

19-8085

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

FEB 05 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Lamar L. Zamichieli — PETITIONER
(Your Name)

VS.

PA Department of Corrections
SCI Mahanoy, Commonwealth of PA — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

The trial Court, Superior Court, the Pennsylvania Supreme Court,
the State Court and the District Court / Appeals Court for the
third circuit.

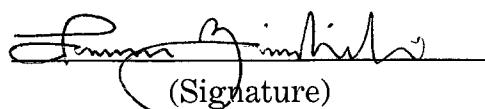
Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: _____
_____, or

a copy of the order of appointment is appended.


(Signature)

why the decision of the lower court may be erroneous, but the national importance of having the Supreme Court decide the question involved. It is important to show whether the decision of the court that decided your case is in conflict with the decisions of another appellate court; the importance of the case not only to you but to others similarly situated; and the ways the decision of the lower court in your case was erroneous. You will need to attach additional pages, but the reasons should be as concise as possible, consistent with the purpose of this section of the petition.

XIV. Conclusion

Enter your name and the date that you submit the petition.

XV. Proof of Service

You must serve a copy of your petition on counsel for respondent(s) as required by Rule 29. If you serve the petition by first-class mail or by third-party commercial carrier, you may use the enclosed proof of service form. If the United States or any department, office, agency, officer, or employee thereof is a party, you must serve the Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Ave., N.W., Washington, D. C. 20530-0001. The lower courts that ruled on your case are not parties and need not be served with a copy of the petition. The proof of service may be in the form of a declaration pursuant to 28 U. S. C. § 1746.

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Lamar L. Zamichieli, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ _____	\$ _____	\$ _____	\$ _____
Self-employment	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ <u>N/A</u>	\$ _____	\$ _____
Gifts	\$ <u>17.64</u>	\$ <u>N/A</u>	\$ <u>17.64</u>	\$ <u>N/A</u>
Alimony	\$ _____	\$ <u>N/A</u>	\$ _____	\$ _____
Child Support	\$ _____	\$ <u>N/A</u>	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ <u>N/A</u>	\$ _____	\$ _____
Disability (such as social security, insurance payments)	\$ _____	\$ <u>N/A</u>	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ <u>N/A</u>	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ <u>N/A</u>	\$ _____	\$ _____
Other (specify): <u>Facility Pay</u>	\$ <u>17.64</u>	\$ <u>N/A</u>	\$ <u>17.64</u>	\$ <u>N/A</u>
Total monthly income:	\$ <u>17.64</u>	\$ <u>N/A</u>	\$ <u>17.64</u>	\$ <u>N/A</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	\$ \$ \$ N/A
Incarcerated			

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	\$ \$ \$ N/A
Incarcerated			

4. How much cash do you and your spouse have? \$ Not married N/A
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
NONE N/A	\$ \$ \$ N/A	\$ \$ \$ N/A

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home
Value NONE

Other real estate
Value NONE

Motor Vehicle #1
Year, make & model N/A
Value N/A

Motor Vehicle #2
Year, make & model N/A
Value N/A

Other assets
Description N/A
Value N/A

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>NA</u>	\$ <u>NA</u>	\$ <u>NA</u>
	\$ <u> </u>	\$ <u> </u>

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
<u>NA</u>	<u>NA</u>	<u>NA</u>

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u> </u>	\$ <u> </u>
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u> </u>	\$ <u> </u>
Home maintenance (repairs and upkeep)	\$ <u> </u>	\$ <u> </u>
Food	\$ <u> </u>	\$ <u> </u>
Clothing	\$ <u> </u>	\$ <u> </u>
Laundry and dry-cleaning	\$ <u> </u>	\$ <u> </u>
Medical and dental expenses	\$ <u> </u>	\$ <u> </u>

* Incarcerated

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ _____	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Other: <u>* Incarcerated</u>	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>* Incarcerated</u>	\$ _____	\$ _____
Installment payments		
Motor Vehicle	\$ _____	\$ _____
Credit card(s)	\$ _____	\$ _____
Department store(s)	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ _____	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

Possibly. I am an unpublished author. I expect to get published soon - this may generate money. Although not certainly sure this will happen, either sooner or later.

10. Have you paid - or will you be paying - an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

If yes, how much? _____

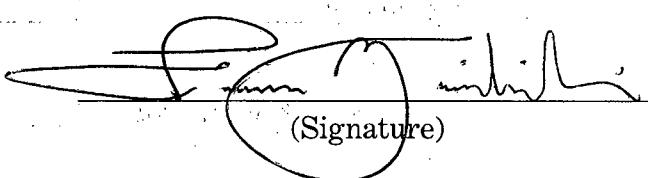
If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I am extremely poor at this point and time. I can send attached, fairly monthly account statements provided to me on a monthly basis. I or my family/friend own anything worthy to help cover and/or pay for the cost of legal fees or an attorney.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: January 27, 2000


(Signature)

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No. 19-8085 ORIGINAL

Supreme Court, U.S.
FILED

FEB 05 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Lamar L. Zamichieli — PETITIONER
(Your Name)

PA Department of Corrections ^{vs.}
SCT Coal Township / SCI Mahanoy, Pennsylvania — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Third Circuit Court of Appeals, United States District Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lamar L. Zamichieli

(Your Name)

SCI Mahanoy
301 Moreau Road

(Address)

Frackville, PA 17932

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

I was denied for presenting a Habeas Corpus petition because it was believed I filed the petition 11 days late when the facility (SCT Coal Township) denied to accept the petition to be mailed out at the time because I did not have the funds for the prison to deduct in order to forward my petition to the court. So my question is as follow:

Can a person incarcerated and who is poor be legally held accountable for gaining access to the court if the prison facility to which the Habeas Corpus petition is against refuse to accept the petition to be mailed out to the court if he is indigent and does not have the appropriate balance to afford the cost to mail petition out in order to satisfy deadline?

Is this legal? I had to wait until November 28, 2016 to submit my Habeas Corpus petition to facility in order for them to mail it to the court due to the fact I did not have any money at the time and I was expecting free money from the facility on November 28th. The facility refused to accept my petition any time sooner. I feel as though the facility hindered my ability to access the court prior to the deadline which was November 17, 2016. I was denied my right to file a Habeas Corpus petition because of 11 days late.

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:

Vincent Mooney, Superintendent of SCI Coal Town Ship
Superintendent of SCI Mahanay, The Pennsylvania Department
of Corrections. The Commonwealth of Pennsylvania.

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 1 to the petition and is

[] reported at Zamidell v. Mooney; 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 2 to the petition and is

☒ reported at Zamidell v. Mooney; 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 December 2, 2015; 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 December 3, 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: December 3, 2019, and a copy of the order denying rehearing appears at Appendix 1.

[] 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**: *(Do not have copies of this legal matter)*

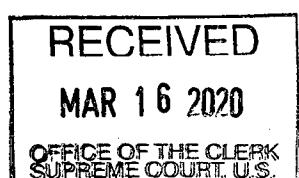
The date on which the highest state court decided my case was December 16, 2019. A copy of that decision appears at Appendix 1.

A timely petition for rehearing was thereafter denied on the following date: December 16, 2019, and a copy of the order denying rehearing appears at Appendix 1.

[] 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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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I am currently claiming that my 5th, 6th, 8th, 9th and 13th amendment of the U.S. Constitution is being violated and remains to be in violation as long as my incarceration fails to be reviewed in light of the circumstances involved, sentencing violations, Rule 660 violations, patient/ client Doctor privilege violations, ineffective assistance of counsel.

STATEMENT OF THE CASE

To Summarize, I believe my rights were denied starting from the trial court in Philadelphia County in Pennsylvania.

I believe the trial court violated my 5th, 6th, 8th 4th and 13th amendment rights and it will continue to be in violation if my ~~claims~~ claims are not looked into. I believe I am being taken advantage of by the court system due to the fact of my lack of money and legal resources in which can help uncover the violations of my rights that ~~can~~ continue to occur as long as nobody who honestly is willing to take a serious look at my case to determine what is happening here. I am a poor person who doesn't completely understand law, let alone who has a very low IQ which I have been receiving help from others in prison in order to ~~try~~ and expose the truth of the matter but due to my lack of understanding my case may never get the attention it deserves in order to rectify the errors that seem to be ongoing in my matter. I can guarantee that if my matter is picked and reviewed by this court - it will be looked at what is going on.

REASONS FOR GRANTING THE PETITION

The reason for granting my petition is, it will reverse the honest miscarriage of justice here. All I am honest of asking for is some one to seriously take a look at my claims. I may not know how to understand law - like case laws, but I know when something illegal is being done in my case and that as long as no one take a serious concerned look at it this will be forever for me. I pray and hope that this court can grant this petition. If not, my life is at stakes. I just need this court to give me one chance, I guarantee - this court will be appalled at what is going on in my case. This is all I can say. I am in this court's mercy.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lamar L. Zamichele
James P. Jainchil

Date: January 27, 2020

October 3, 2019

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 18-2589

LAMAR L. ZAMICIELI, Appellant

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SUPERINTENDENT COAL TOWNSHIP SCI. et al.

(E.D. Pa. Civ. No. 2-16-cv-06325)

Present: AMBRO, KRAUSE, and PORTER, Circuit Judges

Submitted are:

- (1) By the clerk for possible dismissal due to a jurisdictional defect;
- (2) Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1) and jurisdictional response; and
- (3) Appellant's motion for appointment of counsel
in the above-captioned case.

Respectfully,

Clerk

ORDER

The foregoing request for a certificate of appealability is denied because reasonable jurists would not dispute the District Court’s conclusion that Zamichieli’s 28 U.S.C. § 2254 habeas petition is barred by the one-year statute of limitations. See 28 U.S.C. § 2244(d)(1); Slack v. McDaniel, 529 U.S. 473, 484 (2000). The District Court correctly determined that Zamichieli filed his petition after the expiration of the limitations period. We have considered the arguments he made in the application for a certificate of appealability, but do not find that he has arguably demonstrated a basis for equitable tolling, see Holland v. Florida, 560 U.S. 631, 649 (2010). Jurists of reason would not debate whether the petitioner failed to show “extraordinary circumstances” constituting grounds for tolling the limitations period. See Jones v. Morton, 195 F.3d 153, 159 (3d Cir. 1999). In light of our disposition, Zamichieli’s motion for appointment of counsel is denied. See 18 U.S.C. § 3006A(a)(2)(B).

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 18-2589

LAMAR L. ZAMICIELI, Appellant

v.

SUPERINTENDENT COAL TOWNSHIP SCI, et al.

(E.D. Pa. Civ. No. 2:16-cv-06325)

Before: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN,
HARDIMAN, GREENAWAY, Jr., SHWARTZ, KRAUSE, RESTREPO,
BIBAS, PORTER, MATEY and PHIPPS, Circuit Judges

SUR PETITION FOR REHEARING

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court *en banc*, is denied.

By the Court,

s/ Thomas L. Ambro, Circuit Judge

Dated: December 16, 2019
CLW/CJG/cc: Mr. Lamar L. Zamichieli
Max C. Kaufman, Esq.

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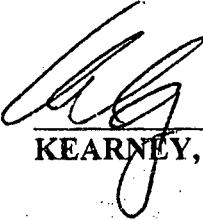
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LAMAR L. ZAMICIELI : CIVIL ACTION
v. :
: NO. 16-6325
:
VINCENT MOONEY, *et al.* :

ORDER

AND NOW, this 30th day of April 2019, consistent with our Court of Appeals' limited remand (ECF Doc. No. 34), following an evidentiary hearing, and consistent with our Findings of Fact and Conclusions of Law (ECF Doc. No. 49):

1. Plaintiff complied with the prison mailbox rule in providing his notice of appeal to the prison on October 16, 2017 and his October 16, 2017 notice of appeal includes at least one argument regarding equitable tolling repeated in his July 13, 2018 notice of appeal; and,
2. As we addressed the issues specifically raised in the limited remand, our jurisdiction is divested until further Order of our Court of Appeals.


KEARNEY, J.

RECEIVED

MAR 16 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

BLD-058

December 20, 2018

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. **18-2589**

LAMAR L. ZAMICIELI, Appellant

V.

SUPERINTENDENT COAL TOWNSHIP SCI, et al.

(E.D. Pa. Civ. No. 2:16-cv-06325)

Present: **AMBRO, KRAUSE, and PORTER, Circuit Judges**

Submitted are:

- (1) By the clerk for possible dismissal due to a jurisdictional defect;
- (2) Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1) and jurisdictional response; and
- (3) Appellant's motion for appointment of counsel

in the above-captioned case.

Respectfully,

Clerk

O R D E R

We retain jurisdiction over this appeal but will remand this case to the District Court for the limited purpose of determining when Appellant delivered his notice of appeal to prison authorities for mailing to the District Court and any other facts that might be relevant to our appellate jurisdiction. See Houston v. Lack, 487 U.S. 266, 276 (1988); United States v. Solly, 545 F.2d 874, 876 (3d Cir. 1976); see also Allen v. Culliver, 471 F.3d 1196, 1198 (11th Cir. 2006) (per curiam). Absent the filing of a timely motion under Federal Rule of Appellate Procedure 4(a)(4), Appellant was required to file his

(Continued)

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Lamar L. Zamicheli — PETITIONER
(Your Name)

VS.
Superintendent Department of Corrections
SCI Mahanoy, Pennsylvania — RESPONDENT(S)

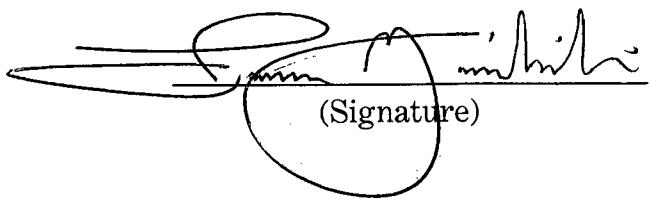
PROOF OF SERVICE

I, Lamar L. Zamicheli, do swear or declare that on this date,
January 27, 2020, as required by Supreme Court Rule 29 I have
served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*
and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding
or that party's counsel, and on every other person required to be served, by depositing
an envelope containing the above documents in the United States mail properly addressed
to each of them and with first-class postage prepaid, or by delivery to a third-party
commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 27, 2020



(Signature)