

In the United States Supreme Court

Cheryl A. Kunkle :

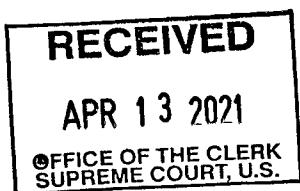
VS. :

Pa. Attorney General Josh Shapiro : No. USCA3 19-2613
for the Commonwealth of Pennsylvania :
et, al; :

Motion to Direct the Clerk to file the Petition
out of time with the Petition

NOW COMES, Cheryl A. Kunkle, petitioner, in the above captioned matter respectfully requests that the Clerk of Court file the petition out of time pursuant to Rule 30.4.

1. On December 9, 2020, petitioner filed a petition for a writ of certiorari seeking appeal of the lower Court's decision of April 6, 2020.
2. The petitioner did not receive outside help (from Tidioute Pa. 16351) to assist her with her petition until December 3, 2020, see exhibit A, attached. The Court's notice to dismiss this petition filed out of time, was not received by the petitioner until January 27, 2021, see exhibit B, attached. This petition was dismissed on December 11, 2020.
3. The petitioner had no access to the prison Law library to properly prepare a timely petition for a writ of certiorari, which was due by September 3, 2020.
4. Due to the Covid 19 pandemic the Cambridge Springs prison was in full lockdown with limited movement and no access to the prison Law library as of March 26, 2020. As of March 15, 2021, Law library access was reinstated.
5. The petitioner also did not have access to the prison Law library to file any proper motions until March 15, 2021. The petitioner is indigent and was denied her due process under circumstantial conditions beyond her control.



WHERFORE, the petitioner prays that this Honorable Court will grant this motion and allow her writ of certiorari to be filed.

DATE: 4/07/21

Respectfully Submitted

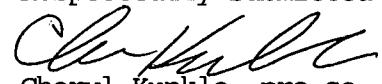

Cheryl Kunkle pro se
#OM1403
451 Fullerton ave.
Cambridge Springs Pa.
16403

Exhibit - (A)

12/2/2020 9:04:47 AM

Smartline
SCT-Complaint
Cheryl Kunkle
CIVR 3
PC.BLK 33C28
ST. PETERSBURG FL.
33733

To: CLE CLERKS MAILRO

Sender: C KUNKLE

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WASHINGTON DC.

20543

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01/27/2021	US SUPREME COURT OF THE UNITED STATES	CHERYL KUNKLE	View Mail...	Delivered
01/24/2021	RECORDED MAIL	CHERYL KUNKLE	View Mail...	Delivered
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01/11/2021	KAREN GREEN	CHERYL KUNKLE	View Mail...	Delivered

ALD-102

January 30, 2020

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **19-2613**

CHERYL A. KUNKLE, Appellant

VS.

ATTORNEY GENERAL OF THE COMMONWEALTH OF PENNSYLVANIA; ET
AL.

(M.D. Pa. Civ. No. 4:17-cv-00898)

Present: MCKEE, SHWARTZ and PHIPPS, Circuit Judges

Submitted are:

- (1) Appellant's request for a certificate of appealability;
- (2) Appellant's motion for appointment of counsel;
- (3) Appellees' opposition to the request for a certificate of appealability; and
- (4) Mark Marvin's motion to proceed as amicus in support of Appellant

in the above-captioned case.

Respectfully,

Clerk

ORDER

The foregoing request for a certificate of appealability is denied because Appellant has failed to make "a substantial showing of the denial of a constitutional right." Coady v. Vaughn, 251 F.3d 480, 487 (3d Cir. 2001) (quoting 28 U.S.C. § 2253(c)(2)). Reasonable jurists would not debate the District Court's rejection of Appellant's claims, for substantially the reasons given in the Magistrate Judge's Report. Additionally, certain

of Appellant's claims appear to be non-cognizable in federal habeas. Cf. Estelle v. McGuire, 502 U.S. 62, 67-68 (1991); Young v. Kemp, 760 F.2d 1097, 1105 (11th Cir. 1985). All pending motions are dismissed as moot.

By the Court,

s/ Theodore A. McKee
Circuit Judge

Dated: April 6, 2020

JK/cc: Cheryl A. Kunkle

Ronald Eisenberg, Esq.

Mark S. Matthews, Esq.

Mark Marvin



A True Copy:

Patricia S. Dodszuweit

Patricia S. Dodszuweit, Clerk
Certified Order Issued in Lieu of Mandate

**Additional material
from this filing is
available in the
Clerk's Office.**