

21-7650

No. \_\_\_\_\_

ORIGINAL

Supreme Court, U.S.  
FILED

FEB 08 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

NATHAN TERRY — PETITIONER  
(Your Name)

vs.

KEVIN RAMSON et al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

NATHAN TERRY  
(Your Name)

432 Kitti Wake Dr  
(Address)

W. Columbia, SC 29170  
(City, State, Zip Code)

803-542-4055  
(Phone Number)

**QUESTION(S) PRESENTED**

DID THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT VIOLATE 28 U.S.C. § 2254 (d)(1)

DID THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT DENIED CERTIFICATE OF APPEALABILITY UNDER (B) (2) § 2255 IN ACCORDANCE TO TERRY'S Constitutional rights "Fairly Presented"

## 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:

## RELATED CASES

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 A to the petition and is

☐ reported at JUNE 25, 2021; 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☐ is unpublished.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 3/16/21 - 4-13-21; 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 15<sup>th</sup> 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: December 16<sup>th</sup> 2021, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (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 April 14<sup>th</sup> 2020  
A copy of that decision appears at Appendix B.

☒ A timely petition for rehearing was thereafter denied on the following date: JUNE 2<sup>ND</sup> 2020, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

28 U.S.C. § 2254(d)(1)

Duncan v. Henry, 513 U.S. 364, 365 (1995)

Picard v. Connor 404 U.S. 270, 275 (1971)

O'Sullivan, 119 S. Ct. at 1773

The Fourteenth Amendment of the United States and Laws of the Commonwealth.

Article V Section 9 of the Constitution of

Pennsylvania exceeding without a record confirmed violating Terry's Post Trial Rights.

## STATEMENT OF THE CASE

The Commonwealth here in this instant case. Have over looked Terry's first claim in the First State-Court proceedings. Stating that Terry's claims are procedurally defaulted because he did not raise any of them before the state courts.

See, STANDARD OF REVIEW pg(4) filed 3/16/21

See also Commonwealth of Pennsylvania v. Terry

IN THE SUPERIOR COURT OF PENNSYLVANIA

No. 1745 EDA 2019 (C.P. Montgomery County,

No. 46-CR-0005665-2016)

Terry's claim is warranted under 28 U.S.C. § 2254-

(d)(1) "Unreasonable determination"

United States Supreme Court  
Washington, DC

APRIL 5, 2022

This letter is in concern of Constitutional violations, and Prejudicial Proceedings. By the lower Court of Montgomery County, PA Criminal Division, District 38. As followed on February 2nd, 2017 A bench trial proceeded without evidence of an P.F.A. transcripts. That were in possession of bench trial counsel during trial. As a result of bench trial counsel's disclosure, the defendant during open record orally motion for extraordinary relief, on 4/20/17 trial by judge. The defendant raised the issue that Trimbie v. Merloe, 197 A.2d 457, (Pa. 1964) (Mistrial is required) pursuant to Commonwealth v. Nolan, 535, Pa. 77 634 A.2d 192(Pa. 1999) when the unavoidable occurs prejudicial during trial an causes a guilty verdict. The court in return gave the defendant new counsel, to continue sentencing. With no 90 day waiver on file to show good cause for an extension. Violating Rule-704 Pursuant to Commonwealth v. Anders, 725 A.2d 170, (Pa. 1999)(Discharge is appropriate.) The Commonwealth of Common Pleas avers that in the opinion. The defendant has waived a challenge to the weight of the evidence. Stating "A claim that the verdict was against the weight of the evidence shall be raised with the trial judge in a motion for a new trial: (1) orally, on the record at any time before sentencing; (2) by written motion at any time before sentencing; or (3) in a post-sentence motion. Stating this rule purpose "is to make clear that the challenge to the weight of the evidence must be raised with the trial judge or it will be waived." Pursuant to Pa.R.Crim.P.607(A) and Commonwealth v. Barnhart, 933 A.2d 1061, 1066 (Pa. Super. 2007)

Commonwealth has violated their own quote from the opinion stated by the court, of Montgomery County, PA District 38. The defendant's challenge was raised orally on open record 4/20/17 trial judge. The delay from April 20th, 2017 til August 18th, 2017 violated Pa.R.Crim.P Rule 704(A)(1)(A)(2) and (B)(2). From a

disclosure of evidence during trial prejudicial to the outcome. Extra-ordinary relief, was to be both resolved and not delaying sentencing. The defendant was unable to exculpate from guilt or fault. Pursuant to Commonwealth v. Szuchon, 633 A.2d 1098, 1099(Pa. 1993) citing Commonwealth v. Lawson, when a defendant can demonstrate (1) either a miscarriage of justice occurred which no civilized society would tolerate and (2) the defendant was innocent. Without being able to exculpate guilt or fault the court, has violated the defendant's due rights to process, as guaranteed by his right under the Federal Constitution, and Pennsylvania Constitution of Art. 1. S. 9 of his Sixth, and Fourteenth Amendment of the United States Constitutional right. The Commonwealth of Montgomery County, PA District 38 Criminal division. More over has violated the defendant's post-sentence motion on 9/13/17. Allowing sentencing only counsel to file an direct appeal, while the post-sentence motion was still pending. Trial by Judge August 18th, 2017 31:9 the court avers to the defendant. You read your post-trial rights. The defendant had ten days to respond or be waived. The defendant timely filed in the Superior Court of the Eastern District on August 28th, 2017, being sentenced on the August 18th, 2017.

Superior Court forwarded the motion to the Lower Court, Clerk of Courts Montgomery County, PA and was docketed 9/5/17 3:56pm.

ON October 4th, 2017 Superior Court of Pennsylvania Criminal Docketing Statement. Requested answering the question as followed timeliness of appeal (1) Notice of Appeal filed Date 9/13/17 and judgement of sentence disposition order date 8/18/17 and If Post-Sentence Motion were filed date \_\_\_\_\_ and Post-Sentence Motion were decided date \_\_\_\_\_. Sentencing only counsel failed to disclose the date of 8/28/17 and no decision was decided. Wherefore the appeal period runs from the entry of the order. As to the date of entry of the order, see Pa.R.A.P.108. See also Commonwealth v. Miller, 715 A.2d 1203 (Pa.SUPER.1998) Concerning the time for appeal following withdrawal or post-sentence motion. No direct appeal may be taken by a defendant

while his post-sentence motion is pending. Processing status information cross court docket nos: 3006 EDA 2017. Awaiting post sentence motion hearing, Judge assigned: Silow Gary. S The Commonwealth of Montgomery county, PA never acted to rule 720, nor 721. As Rule 114 the Court or the Clerk of Courts failed to provide such information regarding the decision of the post-sentence motion. Violating the defendant again rights to due process of law as guaranteed.

The court by the District Attorney avers the defendant fail to raise his challenge in the Lower Court. But only in his first time appeal and therefore should be waived. In J-S17043-18 Commonwealth v. Walls, 926 A.2d 957, 961 (Pa.SUPER.2004) This is conflicting to, said by J-S17043-18 "We disagree." Further the trial court also **qualified** defense counsel's exchange with the court as a proper objection. The trial court analyzed the merits of Terry's jury waiver claim, noting that "[Terry] raised an objection at sentencing hearing." (This is at the lower court level.) And under these circumstances, we conclude that Terry preserved a challenge to the validity of his jury waiver. Although the defendant was still denied by J-S17043-18 Affirmed the judgment. Contradicting their statement "We disagree." Forsoas the direct appeal was in violation of the post-sentence motion from 9/5/17 in the lower court of Montgomery County, PA Criminal division 38.

Wherefore I'm requesting that this Court, entervene whereas the defendant cant, get the proper justice, by either court. When said by the court this is whats needed to seek relief, I'm convince I'm not alone, I'm urging this Court to please help with the proper corrections to this matter. My name is Nathan Terry NC1134 SCI-Dallas 1000 Follies RD Dallas, PA 18612 serving (5) five to (10) ten years, first time conviction of said crime. and was mis-stated (30) thirty to (42) forty two months would be the minimum I would receive. I'm now three years plus for an wrongful conviction and of prejudicial proceeding and Constitutional violations please. I'm Begging to please help me, I'm truly caught in the system.

By a change of venue Judge: Silow became the defendant's back, front, bench trial, and P.C.R.A. Judge. With Predetermination of the defendant's character enclosed is proof of burden all documents of the courts proceeding showing prejudice, to a PSI Report, as well and sentencing to false accusations of the court, to the defendant presence mistaken identity.

Nathan Terry

A handwritten signature in cursive script, appearing to read "Nathan Terry", written over a horizontal line.

## REASONS FOR GRANTING THE PETITION

The petitioner's (4) Four claims were "fairly presented"

In accordance to Duncan v. Henry, 513 U.S. 364, 365 (1995)

quoting Picard v. Connor, 404 U.S. 270, 275 (1971)

Pursant to O'Sullivan, 119 S.Ct. at 1773 To "fairly-present" See, EXHIBIT A and B

The Superior Court Denied Terry's Constitutional violations with out prejudice to apply to the Court of Common Pleas of Montgomery County for the requested relief. PER CURIAM

Filed 12/16/2019

The petitioner have suffer undue harm from wrongful determination. By the United States District Court for the Eastern District. Under 28 U.S.C. § 2254 (d) (1).

Wherefore: Under 28 U.S.C. § 2254(d)(1) the petitioner  
Prayerful Respectfully ask: This Honorable Supreme  
Court of the United States. Grant the Writ of  
Certiorari for unreasonable determination of  
facts by the Commonwealth's District Court along  
with the THRD CIRCUIT COURT OF APPEALS

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Nathan Ly

Date: 4-5-22