

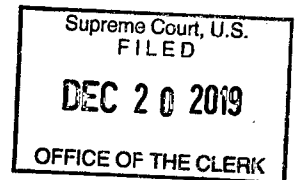
No. 19-7413

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES

Brennen Clancy — PETITIONER  
(Your Name)

Florida Department of Corrections vs.  
Interstate Commission for Adult Offenders  
North Hampton County Adult Probation — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eleventh Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Brennen Clancy  
(Your Name)

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## QUESTIONS PRESENTED

Can a probation department change the classification of a sentence from MISDEMEANOR to FELONY for no reason and without any due process?

The 11<sup>th</sup> circuit court of appeals has ruled this to all be of NATURAL CONSEQUENCE.

Does this conflict with the 3<sup>rd</sup> circuit court of appeals who have previously upheld that circumstance like this is a violation when one is not similarly situated to others similarly sentenced?

For 3<sup>rd</sup> dui offense - PA STATUTE 3802(A) 3803(A)(2) is the standard sentence in Pennsylvania. FL STATUTE 316.193(2)(B)(1 is the STANDARD sentence in Florida it is a Felony. However I was not sentenced to the STANDARD sentence in Pennsylvania.

I was sentenced to PA STATUTE 3807 (ARD) it is a misdemeanor. In Florida there is a similar sentence FL STATUTE 948.08 (PTI). It is a MISDEMEANOR. Was I denied this sentence because I was denied due process ?

This claim is of ON-GOING and CONTINUING to this day of excessive force and deprivation of rights under color of law. What possibly has supported dismissal of this claim?

## 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:

## RELATED CASES

1.) 6:19 - CV - 00403 - CEM - GJK

19 - 13154

Brennan Clancy V. Marie Bertush, Jerry Nimer, Officer Tass, Officer Wiles

2.) Iqbal V. Ashcroft (Note this case was of isolated abuse,  
Mime is on-going)

3.) Jendae V. PA Board of probation, parole  
(3rd circuit Ruling supports claim)

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APPENDIX A 11th circuit opinion

APPENDIX B District Court

APPENDIX C 11th circuit Denial for timely petition

## TABLE OF AUTHORITIES CITED

### PRIMARY CASES:

Ashcroft v Iqbal- does not support dismissing claim of on-going abuse

Doe v Penn board of probation- 3<sup>rd</sup> circuit court of appeals mentions similarly situated to others.

Bell v Twombly- does not support dismissing claim of on-going abuse

### PRIMARY STATUTES AND RULES:

18 USC 3563 b 14 – allows means for courts to change probation/sentences. Defendant's are not courts.

ICOAS Rule 4 – terms of PROBATION can be adjusted. Says nothing about sentence or criminal classification.

FL STATUTE 316.193(2)(B)(1) Standard sentence Felony

FL STATUTE 948.08(PTI) Rehab sentence Misdemeanor

PA STATUTE 3807 (ARD) Rehab sentence Misdemeanor

PA STATUTE 3802(A) 3803(A)(2) Standard sentence Misdemeanor

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 N/A; 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 N/A; 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 July 22 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: 10 - 3 - 19, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

(2)

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Pennsylvania, Florida and Federal laws and provisions provide the same substantive and constitutional rights.

Due process

Right to be free from excessive force

Double jeopardy

Cruel and unusual punishment

14<sup>th</sup> amendment

1<sup>st</sup> amendment

( basically all basic constitutional rights)

## STATEMENT OF THE CASE

In spring of 2014 I was sentenced to my 3<sup>rd</sup> dui offense in Northampton county Pennsylvania.

I was sentenced to PA STATUTE 3807 (ARD)(T-CAP). It was a sentence that consisted of rehab. It was an alternative sentence to the STANDARD sentence which was PA STATUTE 3802(A)3803(A)(2). Upon successful completion I reported to probation where at my request and support of councilors I requested a probation transfer. Florida was the farthest I was eligible to go under the rules of the Interstate commission for adult offenders (ICOAS). It is now known that is was at the time of transfer the Florida department of corrections (FDOC). Changed the classification of my sentence from MISDEMEANOR to FELONY.

Once I became aware of the mishap I brought it to the attention of everyone. Northampton county probation, FDOC and ICOAS. All pointed blame at one another and ultimately brushed me off. I attempted to reach out to attorneys for help and I got the same responses. There for was left with no choice but to file suit in Federal Court. I chose Federal Court's because for one this fell under a federal question and defendant's were head quartered in Pennsylvania, Kentucky and Florida.

The 1<sup>st</sup> complaint was dismissed by magistrate judge Karla Spaulding for failing to state a claim. Even though I requested Injunctive relief. Not sure of what to do I guessed and in amending complaint I thought I was adding to initial complaint but now know apparently I was not.

Nevertheless after 3 dismissals the interstate commission for adult offenders entered its motion stating that Florida department of corrections made the change and that under rule 4 of ICOAS they had the right to change classification from MISDEMEANOR to FELONY. They compared the STANDARD sentences from Pennsylvania and Florida. They did not compare the 2 identical

sentences ARD in Pennsylvania and PTI in Florida. Also that when Congress enacted ICOAS it was not intended to grant rights to probationers?

I argued in response that their statement doesn't support dismissing the claim rather it supports my claim to be true. They admitted it. Nevertheless it was dismissed by judge Mendez.

I requested to proceed on appeal. It was granted by magistrate judge Karla Spaulding. When she could have dismissed it if I failed to state a claim. I assumed that the 11<sup>th</sup> circuit would see that something was a miss and ultimately step in. I was wrong.

It should also be considered that I was met with retaliation and I was forced to file second law suit. It got dismissed as well after being reassigned to same District Judge Carlos Mendez. Only this time for not properly serving defendant's? not true but whatever. Thinking once again 11<sup>th</sup> circuit would step in and see something is a miss. It was dismissed.

Nevertheless since I was not granted due process I was not similarly situated to others similarly sentenced. Had I been granted due process FL STATUTE 948.08(PTI) Would have been my sentence and would have kept me as a MISDEMEANOR offender.

One's personal background is vital in today's world. It is just as vital as ones credit score.

MISDEMEANOR offenses reflect badly like that of poor credit. Poor credit can be rebuilt.

FELONY is similar to bankruptcy. Your done.

## REASONS FOR GRANTING THE PETITION

Over 4 million are on some form of probation. Of that 250,000 under jurisdiction of ICOAS.

ICOAS Rule 4 applies to all US territories. It is being used as a means to trample basic constitutional rights and is turning non-violent MISDEMEANOR offenders into FELONY offenders.

11<sup>th</sup> circuit court of appeals has contradicted a ruling previously upheld by the 3<sup>rd</sup> circuit court of appeals.

11<sup>th</sup> circuit and district court has over ruled a sentencing judge in Northampton county PA.

All qualifications for a claim under 42 USC 1983 have been met and there are remedies for relief.

I have gone one step further. There is a means to fix the deficiency within the ICOAS transfer process. As it is today and has been in the past. Altering sentences have been left to the interpretation of probation officers. Going forward any changes to o as sentence should go through the district attorney office. Because they would have better knowledge of sentences and there different types since they went to law school. All state attorneys offices are already well staffed so it's a simple fix to prevent this from happening to someone else.

## CONCLUSION

Through the actions of defendant's and the obstacles set forth by the Federal Court's I have been stripped of every possible constitutional right. I'm respectfully asking this honorable Supreme Court for just one of those rights back. Amendment 7 the right to trial by jury. I deserve it, My family deserves it. Set the trial date so I can win back all of my rights which were wrongfully taken.