

No. 21-1294

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**In The  
Supreme Court of the United States**

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DAVID H. PENNY,

*Petitioner,*

v.

NANCY PELOSI et al.,

*Respondents.*

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**On Petition For Writ Of Certiorari  
To The United States Court Of Appeals  
For The Seventh Circuit**

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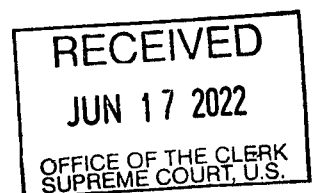
**PETITION FOR REHEARING**

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Dated: 14 June, 2022

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## U.S. CONSTITUTIONAL AMENDMENTS

### First Amendment

**The First Amendment to the U.S. Constitution provides in relevant part that:** Congress shall make no law . . . abridging the freedom . . . to petition the Government for a redress of grievances.

### Fourteenth Amendment

**The Fourteenth Amendment to the U.S. Constitution Section 3 states that:** No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office . . . who having previously taken an oath, as a member of Congress . . . shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof . . .

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## PREAMBLE

Pursuant to Rule 44.1 of this Court, Petitioner David H. Penny, respectfully petitions for a rehearing of the denial of a writ of certiorari by the Court on 25 May, 2022, to answer a question about inquiry into the legitimacy of a legislative act. The Writ of cert came after the United States Court of Appeals for the Second Circuit judgment affirming the dismissal with prejudice of the Petitioner's complaint by the Central District court of Illinois.

The district court did not allow the ability to amend the initial complaint. The inability to submit one amended complaint in a case directly related to textual commitment to the U.S. Constitution and alleged illegitimate legislative activity on the level of oath-breaking by the Defendants, and the ability of citizens to hold their representatives accountable in a court of law before a jury is the issue at hand.

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### **PETITION FOR REHEARING**

This petition clarifies the question presented and the relief requested, clearing up possible confusion in the initial presentation to the Court.

This petition shows how intervening cases substantiate the national significance of the Writ.

This petition shows how not accepting the Writ undermines precedent already set by the Court and presents a substantial controlling factor in future cases involving inquiry into the legitimacy of legislative activity.

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### **REASONS FOR REHEARING**

Rule 44.2 states grounds for rehearing shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

**Question Presented Clarification**

The Petitioner presented in the background statement of the Writ the precedents set by this Court pertaining to the ability to inquire if a legislative act was legitimate. Should a jury determine that the act was illegitimate, Defendants would be disqualified from holding any office in government according to section 3 of the 14th Amendment. The Petitioner believes he unintentionally obscured the heart of the issues at hand by adding more to his question to the court than was necessary. Thereby making the issue look solely politically based instead of legally. The question still reads the same but is clearer in this aspect.

Does a citizen . . . have the possibility of filing a complaint with standing, subject matter jurisdiction, and justiciability, to sue members of the House . . . to inquire whether they conducted illegitimate legislative activity . . . ?

**Relief Clarification**

The original Writ of Cert was structured to demonstrate the possibility of meeting all complaint elements that the district court might accept upon resubmission. To clarify the primary relief requested, the Petitioner did not want to have this Court judge the matter of guilt or innocence of the Defendants, but instead to enforce its precedent and allow for the submission of one amended complaint as to the inquiry into and determination of whether certain legislative activity

conducted by the Defendants was legitimate. Of course, there is no guarantee of the amended complaint being successful. Nonetheless, allowing the amendment of the complaint fulfills the spirit of the Petition Clause and bolsters the precedent of the Court, especially in a unique case in which its ripeness is full.

Although it is a rhetorical question under the shadow of precedent cases outlined in the background statement, an answer is needed in this case. Accepting the Writ and allowing the Petitioner to submit an amended complaint to the district court does not set a new precedent; it only reinforces/enforces the already established precedent set by the Court. Precedent incorrectly ignored by the lower courts in denying Petitioner at least one amendment to his complaint to inquire about the legitimacy of legislative activity challenged or called into question by a citizen injured by the action. The allegations of violating the U.S. Constitution textually and their oaths additionally is a matter for a jury to decide and, in one sense, irrelevant to the question.

### **Intervening Cases**

National significance is seen in the three intervening cases of *Cawthorn v. Amalfi*, May 24, 2022, Decided; *State v. Griffin*, May 27, 2022, and *Stencil v. Johnson*, June 3, 2022. These are the most recent in a string of cases this year involving challenges to qualifications to hold office under Article 14, sec. 3. Whereas any

challenge is significant, the Petitioner's challenge is on a national level and could not be brought through the State statutes on challenging the qualifications of an elected official to hold office. But the inquiry to ascertain if what was done is no less a qualification challenge than those brought through State courts by individuals. However, the importance of being able to challenge whether a person is qualified or has become disqualified from holding any office in the government, essential to the 1st Amendment Petition Clause and sec. 3 of the 14th Amendment, at a federal level, will be lost should the Petitioner's Writ go unanswered and the lower courts precedent stand.

### **Substantial Controlling Factors**

Should the Court not rehear this petition and or not accept it after rehearing. Then the futility argument of the lower courts, contrary to this Court's precedent, will become the new precedent. A new precedent that will render any citizen in the future who may call into question the legitimacy of a legislative act will not be able to proceed. The consequences are dire, as a new de facto precedent will provide immunity from accountability beyond the Founders' intent as they wrote the Speech and Debate Clause. All Legislators will be able to violate the rights of citizens to their material injury and the parameters of their authority in the Constitution with impunity.

If the District court does not accept the amended complaint, no damage is done in the matter of future



immunity, and the case is lawfully, logically, and constitutionally dismissed. This Court is a last resort. I humbly implore the honorable justices to prayerfully consider rehearing this Writ.

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### CONCLUSION

For the foregoing reasons, the petition for rehearing should be granted, the Writ accepted, and the relief request of the Petitioner to submit one amended complaint to the Central District court of Illinois for the purpose of attempting to inquire about the legitimacy of legislative activity be allowed.

Respectfully submitted,

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Dated: 14 June, 2022

**CERTIFICATE OF GOOD FAITH**

The undersigned hereby certifies that this Petition for Rehearing is restricted to the grounds specified in Rule 44.2 of the Rules of the Supreme Court and is presented in good faith and not for delay.

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