

00-6319

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

SEP 04 2020

OFFICE OF THE CLERK

KATHLEEN McCULLOUGH — PETITIONER
(Your Name)

vs.

COMMONWEALTH OF PA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

KATHLEEN McCULLOUGH
(Your Name)

107 FARMINGTON LANE
(Address)

CHANDLER, PA 15317
(City, State, Zip Code)

724-288-2715
(Phone Number)

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:

PLEASE SEE NEXT PAGE

RELATED CASES

PLEASE SEE TABLE OF CONTENTS

STATEMENT OF ISSUES FOR WRIT OF CERTIORI

Petitioner Kathleen McCullough (“Petitioner”) is appealing the 6-11-2020 final order issued by J. Jordan, Krause and Matey of the US 3rd Circuit Court of Appeals. Said order is attached in Appendix 1, Petitioner’s Docket for Case No. 20-1378. It states that Petitioner’s filing was untimely and that she did not provide an arguable basis for equitable tolling.

To address the equitable tolling from 2-2-2017, through 2-25-2017; 4-11-2017 through 4-19-2017 and 6-2-2017 through 8-17-2018, Petitioner was illegally incarcerated by her PCRA factfinder, J. Philip Ignelzi. Petitioner was illegally arrested when she obtained the attached statements of financial interest which proved that J. Ignelzi had received “gifted” 2 lines of credits from PNC Bank, at 2.99 & 3 percent the same year that he accepted Petitioner’s 2013 case; the rest of J. Ignelzi’s creditors far exceeded these rates between 8 percent to as high as 24 percent. Please see Appendix 2. J Ignelzi’s SOFI.

During the 2-2017 incarceration, Petitioner J. Ignelzi threatened that if she continued to represent herself, she would be found mentally incompetent. The Third Circuit did not find Petitioner’s illegal incarceration an arguable issue concerning equitable tolling for which egregious miscarriages of justice are exceptions, to the equitable tolling issues. Therefore, Petitioner submits the following egregious miscarriages of justice:

1. Exacerbating the situation was Petitioner’s US Tax Court Case No. 19390-13, the docket is attached as Appendix 3. J. Ignelzi’s protective order is included in this Appendix. After a 3-8-2017 undocketed status conference with Senior Tax Court Judge John Colvin, and IRS Counsel Erin Neugebauer. Petitioner was given 90 days to obtain

all of the information she needed to defend her case. Petitioner has always maintained her innocence. Petitioner's almost 100 witnesses were denied by J Ignelzi as well as her 146 PCRA counts were denied 9-30-2015 at this unordered and undocketed hearing. The transcript is attached as Appendix 4. J. Ignelzi illegally quashed all but 10 superfluous witness and quashed all subpoenas including anyone and all evidence relative to PNC Bank; Please see Petitioner Appendix 5 which are the Allegheny County Common Pleas Court Dockets for Cases No. CP-02-CR-10526-2009 and CP-02-CR-0007911-2008C2- attached as Appendix 5.

2. Inexplicably IRS Counsel, Erin Neigebauer has the same subpoena power as Petitioner, yet IRS Counsel not only did not subpoena any of this evidence, but also concealed from 8-11-2017 through 1-2-2020 that J. Philip Ignelzi had a protective order from Petitioner and her subpoenas yet continued and continues to be the presiding judge over Petitioner's PA State Probation. PA-Parole and Probation has the power and the right to retain jurisdiction of conflicted parties, i.e. J. Ignelzi, yet permitted him to illegally incarcerate and continue to preside of Petitioner's state probation. It is the subject of a Third Circuit Appeal of US District Court Case No, 2:20-cv-737-cv and Third Circuit Case No. 20-2704, attached as Appendix 6.
3. After having several subpoenas served upon the Allegheny County District Attorney's Office, PNC Bank, etc., Petitioner was again arrested 4-11-2017. During this illegal incarceration, Allegheny County Detective Patricia Parker testified. 4-18-2017 that she obtained Petitioner's deceased Mother's will, without a signed search warrant. This transcript excerpt is included as Appendix 7. J. Ignelzi "verbally" ordered Petitioner to either sell her mother's home or pay \$1,500 per month restitution. Knowing Petitioner did not have the funds, J. Ignelzi "VERBALLY" ordered Petitioner to do so.

4. Although Petitioner had a valid appeal of J. Ignelzi's 2-2017 Court Order with PA Superior Court, please see Appendix 8, Petitioner's Docket No. for 422 WDA 2017, J. Ignelzi said that the Court did not have jurisdiction. J. Ignelzi violated the PA Rules of Appellate Procedure, i.e. once an Appellate Court accepts a case, the lower court cannot interfere with it. J. Ignelzi internationally interfered.
5. When Petitioner did not pay the illegal \$1500 verbal order, by 6-1-2017, she did not have the funds to do so, J. Ignelzi had Petitioner illegally arrested for a third time. Please note, throughout the 422 WDA 2017 case, J. Ignelzi was delinquent in providing Petitioner's case records to PA Superior Court. Please see Appendix 3, when J. Ignelzi received a protective order 8-11-2017 from US Tax Court, Please see line item 65 that was granted protecting J. Ignelzi from Petitioner's subpoena, it was after the US Tax Court denied 8-22-2017 Petitioner's request for a protective order that J. Ignelzi carried through on his threat that Petitioner was sent to Torrence State Mental Hospital, without a competency hearing/ Supposedly Petitioner was diagnosed as Paranoid by a PA Dentist, Mathew Lang and illegally prescribed drugs for a condition she did not have. Petitioner never received any reports. Under PA law, only a licensed psychiatrist or psychologist can make such a determination. The only record that shows Petitioner was illegally sent to Torrance was J. Ignelzi's 9-15-2017 Order for Petitioner to be forced to accept psychiatric medication for a condition she did not have. There never was a legal psychiatric evaluation, competency hearing concerning Petitioner. Please see Appendix 5, for the 9-15-2017 order. After 55 days of this living hell, Petitioner was returned to the Allegheny County jail where she was yet again illegally sentenced to SCI Muncy, without any charges, for crimes she did not commit and never received a court order for this illegal incarceration as well. The best guess at this point was she

served this time as double jeopardy of her original sentence. No one, including the Parole hearing Officer would provide any documentation as to why Petitioner was incarcerated. Informed that she was being “paroled” 8-17-2020 so J. Ignelzi could not continue to illegally arrest her, the “parole” expired 5-2-2020 again leaving Petitioner unprotected so she filed the US District Court Case 2:20-cv-737 out of fear that the same illegal actions would commence yet again to J. Ignelzi. Petitioner sought to file a Petition with PA Probation and Parole which was returned unopened. The PA Supreme Court return Petitioner’s emergency filing again undocketed and unopened. Finally, in desperation, Petitioner filed an emergency Writ with this Court that again was returned and undocketed.

6. The day after Petitioner was sentenced to SCI- Muncy, 11-6-2017, Appendix 3, Line Item, 84 , J. Ignelzi, protective order was returned to Tax Court as undeliverable. Included is the Court Order. The IRS knew it as well as the PA Supreme Court who filed the protective order motion. All knew Petitioner was illegally incarcerated yet mailed the protective order to her home address.
7. In explicably, not only did US. District Court Magistrate J. Lisa Lenihan ignore these egregious violations of Petitioner’s rights concerning the equitable tolling, J. Lenihan accepted the Commonwealth’s Motion to Dismiss by J. Ignelzi’s accomplice, ADA Rusheen Pettit. Pettit was present for all 5 illegal 2017 hearings 2-17-2017, 4-18-2017, 4-19-2017, 6-7-2017, 7-14-2017 & 11-5-2017. Furthermore, Pettit failed to even have a valid Certificate of Service of her Entry of Appearance attached as Appendix 9. As such, how did Pettit even have standing in the case?
8. The Third Circuit has upheld the equitable tolling dismissal adding that there was not an argument to consider otherwise. Petitioner spent over 15 months illegally

incarcerated. One would hope it would be considered an egregious miscarriage of justice, trumping the flawed equitable tolling argument. The 3rd circuit simply ignored all of it.

I. Questions Presented

Therefore, these are the questions that Petitioner begs the United State Supreme Court to Consider the following facts for its Writ of Certiorari Review:

- A. Petitioner's home was searched 5-2-2008 by the Allegheny County District Attorney Office without a valid, signed warrant regarding the Mackin Case. Please see Appendix 10, the DA inventory list that includes the unsigned Mackin search warrant. The DA's inventory list is included proving that there was an "unsigned Mackin search warrant for which Petitioner was convicted. How could Petitioner be convicted, when all evidence seized was the result of an illegal search warrant violating Petitioner protective right from illegal search & seizure? It resulted in 4 felony convictions without 1 of Petitioner's 6 lawyers raising this constitutional violation: How could both J. Lenihan and the 3rd Circuit both ignore these glaring miscarriages of justice?
- B. Petitioner's first 2 attorneys' Wayne DeLuca and Steve Townsend, law partners of the law firm Eddy, DeLuca Gravina & Townsend were representing PNC Bank employees Tom Gray, and Lana Boehm at the same time DeLuca was representing them and was their attorney of the 7-31-2008 grand jury proceedings commenced after the DA's illegal search and seizure. DeLuca continued to represent Boehm and Gray from 2007 through 2015 the Jordan trial. How could the Allegheny County DA's Office permit DeLuca and Townsend to represent Petitioner

knowing that they were the very attorneys for PNC Bank employees? Furthermore, how could J. Ignelzi and J. Lenihan both ignore this glaring conflict of interest and egregious violation of Petitioner's constitutional rights? How could the 3rd Circuit ignore these glaring miscarriages of justice?

- C. The Allegheny County DA's office, Deputy DA, Lawrence Claus, and DA Stephen Zappala permitted DeLuca and Townsend to represent Petitioner, an egregious conflict of interest, while the DA's office was accepting evidence Petitioner and her sibling Charles McCullough? How could the Allegheny County Common Pleas Court fairly adjudicate these cases, when PNC Bank is the largest debt holder of Allegheny County, an egregious conflict of interest? J. Ignelzi had 2 gift rate lines of credits with PNC Bank, DDA Lawrence Claus had 4 gift loans with PNC Bank and Lead Detective Todd Moses has a six figure position at PNC Bank for which he obtained this position at the very time he was still an employee of the PA Ethics Act. Please see their respective Statements of Financial Interest, Appendix 3. Moses never submitted one, yet his LinkedIn page shows his violation of the PA Ethics Act that he accepted this position within a year of leaving the DA's office and failed to file a final SOFI for 2013. How could both J. Lenihan and the 3rd Circuit ignore these glaring miscarriages of justice?
- D. On 5-2-2008, the illegal search warrant, also removed all exculpatory evidence from Petitioner's home concerning the Cherup case for which Petitioner was convicted, and illegally removing all exculpatory evidence for the Mackin case which proved Petitioner's innocence? How could both J. Lenihan and the 3rd Circuit ignore this glaring miscarriage of justice?
- E. In over 12 years, Petitioner has never seen this evidence. The DAs office was protected by J. Ignelzi's conflicted actions, again please see Appendix 5, Petitioner's Allegheny County Common Pleas Court Dockets where in fact that all motions for exculpatory evidence and discovery were denied. PA Superior Court denied these motions as well. J. Ignelzi denied all

Motions for Petitioner's to obtain her OWN legal files from attorneys Ira Weiss and Tucker Arensburg, her Cherup and Mackin files respective. Please see Appendix 18, the 10-4-2014 transcripts that details the files issues as well as the missing transcripts from the record, Finally, the DA's Office denied this evidence to the United States government in not providing these files to the IRS. The DA's office violated J. Lenihan's 2-21-2019 order to provide all of Petitioner's transcripts, motions and orders that are her reproduced record. Appendix 12, documents a supposedly PA Attorney General's Office ongoing investigation, attached Robert Drawbaugh's hand delivered 2-24-2017 letter to Petitioner.

- F. Trial J. Jill Rangos was a fact witness in the Jordan case. Attached as Appendix 13 is the 4 investigative reports, 17, 18, 19 & 23, 1-22-2010 along with the inventory list that showed the Mackin unsigned search warrant. This Appendix includes the 1-22-2019 transcript. She threatened Petitioner with incarceration if she represented herself and again threatened her with bond revocation if she fired James DePasquale, as proven in the 3-8-2010 transcript, as Appendix 14. Although 48 years old at the time of her trial, J. Rangos VERBALLY ordered Petitioner's elderly Mother to sell her home to pay James DePasquale \$52,500 fee for which he did not provide a defense. On 10-29-2013 both were notified. Please see this transcript, Attached as Appendix 15 that includes the undocketed and unscheduled 10-29-2013 "Grazier Colloquy" instead of the required and scheduled Grazier Hearing. Attached as Appendix 15 in the 1-25-2018 PA Superior Court Order noting Petitioner's Docket is void of a Grazier Hearing. Appendix 15 includes J. Ignelzi admitting his conflict of interest with Petitioner's family members. Furthermore, J. Ignelzi and the DA's office have refused to provide THIS TRANSCRIPT along with Petitioner's jury selection transcript or summary thereof. Presiding the Grand Jury that indicted Petitioner and her sibling, J. John Zottolo, his niece was a member of Petitioner's jury as well as 2 conflicted other jurors, one a manager of a pizza restaurant that

the DA's office personnel patronized as well as a St Clair hospital employee who knew Lori Cherup. Attached as Appendix 16 is the juror list. Therefore, how could J. Rangos be the presiding judge over a case that she was a fact witness in one of the cases concerning both Petitioner and Petitioner's sibling Charles McCullough.

- G. During Petitioner's 2010 trial, there was not a colloquy advising her that by taking the stand Petitioner was waiving her 5th amendment right. Nor any statement by her own attorney advising Petitioner that she was waiving her 5th amendment right. Please see Appendix 11 that Petitioner was not advised by counsel until the day she testified. Certainly, this issue must be proof of the violation of Petitioner's 5th amendment rights?
- H. Petitioner's attorney James DePasquale did not impeach one prosecution witness, nor did he recall one prosecution witness. On 9-25-2015, DePasquale appeared as a witness for the DA's Office to prevent Petitioner from obtaining her grand jury transcripts. DePasquale appeared for the DA's Office without being subpoenaed. This transcript is included in Appendix 11. Although the case was not transferred by a Court Order, to him, J. Zottolo presided of this illegal and undocketed hearing. DePasquale did not use over 1100 pages of evidence that Petitioner submitted in her 4-1-2013 PCRA Petitioner. At trial, J. Rangos did not read and give Petitioner's jury any instruction. DePasquale did not even have his own set of jury instructions. Such an issue was again ignored by the trial Court. To this day, Petitioner does not know what the jury instructions were as J. Rangos did not read them to the jury. And DDA Claus never gave a copy to defense counsel James DePasquale. Each one of these issues is a separate violation of Petitioner's right to due process, yet again, J. Ignelzi, J. Lenihan and now the 3rd Circuit ignored all this issues and dismissed Petitioner's case as she failed equitable tolling.
- I. The day after Petitioner's trial, 6-2-2010, Petitioner obtained her files from DePasquale office. On 7-26-2010, Petitioner filed a Motion for Extraordinary Relief that contains the proof of

Petitioner's innocence. J. Rangos never accepted it for review. In Appendix 5, there are 2 entry of appearances for Public defender Stacey Steiner One7-26-2010 after Petitioner filed her Motion for Extraordinary relief. Inexplicably another was filed 7-22-2010. Steiner never accepted Petitioner's motion for extraordinary relief nor did J. Rangos adjudicate it. Knowing that Petitioner was innocent, J. Rangos sentence Petitioner to 2 to 4 years in prison and another 10 years of probation.

- J. After Petitioner's sentencing hearing, she was immediately sent to SCI Muncy. Please note that in December 2010, PA Superior Court issued an order that Petitioner was eligible for bond pending appeal. Petitioner was never informed of it. How can it not be considered that Petitioner's public defenders Allman and Steiner were not advocates for Petitioner. Steiner never accepted Petitioner's Motion for Extraordinary Relief.
- K. Petitioner was paroled 2-29-2012. After Petitioner, filed her 4-1-2013 PCRA Petitioner, J. Rangos appointed Allegheny County Conflict Counsel J. Richard Narvin. Narvin attempted to file a Supplemental PCRA that would have reduced Petitioner's 1000 page plus document. On 10-4-2013, Petitioner terminated J. Richard Narvin. J. Rangos recused herself. Attached is this transcript as Appendix 17. One can see that J. Rangos is yet again attempting to appoint counsel. Is this transcript not irrefutable proof of J. Rangos' violation of Petitioner's right to self-representation in her case?
- L. On 10-29-2013, Petitioner has her first PCRA hearing with J. Philip Ignelzi. He admits on the record he knows both Petitioner's sibling Charles McCullough and her Sister-in-law, Commonwealth J. Patricia McCullough? Isn't this admission, proof of J. Ignelzi's conflict of interest?
- M. J. Ignelzi conducts an illegal "Grazier hearing". It is not docketed. It is not court ordered. Petitioner was entitled to Court appointed counsel as she was indigent. This Grazier hearing

failure was documents on Petitioner's Exhibit No. 3 dated 1-25-2018 for which J. Ignelzi never had a legal Grazier hearing nor did he provide Petitioner with a copy of said order. Isn't this miscarriage of justice a violation of Petitioner's constitutional rights?

- N. J. Ignelzi quashed over 90 subpoenas. Petitioner was not allowed to call any of the original witness, nor DDA Claus or lead detective Todd Moses. Most importantly, J. Ignelzi protected his debt holder PNC Bank. Both had gifted PNC bank loan. J. Ignelzi's loans commenced 2013, the year that he accepted Petitioner's PCRA case. His gifted PNC Bank lines of credit were 2.99% & 3% while his offer credit had interest rates of 8% to 24% .ADA Claus. Claus had 4 PNC Bank loans ranging from 0% to 13% while his other credits were as high as 29%, the year the Jordan case was adjudicated. Moses' LinkedIn account proves his PNC Bank position occurred at the same time he was working at for the District Attorney. Under the PA Ethics Act he was not permitted for a year to accept the PNC Bank position
- O. Petitioner's Constitutional Rights were egregiously violated by a biased, conflicted fact finder and jury, in Petitioner's Western Pennsylvania US. District Court, namely J. Lenihan. When Petitioner filed her Petition for Writ of Habeas Corpus for a Section 2254 case, Petitioner requested that the jurisdiction of this case to assigned to an area outside of Western Pennsylvania. As both the factor finder and the jury in this Petition, J. Lenihan failed the criteria of the case *Commonwealth v. Stewart*, 295A2d 303, 304 (Pa, 1972). It is the minimal standard of constitutional due process which guarantees to the criminally accused a fair trial by (an impartial and indifferent fact finder) as was J. Rangos and J. Ignelzi." Suggested Standard Criminal Instructions ("Pa.S.S.J.I) apply equally in substance to a trial judge sitting as the jury. It is inconceivable that a decision would be rendered without any court records to assist in the review. The Court not only made an egregious trial error but also constitutionally abused its discretion.

P. Furthermore, after J. Lenihan rendered her decision, it was only after the fact, that Petitioner learned that J. Lenihan's personal attorney, was the same as Petitioner's, Wayne DeLuca. Under the Rules of Procedures, a Judge cannot even have the appearance of a conflict of interest.

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APPENDIX

- 1 6-11-2020 Court Order & 20-1378 Docket for 3rd Circuit
- 2 2:19-cv-115 Docket US District WPA Court
- 3 19390-13 Docket US Tax Court and Ignelzi Protective Order
- 4 9-30-2015 Transcript Illegal Hearing Verbal Subpoena Quashing & PCRA Count Denials
- 5 CP-02-CR-10526-2009 and CP-02-CR-0007911-2008C2 Common Pleas Court Dockets
- 6 Parole & Ignelzi Jurisdiction Cases 3rd Circuit 20-2704 I 2:20-cv-737 US District WPA Court
- 7 4-17 & 18-2017 Transcript
- 8 422 WDA 2017 1797 Wda 2017 PA Superior Court Dockets
- 9 Pettit's Entry of Appearance
- 10 DA Inventory List – Unsigned Mackin Search Warrant
- 11 Transcript 11-1-2010 & 9-25-2015
- 12 PA Attorney General 2-24-2017 Letter
- 13 Investigative reports & 1-22-2010 Transcript
- 14 Transcript 3-8-2010
- 15 Transcript 10-29-2013
- 16 Trial Jury List
- 17 Transcript 10-4-2013
- 18 Transcript 10-4-2014
- 19 11-1-2009 J. Cappy Death Controversy

III. Table of Authorities

Cases

1. The **Brady Rule**, named after **Brady v. Maryland**, 373 U.S. 83 (1963), requires prosecutors to disclose materially exculpatory evidence in the government's possession to the defense. ... The defendant bears the burden to prove that the undisclosed evidence was both material and favorable.
2. At a **Grazier hearing**, named after *Com. v. Grazier*, **391 Pa. Superior Ct. 202 (1990)**, **570 A.2d 1054** the court determines whether the defendant had validly waived his right to counsel during a PCRA **hearing**. In addition, the court must conduct an inquiry to ensure that the defendant is waiving his right knowingly, voluntarily, and intelligently.
3. **Waiver of Fifth Amendment privilege**

The **Fifth Amendment privilege** is not self-executing. *Roberts v. United States*, 445 U.S. 552, 559 (1980). The **privilege** can be **waived** by failing to invoke it in a timely manner and by disclosure of incriminating evidence.
4. *Commonwealth v. Stewart*, 295A2d 303, 304 (Pa, 1972) as the minimal standard of constitutional due process guarantees to the criminally accused a fair trial by (an impartial and indifferent fact finder)."

Statutes

28 U.S.C. § 12571

PA State Ethics Act. § 1103. Restricted activities

(a) Conflict of interest.--No public official or public employee shall engage in conduct that constitutes a conflict of interest.

(b) Seeking improper influence.--No person shall offer or give to a public official, public employee or nominee or candidate for public office or a member of his immediate family or a business with which he is associated, anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment based on the offeror's or donor's understanding that the vote, official action or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.

(c) Accepting improper influence.--No public official, public employee or nominee or candidate for public office shall solicit or accept anything of monetary value, including a gift, loan, political contribution, reward or promise of future employment, based on any understanding of that public official, public employee or nominee that the vote, official action or judgment of the public official or public employee or nominee or candidate for public office would be influenced thereby.

Title 234 Rule 647. Request for Instructions, Charge to the Jury, and Preliminary Instructions.

Rule 631. Examination and Challenges of Trial Jurors.

Code of Conduct - Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety in all Activities

(B) *Outside Influence.* A judge should not allow family, social, political, financial, or other relationships to influence judicial conduct or judgment. A judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others nor convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.

(B) *Administrative Responsibilities.*

(1) A judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court personnel.

(3) A judge should exercise the power of appointment fairly and only on the basis of merit, avoiding unnecessary appointments, nepotism, and favoritism. A judge should not approve compensation of appointees beyond the fair value of services rendered.

(4) A judge should practice civility, by being patient, dignified, respectful, and courteous, in dealings with court personnel, including chambers staff. A judge should not engage in any form of harassment of court personnel. A judge should

not retaliate against those who report misconduct. A judge should hold court personnel under the judge's direction to similar standards.

(6) A judge should take appropriate action upon receipt of reliable information indicating the likelihood that a judge's conduct contravened this Code, that a judicial employee's conduct contravened the Code of Conduct for Judicial Employees, or that a lawyer violated applicable rules of professional conduct.

(C) Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which:

(a) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or lawyer has been a material witness;

(c) the judge knows that the judge, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be affected substantially by the outcome of the proceeding;

(d) the judge or the judge's spouse, or a person related to either within the third degree of relationship, or the spouse of such a person is:

(i) a party to the proceeding, or an officer, director, or trustee of a party.

(iii) known by the judge to have an interest that could be substantially affected by

the outcome of the proceeding; or

(iv) to the judge's knowledge likely to be a material witness in the proceeding.

(e) the judge has served in governmental employment and in that capacity participated as a judge (in a previous judicial position), counsel, advisor, or material witness concerning the proceeding or has expressed an opinion concerning the merits of the particular case in controversy.

(2) A judge should keep informed about the judge's personal and fiduciary financial interests and make a reasonable effort to keep informed about the personal financial interests of the judge's spouse and minor children residing in the judge's household.

Constitutional Provisions

United States Constitution, Amendment IV20 to
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United States Constitution, Amendment V20 to
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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 1 to the petition and is

☐ reported at CASE # 20-1378 3rd Circuit; or, KM

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the United States district court appears at Appendix 2 to the petition and is Western Pennsylvania CASE # KM

☐ reported at 2:19-cv-115; 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 _____ 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 _____; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

IV. Petition for Writ of Certiorari

Kathleen McCullough is presently under the custody and control of the Pennsylvania Board of Probation and Parole. Therefore, she respectfully petitions this court for a writ of certiorari to review the United States Court of Appeals for the Third Circuit 6-11-2020 decision.

V. Opinions Below

The decision by the Third Circuit Court of Appeals for the Third Circuit is reported as Kathleen McCullough v. The Commonwealth of Pennsylvania, Court Case No. 20-1378 Decided 6-11-2020. The Docket sheet is Attached in the Appendix 1. This order upholds which upholds J. Lenihan's denial of Western Pennsylvania U.S. District Court Case No, 2:19- cv-115 dated 2-19-2020 attached in Appendix 2 .

VI. Jurisdiction

Petitioner's case was denied 6-11-2020. Petitioner, Kathleen McCullough invokes this Court's jurisdiction under 28 U.S.C. § 1257, having timely filed this petition for a Writ of Certiorari within ninety days of the United States Court of Appeals for the Third Circuit's judgment.

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 _____.
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. ____ A ____.

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

VII. Constitutional Provisions Involved

The violations of Petitioner's Constitutional Rights which are part of this Writ are as follows:

1. The Fourth Amendment guarantees unlawful search and seizures:
2. The Fifth Amendment imposes restriction on the government's prosecution of persons accused of crimes. It prohibits self-incrimination, double jeopardy, and mandates due process of law. As no citizen may be denied his or her legal rights and all laws must conform to fundamental, accepted legal principles, as the right of the accused to confront his or her accusers.
3. The Sixth Amendment guarantees the right of criminal defendants including the right to a public trial without unnecessary delay, the right to a lawyer including the guaranteed right of a defendant to represent oneself, the right to an impartial jury, i.e. independent people from the surrounding community who are willing to decide the case based on the evidence and the right to know who your accusers are and the nature of the charges and evidence against you; and
4. The Fourteenth Amendment is the right to an impartial judge comes from due process of both the Fifth and Fourteenth Amendment. A Judge cannot be considered impartial, if he or she has any underlining interest for the outcome of the case to any person within its jurisdiction the equal protection of the laws.

VIII. Statement of the Case

Therefore, reference in this Writ of Certiorari includes the above Amendment in the whole context.

- On 2-11-2020, J. Lenihan closed Petitioner's case. ADA Pettit's Motion to Dismiss the Petition for Writ of Habeas Corpus and dismissed the Petition as not only untimely but also ignored the egregious miscarriage of justice exception. Furthermore, Petitioner was denied a Certificate of Appealability. The 3rd Circuit affirmed it. Both violated Petitioner's Fifth, Sixth and Fourteenth Amendments rights because, The Answer and the Reply states:
- (a) "When Required. The respondent is not required to answer the petition unless a judge so orders. On 2-21-2019, as shown on Petitioner's Exhibit No. 1, Petitioner's docket sheet, (Case number 2:19-cv-cv-00115), J. Lenihan ordered ".IT IS FURTHER ORDERED that within twenty-one (21) days of this order, respondents shall respond to the allegations of the petition for writ of habeas corpus. The District Attorney shall address both the merits of the petition and the exhaustion of state court remedies. The answer shall comply with the requirements of Rule 5 of the Rules of Governing Section 2254 Cases in the United States District Court. The District Attorney shall furnish this court with the state records, including all relevant transcripts, all briefs filed by petitioner and all written opinions of the courts. Criminally contemptuously, the District Attorney never followed any of Rule 5, et al. totally violating Rule 5 and J. Lenihan and the 3rd Circuit were complicit to it.
- (b) Contents: Addressing the Allegations: Stating a Bar. "The answer must address the allegations in the petition. In addition, it must state whether any claim in the petition is barred by a failure to exhaust state remedies, Rules Governing Section 2254 and 2255 Cases procedural bar non-retroactivity, or statute of limitations".
- (c) Contents: Transcripts. "The answer must also indicate what transcripts of pretrial, trial, sentencing, or post-conviction proceedings are available, when they can be furnished, and what proceedings have been recorded but not transcribed. The respondent must attach to

the answer parts of the transcript that the respondent considers relevant. The judge may order that the respondent furnish other parts of existing transcripts or the parts of untranscribed recordings be transcribed and furnished. If a transcript cannot be obtained, the respondent may submit a narrative summary of the evidence”.

- (d) Contents: Briefs on Appeal and Opinions. “The respondent must also file the answer of a copy of:
- any brief that the petitioner submitted in an appellate court contesting the conviction or sentence or contesting an adverse judgment or order in a post-conviction proceeding, et al;”
- In summary: Both the Fifth and the Fourteenth Amendments guarantee Petitioners right to due process. J. Lenihan did not enforce her own 2-21-2019 Court Order. Please see Appendix 2 the District Court Docket. The District Attorney’s answer did not respond to the allegations of the petitions, or the merits of the petition and the exhaustion of state court remedies. Furthermore, J. Lenihan adjudicated this case without one record violating Rule 4 of the Rules Governing Section 2255 and 2254 cases. It was the Court’s responsibility to review the Petition prior to issuing an order for the District Attorney, Et al to respond. The District Attorney violated the Court’s order and J. Lenihan permitted it. Petitioner’s Constitutional Rights were egregiously violated by a biased, conflicted fact finder and juror, this Court, violating Petitioner’s Sixth Amendment Rights, the right to an un-biased Judge and un-biased jury. What the District Attorney submitted was a frivolous Motion to Dismiss without answering **any** of Petitioner’s allegations and without providing one document. It violated Rule 5 of Rules Governing Section 2255 and 2254 cases. The Motion to Dismiss was solely based on a supposed time tolling issue. How could any reasonable

fact finder, i.e. this Court, adjudicate this case **WITHOUT 1 PAGE OF ONE DOCUMENT** provided by the District Attorney? Under the Fifth, Sixth and Fourteenth Amendments, The Court acted as both fact finder and jury in this matter. **It was the duty of the Court to comply with Rule 4.**

- It was the duty of this Court afforded Petitioner under the Fifth, Sixth and Fourteenth Amendments to protect Petitioners civil rights. Petitioner's Constitutional Rights were egregiously violated by a biased, conflicted fact finder and juror, this Court. As both the fact finder and the jury, J. Lenihan failed Commonwealth v. Stewart, 295A2d 303, 304 (Pa, 1972) as the minimal standard of constitutional due process guarantees to the criminally accused a fair trial by (an impartial and indifferent fact finder)." Suggested Standard Criminal Instructions ("Pa.S.S.J.I) apply equally in substance to a trial judge sitting as fact finder. The Court not only made an egregious trial error but also constitutionally abused its discretion, again violating Petitioner's Fifth and Fourteenth Amendment Rights. The 3rd Circuit affirmed it.
- Under Rule 4 of Rules Governing Section 2254 and 2255 cases, Preliminary Review: Serving the Petition and Order states "The clerk must promptly forward the petition to a judge under the court's assignment procedure, and the judge must promptly examine it. **IF IT APPEARS FROM THE PETITION AND ANY ATTACHED EXHIBITS THAT THE PETITIONER IS NOT ENTITLED TO RELIEF IN THE DISTRICT COURT, THE JUDGE MUST DISMISS THE PETITION AND DIRECT THE CLERK TO NOTIFY THE PETITIONER. IF THE PETITION IS NOT DISMISSED, THE JUDGE MUST ORDER THE RESPONDENT TO FILE AN ANSWER, MOTION OR OTHER RESPONSE WITHIN A FIXED TIME...**" (Emphasis Add). By accepting

this case for review, I. Lenihan decided that this case was **not time barred**. **Furthermore, ADA Pettit did not even have a valid entry of appearance. It did not have any certificate of service.** The 3rd Circuit affirmed it.

- The District Attorney's fabricated its tolling summary which totally and intentionally ignored both the illegal actions of ADA Pettit and J. Ignelzi. On 10-29-2013, J. Ignelzi became the presiding judge in Petitioner's PCRA case. Both he and ADA Pettit orchestrated a bogus/verbal un-docketed Grazier Hearing. On 1-25-2018 (Page 4 of 6), PA Superior Court caught and exposed their fraud. Attached as Appendix 8 is the PA Superior Court Case Docket No. 1797 WDA 2017. The Court ordered that within 30 days of its order, J. Ignelzi was to hold a hearing to determine in Petitioner waiver of counsel was knowingly, intelligent, and voluntary, pursuant to Commonwealth v. Grazier. Again, J. Ignelzi was a conflicted and biased fact finder and jury. As both the fact finder and the jury, J. Lenihan and J. Ignelzi both failed Commonwealth v. Stewart, 295A2d 303, 304 (Pa, 1972) as the minimal standard of constitutional due process guarantees to the criminally accused a fair trial by (an impartial and indifferent fact finder)." Suggested Standard Criminal Instructions ("Pa.S.S.J.I) apply equally in substance to a trial judge sitting as fact finder. The Court not only made an egregious trial error but also constitutionally abused its discretion, again violating Petitioner's Fifth and Fourteenth Amendment Rights; On 4-17-2017, PA Superior Court Ordered on the docket, "As the Court is not in possession of the certified record, the Allegheny County Court of Common Pleas is DIRECTED to note on its docket that it held a Grazier Hearing and Appellant is proceeding pro se on appeal. The trial court forwarded an order that states it held a Grazier hear and Appellant is permitted to proceed pro se. From 10-29-2013 until 4-17-2018, any tolling concerning the

PCRA portion of the District Attorney's office was not constitutionally legal. Four- and one-half years after the fact, Petitioner was permitted to proceed pro se rendering every hearing, every court action and subsequent appeal an egregious constitutional violation. However, without a docketed and court ordered hearing the Grazier issue is still unsettled. As a result of J. Ignelzi, illegally sentencing Petitioner to prison for zero charges, Petitioner filed this appeal 11-29-2017. It was not until 5-2-2018 that PA Superior Court received the Court Record.

- J. Ignelzi intentionally refused to provide the court record. PA Superior Court had to order Common Pleas Court to provide it. J. Ignelzi obstructed the appellate process, again intentionally. J. Lenihan totally ignored it. Any consideration for tolling ignores J. Ignelzi and ADA Pettit that Petitioner was illegally arrested 2-2-2017, 4-11-2017 and 6-2-2017. The attached arrest warrants were issued, although they are not docketed at all on Petitioner's Common Pleas Court Case Nos. CP-02-CR-10526-2008 and CP-02-CR-0007911-2008, attached as Appendix 5. There is not a criminal complaint for any of these arrests. The Court hearing dates 2-17-2017, 4-17 & 4-18-2017, 6-7-2017, 7-14-2017, 11-5-2017 are not docketed as well. Petitioner was illegally incarcerated 2-2-2017 thru 2-25-2017, 4-11-2017 thru 4-18-2017; and 6-2-2017 thru 8-17-2018. More than 15 months illegal incarceration, how this information could be ignored by this Court is inexplicable. This Court not only has an obligation but also a duty to be an impartial and an unbiased fact finder. Furthermore, the Court has the discretion to accept a Section 2254 case beyond any possible time limit, if there was one, by you accepting this case for review the time bar issue is moot.
- As this case was accepted for review, 2-21-2019, Rule 6 of Rules Governing Section 2254

and 2255 cases, permits discovery. Therefore, any time during this past year that it took this Court to render a decision it had the duty and the responsibility to give Petitioner a full and fair hearing. Any question of constitutional issues, the record was permitted to be expanded under Rule 7 of Rules Governing Section 2254 and 2255 cases to properly adjudicate this case. Included in Exhibit 3A was the over 100 witnesses that Petitioner subpoenaed. Only 10 were permitted to testify. J. Ignelzi verbally ordered a least half of them quashed including DeLuca and Townsend.

- Ultimately, under Rule 8 of Rules Governing Section 2254 and 2255 cases (a) "...the judge must review the answer, any transcripts, and records of state-court proceedings, and any materials submitted under Rule 7 to determine whether an evidentiary hearing is warranted. The District Attorney's violated the Court 2-21-2019 Order. The District Attorney ignored this Court order, yet the District Attorney was rewarded with an order granting the Dismissal of this case without **ANY RECORD PRODUCTION**.
- On Page 5 of Petitioner's Exhibit No. 2, The 2-11-2020 memorandum order states "Having failed to meet AEDPA's one year state of limitation, the Petitioner can only be saved by application of the doctrine of equitable tolling (which has been irrefutable address above as is was the Court's responsibility to determine equitable tolling of this case prior to accepting it for review under Rule 4 of Rules Governing Section 2254 and 2255 cases) or the fundamental miscarriage of justice exception." The last sentence states, "Thus, the Petition must be dismissed as untimely." The Court ignored that egregious miscarriage of justice documented in this Certificate of Appealability
- J. Lenihan has a conflict of interest. Petitioner found the attached 11-1-2009 Tribune Review article concerning the death of ex-Chief Justice Ralph Cappy and J. Lenihan.

Please read the entire article. It is Appendix 19. The attorney that representative J. Lenihan was Wayne DeLuca, J. Lenihan violated Canon 2 of the Federal Judicial Code of Conduct. She should not have accepted this case.

- US District Court of Western PA has an egregious conflict of interest in adjudicating Petitioner's case. On 2-4-2019, when she filed her petition, she requested that the case was moved to another jurisdiction. Chief Magistrate Cynthia Eddy is directly connected to DeLuca and Townsend. Her husband, John Eddy is their law partners. Unfortunately, so is J. Lenihan. She owes her career to DeLuca. In May of 2008, it occurred at Petitioner's Preliminary hearing before Magistrate Elaine McGraw. DeLuca informed Petitioner that the District Attorney was going to indict Petitioner about Shirley Jordan and Mackin Engineering. It was a year before it happened. DeLuca knew because he was assisting the District Attorney to protect PNC Bank, the Allegheny County Political Establishment, and Ralph Cappy's family member Ody Mackin. Townsend gave Petitioner's personal case files to the District Attorney. Thus, denying Petitioner her own information to defend herself. ADA Claus was bought and paid for by PNC Bank was a most willing accomplice. DeLuca, Townsend, DePasquale ADA Claus are complicit. As both the fact finder and the jury, J. Lenihan failed Commonwealth v. Stewart, 295A2d 303, 304 (Pa, 1972) as the minimal standard of constitutional due process guarantees to the criminally accused a fair trial by (an impartial and indifferent fact finder)." Suggested Standard Criminal Instructions ("Pa.S.S.J.I) apply

equally in substance to a trial judge sitting as fact finder. The Court not only made an egregious trial error but also constitutionally abused its discretion, again violating Petitioner's Fifth and Fourteenth Amendment Rights.

IX. REASONS FOR GRANTING THIS PETITION

1. This case was based on an unsigned Mackin search Warrant. Every judge, every lawyer that represented me DeLuca, Townsend, DePasquale, Steiner, Allman, and Narvin ignored that this case was based on an illegal search and seizure of documents that would have proven Petitioner's innocence. They failed to seek a Motion to Dismiss;
2. The grand jury was convened based on illegally obtained information and egregious misrepresentations to its panel. DeLuca represented PNC employees, Boehm and Gray while DeLuca's law partner Townsend represented me all violating Petitioner's civil rights. The Allegheny County District Attorney Office colluded with both DeLuca and Townsend to permit both DeLuca and Townsend to represent Petitioner all the while they were representing prosecution witnesses Boehm and Gray;
3. Trial Judge Jill Rangos was conflicted and a biased jurist because she was a personal friend of Petitioner's disinherited sister-in-law Patricia McCullough as well as a fact witness in the Jordan case;
4. PCRA Judge Ignelzi received 2 gifted PNC Bank lines of credit loans at 2.99% and 3% when his closest creditor charged over 8%. Ignelzi denied all Motions and subpoenas related to PNC Bank and well as 90 of the 100 subpoenas that were served. Judge Ignelzi reduced 146 counts to a denial of Petitioner's PCRA case.

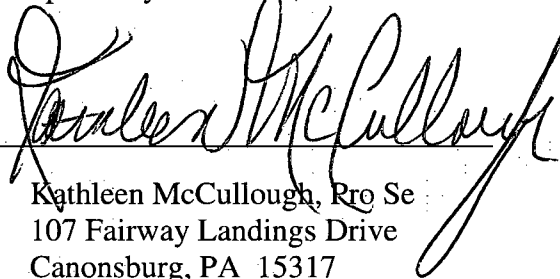
5. DDA Claus had gifted loans from PNC Bank as well and Lead Detective Joseph Todd Moses who received a six figure pay for play job from PNC Bank at the same time he was still an employee of the DA's Office;
6. On 10-29-2013, conflict PCRA Judge Ignelzi (conflicted due to his friend with Petitioner's disinherited sister-in-law PA Commonwealth Judge Patricia McCullough who was disinherited by Petitioner's Mother, Corinne McCullough also received a \$10,000 contribution from Judge Rangos' husband John Rangos, their friendship was so deep, Petitioner's trial judge;
7. On 10-29-2013, Judge Ignelzi and ADA Pettit held an illegal Grazier hearing that was not docketed, scheduled by Court Order and verbal order that Petitioner's had waived her right to counsel;
8. Thus, rendering all subsequent orders illegal, violating Petitioner's civil rights, and rendering all Appeals doomed to failure for the same violations;
9. Judge Ignelzi and Pettit held a bogus Brady Hearing without producing the unsigned Mackin search warrant and any of the exculpatory that would clear Petitioner. The United States government was denied Petitioner's case files so deep is their corruption;
10. Judge Ignelzi illegally incarcerated Petitioner 3 times without arrest warrants or charges. Although ordered on 1-25-2018 by PA Superior Court to conduct an on the record Grazier Hearing as documented in PA Superior Court Cases 422 WDA 2017 and 1797 WDA 2017, the hearing and his subsequent order never appeared on Petitioner's PA Superior Court dockets or case no. CP-02-CR -0007911-2008 and CP-02-CR-0010526-2009.

X. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court to issue a writ of certiorari to review the judgment of the United State Court of Appeals for the Third Circuits judgement.

Petitioner has lost over 12 years to her life because of the criminal collusion in her case. It started with DeLuca as a conflicted attorney, the same attorney who protected J. Lenihan. If a case based on an unsigned search warrant, is not a miscarriage of justice, what is?

Respectfully submitted,



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November 5, 2020

7,320 Words RM
11-5-2020

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kathleen McCullough

Date: NOVEMBER 5, 2020