

21-6875 **ORIGINAL**

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
NOV - 8 2021
OFFICE OF THE CLERK

DONTAIE ANDERSON — PETITIONER
(Your Name)

vs.

WARDEN, LEHIGH COUNTY PRISON RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEAL FOR THE THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DONTAIE ANDERSON
(Your Name)

LCIT 38 N. 4th Street
(Address)

Allentown P.A 14101
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1.) DO THE GOVERNMENTS NEED TO SECURE COURT APPEARANCE OUT WEIGH THE SECURITY OF PERSON, FROM, SEVER ILLNESS, MENTALLY, PHYSICALLY, DEATH, DUE PROCESS, AND PUNISHMENT.
- 2.) PETITIONER WAS PROVIDED INEFFECTIVE COUNSEL, AND PROHIBITED FROM PARTICIPATING IN HIS OWN DEFENSE, DID VIOLATE THE SIXTH AMENDMENT EQUAL PROTECTION AND DUE PROCESS.
- 3.) THE RIGHT INVOLVED IS THE MAIN CAUSE OF ACTION, AND TO IMPORTANT TO BE DENIED REVIEW OR POSTPONED, FOR THE CLAIM WILL BE IRREPARABLY LOST

- A.) PETITIONER INDICTMENT " PERSON NOT TO POSSESS " IS A LEGISLATIVE " OVERBREATH " CITING A PRIOR CONVICTION AS AN ELEMENT OF A NEW OFFENSE VIOLATING THE FIFTH AMENDMENT DOUBLE JEOPARDY PROTECTION AND NULLIFYING THE DOCTRINE OF RES JUDICATA (COURTIAL FSTOFF)
- B.) PETITIONER INDICTMENT F-1, F-2, F-3 ALL APPLIED ELEMENT ARE THE SAME (POSSESSION, CONSTRUCTIVE OR ACTUAL / PRIOR CONVICTION) IS MULTIPLEXIOUS
- C.) PETITIONER INDICTMENT IS A CONSCIOUSLY SHOCKING, DUE PROCESS VIOLATION WHERE THE SECOND AMENDMENT IS APPLICABLE TO STATE BY WAY OF THE FOURTEENTH, AND THE PROSECUTION OF IS IN ITSELF DECLARING HIM NO LONGER THE PEOPLE, EXCEEDING CONGRESS AUTHORITY CREATING ANOTHER CLASS OF CITIZEN, " A CONVICTED FEON "

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:

- 1.) THE WARDEN LEHIGH COUNTY JAIL
- 2.) THE COMMON PLEAS COURT OF LEHIGH COUNTY
- 3.) THE COMMONWEALTH OF PENNSYLVANIA

RELATED CASES

- 1.) IN RE: DONTAIE ANDERSON NO. 21-2507
(UNITED STATES COURT OF APPEALS FOR THIRD CIRCUIT)
- 2.) COMMONWEALTH V. DONTAIE ANDERSON 936-2019
(SUPERIOR COURT OF PENNSYLVANIA EASTERN DISTRICT)
- 3.) DONTAIE ANDERSON V. COMMONWEALTH OF PENNSYLVANIA ET AL
Case Number: 21-1529
- 4.) DONTAIE ANDERSON V. LEHIGH COUNTY PRISON
(UNITED STATES DISTRICT COURT FOR EASTERN DISTRICT PENNSYLVANIA)

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A OPINION_BY_U.S. DIST. COURT FOR E.D. PA. - - - - -
- GERALD J. PAPPERT J. 20-CV-4170 - - - - -

APPENDIX B OPINION_BY_U.S. COURT OF APPEALS FOR THIRD CIRCUIT - - - - -
AMBRO, CHAGARES, and RESIREPO C.J. 21-1319 - - - - -

APPENDIX C OPINION_BY_U.S. COURT OF APPEALS FOR THIRD CIRCUIT - - - - -
KROUSE, MATEY, and PHIPPS C.J. 21-2507 - - - - -

APPENDIX D OPINION_BY_Court of Common Pleas of Lehigh County Pennsylvania - - - - -
Douglas G Reichley J. No. 936/2019 - - - - -

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
COMMONWEALTH V. ELLIS	626 A.2d 1137
MOORE V. DE YOUNG	5-11 U.S. 27-29
THAKKER V. DOLL, 2020 U.S. DIST. LEXIS	59459
PORTER V. PA DEPT. CORR.	974 F.3d 431
GOMES V. U.S. DEPT. HOMELAND SECURITY, 2020 U.S. Dist. LEXIS 281	
KINGSLEY V. HENDRICKSON	576 U.S. 389
BELL V. WOLFISH	141 U.S. 520
PLAKE V. TANNER, 2020 U.S. Dist. Lexis	105727
In re: Walenski	324 F.2d 309
Younger v. Harris	401 U.S. 37
Norbert v. San Francisco Sheriff's Dept., 2020 U.S. Dist. Lexis 251031	
Geness v. Pennsylvania	2023 E. Supp. 3d 318

STATUTES AND RULES

"Failure to exhaust" "No extraordinary circumstances"

"Clear error" "Erroneous review"

Hybrid representation prohibited in the Commonwealth

Dist. Court hold no jurisdiction to issue writs mandamus

"Clear error" establish circuit law

OTHER

Pannel OPinion was the full Court No: 21-2507

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 B/C to the petition and is

[] reported at Case Anderson, 2021 U.S. App. Lexis 34950; or,
[] has been designated for publication but is not yet reported; or,
[✓] is unpublished. B

The opinion of the United States district court appears at Appendix A to the petition and is

[] reported at Anderson v. DA of Lehigh City, 2020 U.S. Dist. Lexis 132; 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 D to the petition and is Supreme Court E.D. Pa

[] 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

[] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was Nov. 23, 2021.

[] 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 B/C.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on Nov 8, 2021 (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 Jul 23, 2021. A copy of that decision appears at Appendix C.

A timely petition for rehearing was thereafter denied on the following date: Attorney refusal, 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

- 1) Protection from Punishment before conviction
- 2) Not to be discriminated against base on race color or creed
- 3) Equal treatment under law
- 4) Protection from being twice in jeopardy life limb for same offence
- 5) To be able to participate in ones defense
- 6) Right to pretrial liberty, being free
- 7) Right to fair trial, free from bias, prejudice, the appearance of impropriety
- 8) The Right to not have to defend against unconstitutional law
- 9) The Right to effective counsel
- 10) The Right to bear arms in self defence



STATEMENT OF THE CASE

Petitioner is a legally disabled pretrial detainee, who suffer from multiple mental health disorders [PTSD, Major Depression, Bipolar anxiety and panic attacks]. It has been in custody of Lehigh County Jail since Nov. 22, 2019 on a unconstitutional weapon offense, and a unattainable monetary bail of \$50,000, during a global pandemic. By way of counsel and Pro Se, petitioner sought bail modification. Do to people with his medical conditions, being disproportionately effect by covid19, becoming severely ill and dying. [Diabetes, Hypertension, cardio issue that require implant and transmittor device in his cell, obesity and sleep apnea] With the jails inability to full protect from covid do to its transmittability and design of jail [CDC, Gov. transmission // disproportionately effected //]. The U.S. Senate & Congress issued in 2020 Care's Act home confinement for medically vulnerable to covid, do to the illness and death ravision the prison system. The PA Supreme Court declared Judicial Emergency directing the courts, county jails, and medical provider to create a list of those medically vulnerable and not a significant threat to society, to determine ~~to~~ release to save life as a humanitarian obligation. Common Pleas Judge denied any modification of bail, Habeas Corpus, hardship motion, do to 22 to 23 hour cell confinement and all civilian contact suspended, making confinement more restrictive then solitary confinement, causing the suicide of Jeff Mendoza, Dawson Thomas, and Daniel Ognjnobac, and the attempted suicide of many other inmate's.

Petitioner then filed Federal habeas Corpus, seeking to prevent irreparable injury. District Court for the E.D. Pa. Denied, holding failure to exhaust where state has no further remedies, in Golden, 2020 U.S. Dist. Lexis 1516, same Judge denied petitioner, because he had no pre-existing "high risk" medical condition. I filed C.O.A. on "clear error" "erroneous review" to Third Circuit which was denied where Common declined to submit a brief in opposition. Petitioner then sought rehearing en banc, being denied review.

STATEMENT OF THE CASE

After multiple recusal motion to prevent unfair trial in front of clearly impartial jurist, bias, prejudice to defendant. He was force to trial, with counsel who sabotage his defense, and judge that would not even follow the Canon of this Majestic Court, refusing to charge "mens rea" Rebuttal element, and turned a P.G.T. (Delivery serial), by allowing prosecutor to use it to impede petitioner direct amongst many other issue. Petitioner refuse to further participate and was found guilty of all counts. Petitioner filed mandamus to U.S. Appeals Court for the Third Circuit, seeking to vacate conviction, recuse judge, grant of review of his prohibited Double Jeopardy, Res Judicata Collateral Estoppel challenge where he file prose to Pa Superior Court ED. Pa, and conflict attorney refuse to submit his argument, in itself terminating any further review in state, where participating in his own defense is prohibited, and writ to Pa Supreme court is not mandated nor to the Dist. Court. The constitutional right involved with the judicial suppression of my legal challenges do to the possible remuneration if granted in my favor. I NOW PRAY THAT THIS MAJESTIC COURT GRANT ME MERCY BY ALLOWING REVIEW, IF THIS YOUR WILL SO SHALL IT BE.

REASONS FOR GRANTING THE PETITION

THE fundamental principle of Due Process is the presumption of innocents, being axiomatic and elementary to the process of criminal law.

Protection of human liberty and individual rights before conviction.

Conditions of pretrial confinement resulting in the need for medical treatment is well beyond a punishment injury. Confinement base solely on the inability to meet monetary bail obligation, should not be more restrictive than the confinement of those duly convicted, if so it reverses the burden of proof, which shifts punishment before conviction, and the proof needed to establish guilt is nullified but need now to establish one's innocence, its cause and effect.

The present conditions of I.C.J and since Mar. 2020, fails to protect from covid, and its lock down procedures are cut right hazardous, and can be labeled as a grave humanitarian violation

If the nation can suspend the need for punishment [Care's Act] How can my Judge need for court appearance out which the treat worse my life, who cause it self is suspended?

Speaks volume to the protection's of Due Process within his court and the ultimate decision of my life, the disable, the medically vulnerable, the legally innocent "The People" being "Disposable."

The Commonwealth has a common practice, that pose a real constitutional question to their Judicial Processing, where its heads they win, false they win."

The prohibition of an accused, from opening a motion to the court, and provided ineffective counsel in front of a jurist that don't respect, adhere to, Canon, Constitution or general court procedure's, is malisibus. According to President Biden "giving out every thing, but the death penalty for Ju-walking" contributing to what is now "mass incarceration."

REASONS FOR GRANTING THE PETITION

I filed numerous petition's to the court, non frivolous all having merit, they where all denied and where I had to make a threat of legal liability upon the PDAffice, force my attorney then, to actually file the motion to dismiss, but not that of what I put forward. I tried to argue on several the Judge stop me and have me to give it to my attorney in a sub brief, which I did, he refuse, I file to Supreme Court, You Seen in effect counsel and Double Jeopardy Clause issue, I was giving conflict attorney when ask for issue's by the court he informed me he would not be submitting my issue's, there by blocking any further relief. This issue was presented in my brief, not being allowed to submit my petition, even mention in my "1983" claim.

Which give me the opportunity to present to this Majestic Court.

Collateral Estoppel is "issue preclusion" bars any issue of fact previously decided, by some part from relitigation.

Res Judicata "claim preclusion" and bars relitigation of entire cause of action.

Double Jeopardy Clause provides in part "nor shall any person be subjected for the same offense to be twice put in jeopardy of life or limb.

Petitioner's Indictment, "Person not to Possess" F-1, F-2 and F-3 all applied elements are "possession/prior conviction"

Felony Three the Pa Supreme court, has failed to see it as what it is. Person without a license, is not the element of the offense need to be proven as a F-3, the prohibition which prevents one from obtaining one is the prior conviction

REASONS FOR GRANTING THE PETITION

and the fact that increase the penalty from a misdemeanor to a F-3 and without it, holds as a misdemeanor so prior conviction and possession is a Felony 3, and F-2 & F-1 are multipluribus and would fail the "Blockburger test"

Pennsylvania 42 Pa S.C. 6105, citing unclarity as a prior conviction, is in total contradiction of Double Jeopardy Clause and nullify the Doctrine of Res Judicata Collateral Estoppel.

There can be nothing more important than the existence of one's self, how else do you define the Essence of being. Through my search for purpose, I learned with certainty, I fall short from perfection.

Even in that which are Noble Truths, Karma, Cause, and effect, to recap what we have seen. I have done nothing to warrant the forfeiture of my life, and pray that, there can be no government need under the presumption of innocence, to justify such atrocity. Please lift this burden from me, for my cup has over flowed and I submit.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 12/4/21