

No. 22-_____

In the
Supreme Court of the United States

WILLIAM S. TOPPI,

Petitioner,

v.

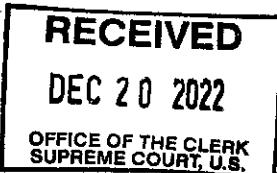
COMMONWEALTH OF MASSACHUSETTS,

Respondent.

On Petition for a Writ of Certiorari to the
Commonwealth Court of Massachusetts

MOTION TO ACCEPT FILING OF
PETITION FOR WRIT OF CERTIORARI OUT-OF-TIME
AND PETITION FOR WRIT OF CERTIORARI

WILLIAM S. TOPPI
PETITIONER PRO SE
2 MILL ROAD
LITTLETON, MA 01460
(978) 489-8242
WILLYTOPP17@GMAIL.COM



DECEMBER 2, 2022

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**MOTION TO ACCEPT FILING OF PETITION
FOR WRIT OF CERTIORARI OUT-OF-TIME**

Petitioner, William S. Toppi, moves this Honorable Supreme Court to accept the filing of his Petition for Writ of Certiorari in this United States Supreme Court, Out-of-Time. This Court has jurisdiction to hear all matters from any Court within the United States that all available State remedies have been exhausted. 28 U.S.C.A. § 1251. His case has never been reviewed in any Court.

Toppi seeks the Court to review the legality of his conviction from Lowell Superior Court and the ensuing Appeals that were subsequently denied, which became final on May 12, 2022.

Toppi requested an extension of time previously, on July 26, 2022, up to and including October 12, 2022. Toppi filed his petition on October 21, 2022, which exceeded the requested extension of time.

The petitioner, now seeks the Court's leave to file his petition for Writ of Certiorari, Out-of-Time. Toppi seeks this request for the following reasons;

- (1) The petitioner has been deprived of constitutional rights and has exhausted all attempts to seek a review through the normal procedural process.
- (2) There has been a departure from the central requirements of the law, that resulted in a miscarriage of justice.
- (3) As irreparable harm has continued throughout the proceedings, a final appeal has been

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rendered inadequate toward addressing the ongoing harm.

The petitioner is not an attorney and has no formal training in the law. However, the petitioner is required to follow the same rules that apply to legal professionals and the court. It has been extremely difficult for the petitioner to navigate the complexities of the law. This petitioner has been declared disabled, as a direct result of [post traumatic stress disorder] due to [his] experience in dealing with this case and the courts. As these rules have not been followed by legal professionals, the extraordinary circumstances of this case merit review.

Mr. Toppi has followed and adhered to all time constraints that were required in the lower courts. Massachusetts Rule 30 does not have any time constraints for the filing of such a motion. After an investigation from the CPCS [committee for public counsel services] and a restitution hearing on the matter, three years after conviction, and two years probation, and an extended probation for another year, the petitioner had no choice but to proceed pro-se, being denied counsel on appeal. The petitioner thus filed within a reasonable manner of time. However, the court did not follow the time constraints of rule 30. The rule stipulates that the parties shall have 30 days notice of any hearings. The plea judge invited the petitioner to a hearing without even one day's notice.

The plea judge was required, by law, to recuse himself from hearing the case, as he was accused by the petitioner of being dishonest with the petitioner when eliciting the petitioner's constitutional rights. The plea judge did not recuse himself. The petitioner filed a motion to recuse the plea judge. The plea judge,

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who was accused of dishonesty, denied the motion. The plea judge then denied the Rule 30 motion for a new trial, without a hearing.

The petitioner filed a timely appeal on the matter with the Massachusetts Appeals Court. Effectuating Massachusetts Rule 23.0, formerly Rule 1:28, an appeals court panel refused to review the petitioner's claims.

The petitioner filed a timely petition to the Massachusetts Supreme Court, seeking further review. That petition was denied by the discretion of the court.

The petitioner did not know of the right to petition [this court] for a Writ of Certiorari. The petitioner was investigating his options for review before succumbing to the coronavirus.

When the petitioner became aware of his right to petition this Honorable United States Supreme Court, [he] had only a short amount of time left to petition, according to the time constraints. The petitioner again contracted the coronavirus. The petitioner filed a motion for an extension of time. That time expired.

On October 21, 2022 the petitioner's Writ for Certiorari was received, postmarked, October 18, 2022. The petitioner was informed that [his] time had run out for filing the petition, however, [he] was informed that [he] may promptly submit an appropriately titled motion to file [his] petition, out of time, with a list of corrections that needed to be completed first. The petitioner did not know how to comply. The petitioner sought out professional guidance from the Supreme Court Press, filing company. The petitioner abandoned attempting to file, *in forma pauperis*, not knowing how to fill out the required forms due to [his] disability. The petitioner's family agreed to pay all fees on his

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behalf. The petitioner was thus waiting for the Supreme Court Press to finish with all the filing requirements on [his] behalf.

This United States Supreme Court has recognized the right to petition in the First Amendment to include the right to petition the court. And, the lower courts must answer the petition. The First Amendment also protects the freedom of speech. When laws or rules restrict speech rights based on viewpoint or content in regards to a petition of the court, those laws, and or rules, are unconstitutional. All attempts of petitioning the court for review have been denied to this petitioner. The petitioner believes that was a direct result of [his] speech and viewpoint on the matter, [the petitioner's accusations aimed at the court and members of the bar]. Accusations that, if not true, would never have been made. In allowing the petitioner to file his Writ of Certiorari [Out of Time] this court should employ [strict scrutiny] as opposed to the lower standards of review, such as, intermediate scrutiny or the rational based scrutiny of Massachusetts Rule 23.0, which the lower court used. Under strict scrutiny, the court must show that there is a compelling, or very strong, interest in the law, and that the law is either very narrowly tailored, or it is the least speech restrictive means available to the court. The right to petition the court must be more than an employment of hollow rights that are exercised by impotent citizens. If not, then why argue or file a motion in a court of law, if such an argument will only be silenced? Without First Amendment rights, there are no other rights.

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For these reasons, The petitioner, William S. Toppi, requests the acceptance of his filing his Petition, Out-of-Time.

Respectfully submitted,

WILLIAM S. TOPPI
PETITIONER PRO SE
2 MILL STREET
LITTLETON, MA 01460
(978) 489-8242
WILLYTOPP17@GMAIL.COM

DECEMBER 2, 2022

APPENDIX TO MOTION

DECISION OF SOCIAL SECURITY ADMINISTRATION (MARCH 1, 2021)

**SOCIAL SECURITY ADMINISTRATION
Office of Hearings Operations**

**WILLIAM S. TOPPI,
Claimant.**

**CLAIM FOR
Supplemental Security Income
Social Security Number 015-48-9003**

JURISDICTION AND PROCEDURAL HISTORY

This case is before me on a request for hearing dated March 1, 2021 (20 CFR 416.1429 *et seq.*). The claimant appeared and testified at a hearing held on April 20, 2022, in Lawrence, MA. The claimant is represented by Gerard A. Palma, an attorney. Judith A. Harper, an impartial vocational expert, also appeared at the hearing.

The claimant is alleging disability since November 1, 2017.

In a post-hearing brief dated April 8, 2022 the claimant's attorney representative informed me that additional medical evidence had been requested but

had yet to be received into the electronic record (Ex. 20E). At the hearing, the claimant's attorney representative notified me that the requested medical records had not yet been received. I advised the claimant and his attorney representative that I would leave the record open for 30 days after the hearing to allow for the submission of additional medical evidence.

Following the hearing, exhibits 18F, 19F and 20F were submitted into the record. In a post-hearing brief dated May 20, 2022, the claimant's attorney representative notified me that there was no further evidence to submit and requested that I close the record and issue a decision on the evidence and testimony presented. Accordingly on May 20, 2022 I closed the record and have decided the case on the evidence and testimony within the record.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After careful consideration of the entire record, I make the following findings:

1. The claimant has not engaged in substantial gainful activity since June 24, 2020, the amended onset date (20 CFR 416.920(b) and 416.971 *et seq.*).
2. The claimant has the following severe impairments: posttraumatic stress disorder; anxiety disorder with agoraphobia; a history of substance abuse; lumbar degenerative disc disease; and lumbosacral spondylosis (20 CFR 416.920 (c)).
3. The claimant does not have an impairment or combination of impairments that meets or

medically equals the severity of one of the listed impairments in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 416.920(d), 416.925, and 416.926).

- 4. The claimant has the residual functional capacity to perform light work as defined in 20 CFR 416.967(b) except: he is limited to no more than occasional climbing of ramps and stairs; never climbing of ladders, ropes, and scaffolds; occasional stooping, kneeling, crouching, and crawling; work must be simple, routine, and repetitive; work must be in a low stress occupation, defined as occasional requiring no more than occasional decision-making and occasional changes in the work setting; he is limited to occasional interaction with coworkers and supervisors; no interaction with the public; no production or pace work; and he will miss more than 2 days of work a month.

In making this finding, I have considered all symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence, based on the requirements of 20 CFR 416.929 and SSR 16-3p. I also considered the medical opinion(s) and prior administrative medical finding(s) in accordance with the requirements of 20 CFR 416.920c.

The claimant alleges that he has been unable to work since the amended onset date of June 25, 2020 due to the limiting effects of his mental and physical impairments. The claimant testified that his disability primarily stems from his PTSD, anxiety, and

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agoraphobia. He described a history of several traumatizing experiences to include childhood trauma, physical abuse, legal involvement, and a two and half year incarceration. The claimant relates that he suffers from flashbacks, perseverations, nightmares, hypervigilance when he goes out in public, hyperarousal throughout the day, feelings of indifference, panic attacks, and social withdrawal. He testified that he lives in fear and does not know how to live in society. He suffers from chronic anxiety and severe agoraphobia with episodes of panic. He testified that he has no friends, has trouble leaving his house and suffers from panic attacks when in open spaces. With respect to his physical impairments he endorsed a history of back pain that has been treated with chiropractic care, injections and medications. In the Adult Function reports of record the claimant indicated that he has difficulty with memory, adjusting to change, following instructions, lifting, squatting, bending, standing, reaching, and walking (Ex. 9E and *hearing testimony*).

[. . .]