

20-5145
No.

ORIGINAL

Supreme Court, U.S.
FILED

JUN 12 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Charles Talbert - Petitioner

vs.

Tom Wolf

John Wetzel - Respondents

In Petition For A Writ Of Habeas Corpus To
The First Judicial District Court of Common
Pleas of Philadelphia County

Petition For Writ of Habeas Corpus

Charles Talbert

QA4727

SCI - Phoenix

1200 Mokyschic Drive

Collegeville, PA 19426

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SUPREME COURT, U.S.

Question(s) Presented For Review:

1. If the arrest of Petitioner was not based on requisite probable cause, is his current detainment for the crimes charged against him deemed constitutional?
2. If the Commonwealth of Pennsylvania failed to present a prima facie case showing that Petitioner is the one who committed the alleged crime at the preliminary hearing procedure, does the Court of Common Pleas have legitimate jurisdiction over the Petitioner, to try the charges against him?
3. If the complainants, of the alleged crimes, were unable to identify Petitioner, prior to his arrest, and/or, at his preliminary hearing, should any identification erroneously made thereafter be suppressed?
4. If the arrest of Petitioner was not based on requisite probable cause, should any identification, and/or, physical evidence, the fruit thereof, be suppressed?
5. Is the judicial system deemed "essential", to the fundamental rights of individuals, charged with committing alleged crimes; and if so, did the Governor of Pennsylvania, in his executive order to have the Court of Common Pleas of Philadelphia shut down, without notice, and opportunity to challenge the constitutionality of such shut down, exceed his authority under the doctrine of separation of powers, and ultimately, unconstitutionally infringe upon their

Fundamental right to due process, and equal right to the Courts, and to a speedy trial?

b. Should Petitioner be given relief by this Honorable Court pursuant to the fundamental miscarriage of justice exception, grounded in the equitable discretion of habeas courts, to ensure that the aforementioned constitutional errors, do not result in the continuation of imprisonment of an innocent person?

List of Parties:

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

Related Cases:

1. CP51CR0001995-2019
2. CP51CR0002223-2019
3. CP51CR0002622-2019

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Table of Authorities:

Cases

1. *Dunaway v. New York*, 442 U.S. 200, 99 S.Ct. 2248 (1979).
2. *Mapp v. Ohio*, 367 U.S. 643, 81 S.Ct. 1684 (1961).
3. *Wong Sun v. United States*, 371 U.S. 471, 83 S.Ct. 407 (1963).
4. *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602 (1966).
5. *Brown v. Illinois*, 422 U.S. 590, 95 S.Ct. 2254 (1975).
6. *Stovall v. Denno*, 388 U.S. 293, 87 S.Ct. 1967 (1967).
7. *Florida v. Royer*, 460 U.S. 491, 103 S.Ct. 1319 (1983).
8. *Coyler v. Sullivan*, 446 U.S. 335, 100 S.Ct. 1708 (1980).
9. *Turner v. Pennsylvania*, 338 U.S. 62, 69 S.Ct. 1352 (1949).
10. *Giaccio v. Pennsylvania*, 382 U.S. 399, 86 S.Ct. 518 (1966).
11. *Youngberg v. Romeo*, 457 U.S. 307, 102 S.Ct. 2452 (1982).
12. *Ex Parte Hull*, 312 U.S. 546 (1941).
13. *Herrera v. Collins*, 506 U.S. 390 (1993).
14. *Schlup v. Delo*, 513 U.S. 298 (1995).
15. *Moss v. PA DOC*, 868 A.2d 615 (PA 2004).
16. *Brewer v. Wilkinson*, 3 F.3d 816 (5th Cir. 1993).
17. *Granberry v. Greer*, 481 U.S. 129 (1987).
18. *Com. v. Hendricks*, 2007 PA SUPER 187 (PA Super. 2007).
19. *Com. v. Fountain*, 2000 PA SUPER 350 (PA Super. 2000).
20. *Com. v. Marti*, 2001 PA SUPER 194 (PA Super. 2001).
21. *Com. v. Grey*, 2007 Pa. Dist. and Cty. Dec. (Sept. 7, 2007).
22. *Corley v. United States*, 556 U.S. 303, 129 S.Ct. 1558 (2009).
23. *Dickerson v. United States*, 530 U.S. 428, 120 S.Ct. 2326 (2000).
24. *Stilp v. Com.*, COMMW. Ct. of PA, 898 A.2d 36 (Apr. 24, 2006).

Statutes And Rules

1. Title 28 USC 2241 (a) and (c)(3)
2. Title 28 USC 2254 (b)(8) (ii)
3. Fruit of the Poisonous Tree Doctrine
4. Doctrine of the Separation of Powers
5. P.A.R. Crim. P. Rule 600

1. Jurisdiction:

1. "Writs of habeas corpus may be granted by the Supreme Court."
28 USC 2241 (a).
2. "The writ shall not extend to a prisoner unless... he is in custody in violation of the Constitution." 28 USC 2241 (c)(3).
3. "An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of the state court shall not be granted unless it appears that -- circumstances exist that render such process ineffective to protect the rights of applicant."
28 USC 2254 (b)(8) (ii).
4. "To justify the granting of a writ of habeas corpus, the petitioner must show that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that relief cannot be obtained in any other forum, or from any other court." Supreme Court Rule 4 (a).

II. Constitutional and Statutory Provisions Involved:

1. First, Fourth, Sixth, and Fourteenth Amendments to the Federal Constitution.
2. Article I, Section(s) 9, and 11, of the Commonwealth of Pennsylvania Constitution.

III. Statement of the Case:

1. On November 9, 2018, a PNC Bank in the center city section of Philadelphia, PA, was the victim of an attempt demand-note robbery. No money was taken.
2. On December 1, 2018, a TD Bank in the Chestnut Hill section of Philadelphia, PA, was the victim of a demand-note robbery. Approximately \$3,000.00 was allegedly taken.
3. While Petitioner was in Atlantic City, New Jersey, on the 4th of December, 2018, he was fully intoxicated off of PCP (angel dust) and powder cocaine.
4. While intoxicated, and hallucinating from the potent chemicals, a police officer from Galloway Township had placed Petitioner in handcuffs, and thereafter, arrested him, for allegedly wanting to turn himself in for allegedly robbing a TD Bank in Chestnut Hill.
5. Petitioner, while intoxicated, has no recollection of ever being Mandarized by the police officer before his alleged confession.
6. In any event, there is no record, or statement, of when, or what time, this alleged bank robbery had occurred, nor any other pertinent information to make his alleged confession "complete".
7. While at the Galloway Township police station, an ambulance was called for Petitioner due to him having a heart attack from the cocaine, and to detox from the PCP.
8. While at the hospital, the arresting officer had contacted the Federal Bureau of Investigations (FBI) in Philadelphia, PA, and informed them of Petitioner's alleged confession above.

mentioned above herein.

9. In response to the police officers account of Petitioners alleged confession, the FBI informed the officers to release Petitioners, due to the lack of probable cause and lack of evidence.

10. Accordingly, after detouring at the hospital, Petitioners went back to Philadelphia.

11. On December 11, 2018, Philadelphia police had shown the tellers, of both banks, a six-person photo array, which included a picture of Petitioners. No identification was made.

12. On December 22, 2018, a KFC restaurant in the West Oak Lane section of Philadelphia, Pa. was the victim of an attempted demand-note robbery. No money was taken.

13. On December 28, 2018, Philadelphia police detectives shown the KFC cashier a six-person photo-array, which had included a picture of Petitioners. The cashier was unable to identify Petitioners.

14. On January 8, 2020, without any new, relevant, or convincing evidence, and without probable cause, Philadelphia police seized and arrested Petitioners on an invalid warrant for the two alleged bank robberies and was thereafter driven to the FBI building for interrogation.

15. After confirming Petitioners lack of knowledge, of any alleged confession, of any bank robbery, due to his aforementioned intoxicated condition, and still having no probable cause or evidence to prosecute, the FBI released the Petitioners from their custody.

16. However, the Philadelphia police, without probable cause, and/or, identification, commenced a prosecution against

Petitioner.

17. While Petitioner was unconstitutionally detained for the alleged 2 bank robbery's, Philadelphia police, without probable cause or identification, charged him for the alleged KFC robbery.
18. Under CP51CR0001995-2019, the KFC robbery, police charged Petitioner with: robbery, terroristic threats, and recklessly endangering another person.
19. Under CP51CR0002223-2019, the TD Bank robbery, police charged Petitioner with: robbery, theft by unlawful taking, theft by receiving stolen property, possession of instrument of crime, and terroristic threats.
20. Under CP51CR0002622-2019, the PNC Bank robbery, police charged Petitioner with: robbery, criminal attempt, possession of instrument of crime, and terroristic threats.
21. On or about February 21, 2019, the Commonwealth failed to establish probable cause, or a prima facie case making Petitioner the culprit of the attempt KFC robbery. The recklessly endangering another person charged was dismissed, however, the Philadelphia Municipal Court forwarded the remaining charges over to the Court of Common Pleas for trial.
22. On or about March 28, 2019, the teller from TD Bank still had failed to identify Petitioner at his preliminary hearing, and the Commonwealth failed to establish probable cause or a prima facie case, yet, forwarded the aforesaid charges to the Court of Common Pleas for trial.
23. On or about April 11, 2019, after the Public Defender Association of Philadelphia withdrew Petitioner's request for a line-up, the teller from PNC Bank made a suggestive identification of him

at his preliminary hearing, without any prior identification. Nevertheless, the Commonwealth still failed to establish probable cause prior to the suggestive identification, or a prima facie case, yet, the court still forwarded the charges against him to the Court of Common Pleas for trial.

24. On or about October 18, 2019, after being in prison for several months close to a year, Common Pleas Judge Anne Marie B. Coyle had combined all 3 of Petitioners aforesaid robbery cases together, for the jury to hear only one trial.

25. Petitioners criminal trial was scheduled for May 18, 2020.

26. On March 11, 2020, the World Health Organization had declared that the novel coronavirus outbreak derived from Wuhan, China, was now a pandemic.

27. Approximately around the same time of the outbreak declaration Governor Wolf ordered "non-essential" employers, in Pennsylvania, to shut down their businesses to allegedly slow the spread of the coronavirus.

28. Governor Wolf's aforementioned "executive" orders, circumvented "judicial" authority, and accordingly, disregarded Petitioners constitutional fundamental rights to access the court, and his right to a speedy trial, all in violation of Petitioners right to due process of law.

29. Petitioner had a fundamental, and essential liberty interest, in the above-mentioned criminal matters, to which Wolf used arbitrary government power, to capriciously invade and infringe upon Petitioner's Constitutional rights without due process, alternative process, or without restoring his right to have the shutdown challenged in order to have every day of the shutdown go towards his speedy trial rights.

30. Without establishing a prima facie case, or probable cause, Petitioner continues to remain in the custody of Secretary Wetzel, without constitutional authority to do so.

31. Petitioner has no way to have his constitutional rights restored, nor is there any other Court, of State jurisdiction, at the present time, operable, to have habeas corpus relief, due to the States arbitrary, and capricious, overreaching, and unprecedented, executive orders.

IV. Reasons for Granting the Writ:

The Petitioner maintains that any alleged oral confession elicited from him was done pursuant to police questioning without being advised of his constitutional rights (Miranda warnings). Petitioner was in police custody when such alleged statement was elicited. As such, Petitioner maintains that any alleged statement subsequently made without the benefit of Miranda warnings must be suppressed. *Miranda v. Arizona*; *Wong Sun v. United States*; *Brown v. Illinois*; *Donaway v. New York*; *Dickerson v. United States*; *Corley v. United States*. For the KFC robbery, there were no alleged confession.

Petitioner was released from police custody in New Jersey due to the FBI's investigation having no probable cause, or evidence, to corroborate his alleged intoxicated confession. Petitioner maintains, therefore, that his current imprisonment is based on lack of probable cause, and moves for the suppression of any evidence in which the Commonwealth intends to use which is the direct or indirect fruit of an illegal seizure. *Mapp v. Ohio*; *Wong Sun v. United States*; *Donaway v. New York*; *Brown v. Illinois*.

Petitioner contends that by all complaining witnesses failing to identify him in the police photo arrays, made it clear that Petitioner wasn't the suspect of those alleged robberies, and therefore, by the Defender Association withdrawing his line-up, any identification procedure conducted thereafter, was conducted under unnecessary suggestive circumstances and therefore was tainted, and made unreliable, any in-court identification. *Florida v. Royer*; *Stovall v. Denno*;

Donaway v. New York; Wong Sun v. United States.

Petitioner maintains that his arrest was not based on requisite probable cause, and therefore, any physical evidence and/or statements allegedly made by him must be suppressed.

Donaway v. New York; Wong Sun v. United States.

Petitioner contends that the Commonwealth failed to establish each and every element of each crime charged, and/or, that Petitioner is the one who committed it, which ultimately failed to establish a prima facie case against him.

Com. v. Hendricks; Com. v. Fountain; Com. v. Marti; Com. v. Grey.

"Congress shall make no law ... abridging ... the right of the people ... to petition the Government." First Amendment to the U.S. Constitution. "All courts shall be open, and every man for an injury done him in his ... person, reputation, shall have a remedy by due course of law, and right and justice administered (without) ... denial or delay." Article I, Section 11 of the Pennsylvania Constitution. "The right of the people to be secure in their persons ... against unreasonable searches and seizures shall not be violated, and no Warrant shall issue but upon probable cause." Fourth Amendment to the U.S. Constitution. "In (all) criminal prosecutions, the accused shall enjoy the right to a speedy ... trial." Sixth Amendment to the U.S. Constitution. "In all prosecutions by ... information the accused shall have a right to a speedy public trial." Article I, Section 9 of the Pennsylvania Constitution. "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of ... liberty ... without due process of law; nor deny to any person within

its jurisdiction the equal protections of the laws." Fourteenth Amendment to the U.S. Constitution. Accordingly, the facts that were mentioned above herein, and hereafter, clearly demonstrates constitutional violations, and arbitrary police and State government conduct which impeded upon those constitutional rights without due process of law.

"State criminal trial, proceeding initiated and conducted by state itself, is action of the State within the meaning of Fourteenth Amendment." *Cuyler v. Sullivan*.

"State courts admission of involuntary confession as evidence in murder trial violated due process." *Turner v. Pennsylvania*.

"Law fails to meet requirements of due process clause if it is so vague and standardless that it leaves public (uncertain) as to conduct it prohibits or leaves judges and jurors free to decide without any legally fixed standards... implicit in constitutional safeguard protecting person against government imposed burdens, except in accordance with valid laws of the land, is premise that law must be one that carries understandable meaning with legal standards that courts must enforce." *Giaccio v. Pennsylvania*.

"Right to personal security constitutes historic liberty interest protected substantively by due process clause, and that right is (not extinguished) by lawful confinement, even for penal purposes." *Youngberg v. Romeo*. Accordingly, Petitioner contends that the constitutional guarantee of freedom from arbitrary interference, and/or, restraint, was denied to him by Governor Wolf's aforesaid executive order which caused the courts to shut down without given Petitioner any procedural

protection, or alternative process to have his criminal matters timely adjudicated.

"The fundamental miscarriage of justice exception to the exhaustion requirement is grounded in the "equitable discretion" of habeas courts to see that constitutional errors do not result in the incarceration of innocent persons." *Herrera v. Collins*. "It seeks to balance the societal interest in finality, comity, and conservation of scarce judicial resources with the individual interest in justice that arises in the extraordinary case." *Schlup v. Delo*. Accordingly, the executive orders given that caused Petitioners motion hearing, and trial date, to be postponed, indefinitely, without due process, and the failure to deem criminal courts as an "essential business" under his exceptions to his shut down, established a fundamental miscarriage of justice, due to the malicious, and careless nature, of the Governors mind frame, to knowingly impede on the rights of those accused, without giving them any form of relief, or way to challenge it.

"The Court struck down an unconstitutional practice that had allowed state actors to interfere with communications between prisoners and the courts". *Ex parte Hull; Brewer v. Wilkinson; Moss v. PA DOC*.

"Although there is a strong presumption in favor of requiring a state prisoner to pursue available state remedies, the failure to exhaust such remedies is not an absolute bar to appellate consideration of the merits of a habeas corpus petition." *Granberry v. Greer*.

"The doctrine of separation of powers between the executive, legislative, and judicial branches of State government is a basic

tenet of Pennsylvania's form of a constitutional government which (cannot) be altered unless clearly and unequivocally provided for in the Constitution of Pennsylvania. The structure of the Pennsylvania Constitution carries out this doctrine by treating each branch of the government together with its powers and duties all in separate articles." *Stille v. Conn.* As aforementioned, Governors will interposed with, and obstructed the daily operations of the judicial system in Pennsylvania. There are no laws within the State or Federal Constitutions that are in his favor of obstructing and ultimately depriving constituents of their right of access to the courts, and/or, right to a speedy trial. Contrarily, the Fourteenth Amendment was specifically established and maintained at the time of its enactment, to discourage and prevent, this form of arbitrary, and capricious, unprecedented use of State Government power.

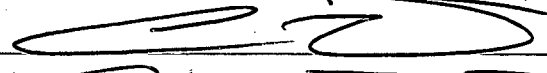
Conclusion:

WHEREFORE, Petitioners avers that his imprisonment is unlawful and unconstitutional, and that by the State governments unconstitutional executive order to have the State courts shut down and deemed non-essential demonstrates a miscarriage of justice. For all reasons set forth herein, Petitioners respectfully requests this honorable Court to exercise its warranted discretionary powers, and grant the within petition for a writ of habeas corpus, dismissing all criminal cases against him on the grounds of lack of probable cause, lack of prima facie evidence, and/or, for violating Pa.B. Crim. P. Rule 60D, as for a miscarriage

of justice. Petitioner will continue to remain in custody for the
aforementioned charges, in violation of the Constitution without
the writ being granted.

June 30, 2026

Respectfully Submitted,


Charles Talbert

QA4727

SCI-Phoenix

1200 Mokychic Drive

Collegeville, PA. 19426

Verification:

I hereby verify under penalty of perjury that the foregoing Petition is true and correct.

6/30/20


Charles Talbert

Certification:

I hereby certify that I forwarded a true and correct copy of my Petition for Writ of Habeas Corpus to the following parties this 30th day of June, 2020, by having them placed into the SCI-Phoenix mail bag on June 29, 2020 to be sent out by regular U.S. mail:

1. Secretary John Wetzel
Dept. of Corrections
1920 Technology Parkway
Mechanicsburg, PA. 17050

2. Governor Tom Wolf
225 Main Capitol Building
Harrisburg, PA. 17120


Charles Talbert

6/30/20