

ORIGINAL

NO. 21-189

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
JUL 23 2021
OFFICE OF THE CLERK

PATRICK OKEY, PETITIONER
VS.
COMMONWEALTH OF PENNSYLVANIA, ET AL,-RESPONDENT(S)

ON THE PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME
COURT OF THE UNITED STATES FROM PENNSYLVANIA SUPREME
COURT ORDER

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

- 1. Whether Speedy trial Rule(600) is protected by due process of law of the Sixth Amendment; Eighth Amendment and Fourtheeth Amendment:-section 1, of the United States Constitution permit Commonwealth of pennsylvania to rely on the laches doctrine to bar all forms of equitable relief for substantive constitutional challenges for violation of Natural justice.**

LIST OF PARTIES

Patrick Okey, Petitioner

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COMMONWEALTH OF PENNSYLVANIA, ET AL RESPONDENT(S)

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ATTORNEY GENERAL PENNSYLVANIA, RESPONDENT(S)

The Honorable Michael J. Brillhart, Judge
The Honorable Michael E. Bortner, Judge
% The Honorable Maria Musti Cook, President Judge
[see above address]

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APPENDIX F : IRREPARABLE INJURY INFILCTED AS A RESULT OF
DEPRIVATION OF CONSTITUTIONAL RIGHTS.

TABLE OF AUTHORITIES

Klopfer v. North Carolina, 386 U.S. 213 (1967).....

Stack v. Boyle, 342 U.S. 1(1951).....

Strunk v. United States, 412 U.S. 434 (1973).....

STATUTES AND RULES

28 U.S.C. sec 1257(a)

28 U.S.C. sec 1254(1)

Sixth Amendment

Eighth Amendment

Fourteenth Amendment, section 1

OTHER

Pa .R. P. Speedy trial Rule 600

Pa. C.S.sec 9542

Pa. C.S. sec 9543

JURISDICTION

This Court has jurisdiction Pursuant to 28 . U.S.C. section 1257(a) and 28 U.S.C 1254(1). The Petition is timely filed within 90 days of the decision below. The Pennsylvania Supreme Court issued its Order on May 10th, 2021 and denied Petitioner's allowance of appeal. And on June 8th, 2021 denied Petitioner's Application for reconsideration.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

The Order rendered by the highest Court of a State in which a decision could be had, may be reviewd by the Supreme Court by Writ of Certiorari where.....the validity of a statute of any state is drawn in question on the ground of its being repugnant of the Constitution.....of the United States. or where any title, right, Privilege, or immunity is Specially set up or claimed under the constitution of.... the United States

- * Sixth Amendment
- * Eighth Amendment
- * Fourteenth Amendment:- section 1

STATEMENT OF THE CASE

1. Facts

The facts in this case are not in dispute. Petitioner outline below the events culminating in the Constitutional challenge and the procedural history below.

(A) The Pennsylvania General Assembly introduced a joint resolution to permit Article 1, section 9 of the Pennsylvania constitution and the sixth Amendment of the United States; Eighth Amendment; and Fourteenth Amendment. This Rule codified the state and federal constitution Provision "if the Commonwealth fails to bring the Case to trial with the appropriate time frame, 180 days the defendant can file a motion and ask the Court to dismiss with Prejudice, the charges against him:-

Petitioner, Patrick Okey, file this Petition for writ of certiorari to the United States Supreme Court from the Order of the Pennsylvania supreme Court denying the Allowance of Appeal May 10th, 2021 and Petition for Reconsideration on June 8th, 2021.

On May 2nd, 2008, the Petitioner Criminal Complaint alleged that Petitioner was charged with Criminal offenses of Luring a child into a motor vehicle and Stalking by Detective Robert Pace of the York county City Police Department. The Petitioner was incarcerated at the York County Prison, then Bail was set at \$20,000. On July 31st, 2008, Magistrate District Judge without *Prima facie* bound the alleged charges to Common Pleas Court. The Petitioner was arraigned on

August 29th,2008. The Petitioner's case was pending before the December 2008 Criminal court Term which begins on monday, December 8th,2008. As of November 17th,2008, **180** days would have passed since the date the criminal complaint was filed and taking into account a Continuance of the Petitioner's preliminary hearing on July 15th,2008, through July 31st,2008, there have been no other continuances of this matter that are attributable to the Petitioner. The Petitioner should therefore be entitled to Bail under Pa.R.Crim.P 600.

The Petitioner respectfully requested the Honorable court to grant his Motion. Petitioner's motion was granted and Petitioner was never released from custody. A conviction was obtained by the prosecution in violation of the United States Constitution of Sixth Amendment; Eighth Amendment; and fourtheeth Amendment used as a means of **laches doctrine to bar all forms of equitable relief for substantive Constitutional challenges for violation of natural justice** and Jury by the Presentation of testimony known to be perjured. Such a contrivance is as inconsistent with the rudimentary demand of justice as is the obtaining of a like result by intimidation. Petitioner's long

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litigation of PCRA /Coram Nobis and Habeas Corpus relied upon 42 Pa.C.S. sec 9542 for an action by which persons convicted of Crime they did not Commit. Which brought about 42 Pa.C.S.sec 9543. The Petitioner's actual innocence of the offense for which Petitioner was convicted.

REASONS TO GRANT THE PETITION

(A) TO AVOID ERRONEOUS DEPRIVATION OF JUSTICE AND VIOLATION NATURAL JUSTICE, THE COURT SHOULD CLARIFY THE "INITIATION" STANDARD Klopfer v. North Carolina and Stack v. Boyle THAT APPLIES WHEN LAW SPECIFICALLY INVOKED SIXTH AMENDMENT, EIGHTH AMENDMENT, AND 14TH AMENDMENT:-section 1 OF THE UNITED STATES CONSTITUTION.

Rule 600 Speedy trial guarantee applies to states in Klopfer v. North Carolina, 386 U.S. 213 (1967), the U.S Supreme Court rules that the Sixth Amendment's right to a speedy trial is so fundamental that it applies to trials in State Courts as well as those in Federal Courts. In Barker v. Wingo, the U.S. Supreme Court Concludes there is not set amount of time for a trial to qualify as "speedy", instead, the Court rules that a number of factors must be used to decide whether the Sixth Amendment right was violated. (1) Length of the delay, (2) Reason(s) for the delay, (3) The defendant's request for the right(that is, did he or she protest during the delay), (4) Whether the delay hurt the defendant's ability to receive a fair trial. For example, even a short delay might be unconstitutional if the trial was delayed on purpose and, as a result, a defendant's opportunity to defend himself or herself has been harmed(for example, if an important witness dies during the delay). A longer delay might not be a violation because it was by accident or due to uncontrollable events (Like a full court

Calendar) and because no witness or evidence have been lost during the delay. The Court hearing the speedy trial claim has to look at all the factors and balance them to reach a fair outcome.

In Strunk v. United States, 412 U.S. 434 (1973), the U.S. Supreme Court rules that if the Sixth amendment's Speedy trial right is violated, then the Court must dismiss the indictment against the defendant or reverse the Conviction. This means that even if a defendant is guilty of the crime, a violation of speedy right demands that he or she be set free.

The Eighth Amendment States, " Excessive bail shall not be required, nor Excessive fine imposed, nor Cruel and unsual Punishment inflicted". Notice the Eighth Amendment protects not only the amount of punishment one can receive after being found guilty but also the amount of bail that can be ordered prior to a person's criminal trial or guilty plea. "Seriousness of the charge".

The Supreme Court found such logic Unconstitutional under the Eighth Amendment and Command this Court, and future Courts, to ONLY Consider evidence which Specifically relates to a defendant's actual risk of failing to appear for a Court in making such determinations. They commented, " Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning" In other words, no matter how heinous a crime was, a defendant is still presumed innocent of it; and entitled

example in this case 180 days) charges must be dismissed and the defendant released if the period expires without trial. * Excessive bail shall not be required, nor excessive fine, nor Cruel and unusual punishments inflicted:- **SEE EXHIBIT OF INJURY INFILCTED AS A RESULT.** * All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process law; nor deny to any person within its jurisdiction the equal protection of the laws.

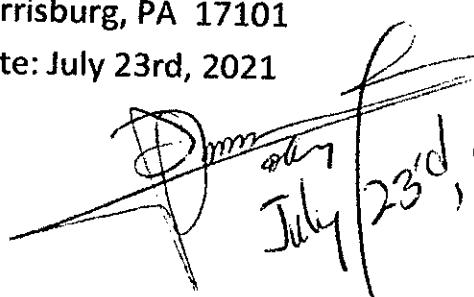
The Congress shall have power to enforce, by appropriate legislation, the provisions of this code. The Amendment is enforced Pursuant to the provisions of **title 28 U.S.C. section 1254(1)**, in violation of the Constitution or laws or treaties of the United State.

CONCLUSION

The Petition for writ of Certiorari should be granted.

RESPECTFULLY SUBMITTED.

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Date: July 23rd, 2021

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July 23rd, 2021