

No:

21-6373

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL
PETITION

Krishna Mote
Petitioner

Vs.

Supreme Court, U.S.
FILED

OCT 18 2021

OFFICE OF THE CLERK

Middle District Court of
Pennsylvania, (Respondent)
(All Parties)

PETITION FOR WRIT OF MANDAMUS
Rule 20.3 (28 USC§ 1651(a))

Third Circuit Court of Appeals
(name of Court that last ruled on merits of case)

PETITION FOR WRIT OF MANDAMUS

Krishna Mote

Schuylkill Prison Camp P.O. Box 670

Minersville, Pa. 17954

RECEIVED

OCT 26 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

(1) Whereas if a Petitioner didnot escape from custody, but was indicted and a warrant was allegedly issued on a criminal matter, does the Fugitive Disentitlement Doctrine Bar the Petitioner from litigating a civil action in federal court?

(2) Whereas under the Writ of Mandamus evaluation did the Appeals Court commit a foul by not examining the merit of the civil Action?

TABLE OF CONTEXT

Questions Presented	(i)
List of Parties	(ii)
Table of Context	(iii)
Table of Authorities	(iv)
Statement of Facts	(v)
Reasons for Granting Writ	(vi)
Index to Appendix- Appendix-A	(vii)
The Middle District Court judgment and the Third Circuit Court of Appeals Judgment	
Index to Appendix-Appendix-B	(viii)
exhibits-F, exhibit-G, exhibit-h, exhibit-A-5, exhibit-A-6, exhibit-B-5 exhibit-A-12, exhibit-A-10, exhibit-e, exhibit-c exhibit-A-2x exhibit A-3x, exhibit-A-4x, exhibit-e-3, exhibit-K-17, exhibit-K-18 exhibit-A-1, exhibit-QC	
Jurisdiction	(ix)
Constitutional provision and rule	(x)
Certificate of Service	(xi)
Certificate of Compliance	(xii)

TABLE OF AUTHORITIES

Cases

Erickson v. Pardus 551 US 89,94,127,S.Ct.2197,167 L. ed. 2d. 1081(2007)
Haines v. Kerner 404 US 519,520-521 (1972)
Jones v Graham 709 f.2d 1457,1458 (11th Cir. 1983)
Bankers Life &cas. co. v Holland 346 US 379,384,74,S.ct.145,98,L.
ed. 106 (1953)
Degen v United States 517 US 820,116,S.ct. 1777, 135 L. ed. 2d. 102(1996)
United States v Wright 776 f.3d 134,146 (3rd cir. 2015)
Barnett v. YMCA 268 f.3d 614 (8th cir. 2001)
Magluta v Samples 162 f.3d 662,664 (11th cir. 1998)
Prevot v Prevot 59 f.3d 556,562 (6th cir. 1995)
Ortega-Rodriguez v. United States 507 US 234,242,122, L. ed. 2d.
581,113,S.ct.1199(1993)
Daccarett-Ghia v. C.I.R. 315 US App. DC 60,70 f.3d 621,629 (DC cir. 1995)

Federal Statutes

28 USC§ 2466

28 USC§ 1651

28 USC§ 1361

21 USC§ 846

21 USC§ 841

18 USC§ 2

STATEMENT OF FACTS

Now comes the Petitioner Krishna Mote that state" the following; the Petitioner has prepared this motion for Writ of Mandamus under 28 USC§ 1651 (28 USC§ 1361) without the benefit of professional counsel and is a pro-se prisoner litigant. The Petitioner would invoke the liberal construction of pleadings under *Erickson v. Pardus* 551 US 89 94,127,S.Ct. 2197,167,L.ed.2d. 1081(2007), and *Haines v Kerner* 404 US 519,520-521(1972). (Back ground) On August 27, 2007 the Petitioner Attorneys Brian E. Appel, and Stephen M. Wagner, filed the Petitioner civil rights action against Captain James Murtin and Unknown state Troopers at that time. (see case no: 4:07-cv-1571) On February 2009 the Middle District Court dismissed the Petitioner civil rights action without prejudice under the fugitive disentitlement doctrine. On September 25, 2017 the Petitioner presented a rule 60(b)(6) motion trying to reopen his civil rights action, due to it being dismissed without prejudice (Feb. 2009) under the Fugitive Disentitlement Doctrine. The Middle District Court didnot make a judgment on his 60(b)(6) motion to his Knowledge. On January 17, 2020 the Petitioner civil rights action was reopen (see case no: 3:20-cv-92) Nevertheless without addressing the civil claim the Middle District Court dismissed his Civil rights action against Captain Murtin, and said troopers with prejudice. On February 20, 2020, the Petitioner appealed the judgment. On August 25, 2020 the Third Circuit Court of Appeals affirmed. On September 23, 2020 the Petitioner motion the Supreme Court for Writ of Certiorari. On January 11, 2021 the Petitioner Writ of Certiorari was denied. On June 10, 2021 the Petitioner Writ of Mandamus was denied by the Middle District Court. On September 13, 2021 the Petitioner Writ of Mandamus was denied by the Third Circuit Court of Appeals.

The Petitioner claim that the Middle District Court violated his civil rights, and Due Process of Law under the Fifth Amendment; by dismissing his civil rights action under the Fugitive Disentitlement Doctrine. These are the names of the co-conspirators that violated the law by useing unnecessary brutal force on the Petitioner on January 23, 2007, Trooper Powell, Trooper Yown, Trooper Barry Brinser, Trooper Peter Salerno, Trooper Craig Rodrigues, Trooper Matthew Tredor, Trooper Gregory Daley, Trooper Jack Gill, and Captain James Murtin. (see exhibits F-G-H) The Writ of Mandamus has traditionally issued in response to abuse of judicial Power. Thus where a District Court Judge refuses to take some action he is required to take or take some action he is not empowered to take Mandamus will Lie. (see Jones v Graham 709 f.2d 1457,1458 11th cir. 1983) The Mandamus has three prongs that cause for investergation of abuse of discretion by an officer of the Court; citing Bankers life & case co. v Holland 346 US 379,384 74,S.Ct.145,98,L.ed. 106(1953) These are the prongs to show if the Petitioner motion under the Writ of Mandamus is appropriate; (1) The Plaintiff (Petitioner) has a clear right to the relief requested.(2) the defendant (Middle District Court) has a clear duty to act and (3) no other adequate remedy is available. The petitioner is awaking the Writ of Mandamus to address the abuse of discretion, unreasonable delay and to show the Prejudice of the Middle District Court. On January 23, 2007 the Petitioner was beaten and shot by said Pennsylvania State Troopers who did not arrest the Petitioner for any crime, but released him from custody, and left him on a hospital floor in a puddle of blood with his face covered in police spit. (see exhibit-QC) Meanwhile over 69 days had passed sense the criminal actions by the Penn. State Troopers. Then on April 4, 2007 an indictment was presented (seems like a retaliation because Petitioner was seeking to sue the troopers)

by The Middle District Court trying to connect, and justify the actions of said Penn. State Troopers; by chargeing the Petitioner with Conspiracy to distribute in excess of 280 grams of cocaine base, and more than 500 grams of cocaine in violation of 21 USC§ 846, and distribution and possession with intent to distribute cocaine base as an aider and abettor in violation of 21 USC§ 841(a)(1) and 18 USC §2. (Howbeit the foundation of the conviction was based on perjury by Government witnesses see exhibits-a-5-a-6,b-5,a-12,a-10.

Nevertheless the Petitioner was pursuing his civil rights action before the indictment. see(exhibit-c) Furthermore the law gives an example how a civil action can be dismissed under the fugitive Disentitlement Doctrine "''' §2466 Fugitive Disentitlement States" (a) A judicial officer may disallow a person from using the resources of the Court of the United States in furtherance of a claim in any related civil forfeiture action or a claim in third party proceeding in any related criminal forfeiture action upon a finding that such person (1) after notice or knowledge of the fact that a warrant or process has been issued for his apprehension, in order to avoid criminal Prosecution. (Petitioner Rebuttal" on January 23, 2007 the Petitioner was beaten and shot by said Penn. State Troopers and released from police custody, because no crime was known and no warrant existed see exhibit-K-17-K-18) (a) purposely leaves the Jurisdiction of the United States. (Petitioner Rebuttal" Petitioner never left the United States or the State of Pennsylvania see exhibit-A-2x a-3x (B) declines to enter or re-enter the United States to submit to its Jurisdiction. (Petitioner Rebuttal"no crime was known outside the United States the Petitioner didnot leave the Country see exhibit-e) (C) otherwise evades the Jurisdiction of the Court in which a criminal case is pending against the person. (Petitioner Rebuttal" the Petitioner submitted numerous pro-se motions to the Middle

District Court on behalf of his civil rights action, that had his address in Phila. Pa. see exhibits A-1, and ex. A-2x, ex. A-3x) is not confined or held in custody in any other Jurisdiction for commission of criminal conduct in that Jurisdiction. (Petitioner **Rebuttal**" there's no record of the Petitioner being in custody in any other Jurisdiction) Let the record show that the Petitioner presented factual evidence to this Honorable Court that the dismissal by the Middle District Court and The Third circuit Court of Appeals concerning the petitioner civil rights action is in Question. **Under the Umbrella in light of** (citing) **Degen v United States** 517 US 820,116 S.Ct.1777, 135,L.ed.2d. 102(1996) In Degen the Supreme Court unanimously held that the fugitive Disentitlement Doctrine does not allow a Court in a Civil forfeiture suit to enter Judgment against a claimant Petitioner because he is a fugitive from, or other wise is resisting a related criminal prosecution. also see **United States v Wright** 776 f.3d 134, 146 (3rd cir. 2015) The Petitioner will now present cases from other appeal circuits that ruled on the same matter concerning the Fugitive Disentitlement Doctrine being miss used on a Civil mater becuse of a criminal matter; Citing Authorities: **Barnett v YMCA** 268 f.3d 614 8th cir. (2001) **Magluta v Samples** 162 f.3d 662,664 (11th cir. 1998) **Prevot v Prevot** 59 f.3d 556,562 (6th cir. 1995) **Ortega-Rodriguez v United States** 507 US 234,242,122,L.ed.2d. 581,113 S.ct. 1199(1993)

REASON FOR GRANTING WRIT OF MANDAMUS

The Middle District Court and The Third Circuit Court of Appeals is on the assumption that due to the Petitioner not appearing in Court to answer the indictment and alleged warrant in the criminal matter that the Petitioner was a Fugitive and dismissed the petitioner civil rights action under the Fugitive Disentitlement Doctrine without a merit review. citing *Daccarett-Ghia v C.I.R.* 315 US App. DC 60,70 f.3d 621,629 (DC cir. 1995) However the subject matter did not establish a sufficient nexus between the criminal matter and civil rights action. **For example:** The record shows that on the day in question containing to the civil matter January 23, 2007 the Petitioner was not charged nor arrested for aiding and abetting, Conspiracy to distribute, possession with intent to distribute cocaine (crack). In other words the Petitioner should not be disentitled to his civil rights action due to insufficient nexus and the subject matter relationship between the criminal matter incivil action. see exhibit-K-17, K-18.

Wherefore the Petitioner is asking this Honorable Court to reinstate the petitioner Civil Rights Complaint.