equal protection thereby constituting cruel and unusual punishment forbidden by the 8th Amendment of our United States Constitution.

As with a sentence to death, states have the authority to impose the extreme sentence of life imprisonment without the possibility of parole. However, the privileges and immunities of citizens, due process, and equal protection require states to conduct an individualized sentencing safeguard hearing to prove a person is irretrievably corrupt, depraved, and incorrigible before the state may take away their civil rights, liberties, and freedoms forever by imposing the extreme sentence of life imprisonment without the possibility of parole.

Fundamental fairness is the foundation of justice. There is nothing fair about the automatic discrimination created by the imposition of the extreme sentence of mandatory life imprisonment

without the possibility of parole. There is nothing fair about treating similarly situated citizens differently who are facing the extreme sentence of life imprisonment without the possibility of parole between the constitutional requirements spelled out in Furman and Miller. With our evolving standards of decency and devotion to individualized sentencing, the automatic nature of the extreme sentence of mandatory life imprisonment without the possibility of parole makes it constitutionally null and void.

The automatic nature of the extreme sentence of mandatory life imprisonment without the possibility of parole imposed by the few states is a prime example of why the privileges and immunities of citizens, due process, equal protection, and the prohibition against cruel and unusual punishment are in our United States Constitution. If all states were required to abide by these self-evident constitutional mandates they have each sworn to uphold, such inhumane and arbitrary injustice would cease to exist.

Any and all state statutes providing for the extreme sentence of mandatory life imprisonment without the possibility of parole are unconscionable and unconstitutional.

Such state statutes are as unconstitutional as state statutes prior to Furman that automatically rejected any constitutional requirement for an individualized sentencing safeguard hearing to be conducted before the state imposed the extreme sentence of death upon adults and as unconstitutional as state statutes prior to Miller mandatorily eliminating any constitutional requirement

for an individualized sentencing safeguard hearing before the state imposed the extreme sentence of life imprisonment without the possibility of parole upon juveniles.

Throughout these United States of America, extreme sentences to life imprisonment without the possibility of parole should be about as rare as death sentences. However, without states being required to conduct individualized sentencing safeguard hearings, automatic sentences to life imprisonment without the possibility of parole are being handed out in a few states like candy on Halloween. Again, this arbitrary injustice is unconscionable and unconstitutional.

Even if an irretrievably corrupt, depraved, and incorrigible individual received a severe sentence to life imprisonment with the possibility of parole after a state failed to prove they were beyond redemption when seeking to impose the extreme sentence of life imprisonment without the possibility of parole during an individualized sentencing safeguard hearing conducted in accordance with due process and equal protection, no harm would be incurred since that individual would eventually die in prison without ever obtaining parole.

A life sentence even with the possibility of parole does not guarantee parole will ever be granted. That's why we have Parole Boards. On the one hand, the severe sentence of life imprisonment with the possibility of parole is ample to keep morally corrupt and depraved individuals incapable of rehabilitation incarcerated until their dying day. On the other

hand, this severe sentence is fair enough to provide hope of release for wrongfully convicted innocent individuals sentenced to life imprisonment, truly remorseful and rehabilitated lifers, and lifers who have aged out of crime.---APPENDIX D.

The unconstitutional nature of mandatory sentences to life imprisonment without the possibility of parole tosses moral culpability out the window and automatically rejects any likelihood of rehabilitation by mandatorily eliminating any possibility of parole. Such disregard of blameworthiness and the automatic extinction of hope deprives similarly situated citizens of their basic human rights to dignity and redemption without even a nod to their constitutional rights to due process, equal protection, and the privileges and immunities of citizens. The unconstitutional nature of mandatory sentences to life imprisonment without the possibility of parole mandatorily rejects any possibility of rehabilitation and parole and automatically assigns the same moral culpability to everyone across the board from three strikers and abused wives who killed their husbands to mass murderers and serial killers. Again, this arbitrary injustice is unconscionable and unconstitutional.

For every person facing the extreme sentence of life imprisonment without the possibility of parole between the constitutional mandates set forth in Furman and Miller, our United States Constitution requires individualized sentencing safeguard hearings to consider a person's blameworthiness

and capacity for rehabilitation before a state may take away their civil rights, liberties, and freedoms forever by imposing the extreme sentence of life imprisonment without the possibility of parole which is arguably a fate worse than death.---See "Post Script" at APPENDIX E.

Ironically, I'm proud to say our Pennsylvania legislature recognized the constitutional due process requirements for fair notice¹ and individualized sentencing safeguard hearings from this Honorable High Court's 1972 ruling in Furman declaring Pennsylvania's death penalty statutes to be unconstitutional. In response to Furman, our Pennsylvania General Assembly enacted remarkably firm but fair new statutes providing for the sentences to be imposed in cases of first and second degree murder. These

1. Of course, due process also requires fair notice. Nobody can honestly say 18 Pa.C.S. §1102(b) and 42 Pa.C.S. §9756(a)(b) (Pages 5 and 6 in APPENDIX E) give fair notice to persons charged with second degree murder that they are facing a mandatory sentence of life imprisonment without the possibility of parole.

Only by ignoring our General Assembly's use of the word "may" at 42 Pa.C.S. §9756(c) could anyone attempt to say 18 Pa.C.S. §1102(a) and 42 Pa.C.S. §9756(a)(b)(c) (Pages 5 and 6 in APPENDIX E) gives fair notice to persons charged with first degree murder that they are facing a mandatory sentence of life imprisonment without the possibility of parole.

Being the one and only statute in Pennsylvania law mandating the extreme sentence to life imprisonment without the right to parole, 18 Pa.C.S. §3301 (Page 7 in APPENDIX E) actually gives people charged with first or second degree arson murder fair notice that they are facing a mandatory sentence of life imprisonment without the possibility of parole. However, as I've pointed out with this petition, mandatory sentences to life imprisonment without the possibility of parole are patently unconstitutional since they are imposed automatically without the due process of an individualized sentencing safeguard hearing.

new statutory laws were so outstanding they even encompassed the constitutional mandates yet to be covered in this Court's 2012 Miller decision declaring mandatory life imprisonment without the possibility of parole sentences to be unconstitutional for juveniles.---APPENDIX E.

However, despite the fundamental fairness of these new sentencing statutes, Pennsylvania courts chose not to obey them. Instead, Pennsylvania courts put themselves above the law by presumptuously using their gavels to pound square pegs into round holes and thereby legislate their own brand of justice from the bench without any lawmaker or Governor having the courage and moral fortitude to check this unconstitutional imbalance which has led to this petition for liberty and justice.---APPENDIX E.

Our Parole Board has turned my simple request to be reviewed for parole in accordance with the clear and concise requirements of our state constitution, statutory laws, and rule of law into a federal case. Respondent raised due process and equal protection issues with their OBJECTIONS to my Petition for Review in the Commonwealth Court of Pennsylvania. I addressed those issues on page 22 of APPELLANT'S BRIEF in the Pennsylvania Supreme Court, and I've done my best here to present these constitutional issues in a clear, orderly, and convincing fashion as an inept pro se petitioner who begs for some leeway and goodwill.

This Honorable High Court could weigh in on the incredible interpretations of state statutes by Pennsylvania's Parole Board and courts since these so-called interpretations depart so far

from reality that reading them gives a person the eerie feeling of being in an episode of the Twilight Zone where everyone insists the sun revolving around our earth proves the earth is at the center of our universe. However, ruling on the much broader constitutional issue of mandatory sentences to life imprisonment without the possibility of parole being unconstitutional serves to redress these underlying statutory issues as well.

CONCLUSION

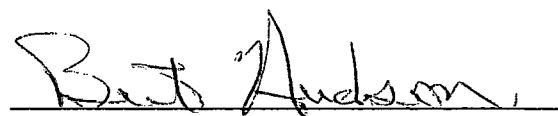
Over the past several decades, hundreds of innocent people sentenced to death or life imprisonment without the possibility of parole have been completely exonerated with exculpatory DNA evidence. Since DNA evidence doesn't exist in most cases to be tested, these people represent only the tip of this iceberg of injustice. Many more wrongfully convicted innocent people are suffering in our prisons without any realistic hope of relief.

So, given that we're all imperfect humans prone to making such grievous mistakes within our imperfect system of justice, the argument could be made that the extreme sentences of death and life imprisonment without the possibility of parole violate our U.S. Constitution's prohibition against cruel and unusual punishment especially when we know the severe sentence of life imprisonment with the possibility of parole is ample to keep irretrievably corrupt, depraved, and incorrigible killers guilty of horrendous murders incarcerated for the rest of their lives. However, my argument is not so lofty.

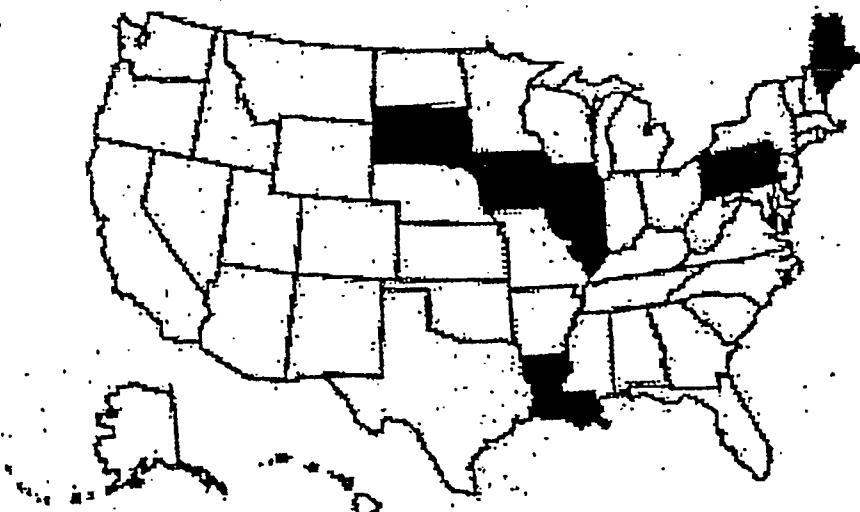
For the reasons I've broached in this petition, mandatory sentences to life imprisonment without the possibility of parole are patently unconstitutional. So, I along with my father Albert and many other family members and friends do hope and pray this Honorable Supreme Court of these United States of America grants this humble petition and issues a writ of certiorari to review, resolve, and redress this grievous injustice.

Respectfully submitted,

Date May 11th, 2019



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(Graphic by <https://www.liferincpa.org/legislative-action>)

The mere political catchphrase "life means life" is enough to trump unambiguous statutory laws mandating parole eligibility for lifers in Pennsylvania resulting in 6, instead of just 5, states enforcing all life sentences for adults without the possibility of parole. This isn't a miscarriage of justice. It's an abortion.