

Supreme Court, U.S.
FILED

JUN 01 2021

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No. 21-5636

IN THE
SUPREME COURT OF THE UNITED STATES

Peter R. Hurley — PETITIONER
(Your Name)

vs.

Commonwealth Mass. SJC — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

S.J.C. NO. FAR-28082

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Peter R. Hurley
(Your Name)

29 Hancock St. 2nd Flr.
(Address)

Salem Mass. 01970
(City, State, Zip Code)

857 249-5711
(Phone Number)

ORIGINAL

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QUESTION(S) PRESENTED

- 1) ^{V.S. CONST. ART I § 10}
Is The Commonwealth OF Mass. Allowed to
break CONTRACTS AN TURN INTO Felony AN
PUT defendant IN Prison (which they have ^{done})
- 2) Is Comm. Allowed to destroy Film after
Court ordered to Preserve (Defendant
Feels that had he had Film would NOT have
been Found. Guilty OF OUI)

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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 _____ 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☐ is unpublished.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 United States district 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☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A 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☒ is unpublished.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 Massachusetts Appeals Court court appears at Appendix B 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☒ is unpublished.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 _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals 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. § 1254(1).

☒ For cases from **state courts**:

Commonwealth Mass.

The date on which the highest state court decided my case was *March 11, 2021*
A copy of that decision appears at Appendix *C*. *SJC FAR-28082*

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____. *copy Enclosed*

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONST. ART. I, § 10

NO NEW laws made that effect Contracts made Prior

Moffett Issue Presented

Brady v. Maryland 373 U.S. 83, 87 (1963)

CONTRACT LAW issue

Comm v Smith 384 519 522-523 (1981)

see Pg. 14 in brief enclosed SJC FAR 28082

G.L. c. 90, § 24 ("OUI") This law has
been charged 70 to 80 Times in the last

50 years (more than any other law in Comm.)

Concise Statement of the Case

Petitioner Peter Hurley was indicted in the Essex Superior Court on December 16, 2011 for four charges in docket no. 1177CR01351. He was originally charged with four counts, (1) fifth offense operation of a motor vehicle under the influence of ^{Alcohol} drugs, (2) resisting arrest, (3) threatening to commit a crime, and (4) operation of a motor vehicle with a suspended license. The case originally went to trial on November 14, 2013 but the Court declared a mistrial when police witnesses failed to adhere to its prior order to not mention Petitioner Hurley's prior record. The case was retried over four days starting on April 8, 2014. A notice of appeal was filed and, following some procedural hurdles, was entered in the Massachusetts Appeals Court on July 21, 2017, and docketed as 17-P-952. On June 26, 2018, the Appeals Court affirmed in part and reversed in part holding that the trial on the subsequent offender portion was erroneous. A new jury waived trial was held on November 14, 2019 in the Superior Court and Petitioner Hurley was found guilty on the subsequent offender portion of the indictment. A new notice of appeal was filed and on January 26, 2021, the Appeals Court affirmed in docket 20-P-502. On February 11, 2021, Petitioner Hurley's application for further discretionary review by the Massachusetts Supreme Judicial Court was entered under docket number FAR-28082. On March 11, 2021, the Massachusetts Supreme Judicial Court denied the application for further appellate review. On June 1, 2021, Petitioner Hurley sent his application to the United States Supreme Court, which was timely received on June 7, 2021.

CASE Statement Sheet #2

The earlier convictions are all contested by means of Mass. R. Crim. Pro. 30 motions for post-conviction relief under active appeal. Pardon to convictions

Sheet #1

REASONS FOR GRANTING THE PETITION

To Correct Injustice

Reasons Relied Upon for Granting of the Writ

Rule 10(c) of the Rules of the Supreme Court provide that the Court may grant certiorari whenever a state court has decided an important question of federal law which has not been, but should be, settled by the Court, or in a way that conflicts with the decisions of the Court.

The Massachusetts Appeals Court dismissed even the possibility that the obligations of contract clause or the ex post facto clause should restrain application of the subsequent offender portion of the indictment. In doing so, the Appeals Court made its decision directly contrary to the case law of this Court.

Given the Court's re-examination of plea bargaining in recent years in cases such as Class v. United States, 583 U.S. ____ (2018) and Missouri v Frye, 566 U.S. 134 (2012), it is appropriate for the Court to determine what, if any, impact plea bargaining has upon the obligation of contracts clause and the ex post facto clause. This is especially important given the hundreds and thousands of repeat offenders impacted by serious changes in the law as society re-examines the penalties and punishments it finds just to impose. These two clauses, the contracts clause and the ex post facto clause, are the most significant restraint upon legislatures in the original and unamended Constitution. They must be given effect and act to restrain the otherwise large discretion given to legislatures to amend laws at will, wrecking large consequences unless they enact grand-fathering clauses.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Peter B. Hurley Pro Se

Date: 1 June 2021