

IN THE UNITED STATES SUPREME COURT

SUPREME COURT CASE No.: 20-5724

Justin Lamar Johnson Sr.
Plaintiff/Petitioner/Appellant

V.

Judge Joseph Gibson
Stephen Kandel
Lewis Guarnieri
Judge Chryssa Hartnett
Hope Konovsky
John Fererro
Mary Warlop
The Ohio Attorney General
The Attorney General for the United States

Civil action No.: 1:19 CV 2300

Appeal No.: 20-3280

Judge: _____

Noting Date: _____

Petition for Rehearing of Certiorari

On Writ of Certiorari to
The United States Court of Appeals
for the Sixth Circuit

Petition for Rehearing

Pursuant to rule 44 of this court, the petitioner respectfully asks that the court reconsider it's decision denying his petition for writ of certiorari. The petitioner respectfully petitions for rehearing of his writ of certiorari before a full nine member court.



The petitioner believes The Court should rehear his writ of certiorari for the following reasons:

1. By dismissing the petition for a writ of certiorari and upholding the judgements of the lower courts which held that the petitioner had failed to state a claim in his first civil action, confusion will be created among the courts because the rulings conflict with a previous decision by this court which held that a plaintiff whom was formerly in an agency relationship of the attorney-client type which ended with injuries caused by inherently undiscoverable actions of his agent or attorney that the plaintiff has no obligation to know of or suspect wrongdoing of his agent nor required to use due diligence to investigate and discover his injurious actions until it apparent.
2. By dismissing the petition for a writ of certiorari and upholding the judgements of the lower courts which held that the petitioner's second civil action was barred by res judicata in spite of evidence of the fraudulent concealment of information and evidence essential to litigation of the first complaint, confusion will be created among the courts because the decision conflicts with previous decisions by this court which held that extrinsic fraud like silent fraud or fraud which is aimed to deter or hinder litigation was an exception to the bar of res judicata.
3. By dismissing the petition for writ of certiorari and upholding the judgements of the lower courts which held that the courts lack of jurisdiction over court appointed attorneys, confusion will be created between the courts because this decision conflicts with a previous one by this court regarding it's jurisdiction over attorneys and public defenders whom become private actors and lose the immunity afforded to them when they commit frauds or participate in civil conspiracies.
4. This court has held that attorneys lose their immunity for fraud and civil conspiracy. Dismissal of the petition leaves unanswered the question of whether the immunity of judges and prosecutors can or should be voided for fraud or civil

conspiracy which violates the constitutional rights to due process of criminal defendants and leads to wrongful convictions.

5. Dismissal of the petition leaves unanswered the question of whether precedent has stretched the scope of judicial immunity beyond the framers intent by changing the test of whether it applies to the act being done be within the judges jurisdiction to whether or not the court had subject matter jurisdiction at the time the action was committed.
6. There is no remedy available for wrongful convictions obtained through violations of constitutional rights to due process and dismissal of the petition leaves unanswered the question of whether the court should issue injunctions to state legislatures to enforce laws that would compensate innocent individuals whom were wrongfully convicted through a violation of their constitutional rights to due process and denied a chance to prove their innocence due to a failure to prosecute.
7. By dismissing the petition for a writ of certiorari and upholding the judgements of the lower courts which held that the Ohio and United States Attorney General were not subject to suit for the injunctive and declaratory relief the petitioner seeks, confusion between the courts will be created because these rulings conflict with a decision by this court which held that attorney generals were not immune for requests for injunctive and declaratory relief.
8. By dismissing the petition for a writ of certiorari and upholding the judgements of the lower courts which held that the petitioner's second action was barred because it contained the same subject matter as the first action, confusion will be created among the courts because this court held that a second action against the same parties or their privies that contains new evidence and information was not barred by res judicata.

9. The plaintiff was convicted of what Ohio calls “having weapons while under disability”. His weapon disability stems from his prior drug convictions. Dismissal of the petition leaves unanswered questions of whether the controlled substance act and state drug laws derived from it which criminalize drug possession and remove the rights of nonviolent offenders indefinitely are arbitrary, capricious, an abuse of discretion, and not narrowly tailored

10. The Court has held that the right to bear arms is not unlimited in spite of the constitution plainly stating that the right shall not be infringed. Dismissal of the petition leaves unanswered the question of whether this ruling in itself was unconstitutional erroneous and whether laws derived from it which remove firearm rights are unconstitutional infringements on the second amendment right to bear arms.

11. Dismissal of the plaintiff’s petition for writ of certiorari and his complaint leave unanswered the question of whether the test for if an agency’s decisions or policies are arbitrary or capricious is an adequate means for a court to make a decision when reviewing the decision, policy, or statute.

Argument

As it stands, the petitioner was wrongfully convicted of having weapons while under disability through a joint effort to violate his rights to due process. He was never found guilty yet he served time for the conviction. He is unable to obtain remedy for his legal injuries because the courts have chosen to immunize the actions of the defendant parties and the state of Ohio only compensates litigants whom were proven innocent.

The lower courts have not used the words fraud in there decisions and only repeat the term civil conspiracy preceded by the word conclusory. The courts ignore his assertion that his court appointed attorney, Mr. Kandel, concealed his involvement and act as though it somehow benefited the petitioner to not name Mr. Kandel as a defendant when in fact, Mr Kandels silent fraud ruined the first action

and cause everyday that the petitioner is not remedied to be a continuing wrong and injury.

In order to make a decision in favor of the petitioner, The Court would have to determine that the immunities of judges and prosecutors are void once they commit fraud or participate in civil conspiracies. It would then have to determine that the actions by the defendants and concealments of those actions were overt acts in a civil conspiracy to violate his constitutional rights to due process, deprive him of liberty without due process and conceal details of their actions in order to prevent him from succeeding in a civil action against them.

A civil conspiracy or collusion is an agreement between two or more parties to deprive a third party of legal rights or deceive a third party to obtain an illegal objective. A conspiracy may also refer to a group of people who make an agreement to form a partnership in which each member becomes the agent or partner of every other member and engage in planning or agreeing to commit some act. It is not necessary that the conspirators be involved in all stages of planning or be aware of all details. Any voluntary agreement and some overt act by one conspirator in furtherance of the plan are the main elements necessary to prove a conspiracy. A conspiracy may exist whether legal means are used to accomplish illegal results, or illegal means used to accomplish something legal.

The existence of a civil conspiracy can be inferred by the agreement Mr. Kandel and Judge Gibson made alone. When Mr. Kandel and Judge Gibson agreed to bifurcate the petitioner's charge for having weapons while under disability they made a voluntary agreement to violate his sixth amendment right to jury trial and effective trial counsel as well as his fifth and fourteenth amendment rights to due process. This created a failsafe to convict him and was done so that they could deprive him of liberty without due process in violation of his thirteenth amendment rights. Doing so could be considered both an illegal means to accomplish legal results and a legal means to accomplish illegal results.

The exception to the immunity of attorneys whom participate in civil conspiracies infers that the same exception should apply to judges and prosecutors because who else with they commit civil frauds and conspiracies with other than judges, prosecutors, and other attorneys.

The ruling by this court that the actions of conspirators in furtherance of a civil conspiracy makes them private actors to each other infers that those actions are no longer judicial acts but rather private acts of each other.

The overt acts taken in furtherance of the civil conspiracy start as early as the failure of Judge Gibson to confirm that it was the desire of the plaintiff to waive his rights to jury trial but also include the following actions:

1. Stephen Kandel's denial and concealment of his culpability.
2. Signing of the judgement entry which fraudulently claimed that the petitioner had waived his rights to jury trial by Judge Hartnett, Lewis Guarnierri, and John Ferrero
3. Continuing the proceedings in spite of former acquittal of the greater encompassing and dependent offenses and denial of the petitioner's motion in limine which was intended to keep those greater offenses off the record in the new trial.
4. Threatening to punish the petitioner if he opted to have the second criminal trial.
5. Dismissing charges related to weapons possession without presenting a weapon or evidence that the petitioner was ever in possession of a weapon.

The petitioner has stated that the night giving rise to his criminal trial and subsequent injuries that he was accosted by an armed man threatening to take his life and that his legally armed cousin intervened and shot his aggressor. Aside from his assertion that the court violated his due process rights in order to guarantee that somebody would be convicted for the aggressors injuries, he asserts that he was unable to own a firearm to defend himself because he has been previously convicted of drug offenses that have given him what the state of Ohio calls a "weapon disability". He asserts that Ohio's weapons disability statute, it's carrying concealed weapons statute, and laws from other states like them are unconstitutional in that the constitution holds that the second amendment shall not be infringed. Additionally he states that statutes that restrict the firearm ownership of drug offenders are not narrowly tailored because they could be drafted to apply to violent offenders, offenders whom possess drugs and weapons at the same time, or commit crimes while in possession or under the influence of drugs.

In order to make a decision in favor of the petitioner regarding his request for non-monetary relief in the forms of injunctions and challenges to and questions of law, the court would have to consider the material cited in the dismissed civil actions and allow further discussion about how the controlled substances act, state drug laws, and laws that restrict weapon ownership and use are related to the circumstances which gave rise to the plaintiff's legal injuries, wrongful conviction, and conduct of the defendant parties.

The petitioner has asserted that the controlled substances act and state laws that criminalize drug use and possession are arbitrary and capricious and that laws which remove rights for drug possession are unconstitutional and not narrowly tailored.

To reiterate, the petitioner asserts that the controlled substances act and state laws like it are arbitrary and capricious because they disproportionately remove the rights of and mass incarcerate minority citizens, and were implemented shortly after the passing of the civil rights act of 1964 under the guise of a war on drugs which appears to not be a war in any sense of the word nor about drugs. People had been using drugs for thousands of years. Cocaine in particular was legal in

the United States and was even an ingredient in consumer goods. When cocaine's popularity grew in minority communities in the 1960s and the civil rights act of 1964 was passed, the controlled substances act was introduced almost immediately after in 1970 and began the disproportionate over-policing of black neighborhoods, mass incarceration of black people, and in most instances, the indefinite removal of rights which had just recently been made available to Black people.

The petitioner states that these laws are an abuse of discretion by the Food and Drug Administration and Drug Enforcement Agency because these agencies have the power to decide how drugs are regulated and benefit from their illegality. The pattern of how drugs are scheduled seems to relate not so much to the harmfulness of the drug but whether or not production of the drug can be controlled is derived from crops that are native to particular parts of the world, can be manufactured synthetically, or are substances which grow naturally anywhere on the Earth. This is in stark contrast to the many drugs and substances that the FDA approves and deems safe or medicinal which are often equally or more addictive, harmful, and deadly than the scheduled drugs.

The DEA is in the business of arresting drug offenders but the task in itself is also an abuse of discretion because the agency gets to decide which drugs are scheduled and the manner in which it has enforced the CSA thus far has not quelled the flow of drugs into America but has continued the workload of the DEA and expanded its funding, operations, and employees. .

The FDA on the other hand abuses it's discretion by financially profiting from the drugs it approves as well as the drugs that it does not from the contributions of lobbyists. Those which it has deemed to have a high potential for abuse or no medicinal properties make their way on to the controlled substances list but ironically again happen to be those which are derived from crops that are native to particular parts of the world, can be manufactured synthetically, or are substances which grow naturally anywhere on the Earth. The FDA seems to only approve

synthetic drugs that only large and wealthy manufacturing lobbyists companies have the ability to produce.

These drug laws are of national and international concern because they allow for the mass incarceration of protected minority classes of citizens in America, create organized crime, a violent illegal market, and slavery in the countries where drugs are produced and smuggled into America. They create more ways for citizens to be convicted of felonies and incarcerated and have their rights removed by creating more felonies.

Drug offenses make up most felony convictions and almost half prison population at 46.2% with offenses for weapons possession being next at 20%. These numbers relate because drug offenses remove the right to bear arms and some states require permits to lawfully carry firearms.

Convictions for violations of drug laws remove the rights to vote, to bear arms, rights to liberty, and the right to be free from slavery and involuntary servitude.

These convictions brought back discrimination in the hiring processes of workplaces through felony background checks and allow the denial of privileges that other Americans enjoy.

It would be in the interest of justice and equity for the court to grant the petitioner's request for injunctive relief that would require states to compensate individuals who have had their due process rights violated and were wrongfully convicted as a result.

It would be in the interest of justice and equity for the court to remand the case against the defendants back to the trial court and hold a hearing for oral argument on his request for the judicial review and constitutional challenges to the related statutes, doctrines, and policies.

Previously Unpresented Grounds for Rehearing

The petitioner has recently filed motions for the removal of his firearms disability under section 2923.14 of the Ohio Revised Code and a motion to have his record sealed under section 2953.32 also under the Ohio revised Code. Both of these statutes are supposed to be avenues for an individual to be able to obtain a permit to obtain a permit to carry a concealed firearm under section 2923.12 of the Ohio revised code but actually obtaining a firearms permit is deceptively harder than the statute lets on. Granting relief from the firearm disability is not automatic upon meeting requirements and requires the approval of a judge. Expungements of the petitioner's record will restore his right to bear arms but in order to carry concealed, he needs misdemeanors and juvenile offenses expunged because the permits are issued by the sheriffs office whom takes all of this into consideration.

The requirement for carrying a concealed permit is wholly unconstitutional in that it requires even citizens never convicted of a felony to pay a fee to obtain a permit to conceal their firearms and results in a felony if they conceal without it.

Separately, when challenging the controlled substances act, the petitioner failed to address the Single Convention on Narcotic Drugs. This Treaty is related to the controlled substances act and if the Court finds that the Controlled Substances Act and State laws that prosecute for drug possession are arbitrary, capricious and an abuse of discretion then it would have to do the same with the treaty.

Conclusion

Wherefore the petitioner respectfully ask that the court rehear his petition for a writ of certiorari. It would be in the interest of justice and equity for the court to grant the petitioner's request for injunctive relief that would require states to compensate individuals who have had their due process rights violated and were wrongfully convicted as a result. It would be in the interest of justice and equity for the court to remand the case against the defendants back to the trial court, hold a hearing for oral argument on his request for the judicial review and constitutional challenges to the related statutes, doctrines, and policies

and add the D.E.A., F.D.A., United States Congress, and any required but unnamed parties to this action.

Respectfully Submitted,


Justin L. Johnson

Pro se

1844 Brewster Creek drv.

Akron Ohio 44306

(330)217-3007

Justin.l.johnson88@outlook.com

11 / 28 / 2020

I, Justin Johnson, affirm, to the best of my recollection, under penalties of perjury that the foregoing statements are true