

IN THE  
SUPREME COURT OF THE UNITED STATES

DEVELL SHORT, In Propria Personam/Prose,  
Petitioner.

v.

MELINDA ADAMS, Superintendent/ Et. al.,  
Respondent(s).

PETITION FOR A ENBANC/REHEARING-NUNC PRO TUNC. IN LIEU OF THE DENIAL OF  
HIS CURRENT PETITION FOR A WRIT OF CERTIORARI- IN THE U.S. SUPREME COURT

Greetings To: The Honorable John Roberts, Chief Judge, and Justices of the Court,

PETITION FOR A ENBANC/REHEARING-NUNC PRO TUNC  
FROM THE COURT'S 330-20, CONTRARY DECISION

COMES NOW, DEVELL SHORT, Petitioner/In Propria Personam, who hereby moves the Court in the above Captioned case and related matters, to grant him Leave to file a "Petition for a En Banc/Rehearing" Nunc Pro Tunc... That we are to do so, In Lieu of the denial of His "Petition for a Writ of Certiorari" that he filed to correct the current manifest Injustice and Fast Miscarriage of Justice; Thus, this is a timely appeal because of the repeated failure of the Court to free an Innocent Man, pursuant to House v. Bell, 126 S.Ct. 2064, 2075-2078 (2005)... A Man who under the circumstance of this case stands Wrongfully Convicted and still presently incarcerated in violation of the United States Constitution. Now because of the "Pandemic/Coronavirus" Judicia / Notice is given that this Emergency Request for Redress is presented to you in good faith and is not for delay. Accord Supreme Rule 44.2 Therefore, Petitioner proffers the following in support of the "Relateback Doctrine" and this "Petition for a En Banc/Rehearing" that the Full Court Uphold Its Oath to Review/Reconsider the causes and effects of his Illegal Detention; Thus, Sua sponte shall now Reconsider his unjust/unconstitutional denial of Due Process at trial, because a State Procedural Default Rule is not a bar to a federal habeas or Writ of Certiorari petition. Accord Schlup v. Delo, 530 U.S. 289, 319-322 (1995). Subjudice can now review the issues raised in the writ of Cert. because the decision to deny it was made contrary to and in fact involves an unreasonable application of clearly established federal law. WHEREFORE, Full Court Review is imperative due to the above stated extraordinary circumstances and the COVID-19 virus that exist. Hereafter His Petition for Writ of Habeas Corpus, the Informal Defense Brief filed in support of the Petitioner. And now his current "Petition for a Writ of Certiorari" are herein incorporated as if same was set forth both whole and in part.

Dated: April 15, 2020

Filed on behalf of the Petitioner,

Mr. Devell Short BN-6679  
DOC/SCI-Mercer  
801 Butler Pike Road  
Mercer, PA 16137

## QUESTIONS PRESENTED FOR REVIEW

- I. IS PETITIONER ENTITLED TO EQUITABLE TOLLING UNDER THE CIRCUMSTANCES PRESENTED IN THE PAGES OF HIS ORIGINAL PETITION FOR WRIT OF CERTIORARI... NUNC PRO TUNC?
- II. WHETHER THE SUPREME COURT'S DECISION OF MARCH 30, 2020 TO DENY PETITIONER'S REQUESTED RELIEF AND REVERSAL OF THE INFERIOR COURT'S JUDGMENT IS NOT WORTHY TO STAND?
- III. WAS THE PETITIONER DENIED HIS CONSTITUTIONAL RIGHT TO FAIR JURY TRIAL, BECAUSE OF CONTAMINATION FROM A OFFICER OF THE COURT, AND BECAUSE OF A DISFUNCTIONAL JUDICIAL SYSTEM?

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### Argument:

- I. PETITIONER IS ENTITLED TO EQUITABLE TOLLING UNDER THE CIRCUMSTANCES PRESENTED IN THE PAGES OF HIS ORIGINAL PETITION FOR WRIT OF CERTIORARI... NUNC PRO TUNC. — — 2.
- II. THE SUPREME COURT'S DECISION OF MARCH 30, 2020 TO DENY PETITIONER'S REQUESTED RELIEF, AND REVERSAL OF THE INFERIOR COURT'S JUDGMENT IS NOT WORTHY TO STAND. — — 3.
- III. THE PETITIONER WAS DENIED HIS CONSTITUTIONAL RIGHT TO FAIR JURY TRIAL, BECAUSE OF CONTAMINATION FROM A OFFICER OF THE COURT, AND BECAUSE OF A DIS-FUNCTIONAL JUDICIAL SYSTEM. — — — — — 4.

## JURISDICTIONAL STATEMENT

Petitioner respectfully pray that the Court issue an Order Sua sponte granting a En banc Hearing/Rehearing Full Court Review, Nunc Pro Tunc, In Lieu of the Courts current default/Miscarriage of Justice-Manifest Injustice involving the unjust denial of a good faith "Petition for a Writ of Certiorari" on March 30, 2020 by a Clerk/Panel of this Supreme Court without remand for a hearing or an official order. Herein, An En banc Review is needed to correct during this Appeal, a violation of the United States Constitution and to reverse a decision made by a inferior Court on its face found to be in direct conflict with clearly established Laws of the Land.

Therefore, The Jurisdiction of the Supreme Court of the United States is hereafter invoked to hold a En Banc and/or Rehearing to Review the Merits raised in this and related matters pursuant to the following: 28 U.S.C. § 1254, Et. seq., and § 1257; Per. Supreme Court Rules: Rule 13, 44 Et. seq., 22.1... And also Rule 10(a).

Supreme Court of the United States  
Office of the Clerk  
Washington, DC 20543-0001

Scott S. Harris  
Clerk of the Court  
(202) 479-3011

March 30, 2020

Mr. Devell Short  
Prisoner ID #BN6679  
SCI Mercer  
801 Butler Pike  
Mercer, PA 16137

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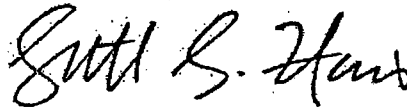
Re: Devell Short  
v. Superintendent, State Correctional Institution at Greensburg,  
et al.  
No. 19-7690

Dear Mr. Short:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



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Scott S. Harris, Clerk

## CONSTITUTIONAL PROVISIONS INVOLVED

In compliance with U.S.S.Ct. Rule 14.1.(f), and for the sake of clarity, Petitioner avers that the applicable Constitutional and Statutory Provisions Involved are the same ones that were in effect as of the date of the offense... As well as, those Constitutional Rights found listed in each paragraph set forth on Page 3. of the "Petition for Writ of Certiorari" which is now to be hereafter, Incorporated in this matter, as if same is already set forth, both whole and in parts.

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Further, The proponent before this Court is not the petitioner's actions... But it is related to the complained of manifest injustice caused by the Unified Judiciary's inactions/failure to fairly apply the correct applications of Fundamental Fairness, Constitutional Protections, I.e., "Self-defense, Justification Use of Force" and thus, the current subject involve is about the Court's failure to grant the petitioner the full panoply of the requested Precedent Case Law, and the true application of the United States Constitution.

I. PETITIONER IS ENTITLED TO EQUITABLE TOLLING UNDER THE CIRCUMSTANCES PRESENTED IN THE PAGES OF HIS ORIGINAL PETITION FOR WRIT OF CERTIORARI... NUNC PRO TUNC.

Mr. Devell Short, Petitioner under the U.S. Constitution is entitled to have the State of Pennsylvania Criminal Court's Judgment Reversed, Remanded to hold a Evidentiary Hearing into the merit of the claims raised in the pages of the Briefs filed in support of both the Writ of Habeas Corpus and the Writ of Certiorari, or in the alternative that He/Mr. Short be granted his Request for En banc/Rehearing, then be granted a New Trial for the following reasons:

A. From the Outset, the Petitioner gave Judicial Notice to every Court that this matter concern... Namely to the U.S. Federal Courts that he was denied due process had never been personally furnished a "Notice of the Judicial Decision" in which would allow him fundamental fairness to perfect a Timely Appellate Review. Thus He was not personally at fault for their not being a Complete Case Record, that at all time concerned the complained of judicial defaults of the incomplete Record which denied a meaningful appellate review based upon the merits of the claims proffered, occurred because the Office of the Clerk of Court has purposefully withheld from him/the petitioner any official Notice, which effectively denied him meaningful access to the Court in pursuit of justice and against his guaranteed right to perfect an appeal. Accord the First Argument raised in the Petition for Writ of Certiorari, on pages: ii, 5, & 7.-12... which are now incorporated herein as if, same was set forth both whole and in part. This Reviewing Court shall logically agree that He/Mr. Short was ~~unjustly~~ prejudiced because of the inactions of Government (a Federal Clerk's) interference, error or omission by failure to issue him any Notice protected by the Constitution. Thus, the complained of interference by the Clerk of Court was tantamount to a officer of the Court interfering with the business/duties of the justices by putting the Court beyond the reach of the petitioner... to date denying Mr. Short his Constitutionally protected access to Court.

WHEREFORE, He/Devell Short express a belief, based upon a reasonable study of historical Court judgments, therefore that this reviewing court's first panel's decision of March 30, 2020, as was entered by the U.S. Supreme Court... was tantamount to the Court committing a "Structural Defect."

II. THE SUPREME COURT'S DECISION OF MARCH 30, 2020 TO DENY PETITIONER'S REQUESTED RELIEF AND REVERSAL OF THE INFERIOR COURT'S JUDGMENT IS NOT WORTHY TO STAND.

When the Supreme Court's Decisions and Judgments cease to protect the Constitutional Rights of those such as Mr. Devell Short the petitioner who in good faith petition it for redress or fail when called to uphold the oath to correct a patent case of manifest injustice. . . . The True Purpose of the Supreme Court cease to be relevant or cease to exist.

Although petitioner was accused of doing the wrong thing on February 18, 1990, in order to protect his own life, the Trial Court Judge in bad faith denied the petitioner the benefit of well established Criminal Law-Penal Statutes, (Namely Pennsylvania's own Stand your own ground laws) that were in effect some 18 years earlier, known as the "Castle Doctrine." Instantly, The Trial Court Judge, and then the Inferior Appellate Courts both erroneously failed to accord the petitioner the application of even pre-Castle Doctrine Protections and Justification statutes: Title 18 Pa. C.S. § 502(a), § 505(a), Et. seq., which were due him although they were established in 1972. Therefore, This Reviewing Court should have agreed that in this case Devell Short petitioner beyond dispute was unjustly denied both the Constitutional Protections and Judicial benefits still due him pursuant to the Pennsylvania Legislative Intent and Laws. . . . We accord Title 18 Pa. C.S.A. § 506(b)(1), (2), (3); § 502(a), and § 505(a) . . . (In the (sub)judge) case and matter before us.) He/Mr. Short to date was unjustly denied his requested defense of the "Castle Doctrine" . . . The Right to Stand His Ground with the Justified Usage of Force for Self-protection." Both the Trial and Appellate Records proffer that at all times concerning he/Short was entitled due the "Self-Defense of Justification" per the Castle Doctrine instantly which gave him legal justification for the usage of deadly force in prescribed circumstances. . . . Namely, under Pa. Statute, § 505(a). "The usage of deadly force upon or towards another person was justified when he/Short believed that such force was immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person. (Mr. Morton).

Herein, Petitioner demands that this En Banc Court (Each Justice) uphold its oath taken, Must agree that the conviction judgment of life of incarceration shall be reversed vacated and that every decision made in this matter over the last 29 years by the combined judiciary to date were made contrary to and in fact involved an unreasonable application of clearly established State and Federal Law; Especially, since the Supreme Court under the Laws and Constitution of the Commonwealth of Pennsylvania, historically holds stand your ground-castle doctrine crime protections are justified in situations as occurred in Mr. Short's case. I.e., That:

"The Killing of an assailant (like Mr. Morton) was justifiable if it is committed to protect oneself from death or serious bodily injury, or when under circumstances where it is reasonable to assumed (by Mr. Short) that (his own) death or serious bodily harm would result unless the assailant (Morton) was killed." See Commonwealth v. Capella, 322 Pa. 200, 204 (1936).

WHEREFORE Petitioner prays that during this Reviewing En Banc Court Nunc Pro Tunc Agree that he was Denied the application of his requested defense sub judge . . . beyond dispute, Based upon the aforesaid and the total record. Both the U.S. Court of Appeals Informal Brief and the Petition for Writ of Certiorari shall be incorporated herein as if both were set forth whole and in part. Further the Court Adjudge and Decree that the Inferior Courts Judgments are Not Worthy to Stand, that same decisions be reversed and vacated.

III. THE PETITIONER WAS DENIED HIS CONSTITUTIONAL RIGHT TO FAIR JURY TRIAL BECAUSE OF CONTAMINATION FROM AN OFFICER OF THE COURT AND BECAUSE OF A DIS-FUNCTIONAL JUDICIAL SYSTEM.

Petitioner avers that If we hold a decision to be vague, its concept is vague in all its application (and never mind the reality). The doctrine of stare decisis allows this Court to revisit an earlier decision where experience with its application reveals that the previous misapplication of clearly established constitutional rights uncorrected is unworkable. Payne v. Tennessee, 501 U.S. 827 (1991) Emphasis add. Although it is a vital rule of judicial self-government, stare decisis does not matter for its own sake. It matters because it "promotes the evenhanded, predictable, and consistent development of legal principles." Payne, supra, at 827.

In the case now on appeal before this Court, it is beyond dispute that Mr. Short was denied a fair trial because the judge allowed an "Unnamed Officer of the Court" and a "Run-Away Jury Member" to both contaminate the rest of the seated jury members without of court information. Sua sponte, This Court must take Judicial Notice, that in pursuit of true justice. -- In this case based upon the issues raised, both each Inferior Reviewing Court and the Attorney for the Commonwealth will concede the aforesaid as an indisputable fact that logically the absence of this Unnamed Officer of the Court giving in court testimony was presumptively highly prejudicial to Mr. Short, petitioner's Constitutionally protected meaningful defense, and his right to Due Process.

This Court has the power to correct vacate & contaminate jury verdict that was based upon "extraneous influences." Accord the precursor to this case, In Rembert v. United States, 347 U.S. 227, 229-230 (1954). Our Supreme Court held, "That any unapproved private communication, contact or any tampering with a juror during a criminal trial is presumptively prejudicial. (As it was instantly to Mr. Short)." Judicial Notice is given that both the petitioner's Informal Brief that was filed in this matter in the "Court of Appeals" see pages. 11. through 16. and the current Petition for a Writ of Certiorari "Accord pages. 12. through 17. Thus Note that both are incorporated herein as if, they were set forth both whole and in part.

Finally, The courts have universally held that "In exceptional circumstances especially in criminal cases, while in the appellate courts for in the public interest a Court may, of its own motion, (sua sponte) notice errors to which no exception has been taken, if the errors are obvious, or if they otherwise seriously affect the fairness, integrity, or public reputation of a judicial proceeding." Accord United States v. Atkinson, 56 S.Ct. 391, 392 (1936).

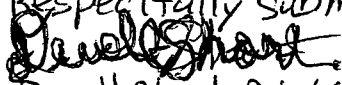
WHEREFORE Because Devell Short was denied his Constitutional Rights to a fair Jury Trial, this Reviewing Court is constrain by its oath to vacate its prior erroneous Order, thereafter vacate the judgment of the Court of Appeals and remand the case to the District or state Trial Court with directions to hold a hearing to determine whether the incident at the heart of this complaint / Appeal was harmful to the petitioner, and if after hearing it is found to have been harmful, to grant him a new trial.

## CERTIFICATE OF SERVICE

I, Devell Short, Petitioner-Appellant do hereby declare that on this 15th day of April, 2020, as required by United States Supreme Court for a "Petition for En Banc/Rehearing" see Rule 44.1, 44.2. and 29; That pursuant to same, it is represented in good faith and not for delay and is filed within (25)-Twenty Five Days after March 30, 2020, date of the Order (Clerk's Letter) To-wit, The Manifest-unjust act of denying of a good faith "Petition for a Writ of Certiorari" on Appeal from the United States Third Circuit/U.S. District Courts. That I have done all that I could do on my own, per. United States v. Fallen, 84 S.Ct. 1689 (1964). Yet under the current circumstances in same being forwarded to the Court. I.e, DOC has prison on "23 Hours Lockdown and/or because of the COVID-19 Virus" processing/service may cause delay, after depositing petition in the United States Mail addressed to the following persons:

Justice John Roberts  
Via Mr. Scott Harris, Clerk  
Office of the Clerk for  
Supreme Court of the United States  
1 First Street, N.E.  
Washington, DC 20543

Ronald Wabby, ADA.  
C/o Office of the District Attorney  
Allegheny County Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

Respectfully submitted,  
  
Devell Short BN-6679  
DOC/SCI-Mercer, N.Y.  
801 Butler Pike  
Mercer, PA 16137  
Dkt: No. 19-7690

Wam/280.S.C.82242