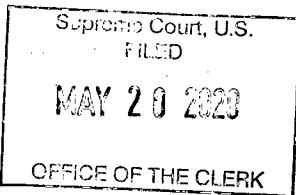


No. 19-8560 ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



RICARDO NOBLE — PETITIONER
(Your Name)

vs.

COMMONWEALTH OF PENNSYLVANIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPERIOR COURT OF PENNSYLVANIA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RICARDO NOBLE

(Your Name)
BX9357

Sic, Jr Fayette • 48 overlook Drive

(Address)

La Belle, PA 15450

(City, State, Zip Code)

(Phone Number)

Petitioner is wrongfully convicted and a Juvenile lifer who is representing himself.

QUESTION PRESENTED FOR REVIEW

1. DID COURT ERR AND ABUSE DISCRETION BY ERRONEOUSLY QUASHING AS UNTIMELY PETITIONER'S 09/14/2018 (DOCKETED 09/19/2018) APPEAL OF TRIAL COURT'S 08/28/2018 ORDER DENYING MOTION FOR CORRECTION OF RESENTENCE HEARING TRANSCRIPT?

(i)

List of Parties

All parties appear in the caption of this case on cover page.

(ii)

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- Appendix - D - 01/22/2020 Pennsylvania Supreme court Decision
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- Appendix - G - 04/09/2019 - PA superior court Docket sheet

TABLE OF AUTHORITIES CITED

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 _____ 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 is unpublished.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 _____ 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 is unpublished.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 A to the petition and is

reported at Com. v. Ricardo Noble, 1505WDA2018; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the Erie, Pennsylvania common Pleas court 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.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was _____

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: _____, 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. ___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 01/22/2020. A copy of that decision appears at Appendix D.

A timely petition for rehearing was thereafter denied on the following date: 02/25/2020, and a copy of the order denying rehearing appears at Appendix C.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Eight Amendment of U.S. constitution:
"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Fourteenth Amendment of U.S. constitution:

"nor shall any state deny a person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the law."

Fifth Amendment of U.S. constitution:

"No person shall be deprived of due process of the law."

Sixth Amendment of U.S. constitution:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury, to be informed of nature and cause of the accusation, to have compulsory process for obtaining witnesses in his favor, to be confronted with witnesses against him, and to have assistance of counsel in his defense."

First Amendment of U.S. constitution:

"Congress shall make no law abridging the right to petition the government for redress of grievance."

STATEMENT OF THE CASE

In 1991, at age 15, petitioner ("Ricardo Noble") and two alleged co-defendants (Stephon Johnson (age 16) and Antonio Howard (age 15)) were charged with Criminal Homicide/Murder, Robbery, conspiracy to Robbery and related charges. Petitioner was the only defendant charged with Firearms Not to be Carried without a license, despite fact that defendant Antonio Howard ("Howard") turned said gun (alleged murder weapon) in to police and said that he stole the gun from his aunt two weeks before coming in contact with petitioner and defendant Stephon Johnson ("Johnson") was the only defendant with gun powder residue on his hands. Attorney James Moran was Court appointed to represent petitioner. On May 4 and May 7, 1992, petitioner's Decertification Hearing was held before Judge Shad Connally ("Connally"). On May 8, 1992, Judge Connally denied petitioner's Decertification to juvenile system without stating reason. On June 4, 1992, at close of Commonwealth's (prosecution's) case, petitioner's attorney moved for demurrer to all charges at trial. The same day Judge Connally denied demurrer, except for firearms charge, without stating reason. On June 5, 1992, a jury of the prosecution's peers found petitioner guilty of second

Degree Murder, Robbery and conspiracy to Robbery. On 06/16/1992, Motion for New Trial and Arrest of Judgment filed. On 07/02/1992, Judge Connally denied said motion without stating reason. On 09/29/1992, petitioner was sentenced to mandatory Life without parole ("LWOP"). On 10/08/1992, Motion to Modify / Reconsider sentence filed. Motion denied same day. 10/26/1992, Notice of Appeal to PA Superior court (docket No. 1770 PGH 1992) filed. On 02/03/1994, Superior Court denied appeal. Application for Reargument filed. On 04/11/1994, Reargument denied. Petition For Allowance of Appeal to Pennsylvania ("PA") Supreme Court filed (249 W.A. Alloc. Dkt. 1994). On 08/17/1994, PA Supreme Court denied allowance of appeal.

On 01/13/1997, petitioner files pro se post-conviction Relief Act ("PCRA") petition. Judge Connally appoints attorney Joseph Burt ("Burt") to represent petitioner. Attorney Burt requests replacement counsel because he represented petitioner's adverse alleged co-defendant Antonio Howard on Direct appeal, Judge Connally denies replacement counsel. Attorney Burt refuses to represent petitioner. On 03/19/1997, PCRA denied. On 04/28/1997, appeal to Superior Court filed. On 12/24/1997, Superior Court denies appeal. On 07/25/2012, petitioner files

Second PCR petition under Millear v. Alabama,
 132 S.Ct., 2455 (2012), regarding unconstitutional sentencing juveniles to mandatory life.
 Unethical public defenders Tina Fryling and Emily Stutz court-appointed to represent
 petitioner. On 08/22/2012, PCR denied by petitioner. On 09/11/9/2013, appeal to PA
 Supreme Court filed. On 07/15/2014, appeal
 denied. On 02/16/2016, petitioner files pro se
 PCR under Montgomery v. Louisiana, 136 S.Ct.,
 718 (2016), ruling Millear v. Alabama retroactive.
 On 04/13/2016, the court appointed unethical
 attorney Robert Barbera to ("Babba") to
 represent petitioner, on 01/29/2018, petitioners
 resentence hearing held by Judge Connally, lower
 sentencing removed, and petitioners sentenced to
 unconstitutional life. On 03/09/2018,
 Barbera to files motion to Reinstate petitioners
 appeal rights, on 03/22/2018, based on filing
 of appeal of 01/29/2018 Judgment of sentence
 to Superior Court (ocketed as 420WDA 2018) and concise
 statement of matters complained of on Appeal
 ("1925(b)"). On 04/09/2018, petition for files Motion
 to Represent Himself, Judge Connally ignores it.
 To represent himself, Judge Connally ignores it.

on 05/04/2018, petitioner's case moved to Superior Court. On 05/14/2018, petitioner files Motion to represent himself in Superior Court. On 06/15/2018, after Graziер Hearing, attorney Barbato removed and petitioner permitted to proceed pro se. On 08/06/2018, petitioner files Motion For Correction of Resentence Hearing Transcript. On 08/28/2018, Judge Connally denies said Motion. On 09/14/2018 (docketed as 09/19/2018), petitioner files Notice of Appeal of Trial Court's (Judge Connally's) 08/28/2018 order denying "Motion for Correction of Resentence Hearing Transcript" to PA Superior Court (docketed as 1505 WDA 2018). On 04/09/2019, Superior Court erroneously labels said appeal as appeal of 01/29/2018 Judgment of sentence and, thus, quashed it as untimely. On 04/15/2019, Motion for Reconsideration filed. On 06/12/2019, said Motion denied. On 07/08/2018, appeal to PA Supreme Court filed, and denied on 01/22/2020. Rehearing denied on 02/25/2020.

REASONS FOR GRANTING THE PETITION

1. DID COURT ERR AND ABUSE DISCRETION BY ERRONEOUSLY QUASHING AS UNTIMELY PETITIONER'S 09/14/2018 (DOCKETED AS 09/19/2018) APPEAL OF TRIAL COURT'S 08/28/2018 ORDER DENYING MOTION FOR CORRECTION OF RESENTENCE HEARING TRANSCRIPT?

Pennsylvania Rules of Criminal Procedure (Pa.R.Crim.P.) 704 C (4)(b) states that a verbatim account of entire sentence proceeding shall be made, Pa.R.Crim.P. 115 and Pennsylvania Rules of Appellate Procedure (Pa.R.A.P.) 126 permit correction or modification of errors in record. See, Com. v. Telford, 960 A.2d 1 (Pa. 2009); Com. v. Fields, 387 A.2d 83 (Pa. 1983). Due Process and Equal Protection of 14th Amendment of U.S. Constitution requires that defendants be given full and accurate Transcripts. Griffin v. Illinois, 351 U.S. 12 (1956); Mayer v. City of Chicago, 404 U.S. 189 (1971).

PA Superior Court's 04/09/2019 order (attached Appendix-A) Quashing petitioner's appeal of Motion for Correction of Resentence Hearing Transcript as untimely is erroneous and abuse of discretion. Com. v. Liebel, 825 A.2d 630 (Pa. 2003); Com. v. Scarborough, 64 A.3d 602 (Pa. 2013); Pa.R.A.P. 1114(7); Com. v. Renchenski, 866 A.2d 368 (Pa. 2003); Mayer v. City of Chicago, 404 U.S. 189 (1971). Refusing to correct said Transcript prejudices present and future court proceedings.

On 08/28/2018, Trial court (judge shad connelly) denied petitioner's Motion for Correction of Resentence Hearing Transcript (see, attached Appendix-C). On 09/14/2018 (docketed as 09/19/2018), petitioner filed Notice of Appeal of said 08/28/2018 denial (attached Appendix-F) and concise statement of Matters complained of on Appeal ("1925(b)") to PA Superior Court. On 04/09/2019, Superior Court erroneously labelled said appeal as an appeal of 01/29/2018 Judgment of sentence and, thus, quashed it as untimely. Despite fact that Superior Court's 04/09/2019 docket sheet has said 09/19/2018 appeal (1505WDA 2018) as an appeal of Trial Court's 08/28/2018 order denying Motion for Correction of Resentence Hearing Transcript, see, attached Appendix-G. Petitioner's 03/22/2018 appeal of 01/29/2018 Judgment of sentence was docketed as 420WDA 2018.

PA Superior Court's 04/09/2019 decision erroneously states that petitioner's issue is also untimely because he did not file his appeal of 08/28/2018 denial of Correction of Resentence Hearing Transcript within 30 days after his rights to appeal 01/29/2018 Judgment of sentence were reinstated in March 2018. The court overlooks the fact that it was impossible for petitioner to file appeal of denial of correction of Resentence Hearing Transcript or raise issues of errors in Resentence Hearing Transcript within

30 days of March 2018 because the Resentence Hearing Transcript was not filed by the court until May 7, 2018, petitioner was represented by court appointed counsel (Robert Barbato) (who only worked against petitioner) who did not give petitioner a copy of the Resentence Transcript until long after 5 Days from May 7, 2018, petitioner was not granted permission to represent himself until 06/15/2018, and trial Court did Not deny petitioner's 08/06/2018 Motion for correction of Resentence Hearing Transcript until 08/28/2018.

The 01/29/2018 Resentence Hearing Transcript was transcribed by official court reporter, Gregory S. Schert, and approved, edited, directed for filing by Judge shad Connely,

Their filing and refusing to correct Resentence Hearing Transcript with multiple significant errors/inaccuracies that are Not harmless is a continuation of Judge Connely and prosecution providing and spreading false and misleading information about petitioner to the Courts, public, and media. Their discrimination against petitioner was so blatant that the public expressed concerns, see, page 5 of prosecution's 10/09/1992 Motion For Reconsideration and Modification of sentence. Judge Connely even admonished the prosecution for spreading incriminating lies about petitioner to media. See, pages 25-27 of prosecution's 10/20/1992 Motion

for Reconsideration of Sentence.

Petitioner always stated (and the evidence proved) that he is innocent of ALL charges (Felony Murder, Robbery, and conspiracy to Robbery) against him and petitioner's sentence and conviction are a miscarriage of justice. Petitioner did Not kill or rob the victim. Petitioner did Not conspire to rob or kill the victim. Petitioner does Not know who was the actual shooter ("killer").

Judge Connally's, prosecution's, and Pennsylvania Courts' abuse of discretion, biasness and prejudice against petitioner is well documented. Judge Connally Decertified (Transferred) the oldest defendant (Stephon Johnson) (who petitioner only knew for two days, Not two years, as erroneously put in Resentence transcript), to juvenile system, denied petitioner Decertification to juvenile system, and for 27 years knowingly falsely accused petitioner of being the actual shooter in court documents and the media. Despite the fact that: (a) at trial, Antimony and Barium tests proved that the only defendant with gun powder residue on their hands was Johnson; (b) the only defendant with blood on their clothing was Johnson; (c) the only defendants' fingerprints on the victim's possessions (over 70 items) were defendant Howard's and Johnson's; (d) at trial, defendant Howard testified that defendant Johnson was the actual shooter, he and Johnson conspired to falsely accuse petitioner of being

the actual shooter, and that petitioner did Not conspire to rob or kill the victim; (e) at petitioner's 1992 Decertification Hearing, ALL witnesses (Defense and prosecution) recommended that petitioner be placed in juvenile system, including the same prosecution expert witness who recommended that Johnson Not be placed in juvenile system; (f) on page 12 of Judge Connally's 02/08/1993 Memorandum opinion, Judge Connally stated that the only reason he denied decertifying petitioner to juvenile system was his false statement that "uncontradicted evidence" proved that petitioner was the actual shooter. But, at petitioner's 01/29/2018 Resentencing Hearing, the same judge Connally admitted that No evidence EVER existed to establish petitioner as the actual shooter; (g) on 01/29/2018, Judge Connally removed petitioner's Life without Parole Sentence and sentenced petitioner to unconstitutional 40 years to Life and stated that the Life max ("fail") was mandatory. But, two months prior, Judge Connally resentenced one of petitioner's alleged co-defendants (Antonio Howard) to 20 to 50 years. Petitioner and defendant Howard were tried and convicted together in adult court and sentenced to mandatory Life without Parole in 1992 for second degree Murder, Robbery, and Conspiracy to Robbery. But

Judge Connelly said that he resented petitioner based only on consideration of First degree Murder, in Judge Connelly's 04/06/2018 Memorandum opinion;

(h) Defendant Johnson, accompanied by his cousin (Erie Police officer Jerome Adom), late the night of the shooting (10/18/1991), was the first defendant to turn himself in to police, implicated himself in a homicide/Robbery and was released the same day. Johnson was not arrested and charged for the incident he implicated himself in on 10/18/1991 until 10 days later; (i) No Bond was set for petitioner. But, on 02/20/1992, defendant Johnson was released to society on bail after a very low bond of 5,000 dollars (10 % of 50,000 dollars) was paid.

Petitioner's court appointed attorney, Robert Barbato, only worked against petitioner to help prosecution. While petitioner's attorney, Barbato prejudiced petitioner by stating in defendant's sentence Memorandum that petitioner is guilty, without petitioner's knowledge or consent, despite fact that petitioner always stated (and evidence proved) he is innocent of ALL charges and Barbato states that he read petitioner's book, "ERIE, Pennsylvania's Betrayal of Child" ©2007 by Ricardo Noble, declaring and proving petitioner's innocence that can be read/downloaded for free at: www.PrisonsFoundation.org; Barbato stated in defendant's sentence Memorandum that petitioner is requesting 20 to 60 years, without petitioner's knowledge or consent (then) again at Resentencing Hearing against petitioner's repeated

objections on the record at said hearing); Barbato only reviewed and agreed with portions of petitioner's prison file provided by prosecution and prosecution's negative, false, and misleading interpretation of it; withheld case documents and refused to communicate with petitioner about case; and Barbato refused to file motion for Reconsideration/Modification of sentence. U.S. v. Cronic, 104 S.Ct. 2039 (1984). "Resentencing: Erie, Pennsylvania's Betrayal of Child, Book Three" © 2019 by Ricardo Noble can be read/downloaded for free at: www.PrisonsFoundation.org.

The lower court's actions violate Due Process, equal protection, access to court's, right to fair hearing and is cruel and unusual punishment. U.S. Constitution Amendments 1, 5, 6, 8, and 14.

CONCLUSION

WHEREFORE, petitioner respectfully requests, in consideration of the foregoing, that this petition be GRANTED. I declare under penalty of perjury, 28 U.S.C. 1746, that the foregoing is true and correct.

Respectfully submitted,
Ricardo Noble
Ricardo Noble
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S.C.I. Fayette
48 Overlook Drive
La Belle, PA 15450

DATE: 05/19/2020

(14)