

IN THE SUPREME COURT OF THE UNITED STATES

SEAN M. DONAHUE

V.

PENNSYLVANIA STATE CIVIL SERVICE COMMISSION

AND

PENNSYLVANIA DEPARTMENT OF LABOR AND INDUSTRY

SUPREME COURT OF PENNSYLVANIA DOCKET No. 255 MAL 2019

COMMONWEALTH COURT OF PENNSYLVANIA
DOCKET No. 621 CD 2015

**REQUEST FOR EXTENSION OF TIME
TO FILE A PETITION FOR WRIT OF CERTIORARI
TO THE COMMONWEALTH COURT OF PENNSYLVANIA**

TO THE HONORABLE JUSTICE ALITO:

The *pro se* Petitioner RESPECTFULLY REQUEST an extension of time of 60 days to February 24, 2020 to file a *Petition for a Writ of Certiorari* to the Supreme Court of Pennsylvania.

The Petition for Allowance to Appeal was denied by the state court of last resort on September 24, 2019. The Appellant is overwhelmed with *pro se* briefs and other related *pro se* filings due in numerous courts.

The Petitioner had briefings and other filings due in the US Supreme Court at Docket Nos. 19-6886, 19-5808, 19-6628, 19-6605, 19-6487, 19A491, 19A488; the PA Superior Court at Docket Nos. 920 MDA 2019, 1876 MDA 2018, 1179 MDA 2019, 1168 MDA 2018, 364 MDA 2019, ancillary filings due at other dockets in that court; the PA Supreme Court at Docket No. 36 MM 2019; US District Court at Docket Nos. 3:14-cv-01351, 3:19-cv-1859 (Middle District of Pennsylvania); numerous *pro se* filings at PA Luzerne County Docket CP-40-CR-3501-2012; numerous *pro se* filings at PA Dauphin County Docket CP-22-CR-3716-2015; AND numerous cases in the PA State

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Civil Service Commission and had to prepare for an interview with the Pennsylvania Board of Pardons.

The matters raised at PA Supreme Court Docket No. 255 MAL 2019 are merit worthy matters of federal interest that involve the misuse of a State Civil Service Tribunal and a job interview process to entrap the Appellant into a criminal charge and the suppression of free speech on matters of public concern through retaliation in state hiring procedures. (*Pickering v. Board of Education, 391 U.S. 563 (1968)*)

The job in question was a federally block grant funded state civil service job, for which the Petitioner has veterans preference that is recognized by state statute and by federal statute because the state agency in question is funded by federal block grants.

The Petitioner's case is an "*actual case [and] controversy*" which is "*real*" not "*hypothetical*". The controversy "*affects [the Petitioner and other veterans] in a concrete manner*" that "*provide[s] a factual predicate for reasoned adjudication*". The only way relief can be provided in this case is by a court order that has "*force*" and "*effect*". (*Harris v. Rendell, 982 A.2d 1030, 1035 (Pa. Cmwlth. 2009), aff'd, 992 A.2d 121 (Pa. 2010);*

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Cty. Council of the Cty. of Erie v. Cty. Exec. of the Cty. of Erie, 600 A.2d 257 (Pa. Cmwlth. 1991); *(Pilchesky v. Lackawanna Cty.*, 88 A.3d 954, 964-65 (Pa. 2014) (citation omitted); Also see *Sierra Club v. Pa. Pub. Util. Comm'n*, 702 A.2d 1131, 1134 (Pa. Cmwlth. 1997) (en banc)).

For well over a decade, the Petitioner was actively engaged in a public campaign against the Pennsylvania Department of Labor and Industry, which is funded primarily through federal block grants. His campaign was a public campaign and therefore a matter of public concern. (*Pickering* *supra*, *Pilchesky* *supra*, *Venango* *supra*, *Erie* *supra*, *Pap's AM* *supra*, *Philadelphia v SEPTA* *supra*, *Harris* *supra*) The Petitioner is still entitled to veterans preference in hiring for state jobs and to veterans priority job placement services from federally funded CareerLinks to assist him in getting such jobs. The fact that the Petitioner was convicted for engaging in his campaign makes the matter even more of a...public concern because a veteran was mistreated by the state courts.

The state agency retaliated against the Petitioner by spreading false rumors of mental health problems and abused the hiring process

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to attempt to gain access to the Petitioner's personal physicians. The agency misused a job interview to attempt to antagonize confrontation intended to criminally entrap the Petitioner. For years, state officials responded to the Petitioner's public campaign by intentionally ignoring him, which is a form of harassment by silent treatment, and by knowingly spreading false rumors telling all of its employees that the Petitioner is mentally ill.

The state officials abused the hiring process in the instant case to continue its unwarranted campaign to defile and slander the Petitioner's mental health status. The state officials rejected the Petitioner's references and instead asked to speak to his primary care doctor at the VA Hospital Doctor and also to speak to his Dentist.

The state's General Counsel evaded having to respond to complaints about the agency by ordering all statewide agency personnel to ignore any and all communications from the Petitioner. This was a clear intent to frustrate the Petitioner so that he would say something that the state could claim was a threat. This tactic was a running

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theme in a 2,000 page discovery used to file criminal charges against the Petitioner in a separate case.

The state engaged in this behavior to evade accountability to the Petitioner's complaints and with the intent of causing enough frustration to entice an eventual verbal or written reaction from the Petitioner that the state could then hang a criminal charge on.

“...I'm kind of with Allen on this one—based just on the e-mails I'm seeing below~I don't see that he's done anything threatening yet. He's physically described who ticked him off, why, and where they sit. He's asked questions to which I believe he doesn't have a legal right to get an answer. He's obviously focusing on these matters and wants to get action, but that doesn't necessarily mean he's threatening.

I'm inclined to suggest, unless we hear something more about his behavior, that we either consider Chris' e-mail to be our first and last response (no more response necessary), or write another reply making it clear that we're aware of his issues and have looked into them, apologize for any rudeness, but make it clear that no more response will be made other than to formal Right to Know requests [Citation Omitted].”

The state agency intentionally waited until after a hiring process was completed before it decided to retroactively initiate a procedure to justify previous veterans preference violations. The Petitioner

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continues to “suffer a detriment in the absence of a court determination” (*Pilchesky supra, Venango supra, Erie supra, Pap’s AM supra, Philadelphia v SEPTA supra, Harris supra, Sierra Club supra*) because he is entitled to damages, in the form of back pay and back benefits for 90+ violations of his veterans preference (51 Pa.C.S. §7104 (b) (c)& §7105)

This issue is of “great public importance” because it involves systemic violations of veterans preference. (*id*)

“Pennsylvania has had a veterans’ preference statute dating back to 1887. Preferential Treatment of War Veterans, No. 2, 38 Pa. D. & C. 129, 131 (1940). It exists ‘as a form of consideration for society’s recognition that (1) veterans generally bring highly valued skills conducive to the better performance of public employment duties, including discipline, experience and service; (2) veterans suffer from a comparative disadvantage relative to non-veterans because of their exclusion from the labor market during their period of military service to the nation; and (3) veterans have rendered the greatest service a citizen can perform namely, the defense of our liberty.’ *Brickhouse v. Spring-Ford Area Sch. Dist.*, 656 A.2d 483, 490 (Pa. 1995) (Castille, J., dissenting) (citing Schmid, 3 A.2d at 704). (*Blake V. State Civil Service Commission, No. 103 MAP 2016, J-36-2017, pp20-21*)

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The Petitioner went to college part-time while on active duty. He earned a two year degree in from 1988 through 1994. After the Army, he graduated from Dickinson College Magna Cum Laude & Phi Beta Kappa. He then graduated from Columbia university with two graduate degrees. Beyond his degrees, he completed additional graduate and undergraduate coursework in business, finance and STEM. He did serve in the armed forces of the United States on war deployments and expedition during the Persian Gulf War and the Invasion of Panama. Within the Army, he volunteered again to serve in an elite all volunteer helicopter unit called "The Night Stalkers" 160th SOAG & 1/160th SOAR. He provided intelligence support for "highly classified" operations to counterterrorism in both an international and domestic context, which involved secretive military support to law enforcement agencies. He videotaped the rooftop of Manuel Noriega's headquarters building and the rooftop of a prison across the street called Modelo Prison. He is a "soldier" as that term is defined in 51 Pa.C.S. §7101. He is entitled to receive a veterans' preference when applying for civil service jobs in Pennsylvania. (*ibid*)

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The instant case also issue involves several other unidentified veterans who remain unaware of the fact the their veterans preference was also violated by the state. Thus, it has already been shown that *“the conduct complained of is capable of repetition yet likely to evade judicial review”*. (*Pilchesky supra, Venango supra, Erie supra, Pap’s AM supra, Philadelphia v SEPTA supra, Harris supra, Sierra Club supra*)

The Pennsylvania State Civil Service Commission thinks of itself based on a preconceived constitutionally flawed false premise that it is a fourth branch of government equal to the courts. The state commission’s own misinterpretation of the powers vested in it are flawed at a deep theoretical and constitutional level. All of its Adjudications arise from this flawed foundation. The commission’s interpretation of its own administrative powers is overly broad. Its over broad interpretation of the Pennsylvania Civil Service Act has led it down the path of regular and systematic violations of the fundamental US Constitutional rights by reaching fell swoop *supra* judicial administrative rulings.

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The state commission *sua sponte* ruled the following; “*To avoid confusion, “Commission” will be used to indicate the adjudicatory branch of the State Civil Service Commission and “SCSC” will be used to indicate the administrative branch.*” This ruling clearly shows that the state commission thinks of itself as a separate “branch” of government. The state commission’s ruling does nothing to “avoid confusion” but does everything to reveal and propagate it throughout the state civil service hiring and disciplinary process.

The state and US constitutions only allow for three branches of government. The executive branch is one of them and it may not create a fourth administrative judicial branch. The executive branch of government is an “it” not a “they”. It is not free to choose its constitutional identity in the willy nilly way in which the populations of the developed world have begun teaching young people that they are free to choose their own reproductive identities and thenceforth proceed to engage in self chosen gender roles. The commission’s view of itself is illogical, illegal and unconstitutional. The *sua sponte* differentiation between the “Commission” and SCSC (State Civil

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Service Commission) raises the “Commission” to an unconstitutional prejudicial status that is far superior to the mere SCSC.

PA Constitution Article I:

“§ 15. Special criminal tribunals.

No commission shall issue creating special temporary criminal tribunals to try particular individuals or particular classes of Cases. (May 16, 1967, P.L.1035, J.R.1)”

The unconstitutional flawed differentiation between the “Commission” and SCSC is so pervasive throughout state commission rulings, and throughout the entire Pennsylvania government, that the only reasonable remedy to clear the confusion is to both strike the language of the Adjudication on fundamental constitutional grounds and to then strike the continued existence of the state commission on those same grounds.

The existence of the “Commission” and state Management Directives in place of where there should be laws, and in place of where no laws or rules should exist at all, serves to deny citizens access to the state trial Courts, which is where all disputes over matters greater than \$20 should be heard (7th Amendment to the US Constitution).

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The kinds of constitutional matters that the state commission purports to opine upon should not be adjudicated by an administrative body. The instant case should have been tried in court. In playing trial court, the “Commission” lost sight of the fact that it is merely SCSC and therefore lacks the jurisdiction necessary to tri anything.

PA Constitution Article I:

”§ 11. Courts to be open; suits against the Commonwealth.

All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay. Suits may be brought against the Commonwealth in such manner, in such courts and in such cases as the Legislature may by law direct.”

The state commission’s interpretation of itself is overly broad. Its application of its jurisdiction in the instant case is overly broad and supra judicial. Its adjudicating language in the instant case is overly broad and supra judicial.

The commission’s existence must be struck from the state statutes and the state Civil Service Act must be struck as being overly broad.

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(*Pickering supra, Pilchesky supra, Venango supra, Erie supra, Pap's AM supra, Philadelphia v SEPTA supra, Harris supra*)

The PETITIONER RESPECTFULLY requests an extension of time to file a Petition for a Writ of Certiorari in the underlying matter.

The Petitioner RESPECTFULLY REQUESTS a *de novo* review of the instant case.

The PETITIONER RESPECTFULLY requests that he be allowed to participate in oral argument for the instant case.

The forgoing is true in both fact and belief and submitted under penalty of perjury.

Respectfully Submitted,

Dec 16, 2019

Date



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