

Supreme Court of the United States

Lasher v. United States

USCA2 No. 18-2693

Application to leave to file the writ of certiorari in excess of the word limits

Plaintiff Lena Lasher submits this Application to leave to file the writ of certiorari in excess of the word limits for a certificate of appealability, which was unconstitutional denied by the District Court on 12/18/19, to prevent manifest injustice, as a result of ineffectiveness of counsels (Roger Stavis, Esq.. and Louis Freeman, Esq.), and trial court and prosecutorial misconduct, including fraud, perjuries, and the suppression/withheld of exculpatory evidence, including but not limited to video recordings, a Brady Violation. The Trial Court's perjuries still continue on to today, as evidenced in her denial of the Plaintiff's 2255 Motion.

I, Lena Lasher, have been, and still am, declaring under penalty of perjury that my criminal prosecution was FLAWED and that I was FRAMED by SEVEN executive officials and the District Court, Judge Naomi Reice Buchwald as detailed in this writ of certiorari and ALL briefs/motions previously submitted to this Court and many other courts.

ARGUMENTS

POINT I: The Appellate Court denied the Plaintiff's October 8, 2018 motion for a certificate of appealability based on newly-discovered-evidence motion for a new trial, challenging the denial of a newly-discovered-evidence motion for a new trial after the May 15, 2015 verdict. **However**, the suppressed exculpatory video recordings were **NOT turned over to the Plaintiff** until July 24, 2018, which was **more than 3 years after the Plaintiff's verdict**. Therefore, it is **IMPOSSIBLE** for "such motions be made within three years after verdict".

It must be stressed that the prosecutors referenced these video recordings as if they were in evidence at trial, while knowing the video evidence was exculpatory. Their suppression of it, and their tampering with the evidence, also show that they knowingly presented false evidence to the jury.

Judge Buchwald covered up the Prosecution's misconduct and denied the Plaintiff's demand for a new trial based on newly discovered evidence as "untimely". She chose to ignore the Supreme Court's recent ruling of Arsean Lamone HICKS v. Director, DEPARTMENT OF CORRECTIONS. Record No. 131945. Decided: February 26, 2015 in that **"the statute of limitations for habeas claims must be tolled while such evidence is**

suppressed.” The Appellate Court should grant the Plaintiff a new trial based on the Supreme Court’s recent ruling of Arsean Lamone HICKS v. Director, DEPARTMENT OF CORRECTIONS. Record No. 131945. Decided: February 26, 2015, and based on the fact the newly discovered evidence were not turned over to the Plaintiff until July 24, 2018, more than 3 years **after** the Plaintiff’s verdict; thus the Plaintiff is not capable nor able to file within the 3 years statute of limitation. Therefore, the **Plaintiff is seeking to toll the statute.**

POINT II: Identity theft is a crime, and no Court will take this lightly

The Plaintiff was a victim of IDENTITY THEFT:

A. The exculpatory video recordings evidence, which were previously suppressed by the prosecution, AUSA DANIEL RICHENTHAL, show:

(1) The Plaintiff was not present at the alleged crime scene on the dates (6/1/2012, 6/12/2012, 7/16/2012, 7/17/2012, 8/13/2012, 8/16/2012, 8/27/2012, and 10/2/2012 the alleged crimes were supposedly committed, and

(2) The Plaintiff was working in a different pharmacy and not engaged in any of the alleged acts the prosecution describes, such as remotely monitoring or supervising, nor directing employees in other locations to commit the alleged crime.

(3) The Plaintiff was working at a different pharmacy on October 2, 2012 when oxycodone was dispensed to “unkempt” individuals,

(4) The Plaintiff never dispensed the drug “butalbital” as indicted, charged, and convicted of, and proof of same was withheld from the jury.

Most importantly, the Plaintiff’s lack of presence is also shown on the work schedule and EZY passes. The governing pharmacy law in the Plaintiff’s case requires her to be present at the pharmacy at the time the drug was “shipped” on the dates referenced. The Government has a copy of the work schedule from the Hellertown Pharmacy (HP) and Palmer Pharmacy & Much More (PP) showing Plaintiff was not at work during the dates and times of the shipments referenced.

B. At trial, the issue of being a signatory was never mentioned because the Judge Buchwald and the Government knew that the Plaintiff never signed any check nor had any control over any bank accounts. The 2 signatories who signed checks and controlled bank accounts were Peter Riccio (owner) and his office manager

(Laura Hishmeh). Mr. Riccio told the Plaintiff that he took her off the accounts as a signatory, and made Laura Hishmeh the signatory; this was why the Plaintiff believed she was not a signatory. However, after the Indictment, she was shocked to learn that Mr. Riccio was not forthcoming; he kept her as a signatory and never added Hishmeh as one. A civil action has been filed against both Riccio and Hishmeh for, including but not limited to, **forging the Plaintiff's signature on bank and credit card documents as well as pharmacy contracts, that gave the false impression that she was an owner of one or more of the Riccio pharmacies, and that she was in control of the bank accounts referencing her name.**

Due to the nature of the Plaintiff's case, in which a wrongful conviction that relied on testimony that is easily proven to be false, and built on withheld and suppressed evidence, and on misrepresenting both the law and material facts to the jury, the Plaintiff is requesting leave to file the writ of certiorari in excess of the word limits, to an additional ^{95 100 LL} ~~85 to 100~~ pages.

The United States Supreme Court stressed that a defendant's due process rights are violated both when a prosecutor knowingly presents false testimony and when he knowingly fails to correct such perjury. The Court also held that the same rule applies even when the false testimony concerns only the witness's credibility, since "a lie is a lie, no matter what its subject." *Napue v. Illinois*, 360 U.S. 264 (1959). Here, the lies that brought about this wrongful conviction even extend to the District Court Judge Naomi Reice Buchwald who deceived the jury to secure a wrongful conviction. *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)

Further, the Plaintiff can establish a violation of substantive due process rights by an executive official, Judge Naomi Reice Buchwald, by showing (1) that the official violated one or more fundamental constitutional rights and (2) that the conduct of the executive official was shocking to the contemporary conscience." *Truong v. Hassan*, 829 F.3d 627, 631 (8th Cir. 2016) (internal quotations and citations omitted). "To be conscience shocking, the government action must be 'truly irrational, that is, something more than ... arbitrary, capricious, or in violation of state law.'" *Draper v. City of Festus*, 782 F.3d 948, 953 (8th Cir. 2015) (quoting *Weiler v. Purkett* 137 F.3d 1047, 105 (8th Cir. 1998) (en banc)).

Here, the Defendant's actions rise to the "conscience shocking" level as a result of Judge Naomi Reice Buchwald's conduct of a kangaroo court, and only a higher court can stop this judicial misconduct.

For the aforementioned reasons, the Plaintiff is requesting leave to file the writ of certiorari in excess of

the word limits, to an additional ^{95 100 11} ~~85~~ to ~~90~~ pages.

POINT III: District Court ignored Plaintiff's claim of Amendment 8 Violation - Excessive Fines Clause
protects one's property from unreasonable fines & forfeitures

U.S. Supreme Court Rules Unanimously That the Federal Government Cannot Impose Excessive Fines;
Ruling Requires the Federal Government To Abide by the Eighth Amendment's Excessive Fines Clause.
Supreme Court of the US Syllabus *Timbs v. Indiana* Certiorari to the Supreme Court of Indiana No. 17-1091.
2/20/2019 February 20, 2019

In a historic ruling, the U.S. Supreme Court held that the Excessive Fines Clause of the Eighth Amendment **protects Americans against the federal government; every level of government** must now abide by the federal Constitution's guarantee that property owners will be safe from excessive fines and forfeitures.

The right to be free from excessive fines applies to the states by way of the Fourteenth Amendment's Privileges or Immunities Clause (rather than the Due Process Clause). Justice Gorsuch also wrote separately to note that the Privileges or Immunities Clause may be "the appropriate vehicle for incorporation." But "regardless of the precise vehicle," Justice Gorsuch wrote, "there can be no serious doubt that the Fourteenth Amendment requires the States to respect the freedom from excessive fines enshrined in the Eighth Amendment." Here, as stated throughout this motion, the Government and the District Court clearly violated the petitioner's, an indigent, Amendment 8 - Excessive Fines Clause

For the aforementioned, Plaintiff's \$2.5 million **FORFEITURE must be vacated** based on recent **Violations of Amendment 8** ruling based on *Timbs v. Indiana* Certiorari to the Supreme of Indiana No. 17-1091. February 20, 2019 the \$2.5 million forfeiture judgment against the Plaintiff, an INDIGENT, **MUST** be dismissed

CONCLUSION

EXPOSING PERJURIES IS SEEKING JUSTICE

The Supreme Court of the United States must **not uphold Judge Buchwald's order. Perjury should be taken seriously and not seen as an inconvenience, and pursuing justice when one is wronged by perjury is not harassing one who chooses to commit perjury. Perjuries should never be protected nor rewarded and should always be challenged. Judge Buchwald is not interested in the rule of law but in rule by brute force.**

This writ of certiorari clearly prove Judge Buchwald's bias against me as well as judicial misconduct; it is also very important that her courtroom is video recorded to deter her abuse and harassment against me.

The only way to ensure the Plaintiff can preserve her best case with the burden of judicial bias against is to grant the **writ** of certiorari in excess of the word limits. If the evidence does not serve the Plaintiff as she hopes it might, the Court, lose nothing, while demonstrating its lack of bias.

Allowing the evidence to speak for itself is the best way to preserve the Plaintiff the right to fairness and due process; anything less shows a clear judicial bias about the Plaintiff's case and about the merits of the evidence, as well as a denial of constitutional right.

The only way to assess the evidentiary is to grant this **writ** of certiorari in excess of the word limits and allow it to stand next to the rest of the evidence in the context the Plaintiff intends. There it may be attacked or defended fairly. If the evidence has no persuasive power, then it should be admitted to prove that. Denying this **writ** of certiorari in excess of the word limits would indicate to any observer that the evidence was persuasive and denies out of fear of that power.

Admitting bad evidence only exposes it as such. Denying of this **writ** of certiorari in excess of the word limits shines a spotlight on the potential bias of that evidence.

Thus, in support of this **writ** of certiorari in excess of the word limits, the Plaintiff is requesting that the District and Appellate Court's decision be reversed; they denied the Plaintiff her Constitutional Right. A motion that the court lacks jurisdiction may be made at any time while the case is pending and Fed. R. Civ. P 12(h)(3) (Lack of Subject-Matter Jurisdiction. If the Court determines at any time that it lacks subject-matter jurisdiction, the Court must dismiss the action.

For the foregoing reasons, the Plaintiff prays the Honorable ~~Appellate~~ ^{Supreme} Court will grant this **Application** to leave to file the **writ of certiorari in excess of the word limits**, or any other remedy that this Court finds necessary, as duly deserved and earned through the submission of this in forma pauperis **Application to leave to file the writ of certiorari in excess of the word limits**. The evidence is pertinent for the correction of the criminal judgment per the legal brief and factual basis within the body of the 18 U.S.C. 2255 Motion.

The Plaintiff, Lena Lasher, sincerely believes that she can justifiably rely on the US Supreme Court case Haines v. Kerner 404 U.S. 519 (1972), which clearly states that "all Pro-Se litigants must be afforded the

opportunity to present their evidence and that the Court should look to the substance of the" appeal "rather than the form."

Respectfully submitted,

December 12, 2020

A handwritten signature in cursive script that reads "lenalasher".

s/Lena Lasher

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