

No. 19-8350

RECEIVED
SUPREME COURT OF THE UNITED STATES

IN THE
SUPREME COURT OF THE UNITED STATES

CHRISTOPHER R. DESMOND — PETITIONER

VS.

STATE OF DELAWARE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
[THIRD CIRCUIT COURT OF APPEAL]

FILED
MAR 19 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER R. DESMOND]

James T. Vaughn Correctional Center]

Smyrna Delaware 19977

Prisoner

RECEIVED
MAR 26 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

WHETHER ALL DELAWARE JUDGES ARE APPOINTED IN VIOLATION OF THE APPOINTMENT CLAUSE OF THE UNITED STATES CONSTITUTION. A COURT OF COMPETENT JURISDICTION HAVING DECIDED THAT DELAWARE'S APPOINTMENT OF JUDGE'S ART. IV SUBSECTION 3 SYSTEM IS UNCONSTITUTIONAL AND THE STATE OF DELAWARE HAVING ARGUED IN CARNEY V. ADAMS, No. 2019 THAT DECISION STRIPPED THE STATE OF ITS TENET AMENDMENT RIGHT TO DETERMINED THE QUALIFICATIONS THEIR JUDGES REQUIRING THIS COURT OVERRULE THAT DECISION.

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:
DELAWARE ATTORNEY GENERAL KATHY JENNINGS

RELATED CASES

Carney v. Adams, No. 19-309, 2019 United States Supreme Court Pending

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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 _____; 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 is unpublished.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 _____; 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 is unpublished.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 c 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 is unpublished.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 _____
 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 is unpublished.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 Feb.6, 2020.

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: n/a, 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 n/a] on n/a] in Application No. n/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.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Appointment Clause United States Constitution

Del. Const. Art. IV Subsection 3

STATEMENT OF THE CASE

The petitioner was arrested by Delaware State police on Oct. 8, 1991 for several counts of robbery stemming from a serials of supermarket robberies, the petitioner went on trial on Oct. 26, 1992 which lasted until Nov. 9, 1992 and ended with a split verdict. The petitioner appealed the verdict which was affirmed in Desmond v. State, 654 A.2d 821 (Del. Supr. Nov. 16, 1994)(en banc). The petitioner run through all the collateral proceedings in State and Federal Courts.

In 2017 a Delaware lawyer named James Adams filed suit claiming the Delaware's Constitution Art. IV § 3 is Unconstitutional in which the United States District Court and Third Circuit also decided In Adams v. Carney, No. # 17-181-MPT (D.Del.); Adams v. Carney, 2018 WL 2141219 (D. Del. may 23, 2018); Adams v. Governor Of Delaware, 922 F.3d 166 (3rd Cir. 2019), cert granted, 2019 WL 6647103 (U.S. Dec. 6, 2019 (No. 19- 309). The lower Courts both held that Delaware Constitution Violated an individual constitutional rights by discriminating against non- party affiliated qualified persons to become judges in the state of Delaware. The petitioner claims by invaliding Delaware's Art. IV § 3 the way Delaware Selects its judges all Delaware Judges are appointed Unconstitutionally requiring his convictions be vacated having been rendered by a Unconstitutionally appointed

judge which in a Sept. 2017 deposition Adams the State admitted its Appointment System under Del. Art. IV § 3 was known by State prosecutors and other judges that their appointments were Unconstitutional and they wanted to keep it the Delaware Way and not say anything in hopes they also received appointments to a judgeship.

The petitioner claimed since the state cannot provide a Constitutionally appointed judge his case must vacated and removed to Federal Court and since Delaware knew its judges were Unconstitutionally appointed the State cannot raise any objections in that they caused the action by knowingly appointing judges who engaged in Unconstitutional actions Trials etc., which included petitioner's trial and subsequent appellate and collateral proceedings in state courts.

The petitioner claimed in U. S. District Court and the Third Circuit Court Of Appeals that his case must be moved to the District Court unless Delaware can Provide him with a Constitutionally appointed judge within 90 days the Third Circuit Court held their decision did not invalidate Delaware's qualification for appointment of Delaware judges at * 4. However, Delaware in their petition for **writ of Cert.** claimed in this Court that the Third Cir. Ct. of Appeals decision invalidated their Tenth Amendment Right to appoint qualified judges No. 19-309.

A contrary decision of the decision rendered in petitioner's removal case see at *

4. The Governor in No. 19- 309 their writ if cert. petition argues The Third Circuit Court Of Appeals decision impeded on Delaware's Constitutional rights to appoint judges based on the qualifications they established under **Art. IV § 3.** (Writ Of Cert. Pet.).

The petitioner claims the court cannot decide this Petition prior to Deciding Gov. of Delaware v. Adams, 19- 309 (U.S. Dec. 6, 2019) .

REASONS FOR GRANTING THE PETITION

This Court should address the Circuit Split over whether judges of the state of Delaware are unconstitutionally appointed considering the United States District Court and the Third Circuit court of Appeals both held Delaware's Constitutional way of appointing judge's Delaware Constitution Art. IV § 3 unconstitutional. The United States v. L.A. Trucker Lines Inc., 344 U.S. 33, 38 (1953). Petitioner claims this court's remedy for Appointment Clause violations is the remedy Of L.A. Truckers Lines Inc., (defect in the appointment of officers is " an irregularity which would invalidate a resulting order ") 344 U.S. 33,38. In this case Delaware knew their appointment system was Unconstitutional but chose to ignore it in favor of the "Delaware way "as discovered in the Adams Deposition at the U.S. District Court in September of 2017. Petitioner claims Delaware has no constitutionally appointed judges requiring and his case be transferred the United States District Court.

CONCLUSION

The petition for certiorari should be granted.

Respectfully Submitted



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