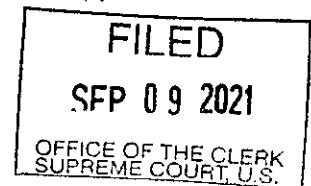


[i]

No. 21-5689



IN THE

SUPREME COURT OF THE UNITED STATES

**ORIGINAL**

HAROLD HOSKINS — PETITIONER  
(Your Name)

vs.  
SUPERINTENDENT KAUFFMAN  
SCI-HUNTINGDON — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO  
THIRD CIRCUIT COURT OF APPEALS

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

PETITION FOR WRIT OF CERTIORARI

HAROLD HOSKINS # JZ-4866  
(Your Name)

1100 PIKE STREET

(Address)

HUNTINGDON, PA. 16654-1112

(City, State, Zip Code)

(Phone Number)

**QUESTION(S) PRESENTED**

WAS THE PETITIONER DENIED HIS SIXTH AMENDMENT RIGHT TO BE  
REPRESENTED BY COUNSEL AS MEANT BY THE SIXTH AMENDMENT  
AND

DID THE ACTIONS OF "ALL" COUNSEL INVOLVED DEPRIVE THE  
PETITIONER OF HIS SIXTH AMENDMENT[right] AND DUE PROCESS  
OF LAW AS PER THE FIFTH AND FOURTEENTH AMENDMENTS ?

AS A RESULT OF THE INEFFECTIVENESS OF "ALL" COUNSEL WAS THE  
PETITIONER DEPRIVED OF A FAIR TRIAL ?

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

### THE RESPONDENTS ARE REPRESENTED BY:

DISTRICT ATTORNEY OFFICE OF LYCOMING COUNTY, PA.  
DISTRICT ATTORNEY KENNETH A. OSOKOW, ESQ.  
48 WEST THIRD STREET  
WILLIAMSPORT, PA. 17701

**TABLE OF CONTENTS**

OPINIONS BELOW .....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE .....	4
REASONS FOR GRANTING THE WRIT .....	5
CONCLUSION.....	11

**INDEX TO APPENDICES**

APPENDIX A THIRD CIRCUIT COURT OF APPEALS DECISION

APPENDIX B DISTRICT COURT DECISION/OPINION/ORDER

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

**TABLE OF AUTHORITIES CITED****CASES****PAGE NUMBER**

STRICKLAND V. WASHINGTON, 104 S.CT. 2052 (1984)	6
UNITED STATES V. GLINSEY, 209 F.3D 386 (5TH CIR. 2000)	6

**STATUTES AND RULES****OTHER**

FIFTH AMENDMENT -- SIXTH AMENDMENT --FOURTEENTH AMENDMENT

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**

**[X] For cases from federal courts:**

The opinion of the United States court of appeals 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 United States district 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.

**[ ] For cases from state courts:**

The opinion of the highest state court to review the merits 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 \_\_\_\_\_ 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.

## **JURISDICTION**

**[X] For cases from federal courts:**

The date on which the United States Court of Appeals decided my case was JULY 14, 2021.

**[X] 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:**

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

**[ ] A timely petition for rehearing was thereafter denied 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. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

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**SIXTH AMENDMENT**

**FOURTEENTH AMENDMENT**

**FIFTH AMENDMENT (DUE PROCESS)**

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## STATEMENT OF THE CASE

¶This case is of national importance¶

EVERY SINGLE DAY THROUGHOUT THIS NATION FROM COAST TO COAST THE PROBLEM THAT THIS PETITIONER FACED AND WHICH DID RESULT IN BEING DENIED A FAIR TRIAL, TAKES PLACE.

TRIAL COUNSEL WAS NOT JUST INEFFECTIVE BUT WAS PITIFUL AND IF THIS WAS NOT SO SERIOUS A CASE (it is) THE ACTIONS BY COUNSEL AT TRIAL COULD BE MADE INTO A COMEDY. A GUN WAS INVOLVED. NO ONE WAS INJURED, NO ONE WAS SHOT AT.

THE STATE FIREARM EXPERT TESTIFIED THAT HE TEST FIRED THE WEAPON PROVIDED TO HIM, AS THE WEAPON UTILIZED DURING THE ALLEGED CRIME. THE PROBLEM WAS THIS. THE EXPERT BASED ALL OF HIS FINDINGS ON THE TESTING AND THE EXAMINATION OF A .32 CALIBER HANDGUN. (EMPHASIS).

THE WEAPON THAT WAS THE SAID WEAPON AT THE SCENE WAS A .38 CAL. HANDGUN. (EMPHASIS)

THIS IS EXPLAINED IN THE REASONS FOR GRANTING THE WRIT.

POST CONVICTION COUNSEL BECAME INVOLVED AND HE WAIVED "ALL" OF THE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS, RAISED BY THE PRO-SE PCRA PETITION. IN FACT POST CONVICTION COUNSEL WAIVED EVERY SINGLE CLAIM CONCERNING THE MERITS, RESULTING IN A PROCEDURE DEFAULT SITUATION -- EFFECTIVELY LOCKING PETITIONER OUT OF COURT.

ALL OF THE COUNSEL¶TRIAL AND POST CONVICTION¶WERE PITIFUL.

## REASONS FOR GRANTING THE PETITION

### REASONS FOR GRANTING THE WRIT

#### THE INEFFECTIVE ASSISTANCE OF COUNSEL:

TRIAL COUNSEL WAS INEFFECTIVE DURING TRIAL STAGES:

POST CONVICTION COUNSEL WAS INEFFECTIVE AND IN A PITIFUL ACTION  
WAIVED EVERY SINGLE ISSUE CHALLENGING THE MERITS OF THE CASE  
RESULTING IN PETITIONER SUFFERING A PROCEDURAL DEFAULT:

THIS IS AN OUTRAGEOUS CASE THAT DEMONSTRATES HOW AN ATTORNEY CAN  
DESTROY THE PETITIONER'S OPPORTUNITY TO HAVE THE MERITS OF HIS CLAIMS  
ADDRESSED, BECAUSE COUNSEL'S ACTIONS CAUSED A PROCEDURAL DEFAULT.

IN PETITIONERS 43 PAGE HABEAS CORPUS PETITION, PLUS ATTACHMENTS,  
THE PETITIONER SET FORTH THE REASONS HIS PUBLIC DEFENDER, ATTORNEY  
PETCAVAGE, WAS INEFFECTIVE. (THE HABEAS IS PART OF THE RECORD IN  
THIS INSTANT CASE); U.S. DISTRICT COURT, M.D. OF PA. CIV. NO. 3-18-  
01701; SCRANTON, PENNSYLVANIA).

AT TRIAL THE PUBLIC DEFENDER DID NOT PRESENT A FIREARMS EXPERT  
OR BALLISTICS EXPERT, EVEN THOUGH THE COMMONWEALTH DID.

THE FIREARMS EXPERT FOR THE COMMONWEALTH TESTIFIED THAT THE GUN  
HE TEST FIRED WAS A .32 CALIBER HANDGUN AND THAT HE TEST FIRED .32  
CALIBER BULLETS FROM THAT HANDGUN.

AT TRIAL THE COMMONWEALTH STAR, EYE WITNESS, [BOWER] TESTIFIED  
THAT THE PETITIONER TOOK A BULLET FROM THE .38 CALIBER HANDGUN...  
SEE N.T. 2/02/07--->ALSO SEE PAGE 1 AND 2 OF THE PA. SUPERIOR COURT

COURT OPINION APPEAL CASE #1643 MDA 2016 (OPINION FILED ON 11-21-17).

IT STATES THAT "BOWER" (STAR EYE WITNESS FOR THE D.A.) [testified]  
THAT PETITIONER TOOK A BULLET FROM THE .38. CALIBER REVOLVER...

THE FIREARMS EXPERT SAID HE TESTED AND FIRED A .32 CALIBER HAND-GUN, THAT HE THOUGHT WAS PART OF THIS INSTANT CASE.

THE ACTUAL HANDGUN IN QUESTION WAS A .38 CALIBER HANDGUN BUT THE RESULTS REPORTED BY THE STATE FIREARMS EXPERT WERE ALL BASED ON THE .32 CALIBER HANDGUN THAT THE EXPERT TESTED.

TRIAL COUNSEL DID NOT HAVE AN EXPERT TO COUNTER THE STATE EXPERT FINDINGS EVEN THOUGH THEY WERE COMPLETELY INCORRECT. TRIAL COUNSEL SIMPLY LET ALL OF THIS SLIDE BY, UNCONTESTED.

COUNSEL NEVER OBJECTED NOR DID HE PRESERVE ANY OF THIS CLAIM FOR APPEAL. STRICKLAND V. WASHINGTON, 104 S.C.T. 2052 (1984); U.S. V. GLINSEY, 209 F.3D 386 (5TH CIR. 2000). THE STRICKLAND STANDARD FOR EVALUATING COUNSEL'S PERFORMANCE SHOWS THAT COUNSEL (HERE) WAS INEFFECTIVE. [SIXTH AMENDMENT]

THE POST CONVICTION  
LAWYER WAIVED  
THIS CLAIM

[THE INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL]

TRIAL COUNSEL WAS PITIFUL AND FAILED TO CALL WITNESSES ON BEHALF OF THE DEFENDANT, THAT COULD HAVE HELPED BOLSTER THE DEFENSE.

TRIAL COUNSEL FAILED TO INTERVIEW POTENTIAL WITNESSES AND FAILED TO SEEK THE ADVICE OF EXPERT FIREARMS EXPERTS REGARDING THE HANDGUN THAT WAS SAID TO BE THE WEAPON UTILIZED IN THIS CRIME. NO ONE WAS SHOT OR WOUNDED. NO HANDGUN OR ANY WEAPON WAS EVER FOUND ON THE PETITIONER (NONE). THE HANDGUN TURNED OVER--TO THE POLICE--BY A THIRD PARTY AND SAID TO BE THE HANDGUN USED BY PETITIONER, DID NOT HAVE PETITIONER'S FINGERPRINTS ON THE HANDGUN. [EMPHASIS]

NO PHYSICAL EVIDENCE LINKED PETITIONER TO THE OFFENSE CHARGED. IN SPITE OF THIS EXCEPTIONALLY WEAK CASE AGAINST PETITIONER, THE TRIAL COUNSEL FAILED TO CONDUCT ANY SENSIBLE INVESTIGATION IN REGARD TO PRESENTING A VIABLE DEFENSE FOR THE DEFENDANT, WHO IS ACTUALLY INNOCENT OF THE TWO COUNTS OF ATTEMPTED HOMICIDE, ROBBERY, TERRORISTIC THREATS FIREARMS VIOLATIONS, AND POSSESSION OF A CONTROLLED ILLEGAL SUBSTANCE. THE TWO COUNTS OF CRIMINAL ATTEMPTED HOMICIDE, ARE BOTH ANCHORED BY THE COMMONWEALTH ON THE FIREARMS EXPERT TESTIMONY, THAT THE PROSECUTOR PRESENTED AT TRIAL.

TRIAL COUNSEL HAD MADE NO EFFORT TO OBTAIN A FIREARMS EXPERT FOR THE DEFENDANT, TO CHALLENGE THE INACCURATE TESTIMONY ADVANCED BY THE COMMONWEALTH EXPERT. THE DEFENSE ABSOLUTELY NEEDED SUCH AN EXPERT.

NONETHELESS TRIAL COUNSEL FAILED TO EVEN ATTEMPT TO CONTACT ANY FIREARMS EXPERT FOR THE DEFENSE, EVEN THOUGH ONE WAS NEEDED, TO SHOW THE JURY THAT THE STATE EXPERT WITNESS WAS NOT ACCURATE AT ALL.

POST CONVICTION COUNSEL WAIVED THIS CLAIM  
AND ALL CLAIMS CONCERNING THE MERITS OF  
\*CLAIMS RAISED PRO SE IN THE PCRA  
FILED INITIALLY BY THE PETITIONER

THE PETITIONER IN AN ATTEMPT TO SHOW THAT HE WAS WRONGFULLY CONVICTED, WITH THE HELP OF FAMILY MEMBERS, HIRED A PRIVATE LAWYER FROM PHILADELPHIA, PENNSYLVANIA, TO ASSIST HIM IN LITIGATING THE POST CONVICTION RELIEF ACT PETITION THAT WAS DENIED ON JUNE 6, 2014. THE PRO SE PCRA SET FORTH THE FACTS NECESSARY FOR COUNSEL TO BE THEN APPOINTED BY THE COURT.

AFTER THE PRO SE PCRA WAS FILED BY PETITIONER, THE COURT APPOINTED ATTORNEY LYNCH, WHO FILED A TURNER/FINLEY LETTER AND A MOTION TO WITHDRAW. SOMETIME LATER, ON JANUARY 13, 2014, ATTORNEY LYNCH [AGAIN] FILED A MOTION TO WITHDRAW.

THE PCRA COURT FILED A 907 NOTICE OF INTENT TO DISMISS ON 4/7/14. PETITIONER FILED AN OBJECTION TO THE MOTION TO DISMISS THE PCRA. ON JUNE 6, 2014 THE PCRA COURT DISMISSED THE PCRA PETITION.

THE PETITIONER FILED A TIMELY NOTICE OF APPEAL.

THE PCRA COURT ORDERED A CONCISE STATEMENT OF MATTERS COMPLAINED OF ON APPEAL AND THE PETITIONER DID COMPLY BY FILING THE CONCISE STATEMENT ON JULY 17, 2014, ON NOVEMBER 17, 2016[adopted its 3-21-14] ORDER -- AS ITS 1925(b) OPINION.

PRIVATE COUNSEL ENTERS HIS APPEARANCE:

THE PHILADELPHIA LAWYER RETAINED BY THE PETITIONER'S FAMILY WAS

ATTORNEY JEROME BROWN. ATTORNEY BROWN ENTERED HIS APPEARANCE ON MARCH 2, 2017. ATTORNEY BROWN ASKED FOR AN EXTENSION TO FILE AN APPEAL BRIEF AND RECEIVED THAT EXTENSION. THE SUPERIOR COURT OF PENNSYLVANIA EXTENDED THE BRIEFING DATE TO APRIL 24, 2017.

HERE IS WHERE THE NIGHTMARE APPEARS

THE PETITIONER PRESERVED ISSUES OF MERIT IN THE **CONCISE STATEMENT OF MATTERS COMPLAINED OF ON APPEAL** AND THE OBJECTION TO THE 907 NOTICE -- AND DISCUSSED WITH ATTORNEY BROWN THAT THESE CLAIMS ARE TO BE PART OF THE APPEAL, SINCE THEY ARE ALL PRESERVED AND RIPE FOR APPEAL.

EVEN TO THIS DAY, THE PETITIONER CANNOT REASON WHY ATTORNEY BROWN FAILED TO FILE A BRIEF THAT ARGUED THE ISSUES/CLAIMS SET FORTH IN THE CONCISE STATEMENT OF MATTERS COMPLAINED OF ON APPEAL--THAT IS THE PROPER PROCEDURE IN PENNSYLVANIA STATE COURT SYSTEM INSTEAD HE (ATTORNEY BROWN) FILED A MOTION FOR A REMAND. THE SUPERIOR COURT GRANTED ATTORNEY BROWN TWO (2) EXTENSIONS. ATTORNEY BROWN FILED A BRIEF IN SUPPORT FOR A REMAND INSTEAD OF A BRIEF FOR THE APPEAL OF THE CLAIMS "PRESERVED" IN THE CONCISE STATEMENT. THEREFORE "ALL PRESERVED CLAIMS-->WERE THEN WAIVED.

ATTORNEY BROWN'S REMAND MOTION AND BRIEF WERE DENIED AND THE PETITIONER WAS LEFT OUT IN THE COLD, WITH NOTHING.

ALL OF THE CLAIMS OF MERIT WAIVED BY ATTORNEY BROWN'S FOOLISH MOTION FOR REMAND. THIS IS SIMPLY A HEARTBREAK AND OUTRAGEOUS..

TODAY, BECAUSE OF ATTORNEY BROWN'S FOOLISH ACTIONS, THE SAID PETITIONER HAS TO DEAL WITH A PROCEDURAL DEFAULT, WAIVER.

UNABLE TO RAISE THE INEFFECTIVENESS OF HIS TRIAL COUNSEL AND UNABLE TO RAISE THE ADDITIONAL CLAIMS OF MERIT BECAUSE OF THE PROCEDURAL DEFAULT, WAIVER, -- THE PETITIONER ASKS THAT THIS DUE PROCESS VIOLATION, THIS SIXTH AMENDMENT VIOLATION, THIS FIFTH AND FOURTEENTH AMENDMENT VIOLATION, BE ADDRESSED BY THIS COURT.

WHY IS THIS MATTER OF NATIONAL IMPORTANCE ?  
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

THIS SITUATION, IS REPEATED EVERY DAY THROUGHOUT THE UNITED STATES OF AMERICA, FROM IDAHO, TO MAINE AND EVERYWHERE ELSE. POOR DEFENDANTS RELY, TRUST, DEPEND ON THE POST CONVICTION LAWYERS TO PRESERVE AND ARGUE, THE INEFFECTIVENESS OF THEIR TRIAL COUNSEL. ONCE THE PCRA COUNSEL TAKES OVER, IT SEEMS ROUTINE FOR THE PCRA COUNSEL TO AVOID FILING I.A.C. CLAIMS AGAINST THEIR FELLOW MEMBERS OF THE SAME STATE DEFENSE BAR ASSOCIATIONS THAT THE PCRA LAWYER IS ALSO A MEMBER OF. THEREFORE PCRA COUNSEL WAIVES THIS AND OTHER CLAIMS, AND THE POOR DEFENDANT/PETITIONER IS LEFT WITH A PROCEDURAL DEFAULT TO CONTEND WITH. THE BOTTOM LINE IS THIS: THE PETITIONER IS LOCKED OUT OF COURT, CONCERNING LITIGATING THESE CLAIMS. ALL CAUSED BY THE POST CONVICTION LAWYER'S ACTION. THIS COURT SHOULD ADDRESS THIS PROBLEM AND PRESENT AN AVENUE FOR RELIEF THAT THE PETITIONER MAY RELY UPON.

THIS ISSUE/CLAIM RAISED HERE DOES TAKE PLACE EVERY SINGLE DAY IN COURTHOUSES COAST TO COAST. THE RESULT ? PETITIONERS FIND ALL OF THEIR CLAIMS WAIVED BY POST CONVICTION COUNSEL, WHO DOES NOT WANT TO LITIGATE I.A.C. CLAIMS AGAINST A FELLOW LAWYER. THIS PETITIONER IN THIS INSTANT CASE IS NOW LOCKED OUT OF COURT BECAUSE OF THE VERY SERIOUS PROCEDURE DEFAULT CAUSED BY HIS POST CONVICTION LAWYER.

THIS COURT IS RESPECTFULLY ASKED TO ADDRESS THIS PROBLEM AND GRANT THE WRIT.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Harold Hoskins JZ-4866

HAROLD HOSKINS #JZ-4866

Date: SEPTEMBER 8, 2021