

No. _____

22-5563

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

NOEL BROWN, SR. - PETITIONER

VS.

COMMONWEALTH OF PENNSYLVANIA ET AL., - RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES SUPREME COURT

(SUPREME COURT OF PENNSYLVANIA)

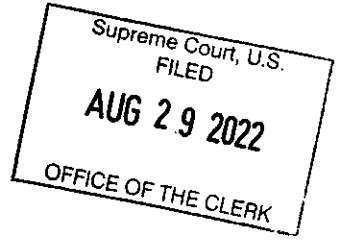
(NAME OF COURT THAT LAST RULED ON MERITS OF THIS CASE)

PETITION FOR WRIT OF CERTIORARI UNDER 28 U.S.C. §1257

NOEL BROWN MW0387

SCI. SOMERSET 1590 WALTER MILL ROAD

SOMERSET, PA 15510



QUESTION(S) PRESENTED

In Persuasive Authority Leading Case on Point Hamilton V. Alabama 368 U.S.52,(1961). The Supreme Court of the United States Reversed. In an opinion by Douglas, J., expressing the unanimous view of this Court, it was held that, since arraignment is a Critical Stage in a criminal proceeding under Alabama Law, an accused in a criminal case in an Alabama State Court is entitled as a matter of Federal Constitutional Law, to counsel at his arraignment, and that, if he is without counsel at the arraignment, he may obtain relief from his conviction without showing that he suffered disadvantage by such denial.

Right to counsel, appellant asserts that his conviction, in the interest of justice should be reversed because he was denied counsel for a plurality of days totaling over 102 days after my arrest, which said denial thus violated Pennsylvania Rule of Criminal Procedure 122(A), and the right to counsel and Procedural Due Process under, respectively, the Sixth Amendment to the United States Constitution incorporated by the state in the Fourteenth Amendment to the United States Constitution.

The subsequent delay in appointment of counsel prejudiced appellant because said delay caused appellant to be tried in the wrong venue, due to spoliation of the evidence, and further violated Pennsylvania Rule of Criminal Procedure 540(G)(1)(a), which requires a preliminary hearing to be held not more than (10) days after the preliminary Arraignment unless the time is expanded for cause shown. HOWEVER, this court can construe the timing of appellant's preliminary hearing under Pa.R.Crim.P.540(G)(1)(a), was violated possible because appellant was not represented by counsel. The State of Pennsylvania, either willfully or inadvertently, did not comply to there rules, and in doing so, the State of Pennsylvania, has violated this appellant's Procedural Due Process of Law, in toto.

Quid Pro Quo Questions continue Joint and Several Persuasive Authority Case on point:

QUESTION(S) PRESENTED

In *Padilla v. Kentucky*, along with its companion case *Missouri v. Frye*, 566 U.S. ___, (2012), this Court held that the constitution guarantee of a fair trial extends to pre-trial actions such as plea bargains; "defence counsel has the duty to communicate formal offers from the prosecution to accept or not to accept a plea on the terms and conditions that may be favorable to the accused". The court held that defendants are entitled to a remedy when they show (1) a denial of counsel at sentencing, and (2) no appointment of counsel under 18 U.S.C.3006A(a)(2)(b) necessary at each of the four phases of criminal procedure~~PRETERIOR~~as such negligence violated the Sixth Amendment of the United States Constitution, incorporated into the Fourteenth Amendment's Due Process Clause. Petitioner Noel Brown, was sentenced to 32 years imprisonment without the appointment of counsel in 2017. For alleged offence committed when he was in performance of verifying Electronic Signatures in of an implied-in-fact contract.

On July, 14th 2022, the Pennsylvania Supreme Court denied application of the substantive rule established First Amendment (petition the Government for a redress of grievances). Pennsylvania Supreme Court is joined by the Commonwealth Court, and Court of Common pleas Wayne County. In denying application of substantive rule. Pennsylvania Judicial code §6503 relating to who may apply for a Writ of Habeas Corpus, states:(a)general rule-except as provided in subsection (b) an application for habeas corpus to inquire into the cause of detention may be brought by or on behalf of any person restrained of his Liberty within the Commonwealth under any pretence whatsoever. 42 Pa.C.S. §6503. (Here, petitioner is an inmate at SCI. Somerset, inquiring into the cause of his detention. Without clarification by this Court, as many as 2000+ individuals may be left to serve unconstitutional sentence, some life without parole sentences for crimes they did not commit or Mistake of Fact and Entrapment. Petitioner's case

presents an ideal vehicle for this Court's consideration of whether Missouri v. Frye, applies retroactively to those whose sentence were final before /after Missouri was announced. Or per se the act of 18 U.S.C. §3142(f).

The question presented is;

- (1). Does the substantive holding in Missouri v. Frye, 566 U.S.(2012), that the Constitution guarantee of a Fair Trial Extends to Pre-Trial Actions, apply on collateral review to Petitioner?
1A) Should the substantial holding in Hamilton V. Alabama, per se case rest?
- (2). Does the denial of Counsel at Sentencing, apply on collateral review to Petitioner?
- (3). Does the Denial of Counsel at Four Phases of Criminal Procedure/Pretrial Stages, apply on collateral review to petitioner?
- (4). Does the act of 18 U.S.C. §3142(f), apply on collateral review to Petitioner?

PETITION FOR WRIT OF CERTIORARI

Noel Brown respectfully petitions for a writ of certiorari to review the judgment/order of the Pennsylvania Supreme Court. WHEREBY, the court abused its discretion by allowing the Commonwealth Court to circumvent the appeal process.

OPINION BELOW

The opinion of the Pennsylvania Supreme Court, is attached herein as exhibit No.1 Notice of Appeal is Quashed.

JURISDICTION

The judgment/order of the Pennsylvania Supreme Court was entered on July 14, 2022. Prior to the July 14, 2022 order, the court denied Petitioner's request for an appointment of counsel. Jurisdiction is invoked pursuant to 28 U.S.C. §1257(a)

LIST OF PARTIES

ATTORNEY GENERAL FOR THE STATE OF PENNSYLVANIA.

THE DISTRICT ATTORNEY OFFICE OF WAYNE COUNTY HONESDALE PENNSYLVANIA.

SUPREME COURT OF PENNSYLVANIA

END OF LIST****

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.
HOWEVER, authority may be upon State Attorney General or District Attorney Office

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RELEVANT CONSTITUTIONAL PROVISIONS

The Sixth Amendment to the United States Constitution provides: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witness in his favor; and to have the Assistance of Counsel for his Defence." The Fourteenth Amendment to the United States Constitution provides: "Nor shall any State deprive any person of Life, Liberty, or Property, without Due Process of Law; Nor Deny to any person within its Jurisdiction the Equal Protection of the Laws."

STATEMENT OF THE CASE

1. PROCEDURAL HISTORY OF THE JUDGMENT/ORDER IN ISSUE:

Petitioner Noel Brown, is serving a sentence of 32 years. He was sentenced on February 3, 2017, to imprisonment with possibility of parole for trafficking in minor, interference with custody of children, corruption of minor, dissemination of photo/flim, and furnish liquor to minor. At the time of the alleged incidents, Petitioner was not in the proximity of said alleged minor, nor did he traffic, interfere with, disseminate photo/flim or provide liquor, to cause corruption of said alleged minor. The trial court did not appoint counsel at arraignment proceedings nor did they consider the circumstances surrounding my arrest, or family, home and business environment, petitioner's level of sophistication in dealing with the criminal justice system, and potential for redress.

The judgment of sentence was affirmed on direct appeal by the Superior Court on October 23, 2017, the Pennsylvania Supreme Court denied a timely petition for review on August 15, 2017, and denied a petition for leave to file nunc pro tunc, on October 12, 2018. Petitioner file a Post Conviction Relief (PCRA), the PCRA court dismissed petition without granting a hearing on July 1, 2019, the Pennsylvania Superior Court affirmed the court's dismiss order on March 31, 2020.

Petitioner filed his petition for Writ of Habeas Corpus with the middle district of Pennsylvania Court. Said court dismiss the petition and in complete miscarriage of justice the court declines to issue a certificate of appealability (COA). Petitioner appealed to the United States Court of Appeal for the Third Circuit. the court denied petitioners request to issue (COA) on March 10, 2021. Petitioner petitioned this court for Writ of Certiorari. WHEREBY, this court denied said petition on March 7, 2022. Following the United State Supreme Court denial for Writ of Certiorari, Petitioner petition the Commonwealth Court for Writ of Habeas Corpus, on January 10, 2022, Insuring a timely petition under 42 Pa.C.S. §9545(b). Petition was ordered transferred to the Court of Common Pleas of Wayne County for appropriate action, and dismissed, March 24, 2022, The trial court followed suit, dismissed petition April 20, 2022, coincidently by the judge who served as the prosecutor within petitioners criminal case and trial. Petitioner timely appeal to the Supreme Court of Pennsylvania, whereby the court Quashed, and denied Petitioner's Notice of Appeal on July 14, 2022.

PENNSYLVANIA SUPREME COURT RULING:

Petitioner Noel Brown, brought his challenge under Writ of Habeas Corpus pursuant to Rule 122(a) counsel shall be appointed "in all court cases, prior to the preliminary hearing to all defendant who are without finacial resources, by the court on its own motion," in the petition for Habeas

Corpus Relief; Petitioner challenged his incarceration in his application for habeas corpus, to inquire into the cause of his continued detention at SCI. Somerset, in the Jurisdictional Statement, and even offer to proffer evidence, both offer to proof and notice of appeal quashed by the court. See attached herein exhibit #1.

REASON FOR GRANTING THE WRIT

At the time Petitioner Noel Brown, was sentenced for crimes he did not committed, Pennsylvania state law mandated a "SHOW UP" presentation to a witness of a person or photograph of only one suspect. Except under certain circumstance are Unlawful, and taint any courtroom testimony used for identification purposes, and may violate the defendant's constitutional right to Due Process of Law, when it creates "substantial likelihood of irreparable misidentification". FURTHERMORE, prior to the Uniform Commercial Code, the Common Law gave special status to acceptance by the same medium as was used to transmit the offer. Thus if the offer was mailed the acceptance was good upon being placed with the mail carrier or the post office-effective, as a matter of fact, more speedily than if made by wire, in which case the acceptance had to be received to bind the contract. According to UCC 2-206(1)(a). However, acceptance in any manner or by any medium, so long as reasonable and meeting the requirements of the offer (if any), is as effective as any other method. The nature of contracts.

CONCLUSION: Arraignment a critical stage under PA law; Fed. Const. Law entitled.

To deny counsel, after request was made, due to assumption petitioner may be able to afford counsel, is ground for reversal, either conditioned upon the court's decision in a pending case OR forthwith on the basis of a decision very recently rendered. Thank You.

NCIE: Case on Point; HAMILTON V. ALABAMA, this court held that, since arraignment is a critical stage in a criminal proceeding under Alabama law, an accused in a criminal case in Alabama, state court is entitled, as a matter of Federal Constitutional law, to counsel at arraignment.

Respectfully Submitted,



RE: Noel Brown