

19-8292

ORIGINAL

**IN THE
SUPREME COURT OF THE UNITED STATES
October Term 2020
No. _____**

Supreme Court, U.S.
FILED
MAR 24 2020
OFFICE OF THE CLERK

**RUSSELL TINSLEY,
Petitioner
v.**

**ADMINISTRATOR ADULT DIAGNOSTIC AND
TREATMENT CENTER;
ATTORNEY GENERAL NEW JERSEY
Respondents**

PETITION FOR A WRIT OF CERTIORARI TO THE

United States Court of Appeals

For the Third Circuit

Case Number 19-2935

United States District Court

For the District New Jersey

District Case Number No. 2-16-cv-04078

District Judge: Honorable Madeline C. Arleo

PETITION FOR A WRIT OF CERTIORARI

RUSSELL TINSLEY, Attorney for Petitioner in pro se

Petitioner Russell Tinsley, respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Third Circuit, rendered in their judges' decision, denied Petitioner Russell Tinsley's application for a certificate of appealability, entered March 17, 2020. Appendix A.

Russell Tinsley, Pro Se
Petitioner
Special Treatment Unit
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QUESTIONS PRESENTED

POINT 1

WHEATHER THE NEW JERSEY CIVIL COMMITMENT OF MR. TINSLEY WAS A VIOLATION OF THE FAUNTLEROY DOCTRINE; AND/OR JURISDICTION OF THE FULL FAITH AND CREDIT CLAUSE OF THE UNITED STATES CONSTITUTION (ART. IV, SEC. 1), TO THE COMMONWEALTH OF PENNSYLVANIA'S JURISDICTION.

POINT 2

WHETHER THE LOWER COURTS ERRED AND ABUSED ITS DISCRETION FOR DENYING MR. TINSLEY'S REQUEST FOR A CERTIFICATE OF APPEALABILITY.

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LIST OF PARTIES

All parties appear in the caption of the case on the cover page, as follows:

Administrator Adult Diagnostic and Special Treatment Unit PO Box 905 Avenel, New
Jersey 07001
New Jersey Attorney General, GURBIR S. GREWAL, 25 Market Street, PO Box 112
Trenton, NJ 08625.

Solicitor General, in Washington, DC of the United States Room 5614, Department of
Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was March 17, 2020.

Yes! A timely petition for rehearing was denied by the United States Court of Appeals on the following date: March 17, 2020, and a copy of the order denying rehearing appears at Appendix A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Violations of the Fauntleroy doctrine; and/ or jurisdiction of the Full Faith and Credit Clause of the United States Constitution (Art. IV, Sec. 1), in the Commonwealth of Pennsylvania's jurisdiction case.....2,4,13

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**IN THE
SUPREME COURT OF THE UNITED STATES**

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The United States Court of Appeals for the Third Circuit, rendered in their judges' decision, denied Petitioner Russell Tinsley's application for a certificate of appealability, entered March 17, 2020. Appendix A.

For cases from federal courts:

The opinion of the United States court of appeals at Appendix A to petition and is unpublished.

The opinion of the United States district court appears at Appendix B to petition and is has been designated for publication. See RUSSELL TINSLEY, Petitioner, v. SHERRY YATES, Respondent. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY 2019 US Dist LEXIS 1275812019 U.S. Dist. LEXIS 127581 Civil Action No. 16-4078 (MCA) July 30, 2019, Decided July 30, 2019, Filed

STATEMENT OF THE CASE

On July 30, 2019, this matter had come before the Hon. Madeline Cox Arleo, District Judge United States District Court, on Petitioner Russell Tinsley's ("Petitioner") filing of a Petition for a Writ of Habeas Corpus ("Petition") pursuant to 28 U.S.C. 2254, and he "had made a substantial showing of the denial of a constitutional right[.]" under 28 U.S.C. 2253(c)(2), since he have demonstrated that "reasonable jurists" would find his "assessment of the constitutional claims debatable or wrong."

Mr. Tinsley has filed a petition for writ of habeas corpus, due to his being in custody, in the state of New Jersey to a civil commitment, and for treatment at an Administrator Adult Diagnostic's Special Treatment Unit, based on constitutional violations to his ongoing criminal proceeding, including violations of the Fauntleroy doctrine; and/ or jurisdiction of the Full Faith and Credit Clause of the United States Constitution (Art. IV, Sec. 1), in the Commonwealth of Pennsylvania's jurisdiction case.

The petition raises four grounds for relief as follows:

- 1.) The commitment of Petitioner exceeds the Parens Parties Jurisdiction of New Jersey and denies him of his due process;
- 2.) The lower state courts erred in not assigning new counsel to Petitioner, where he had filed a civil law suit against the Office of the Public Defender and therefore was a conflict of interest with counsel, that office representing Petitioner at the commitment hearing;
- 3.) The lower state courts failed to prove by clear and convincing evidence that Petitioner was subject to commitment as a sexually violent predator,

4.) Petitioner was denied his right to a commitment hearing within 20 days of the filing of the temporary commitment order in violation of N.J.S.A. 30:4-27.29 and Rule 4:74-7(F)(2), Petitioner's right to due process. (ECF No. 1, Pet. At 17.),

The district court having considered the Petition, the Answer of Respondents, and Petitioner's Reply, the record of the proceedings in this matter, and this matter being considered pursuant to Fed.R. Civ.P.78; and for the reasons set forth in the court's Opinion filed therewith. The district court's July 30, 2019, denied Petitioner's claims and his application for a certificate of appealability under 28 U.S.C. 2253(c)(2), Fed. R. App. P. 22(b), and Local App. R.22.1.

Petitioner disagreed with the district court and filed his direct Notice of Appeal and application for a certificate of appealability to the United States Court of Appeals for the Third Circuit, who has also rendered in their judges' decision, denied Petitioner Russell Tinsley's application for a certificate of appealability, and entered March 17, 2020.

Petitioner now seeks review of this matter, by timely filing a petition for writ of certiorari in the Supreme Court of the United States.

Petitioner's case has a classic history, due to his multiple filings in both state and federal court.

REASONS FOR GRANTING THE PETITION

THE NEW JERSEY CIVIL COMMITMENT OF MR. TINSLEY WAS A VIOLATION OF THE FAUNTLEROY DOCTRINE; AND/OR JURISDICTION OF THE FULL FAITH AND CREDIT CLAUSE OF THE UNITED STATES CONSTITUTION (ART. IV, SEC. 1), TO THE COMMONWEALTH OF PENNSYLVANIA'S JURISDICTION.

THE LOWER COURTS ERRED AND ABUSED ITS DISCRETION FOR DENYING MR. TINSLEY'S REQUEST FOR A CERTIFICATE OF APPEALABILITY.

Here, Mr. Tinsley ("Petitioner") submits that he is in New Jersey's custody in violation of the Constitution or the laws or treaties of the United States as required by 28 U.S.C. 2254(a), and In this Case, Because the petitioner has made a showing that a certificate of appealability may be properly issued in this case, he respectfully requests that the Jurists of reason could debate the District Court's denying his application for a writ of habeas corpus, challenging that New Jersey lacked jurisdiction to civilly commit him in violation of comity and federalism, and is a "classic case" of the Full Faith and Credit Clause of the United States Constitution (Art. IV, Sec. 1), and petitioner's right to due process. Please see **In Fauntleroy doctrine. Fauntleroy v. Lum**, 210 U.S. 230, 28 S.Ct 641, 52 L.Ed. 1039., it should had been thereby Ordered from the lower courts that the Petitioner be brought to the lower Court for an Evidentiary Hearing.

In this Case, Petitioner argued that his civil commitment by the State of New Jersey was unconstitutional, because he have been civilly committed and is currently being involuntarily held in a special treatment unit for sex offenders in New Jersey, based on constitutional violations to his ongoing criminal proceeding, including violations of the Fauntleroy doctrine; and/ or jurisdiction of the Full Faith and Credit Clause of the United States Constitution (Art. IV, Sec. 1), in the Commonwealth of Pennsylvania's

jurisdiction case. Consequently, was no different on how Black African American Slaves was treated in this country by white Americans because:

Moreover, this Court must actually agree that Petitioner's Equality of rights of an African American Blackman under the law shall not be denied or abridged by the United States or by any state on account of race. See as in the Dred Scott's case.

As these Courts are aware, Dred Scott was an enslaved African American Blackman in the United States who unsuccessfully sued for his freedom and that of his wife and their two daughters in the **Dred Scott v. Sanford** case of 1857, popularly known as the "Dred Scott case". Scott claimed that he and his wife should be granted their freedom because they had lived in Illinois and the Wisconsin Territory for four years, where slavery was illegal, and their laws said that slaveholders gave up their rights to slaves if they stayed for an extended period.

Here Petitioner's claim that New jersey lacked jurisdiction to civilly commit him, as he was a resident of Philadelphia, PA., with an ongoing criminal proceedings in the State of Pennsylvania where the sex offender law to civilly commit him was illegal and unconstitutional which is similar as the ("Dred Scott Case") because the Petitioner had informed the lower courts, that the Philadelphia County Probation Department has jurisdiction on his ongoing criminal proceedings in their state and was waiting for him to be released from New Jersey custody to begin Supervision. Petitioner presented a letter from Mr. Christopher McFillin, Supervisor Sex Offender Unit Philadelphia Adult Probation Department.

In that letter Mr. McFillin, wrote "Mr. Tinsley will be expected to adhere to the sex offenders' rules, as well as Pennsylvania Megan Law Registration for life, and out-

patience sex-offender treatment to run concurrent with bill # 2. Failure to comply with the terms of the sentence is a felony and would subject Petitioner to a prison term in Pennsylvania, not in New Jersey.

Pursuant to the Petitioner's reporting requirements pursuant to his Pennsylvania conviction and ongoing criminal case under **U.S. v. Ross**, 801 F.3d 371, 379 (3rd Cir. 2015) and thus establish custody under 2254(a), and see also **Piasecki**, 917 F.3d at 173. Like in **Piasecki's** case, the Petitioner was required to appear in person to report to his Pennsylvania's authorities, as he is still serving a sentence and on a ongoing criminal Pennsylvania's case. He was similarly required to being living in Philadelphia, PA.

In the New Jersey Administrator Adult Diagnostic and Special Treatment Center, Petitioner is "in custody" not only due to his continued reporting requirements under his criminal prosecution, but they did the same as the slave state did in the "Dred Scott's case" and where New Jersey's civil commitment is like being enslaved, and/or as it's like serving a life sentence in prison, under the NJ's civil commitment of Petitioner, after a conviction for a sex offense in Philadelphia, Pennsylvania, where it is not like being considered a life sentence, but in reality for how the STU's staff been retaliating against Petitioner because of his published book, entitled "Civilly Committed" and the book was sold on <https://www.arnazon.com/CivillyCommittedRussellTinsley/dp/1516825292/>.

For the STU's staff having no other explanation, but conduct for their keeping Petitioner in the Adult Diagnostic and Special treatment Center, is not a medical-or-treatment-based justification for restricting Petitioner's treatment and progress by keeping him there and not allowing him to return to Philadelphia, Pennsylvania where he

is required to report any changes in person to the Pennsylvania's authorities within three business days.

Petitioner believes this is even true, for he was not convicted of a sex crime in the state of New Jersey, but of another state, and the court of common pleas Philadelphia, PA., has decided that Petitioner participate in out-patient sex offender treatment in their state. NOT IN NEW JERSEY!

The actual judgment of sentence entered by the state of Pennsylvania Court of Common Pleas is the obvious starting and ending point for this jurisdiction matter. **The Court of Common Pleas'** January 4, 2008 order in Docket No. CP-51-CR-0501081-2005, which sentenced Mr. Tinsley on Counts 2 and 9 to confinement for "a period of time served plus 23 months at Philadelphia County Prison," and a consecutive term of probation for a maximum of 8 years. Mr. Tinsley's sentence was therefore were subjected "pursuant to the jurisdiction of their state court."

Further, as in **Piasecki**, 917 F.3d at 173. Pennsylvania's Supreme Court has concluded that SORNA's (Sex Offender Registration and Notification Act) requirements are punitive and not remedial. Id. At 175. The position adopted by the Pennsylvania courts supports Mr. Tinsley's claims that the jurisdictional requirements, imposed upon him are punitive sanctions "pursuant to the judgment of a state court," especially after a civil commitment that has apparently, what happen to the Petitioner, in New Jersey.

Also, on May 8, 2015, Petitioner was contacted by Ms. Meghan M. Dade, of the Office Pennsylvania Board of Probation and Parole Sexual Offenders Assessment Board, who thought that Petitioner was in Pennsylvania, sent him a letter stating that: "In your case, the SOAB never received notice from the court regarding your final SVP status. For

this reason, you should contact the sentencing court to find out whether or not you were classifies as an SVP in Pennsylvania.”

On January 2, 2019, Petitioner spoke to Ms. Meghan M. Dade’s secretary, Ms. Jackie. She advised Petitioner that she was well aware of his situation. She told Petitioner that when you are released from New Jersey’s authorities he had to report to the Pennsylvania State Police, and had to participate in one of the Philadelphia, Pennsylvania’s treatment programs.

On January 3, 2019, Petitioner was able to reach the Philadelphia Adult Probation Department and spoke with a supervisor, Mr. Don, at (215) 683-1271. He advised Petitioner that his probationary period expired, in February 8, 2005, but upon his release from New Jersey’s custody that he still had to get in an out-patience treatment program and gave Petitioner a list of treatment centers for therapy, as well as for the reporting that going to be necessary.

On that same date, Petitioner spoke to Mr. Ray Gourles, the intake officer at the Philadelphia Confutation Center PCCTHERAPY.com 313 South 16th Street, Philadelphia, PA 19147. Telephone Number (215)-732-8244, who advised Petitioner that they had a sex offenders’ treatment program for him and how to go about to participate in the therapy.

Petitioner also contacted the Ms. Patty Griffen at the JJPI – Institute who sent him all information about their therapy programs and advised him that they would like to communicate with his then attorney, and sent Mr. Charlges Landesman an Email.

Since, the New Jersey lacked jurisdiction to civilly commit Petitioner and the fact that the condition of the STU facility is more or less identical to the conditions slavery, in the

county jail and prison where Petitioner just came from at south woods Prison. For 10 years despite of Petitioner many requests to participate in treatment, the STU's staff continuance to classify him as a "Treatment Refusal," kept on "MAP Placement," "Petitioner had been denied a job" and does not have "access to attend religious service" as well as the problems he have to access legal materials, the law library and the legal computer as are afforded all other residents of the Special Treatment Unit. This is all because of the STU's staff refusal to transfer Petitioner from the Restricted South Unit, where he is being further mistreated with hostility and retaliation, and they are being taken in retaliation for his on-going litigation in the Federal Court against the Department of Human Services and several DOH employees. **See Tinsley v. Main**, 2:15-cv-07319.

For years, the Supreme Court held that in order that the conditions are considered unconstitutional, there must be an objective and subjective reality. But in 2005 in **Kingsley v. Hendrickson**, 576 U. S. ___, ___-___, 135 S. Ct. 2466, 2475, 192 L. Ed. 2d 416, 428 (2015), in a 5 to 4 decision the court ruled that pretrial detainees are not required to prove subjective awareness that the person over the jail have unconstitutional conditions intent.

This opens wide the door to litigation concerning unconstitutional jail conditions like being enslaved, and perhaps civil commitment conditions if it can be shown that civil commitment, slavery and pre-trial are the same e.g. non-punitive, indefinite release, and a lack of constitutional protections that precede criminal punishment.

Petitioner is requesting that the Supreme Court of the United States review the New Jersey's jurisdiction to civilly commit Petitioner was constitutional and the district

court made an erroneous' decision to determine whether there is a constitutional violation.

In additional, to consider, the book "Psychological Effect of Slavery", by Dr. Akbar?

In his book, the question is asked. If the black African American never held white slaves or denied white Americans their human and civil rights. Nor did they raid their homes. Rape their women; lynch white men, as white American did to Black American during the Slavery era, reconstruction period, Jim Crow, Civil Rights, and today's "BLACK LIVES MATTERS" era should they be forgiven?

This question cautioned White Americans to inspect and improve their treatment of black people in a series of judicial decisions that established the rights of African – Americans and other minority groups. Read Holy Bible Matthew 18: 22 and Noble Qur'an 25: 70.

Have you ever heard of a Post-Traumatic Slave Syndrome? Visit Dr. DeGray – Leary's website

www.joyleary.com states:

While African Americans managed to emerge from chattel slavery and the oppressive decades that followed with great strength and resiliency, they did not emerge unscathed. Slavery produced centuries of physical, psychological and spiritual injury. Post Traumatic Slave Syndrome: America's Legacy of Enduring Injury and Healing lays ground work for understanding how past has influenced the present, and opens up the discussion of how we can use the strengths we have to heal.

Inspired by Andrew Levy, author and librarian Rob Loprest: in his expose' which U.S. Presidents Owned Slaves? Claims that twelve U.S. Presidents owned slaves, eight owning slaves while serving as presidents. Nonetheless, - properly so -- America has forgiven them their errors and honored their achievements with national monuments, institutions and libraries. To date all across the Americas, these national monuments of the confederate generals and presidents are now being demolished. Thus, these men have been forgiven and exalted in America's history books. Is it asking too much for the largely uneducated, incarcerated; or mental health issues of Black African Americans to be forgiven for their sins of crimes and presented with the same opportunity to Freedom, Justice and Equality as White American, and from the abuses endured from these white racists?

The capacity of African Americans to forgive white Americans is demonstrated by the fact that many African Americans have overlooked, often with a willingness to forget, the 400 years of sins and crimes from America's past institution of slavery, as well as the evils perpetrated by the Ku Klux Klan, "Donald Trump" White House Administration, Government Departments, Police Departments, Judicial Courts, Prosecutors, Bureau of Prisons, as well as today's mental health or the unconstitutional civil commitment institutional and the other subtle forms of racism and bigotry still deeply instituted in America society. If African Americans sincerely can forgive the four centuries of abuse received from the hands and tongues of bigoted Caucasians, then surely these same Caucasians can forgive African Americans, while in treatment, but obviously Caucasians still are perplexed by their apparent misunderstanding of psychological therapy and lack

of knowledge how slavery produced centuries of physical, psychological and spiritual injury shortcomings.

Therefore, Petitioner think the Special Treatment Unit – facility that housed a large number of African Americans “Blackmen” by Caucasians’ women psychologists and all others staff involved in the civil commitment process, for treatment of these “Blackmen” these people should be reeducated in the Post – Traumatic Slave Syndrome, making them more qualified and capable of dealing with an individual who is as difficult as “Black men” appears to be.

Procedural Status of Case

An application to the judges of the court of appeals for a certificate of appealability is appropriate at this time because:

1. The Court issued a case dispositive order in the above-captioned matter on February 10, 2020, that denied Petitioner’s request for a certificate of appealability. Petitioner has made a showing that a certificate of appealability may be properly issue in this case, under 28 U.S.C. 2253(c)(2) in the above captioned case, and at this time a final order denying a habeas petition was issued. The district judge was required to make a determination as to whether a certificate of appealability should issue. Under Section 2253(c)(2) of the federal habeas statute, a habeas court may issue a certificate of appealability when “the applicant has made a substantial showing of denial of a constitutional right.” 28 U.S.C. 2253 (c)(2) of Title 28 of the United States Code and Rule 22(b) of the Federal Rules of Appellate Procedure.

2. Petitioner desires to appeal this judgment, as is authorized by Section 2253(a) of Title 28 of the United States Code. However, Section 2253(c) (1) and Appellate Rule

22(b) (1) require a certificate of Appealability as a precondition of proceeding with the appeal.

3. In **Slack v. McDaniel**, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed.2d 542 (2000), the United States Supreme Court will hold, as in this case, the Petitioner has made a substantial showing of the denial of a constitutional and jurisdictional right. When the federal court rejected appellant of the Full Faith and Credit Clause of the United States Constitution (Article IV, Sec. 1), claim and appellant's right to due process constitutional claims, and/or as not to entertain his federal jurisdiction claims raised in the habeas petition, that are both cognizable on federal habeas review and procedurally grounds without reaching the prisoner's underlying constitutional claims. A certificate of appealability should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its erroneous decision of the Full Faith and Credit Clause of the United States Constitution (Art. IV, Sec. 1), and appellant's right to due process jurisdiction procedural ruling. *Id.*

4. In this case, a certificate of appealability is warranted because the appellant has demonstrated that jurists of reason would find it debatable when: (1) the petition states a valid claim of the denial of a constitutional right; and (2) the district court error in its procedural jurisdictional ruling. Where a plain Full Faith and Credit Clause of the United States Constitution (Art. IV, Sec. 1), and appellant's right to due process jurisdiction procedural bar is present and the district is incorrect or wrong in their decision of the

case, a reasonable jurist could disagree or conclude that the district court erred in denying the petition and that the appellant should be allowed to proceed further.

5. In this case, Petitioner has shown entirely to establish that reasonable jurists could debate whether further review is warranted of his claims, which are of comity and federalism, and is a “classic case” of the Full Faith and Credit Clause of the United States Constitution (Art. IV, Sec. 1), and Petitioner’s right to due process; and/or for federal habeas review on multiple constitutional and procedural jurisdictional grounds.

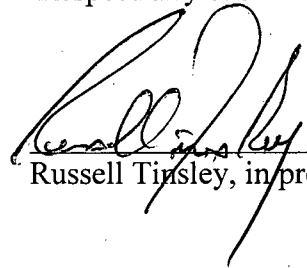
6. **In the Fauntleroy doctrine**, the U.S. Supreme Court held that a state must give full faith and credit to a judgment of a sister state if such state had jurisdiction to render it even though the judgment is based on an original cause of action which is illegal in the state in which enforcement is sought. In this case, New Jersey did not have any jurisdiction to civilly commit appellant at the New Jersey Department of Corrections’ Special Treatment Unit (“STU”), for treatment over the State of Pennsylvania’s ongoing criminal case. Please See in United States District Court District of Philadelphia habeas petition Russell Tinsley v. Court of Common Pleas et al., No. 19-1206.

CONCLUSION

The Petition for a writ of certiorari should be granted.

Wherefore, Petitioner respectfully moves that the Supreme Court of the United States accept this Petition for Writ of Certiorari for review, as he is “in custody” illegally pursuant to his civil commitment, and request that Mr. Tinsley’s Petition be examined on the merits because he is in custody as a result of Wrongful Full Faith and Credit Clause violation, and as a result of his civil commitment in the state of New Jersey.

Respectfully submitted,



Russell Tinsley, in pro se

Dated: March 22, 2020