No. USCA6 No. 20-3067

20-7438

IN THE

SUPREME COURT OF THE UNITED STATES

CHRISTOPHER STEGAWSKI — PETITIONER
(Your Name)

vs.

UNITED STATES OF AMERICA — RESPONDENT(S)

ORIGINAL

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals, Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER STEGAWSKI
(Your Name)

Federal Prison Camp, FCI Ashland, KY
(Address)

P.O. Box 6001, Ashland, KY 41105
(City, State, Zip Code)

(Phone Number)

QUESTIONS PRESENTED

1 - When pain of more than three months duration becomes chronic pain (Ohio definition) and dependence (ie. addiction) forms after three months of opiate treatment (Ohio definition) does it make all chronic pain treatment prescribing to addicts; what closes legal window for chronic pain treatment?

On first day of chronic pain the patient becomes also addicted.

2 - Is chronic pain patient a §802-Addict and chronic pain treatment prescribing to addicts and shall chronic pain treatment and prescribing to addicts be prosecuted the same way?

3 - Is retroactive denial of Legitimate Medical Purpose instead of prospective approval a cause for prosecution of physicians treating chronic pain and reason for Prettyman and Katzenbach Commissions failure?

4 - Is chronic pain treatment a §846-Conspiracy or §1306.04 Usual Course of Medical [Professional] Practice; why enter illegal conspiracy when Legitimate Practice offers authorized physician all the benefits without legal hurdle? Why would Petitioner knowingly and intentionally join conspiracy when Petitioner could knowingly and intentionally conduct all activities he conducted based on authorization coming from Ohio Medical and DEA Licenses without the risks of conspiracy?

5 - Did District Court err by not addressing Petitioner's involuntary removal from Court Room for presentation of evidence session and did Court of Appeals err by not checking the record in de novo review, when District Court in denial of

Ground # 22 of §2255 Motion stated that record indicates that Petitioner was present, but did not indicate where in the record to find it?

Shall the case be remanded for new trial based on FRCrP Rule 43 violation?

6 - Did Court of Appeals err by condoning District Court's recharacterization of 3 motions as "first" §2255 Motion and another recharacterization of actual §2255 motion as "second, "futile", "amended" §2255 Motion (without party motion to amend), and declaring that District Court "misconstrued [Petitioner's] merger motion" and "that any error was harmless" because the District Court "ultimately denied all claims"?

While Clerk of Court docketed disposition of motions without indicating recharacterization. The case became "off docket" denial of two recharacterized §2255 Motions. Castro v United States, 540 US 375 (2003).

Petitioner filed Motion to merge Rule 33 Motion and amended Motion into his §2255 as new evidence Claims coresponded with trial Grounds of §2255 Motion in order to avoid "already adjudicated" confusion of "new" and "old" evidence.

LIST OF PARTIES

[X] 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:

Office of United States Attorney
Kenneth Parker and Alexis Zouhary
221 E 4th St
Cincinnati, OH 45202

IN THE SUPREME COURT

OF THE UNITED STATES

CHRISTOPHER STEGAWSKI
Petitioner

v

MOTION TO AMEND

UNITED STATES OF AMERICA
Respondent

CERTIORARI

Christopher Stegawski is filing Motion to Amend unfinished Certiorari, handwritten.

Federal Prison Camp, where Petitioner is kept, is under lockdown due to outbreak of COVID-19 infection. The normal facilities are not available, typewriting, copying. Petitioner is asking to allow amendment to attached Certiorari, retyped, to make reading possible.

This outbreak involves over 200 cases in

two days.

Sincerely

Chris

Christopher Stegaard

Certificate of service

A handwritten copy of this motion is being provided to attorneys for The United States, K. Parker and A. Zouhary at 221 E 4th St, Cincinnati, OH 45202 by first class us mail, postage applied.

Chris

Christopher Stegaard November 22, 2020

TABLE OF CONTENTS

INDEX TO APPENDICES

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[X] reported at 687 Fed Appx 509, U.S. v Stegawski April 28, 2017; or,

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

[ ] is unpublished.

and 2020 U.S. App Lexis 26975, Stegawski v U.S, August 24, 2020 B

The opinion of the United States district court appears at Appendix C to the petition and is

[ ] reported at 1:12-CR-00054 MRB, 11/15/19; or,

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

[X] is unpublished.

and 1:19-CV-00428 MRB, 12/06/19 D

[ ] 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.

JURISDICTION

[ ] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was April 22, 2020.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: August 24, 2020, 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).

TABLE OF AUTHORITIES CITED

TABLE OF AUTHORITIES CITED

CASES — PAGE NUMBER

STATUTES AND RULES

OTHER §2255 Motion

STATEMENT OF THE CASE

QUESTIONS EXPLAINED

QUESTIONS EXPLAINED

Q #1° – When pain of more than three months duration becomes chronic pain (by Ohio definition) and dependence (ie. addiction) forms after three months of opiate treatment (by Ohio definition) does it make all chronic pain treatment prescribing to addicts; what closes legal window for chronic pain treatment?

On first day of chronic pain the patient becomes also addicted.

Everyone (100%) of patients taking opiates for longer time (by definition – 3 months in Ohio) becomes dependent on opiates and has withdrawal symptoms if abruptly deprived. (Ground 49, §2255 Motion, and Exhibit, FDA Statement April 9, 2019)

If dependence is defined as addiction or a part of it, that makes 100% of chronic pain patients addicted to opiates; and as prosecutors claim addicted patient is an addict, and addict is §802-Addict; than all chronic pain tx- treatment becomes prescribing to addicts, according

to federal law illegal and every physician who prescribes opiates for chronic pain violates the law.

With such interpretation even government medical expert, Dr. Gronbach, testifying at Petitioner's trial commits the same "crime" as Petitioner, since he is prescribing opiates for chronic pain and all his patients are dependent on opiates (1)

Prosecution for dependence (part of addiction) is prosecution for property of medications; when every patient develops dependence, prosecution for dependence becomes "closing the window of chronic pain treatment." Opiates are used despite causing addiction, because there is nothing known equally effective in pain tx. Addiction is caused by presence of opiates, no matter how prescribed and in what dose, taken as prescribed or irregularly. It is somewhat similar to allergy, although it is not immune response. (2)

(2) During direct testimony at trial (transcript p. 63 and following) Petitioner presented his concept that opiates interfere with our instinct function by creating harmful, instinct-like - a QUASS-INSTINCT that is devoid of life supporting. Our instincts give us withdrawal symptoms, like hunger and thirst, opiates do too. That may be the reason why it is so difficult to abstain from opiates. Opiates work through opiate receptors, which are endorphines receptors, part of brain's hormonal system, controlling instinct and hedonism. Giving prednisone for longer time causes adrenal atrophy and require lifetime substitution; does atrophy of endorphine system affect patients' ability to stay off opiates? - is unanswered question by science. The history of judge Baumgartner from Tennessee is a reminder that opiate addiction is a subcortical function, stronger than education and will. Petitioner did not get that far in his clinical practice to answer this question: shall patients coming of opiates be treated like § 802 - Addicts? The answered question is: Xanax is not addictive, just requires 8-10 months to taper.

(3) Ground 45 of §2255 Motion has calculation of: "Probability of being treated by incompetent physician". For 8 physicians in a row probability is billion times smaller than probability of DNA being wrong. That implies that systemic error is a reason for physicians prosecution

(4) "A controversy has existed for fifty years" – that was 45 years ago.

Q #2° – Is chronic pain patient a § 802 Addict and chronic pain treatment prescribing to addicts and shall chronic pain treatment and prescribing to addicts be prosecuted the same way?

"in the interpretation of a criminal statute subject to the rule of lenity the U.S. Supreme Court cannot give the text a meaning that is different from its' ordinary, accepted meaning, and that disfavors the defendant."

(Moskal v. U.S., 498 US 103, 107-8 (1990))

In common language, term addiction describes both dependence and psychological addiction, person suffering from addiction is an addict, person using street drugs and medical opiates is an addict, drug seeker (deprived of opiates) is also an addict. In medicine addiction has been divided into: 1° dependence, giving need to take next dose and causing acute withdrawal and 2° –

psychological addiction causing cravings and leading to relapses.

"Addiction syndrome" - is genetic tendency to become addicted psychologically; person addicted to one substance has 7 times higher probability to become addicted to the next substance; common substances are alcohol, nicotine, opiates including heroin. About 20% of population has addiction syndrome, 100% - will develop dependence. Petitioner's perception is that persons with addiction syndrome will have more problems during addiction treatment and more relapses than other 80% of people, but they will be majority of patients undergoing addiction treatment.

Among Petitioner's patients about 98-99% patients were also nicotine smokers (and all patients - witnesses testifying who were asked). Kentucky that has one of the highest rates of smoking at 35% also is one of the states having highest opiate use for pain.

Federal law is based on classic, common language understanding of addict and addiction, medical division into dependence and psychological addiction is not reflected in federal law. Person taking opiates is addicted and addicted person is an addict. And person deprived opiates is an addict.

Federal law does not recognize pain, chronic pain and chronic pain treatment; there is no pain and pain treatment. There is only Legitimate Medical Purpose of § 1306.04, that is not defined, but undergoes case-by-case analysis, (in 736 F.3d 1013 U.S. v Volkman, 6th Cir 2013)

"we have endorsed a broad approach to determining what conduct falls outside the accepted bounds of professional practice so as to constitute a CSA violation, eschewing a preestablished list of prohibited acts in favor of a case-by-case approach"
(see U.S. v Kirk 584 F.2d 773, 784 6th Cir 1978)

Prosecution used the difference between common language meaning of addiction/addict and medical division of addiction into dependence and addiction in witness Steele testimony. Prosecutor asked her

if patients, who's name he red from the list and she confirmed for each one that he is (in 2015, not in 2010) an addict, because he had withdrawal symptoms. Those patients were not available as witnesses for confrontation. This way lay witness gave common language of word addict as medical diagnosis of addiction, but it only indicated that those patients were dependent. Prosecutor used this as bait-n-switch to conclude that all patients were addicts and Petitioner was prescribing to addicts, meaning § 802-Addicts.

When pain is disregarded, with the absence of Federal Chronic Pain Treatment Law, all use of opiates for chronic pain becomes treating patients without legitimate Medical Purpose, ie. prescribing to addicts. With all chronic pain patients developing dependence all chronic pain treatment becomes illegal, because of using common language word addiction to describe medical dependence; chronic pain treatment window becomes shut.

Steele testimony is Ground 20 of the §2255 Motion.

Ground 36 - is comparision of

- Moore (1975) - case of providing freely methadone to heroine addicted people

with

- case-in-chief - Stegawski (2015) - tapering of multimedication treatment of chronic pain that resulted in elimination of overdose mortality, while opiates (oxycodone) were restricted to below textbook daily dose for chronic pain of 240 mg. Multiple physicians treating the same patients for years before and after Petitioner by issuing prescriptions certified that patients had legitimate medical purpose (indications) for such treatment.

Unexpected was discovery of Fibromyalgia scioto, tick transmitted disease that causes chronic pain.

Q #3 Is retroactive denial of Legitimate Medical Purpose instead of prospective approval a cause for prosecution of physicians treating chronic pain and reason for Prettyman and Katzenbach Commissions failure?

After years of going to several doctors for chronic pain treatment a new doctor has difficulty to establish history of treatment. All previous records were seized by law enforcement including initial letter from another specialist indicating need for treatment for chronic pain. Indication for treatment is difficult to reconstruct. Patient taking Xanax for years does not have good recollection.

Creation of comission qualifying patient for chronic pain treatment, like SSA disability, evaluating patient for opiate and other controlled substances treatment would give physician permission

to prescribe medications. At the same time Guardian for Medications; a family member, could be established to help patient administer medications and alert physicians to problems patients don't disclose. Qualification would be like a credit card patient can show to a doctor, pharmacist, law enforcement. Record of it can be kept with PMP- Prescription Monitoring Program (like OARRS in Ohio) and be accessible to members of qualifying commission (physician, pharmacist, DEA, State Medical and Pharmacy Boards, social worker, patient's Medications Guardian).

Petitioner got this idea when realizing that we trust patients more than doctors. Doctors are prohibited from prescribing controlled, addictive substances for themselves, but patients have full, unlimited authority and access to their medications. Family members don't have rights to supervise the patients, to give early warning that

things are not going right.

Petitioner was prosecuted for prescribing to addicts, when patients were receiving medications previously prescribed by several other physicians (3). and three other physicians in the same office: Dr Woodward, Dr lee and Dr Khan, before, concurrently and after Petitioner, all four certifying by issuing prescriptions. for the same controlled substances, a Legitimate Medical Purpose, indication for treatment, their names and copies of prescriptions in the charts.

Despite this prosecutors brought lay witness, Steele, to testify that patients were addicts, what government expert witness, Dr Gronback, did not confirm. Prosecutors used lay witness testimony to provide medical diagnosis of addiction.

With the prior approval from Treatment Qualifying Commission wrongful prosecution for lack of LMP would not be possible

Prettyman and Katzenbach Commissions were to establish a way to protect physicians from wrongful prosecutions for using opiate treatment, and allow them to prescribe without fear. [U.S. v Moore, 423 US 122, 143-144, [10]](4)

Prospective qualification of patient for treatment, that DEA and law enforcement can contest ahead of treatment would meet the goal of above commissions.

Patients would benefit by not being exposed to abrupt deprivation and inability to find another physician.

Q#4 Is chronic pain treatment a §846- Conspiracy or §1306.04 Usual Course of Medical [Professional] Practice; why enter illegal conspiracy when Legitimate Practice offers authorized physician all the benefits without legal hurdle?

Why would Petitioner knowingly and intentionally join conspiracy when Petitioner could knowingly and intentionally conduct all activities he conducted based on authorization coming from Ohio Medical and DEA licenses without the risks of conspiracy?

Indictment charged Petitioner with §846-Conspiracy. Prosecution did not establish need to join conspiracy or benefit from it.

Prosecutor Parker objected when defense attorney Cheselka asked Petitioner about conspiracy and Cheselka quit asking.

Jury did not find Petitioner guilty of conspiracy. District Court added §846-Conspiracy to the sentence.

Conspiracy to exist has to be clandestine; is conducted in secrecy, usually conducted without leaving a record. Petitioner:

- obtained DEA license for every office address he worked at
- kept all records of purchases, distributions and prescriptions to end users
- all medications were accounted for, inventory was conducted daily (required every 2 years), there was not one pill missing
- Petitioner as first customer of distributor, PTL, arranged and conducted sending report to OARRS of all dispensing, like pharmacies do
- registered as Limited Liability Co. with the State of Ohio
- used business checking account for business activity only
- answered codefendant's Callihan question: Why did you start sending information about distributions to OARRS, DEA will know about it?, with: I want them to know what I am doing!

(Conspiracy is Ground 37 of §2255 Motion)

Q#5 - Did District Court err by not addressing Petitioner's involuntary removal from Courtroom for presentation of evidence session and did Court of Appeals err by not checking the record in de novo review, when District Court in denial of Ground #22 of § 2255 Motion stated that record indicates that Petitioner was present, but did not indicate where in the record to find it? Shall the case be remanded for new trial based on FRCRP Rule 43 violation?

Defendant was ordered by defense counsel Cheselka to leave the courtroom for presentation of evidence session. Counsel's explanation was that defendant in criminal case may not know evidence against himself. Defendant stayed in the hallway of the court during the session. Defendant was not told what happened during the session and his requests for transcripts from trial were denied by District Court. Defense counsel never spent time with Defendant to learn the

content of patient charts and where in the charts to find information. Defendant's charts contain information that contradicts claims of improper or deficient patients' care made by prosecution during trial.

If present during the session Petitioner would have told defense counsel or objected himself to incorrect prosecutors presentation.

Prosecutors had trial strategy: when patients witnesses testified their charts were not available; when expert Gronbach testified about alleged abnormalities in charts, patients were not available for confrontation. When witness Steele declared patients to be addicts neither their charts nor patients themselves were available for confrontation. When witness Elliot testified of taking 35 pills daily, her chart was not available, neither she was cross examined what kind of pills those were or where she was getting pills from, because Petitioner would not prescribe that many opiate pills; she was taking methadone and Petitioner initiated rotation

out of methadone.

Strategy of not having charts with the patients had purpose of avoiding controversies, preventing correction by defense of evidentiary errors or patients testimonies.

Appeal defense counsel, Wettle, did not raise the issue on appeal and did not inform Petitioner about rule 43.

Without knowing what transpired during session and being unable to obtain transcripts Petitioner is unable to assess how prejudicial removal from courtroom was.

Issue was raised as Ground #22 in §2255 Motion.

Q#6 Did Court of Appeals err by condoning District Court's recharacterization of 3 Motions as "first" §2255 Motion and another recharacterization of actual §2255 Motion as "second", "futile", "amended" §2255 Motion (without party's motion to amend), and declaring that Distret Court "misconstrued [Petitioner's] merger motion" and "that any error was harmless" because the District Court "ultimately denied all claims"?

While Clerk of Court docketed disposition of motions without indicating recharacterization. The case became "off docket" denial of two recharacterized §2255 Motions. Castro v United States, 540 US 375 (2003) Petitioner filed Motion to merge Rule 33 Motion and amended Motion into his §2255 Motion as new evidence Claims coresponded with trial Grounds of §2255 Motion in order to avoid "already adjudicated" confusion of "new" and "old" evidence.

District Court recharacterized Motions #216 (Discovery), #227 (Rule 33 newly discovered evidence), #228 (amendment to Rule 33 newly discovered evidence) as "first" § 2255 Motion and denied it. Next day Clerk of Court after hearing docketed denial of "first" § 2255 Motion as Doc #230 11/15/2019 Motions #216, #227, #228

#229 05/20/2019 Motion to Merge renamed 11/15/2019 as Motion to Amend/Correct.

Petitioner filed two (#232 and #233) Motions for Reconsideration according to Rule 59(e) which both were docketed on 12/23/19.

Petitioner also filed Notice of Appeal for denial of Motions #216, 227, 228, 229 in both civil and criminal case.

Petitioner's §2255 Motion, named by District Court second §2255 Motion was denied in civil case 1:19-cv-00428 as Doc#5 12/06/19 as futile amendment to §2255 Motion, without Petitioner asking for recharacterization. District Court explained that if first recharacterization was in error, it was harmless error because both motions and all Grounds were ultimately denied.

It appeared to Petitioner that all Motions, Newly

Discovered Evidence and §2255 Motion were denied in order to justify all mischaracterizations and made error harmless.

District Court also denied COA and Court of Appeals also denied COA.

Newly Discovered Evidence Motions (#227, 228) were denied as §2255 Motion giving as reason failure to raise it at trial and direct appeal.

One of the Newly Discovered Evidence Claims was advising prosecution of Petitioner for using short acting Oxycodone, not as respectable physicians using Oxycontin, and prosecuting Purdue Pharma in National Opiate litigation for promoting use of Oxycontin. It was both way prosecution: Petitioner for using Oxycodone, not Oxycontin and Purdue Pharma for promoting unsafe Oxycontin use to physicians.

It was reversible argument in Petitioner's case, because Oxycontin is causing more overdoses than Oxycodone. In Motion for Reconsideration after denial of New Trial (Doc #167) Petitioner enclosed medical publication indicating that introduction of Oxycontin in Toronto, Canada lead to doubling of overdose mortality.

During Petitioner's trial medical expert Dr Grunbach was also blaming Petitioner for not using Oxycontin.

Petitioner requested to merge "new evidence" and "old" trial evidence because it prevented litigation of same issues twice. District Court denied "new" evidence claims on §2255 Rules and then denied corresponding Grounds because those were already denied in the first 2255 Motion.

FOOTNOTES

(1) Prosecutors accused Petitioner of recommending for an expert physicians who were convicted for doing the same defendant was doing (Appeal, Doc #50, p. 1. - "by inviting convicted doctors to vouch for Stegawski's issuance of opiate prescriptions", p. 5 - "All Stegawski gave his attorney was ... a List of doctors who had 'been convicted and are doing time in federal prisons... We break no new ground in holding that it is a 'sound trial strategy' Strickland 466 U.S. at 689, for a criminal-defense lawyer to resist putting an expert on the stand who was convicted for doing what the defendant was indicted for doing", p. 8 - "It's safe to say that, when [defense attorney] Cheselka refused to hire doctors because of their previous convictions for similar offenses..."

In instant case prosecutors have hired an expert who was doing the same defendant was doing, "a kettle was blaming the pot". Even worse, Dr. Gronbach was starting opiate treatments, Petitioner was only accepting patient who were for years receiving opiates and tapering their medications

STATEMENT OF THE CASE

STATEMENT OF THE CASE

Federal chronic pain treatment law

When cancer pain treatment became introduced it turned into overwhelming success. When chronic pain treatment State Laws were legislated in 1990s the difference was noted: cancer patients life expectancy was not as important as pain relief; chronic pain patients life expectancy became longer with elimination of Hemingway's solution, and expectation for life expectation became 70 for 20 years old. Unexplained was rapid increase in people using opiates for pain, with clustering of the cases; for law enforcement it was obvious, the crime, the criminal minds of doctors and their patients, but unlike post-Vietnam, this time epidemic crossed all socio-economic barriers. Another point was added by CDC researcher, the per capita use of opiates between low and high state was 10 times.

Petitioner getting involved in November 2009, experienced for 30 years in iv. opiate administration with BZDZs - benzodiazepines and never conscious sedation, when every patients goes to sleep, and has no recollection and some going through apnea and giving consideration to published increasing overdose mortality, decided to lower medications, starting with BZDZs, which are not pain medications, give withdrawal seizures and impair memory. So Petitioner initiated tapering of Xanax and Valium as fast as patients allowed; BZDZ withdrawal gives aggressiveness, nervousness, insomnia. Patients on Valium were protesting, but switch to Xanax allowed withdrawal. Tapering all patients at the same time created a wave; patients were all developing changes at the same time. Opiates use for long time makes them safer than other sedatives, that is part of tolerance. Reading in PDR about Soma, that is

prodrug of Meprobamate, medication banned in 1970s because of abuse and addiction, was reason to discontinue it in all patients. DEA instead warning physicians and petitioning FDA was arresting physicians for using it. Prosecutor Oakley in a gesture as it was a crime presented during trial that Petitioner prescribed Soma, but did not show prescription or copy of it, but pointed to list of medications prescribed by previous physician.

First sign was non-textbook back pain patients were reporting. Standard examination of lower back, directed to bone structures was not correlating well with patients reports of pain. Explanation came in September - October - November - December 2010. If raid of the clinic was conducted 3 month earlier Petitioner would not solve the puzzle of massive opiate use and discovery of the disease and role of BZDZs in masking the symptoms.

Lowering of medication that led to elimination of overdose mortality was presented by prosecution as:

"Junkies and addicts coming to drug houses for dope"

(actual words used by prosecutor), indicating in opening and closing statement that Petitioner is guilty, what took away from Jury right to make a decision and gave the Jury function of copycat and changed Justice system to prosecutorial dictatorship. Using term pill-mill in closing statement without explanation what it means, when Petitioner average daily volume was 26.7 patients, spending 1 hour to 1 hour 45 minutes with new patients, writing all prescriptions in the presence of the patients, except taking once written prescriptions to patients home after reviewing her condition over the phone - she became office manager after separating from Callihans and purpose of the change was to look for offices to rent, and establish plan to separate from Callihans.

Two critical issues during trial were:

1°. - Lay witness Steele testifying that named by prosecutor Oakley patients were addicts, because they had withdrawal when deprived medications. She took dependence that affects all chronic pain patients to be in common language addiction. The FDA Statement on April 9, 2019 is explanation for prosecution of physicians for maintaining addiction, whereas it is dependence affecting all patients, described in Question # 1.

2°- Government expert made mistakes giving testimony on urine toxicology tests, he did know how to interpret the results. § 3563(a)- Results of drug testing, and § 3583 (d) - Conditions of supervised release have information on problems with instant readout urine tests. Experts errors are described in Doc #47 - Supplement to defense reply brief of appeal and were not taken into consideration in appeal

Above two issues invalidate prosecution, and were not presented to the Jury.

Performance of defense trial counsel and appeal defense counsel.

Trial attorney Mr Cheselka was hired and agreed to take case to trial, but

- did not investigate even one witness, including key witnesses and did not call anyone to testify.
- had another trial scheduled for next week
- first during trial - arranged guilty plea conference and when that failed
- entered into agreement with prosecutors to finish trial on February 13, 2015
- Prosecutors to accomodate him cancelled testimony of several witnesses, including urine laboratory technician
- refused to cross examine all witnesses and examined few when Petitioner insisted to conduct some examinations pro se, but prevented cross examination of government expert, which could have easily take 1-2 days
- refused to present reduction of medications and discovery of a new disease
- did not examine Petitioner on issues from expert witness testimony, as a result expert testimony was not adversarily tested

- was suspended from practice for 2 years for other clients representation

Appeal attorney Wettle

- never came to detention center close to Cincinnati and to prison in Ashland, KY to talk to Petitioner
- never called on attorney-client phone line
- did not respond to 19 letters with case description, did not comment
- raised only 2 issues in appeal that were already adjudicated in Rule 33 Motion
- in § 2255 Motion several claims were denied by District Court, because not raised on appeal including case of Army v. United States
- refused to file panel and en banc rehearing when requested
- filed unauthorized certiorari, what caused Petitioner's certiorari rejection
- previously lost all over 40 appeals and certioraris. His representation was guaranteed failure. Public Defender's office did not disclose it to Petitioner

Both attorneys were constitutionally ineffective, but courts did not acknowledged it. in § 2255 Ground

REASONS FOR GRANTING THE PETITION

REASONS FOR GRANTING THE PETITION

Petitioner found way out of massive opiate use, by lowering and tapering medications, without overdose mortality, without switch to heroin, fentanyl and other drugs and documented it on patients who previously were taking pain medications for years.

Comparing maps of distribution of opiates use per capita in Ohio with incidence of Rocky Mountains Spotted Fever cases which look very similar Petitioner realized that the same vector transmits RMSF and chronic pain causing disease, leading to massive opiates use for treatment of pain. Within one year 2009-2010 Petitioner established protocol how to lower and terminate medications used for chronic pain without mortality and with patients approval in voluntary out-patient treatment.

Finding new disease Petitioner explained massive drive to medical opiates use and found that traditional antibiotic is effective in Fibromyalgia scioto, how he named the disease.

Classical fibromyalgia was described as autoimmune disease causing rhemmatic symptoms.

Fibromyalgia scioto includes central nervous system involvement giving headaches, memory loss, anxiety, panic attacks, depression, peripheral nevralgia on top of "my whole body hurts, symptoms presenting differently from patient to patient.

Trial was unfair by not allowing time for the defence and presentation of Petitioner's work. Government expert was not cross examined, while he made many errors of urine toxecology tests interpretation, he apparently never worked with. Petitioner requested to cross examine expert, but was denied right to self representation.

Where law enforcement explained clustering of cases as occurring because of criminal minds of doctors and their patients, Petitioner found endemic infectious disease.

Defense trial counsel had next trial scheduled and arranged to finish trial early, without conducting defense part. Prosecutors cancelled witnesses to accomodate defense counsel need to leave early. He was suspended from practice for two years by claims from his other clients.

Appeal counsel chose only two already adjudicated issues of trial counsels ineffective assistance. Several other appealable issues were indicated in appeal opinion and denial of both § 2255 Motions. Appeal counsel lost also over 40 other appeals and certiorari's he conducted, all of them. Appeal was not fair

District Court denied all Grounds in two recharacterized § 2255 Motions. Court of appeals also denied COA.

Despite objective results of Petitioner's patient care (Petitioner was only pain physician who lowered medications in 2010 and only one who did not have patients mortality) and explanation of cause of massive

opiates use, Petitioner lost trial because of lack of adversarial process, lack of defense expert and inability to cross examine goverument expert witness. Defense attorney hardly ever objected and only for the record, cross examine few witnesses only when after his refusal, Petitioner wanted to cross examine himself.

The 4 questions refer to overbroad prosecution, that "closes the legal window for chronic pain treatment" in the absence of federal chronic pain treatment law, similar to Oregon Death with Dignity Act established in Gonzales v Oregon after interpretive rule which ended in clear legislation establishing new application for opiates and other controlled substances use.

In the lack of legal distinction between § 802 Addict and chronic pain patient prosecutors use 106 years old law prohibiting prescribing to addicts to prosecute for chronic pain treatment

established by States about 30 years ago basing prosecution on Moore (1975) treating patients without pain but addicted to Schedule I heroin with unlimited supply of methadone, ie using case law prohibiting treatment to close the window of chronic pain treatment by converting §3741 (OH law) physicians into §841 drug dealers.

Using also §846, 856, 1056, 841 - to describe Usual Course of Professional [Medical] Practice of 1306.04 by retroactively cancelling "driving license" after the accident, ie. denying "Except as authorized" clause after closing the clinic and opening §841 door to drug trafficking with indictment.

Presenting cash acceptance as drug trafficking and acceptance of insurance as insurance fraud closes the window of business side of medicine in a strategy "heads I win, tails you lose."

How did it happen that physician who knew how to modify chronic pain treatment, knew the law, was aware of legal risks, was conducting practice with expectation of inspection, converting renewal of medications into rescue mission, explaining the mystery of massive opiate use by putting together medical puzzle of submoise signal detection of new disease, discovers that innocent people serve the longest sentences? DNA may be explanation; when cases prosecuted according to law and legal process get reversed by one test, DNA., it indicates existence of a flaw. Indication of that flaw in instant case is: when 8 physicians in a row certify by issuing prescription for opiates that patient has indication for treatment and one or more of them get prosecuted it implies system error. Probability of 8 physicians in a row being wrong is billion times lower than probability of DNA being wrong.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Christopher Stegawski

Date: February 11, 2021