

Supreme Court of the United States

Lasher v. United States

USCA2 No. 20-221

Application to leave to file the writ of certiorari in excess of the word limits

On August 11, 2020 United States Court of Appeals for the Second Circuit **GRANTED** the Plaintiff leave to file an oversize motion for a certificate of appealability; however, they:

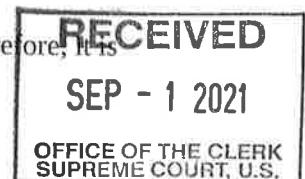
1. then Denied her Document for panel RECONSIDERATION and a motion for RECONSIDERATION ENBANC for a certificate of appealability on October 29, 2020 (See Appendix B)
2. Dismissed Lasher's appeal stating they "lacked jurisdiction to hear Lasher's appeal because a district court's order denying a certificate of appealability is not an appealable final order". **However, the Circuit Court was incorrect.**

According to "Local Rule 22.1. Certificate Of Appealability

(a) Request to This Court", the United States Court of Appeals for the Second Circuit, "for a COA. In a case governed by 28 U.S.C. § 2253 and FRAP 22(b), this court will not act on a request for a certificate of appealability (COA) unless the district court has denied a COA. If the district court denies a COA, the applicant must, within 28 days after the later of that denial or the filing of the notice of appeal, request a COA in this court. The request must include a copy of the district judge's order denying the COA, and a statement that (1) identifies each issue that the applicant intends to raise on appeal and the relevant facts, and (2) makes a substantial showing of a denial of a constitutional right as to each issue. A request to this court for a COA is decided without oral argument. The court ordinarily limits its consideration of the request to the issues identified in the request." Last modified at 12/16/2009

The Plaintiff complied to the aforementioned. Therefore, Lasher's motion for a certificate of appealability must proceed. .

The Appellate Court further denied the Plaintiff's newly-discovered-evidence motion for a new trial, challenging the denial of a newly-discovered-evidence motion for a new trial after the May 15, 2015 verdict. **However**, the suppressed exculpatory video recordings were **NOT turned over to the Plaintiff** until July 24, 2018, which was **more than 3 years after the Plaintiff's verdict**. Therefore, it is **IMPOSSIBLE** for "such motions be made within three years after verdict".



It must be stressed that the prosecutors referenced these video recordings as if they were in evidence at trial, while knowing the video evidence was exculpatory. Their suppression of it, and their tampering with the evidence, also show that they knowingly presented false evidence to the jury.

Judge Buchwald covered up the Prosecution's misconduct and denied the Plaintiff's demand for a new trial based on newly discovered evidence as "untimely". She chose to ignore the Supreme Court's recent ruling of *Arsean Lamone HICKS v. Director, DEPARTMENT OF CORRECTIONS*. Record No. 131945. Decided: February 26, 2015 in that **"the statute of limitations for habeas claims must be tolled while such evidence is suppressed."** **The Appellate Court should grant the Plaintiff a new trial based on** the Supreme Court's recent ruling of *Arsean Lamone HICKS v. Director, DEPARTMENT OF CORRECTIONS*. Record No. 131945. Decided: February 26, 2015, and based on the fact the newly discovered evidence were not turned over to the Plaintiff until July 24, 2018, more than 3 years **after** the Plaintiff's verdict; thus the Plaintiff is not capable nor able to file within the 3 years statute of limitation. Therefore, the **Plaintiff is seeking to toll the statute.**

Further, the **Plaintiff was a victim of IDENTITY THEFT:**

A. The exculpatory video recordings evidence, which were previously suppressed by the prosecution, AUSA DANIEL RICHENTHAL, show:

(1) The Plaintiff was not present at the alleged crime scene on the dates (6/1/2012, 6/12/2012, 7/16/2012, 7/17/2012, 8/13/2012, 8/16/2012, 8/27/2012, and 10/2/2012 the alleged crimes were supposedly committed, and

(2) The Plaintiff was working in a different pharmacy and not engaged in any of the alleged acts the prosecution describes, such as remotely monitoring or supervising, nor directing employees in other locations to commit the alleged crime.

(3) The Plaintiff was working at a different pharmacy on October 2, 2012 when oxycodone was dispensed to "unkempt" individuals,

(4) The Plaintiff never dispensed the drug "butalbital" as indicted, charged, and convicted of, and proof of same was withheld from the jury.

Most importantly, the Plaintiff's lack of presence is also shown on the work schedule and EZY passes.

The governing pharmacy law in the Plaintiff's case requires her to be present at the pharmacy at the time

the drug was "shipped" on the dates referenced. The Government has a copy of the work schedule from the Hellertown Pharmacy (HP) and Palmer Pharmacy & Much More (PP) showing Plaintiff was not at work during the dates and times of the shipments referenced.

B. At trial, the issue of being a signatory was never mentioned because the Judge Buchwald and the Government knew that the Plaintiff never signed any check nor had any control over any bank accounts. The 2 signatories who signed checks and controlled bank accounts were Peter Riccio (owner) and his office manager (Laura Hishmeh). Mr. Riccio told the Plaintiff that he took her off the accounts as a signatory, and made Laura Hishmeh the signatory; this was why the Plaintiff believed she was not a signatory. However, after the Indictment, she was shocked to learn that Mr. Riccio was not forthcoming; he kept her as a signatory and never added Hishmeh as one. A civil action has been filed against both Riccio and Hishmeh for, including but not limited to, **forging the Plaintiff's signature on bank and credit card documents as well as pharmacy contracts, that gave the false impression that she was an owner of one or more of the Riccio pharmacies, and that she was in control of the bank accounts referencing her name.**

Due to the nature of the Plaintiff's case, in which a wrongful conviction that relied on testimony that is easily proven to be false, and built on withheld and suppressed evidence, and on misrepresenting both the law and material facts to the jury, the Plaintiff is requesting leave to file the writ of certiorari in excess of the word limits, to an additional 110 pages.

The United States Supreme Court stressed that a defendant's due process rights are violated both when a prosecutor knowingly presents false testimony and when he knowingly fails to correct such perjury. The Court also held that the same rule applies even when the false testimony concerns only the witness's credibility, since "a lie is a lie, no matter what its subject." *Napue v. Illinois*, 360 U.S. 264 (1959). Here, the lies that brought about this wrongful conviction even extend to the District Court Judge Naomi Reice Buchwald who deceived the jury to secure a wrongful conviction. *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388 (1971)

Further, the Plaintiff can establish a violation of substantive due process rights by an executive official, Judge Naomi Reice Buchwald, by showing (1) that the official violated one or more fundamental constitutional rights and (2) that the conduct of the executive official was shocking to the contemporary

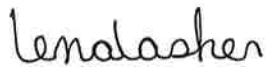
conscience.” *Truong v. Hassan*, 829 F.3d 627, 631 (8th Cir. 2016) (internal quotations and citations omitted). “To be conscience shocking, the government action must be ‘truly irrational, that is, something more than ... arbitrary, capricious, or in violation of state law.” *Draper v. City of Festus*, 782 F.3d 948, 953 (8th Cir. 2015) (quoting *Weiler v. Purkett* 137 F.3d 1047, 105 (8th Cir. 1998) (en banc)).

Here, the Defendant’s actions rise to the “conscience shocking” level as a result of Judge Naomi Reice Buchwald’s conduct of a kangaroo court, and only a higher court can stop this judicial misconduct.

For the aforementioned reasons, the Plaintiff is requesting leave to file the writ of certiorari in excess of the word limits, to an additional 110 pages.

Respectfully submitted,

August 28, 2021

A handwritten signature in black ink that reads "Lena Lasher". The signature is written in a cursive, flowing style.

Lena Lasher, 16 Patton Street, High Bridge, NJ 08829