

22-6611

No. _____

ORIGINAL

FILED

OCT 26 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Joseph Counts — PETITIONER
(Your Name)

vs.

United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals for the Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joseph Counts / Jefferson
(Your Name) County Jail

911 Casey Ave
(Address)

Mount Vernon, IL 62864
(City, State, Zip Code)

618-705-0585 - jail
(Phone Number) texting device

QUESTION(S) PRESENTED

1. Will the Court establish a "bright line rule" directing all ~~district~~ courts to rule on pro se motions regardless of whether or not the pro se litigant is represented by counsel so long as the motion is clearly titled or headed as a motion that fits the 'Cohen collateral order' doctrine?
2. Will the Court adjust the 'Cohen Collateral Order' doctrine to accomodate, and allow for, more urgent matters to move forward on interlocutory appeal?

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

District Court of Southern Illinois

21-CR-30068-SPM-1

Court of Appeal for the Seventh Circuit

22-2116

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Cohen v Beneficial Loan Corporation (1949)

4

Socialist Workers Party v Grobissic (1979)

4

STATUTES AND RULES

Title 18 chapter 207

3+4

OTHER

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 _____; 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☒ is unpublished.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 _____; 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☒ is unpublished.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.

RECEIVED

DEC 16 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

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JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 8-22-22.

☐ 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: 9-13-22, 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 _____ (date) on _____ (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 _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, 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).

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article 1 Section 6 - "... and for any speech or debate in either house, they shall not be questioned in any other place. "

Eighth Amendment - "Excessive bail shall not be required..."

Fifth Amendment - "... nor shall any person be subject for the same offense be twice put in jeopardy..."

First Amendment - "... and to petition the government for redress of grievances. "

Fourteenth Amendment - "... nor shall any state deprive any person of life, liberty, or property without due process of law..."

Sixth Amendment - "In all criminal prosecutions the accused shall enjoy the right... to have the assistance of counsel. "

Title 18 Section 3145 - "... a motion for revocation or amendment of the order. "

Title 28 Section 1291 - "Final Decisions of District Courts..."

Title 28 Section 1292 - "(a) Except as provided in subsections (c) and (d)..."

Title 28 Section 2071 - "Rule Making Power Generally. "

Title 28 Section 2072(a)(b) + (c) - "Rules of Procedure and evidence power to prescribe..."

STATEMENT OF THE CASE

1. Petitioner believes his initial 5-17-21 detention hearing insufficient as his attorney was called out by the Magistrate for "sleeping".
2. Original Attorney Ferman replaced with current Attorney Goldfarb.
3. Current Attorney did not reopen the detention hearing.
4. Current Attorney Goldfarb did not have contact with petitioner for several months at one point.
5. Once petitioner gained access to a law library, and became comfortable understanding the provisions of Title 18 chapter 207, filed his own pro se motion to revoke the detention order (pg 1 App B).
6. The pro se filing, as well as most subsequent pro se filings, were all stricken because petitioner is represented by counsel.
7. Petitioner appealed the district court's orders, and it appears the appeals court agrees with petitioner at least in part, but dismissed for lack of jurisdiction.
8. The 'Cohen collateral order' doctrine was established in 1949 with Cohen v. Beneficial Loan Corporation (1949) marking the start of the bright line rule petitioner seeks to complete.
9. The Seventh Circuit adjusted the Cohen doctrine some in Socialist Workers Party v Grubisic (7th Cir 1979) to accommodate more urgent matters more befitting of petitioners question #2, but could use more attention.
10. The bail reform act was enacted in 1985 directing motions on bail to be motions to "amend" or "revoke". End of the bright line rule

REASONS FOR GRANTING THE PETITION

If it were you, and your time, being detained pretrial, waiting on a mail system, or a lawyer who doesn't receive your calls or texts, would you want to hear from a district court they don't accept pro se motions from litigants who are represented by counsel? Of course not, so you file an appeal, but the appeals court dismisses the appeal for lack of jurisdiction citing a case referring to the district court motion policy as "house keeping" and "delay incident to an orderly process". In that same metaphor, I ask the Supreme Court, "Can we spot clean better?" (Petitioner's question #1). Question #2, however shorter than the first, is the real mover and shaker, requiring the tact of the world's nine (9) most important justices.

Although question #2 asks the Court if it "will", the real question is if the Court is "able" to carve out a chunk of injustice from post-conviction and prevent that injustice from happening pre-conviction while also preserving the justice we already have now, as well as with what any decision in the future, regarding procedure, may bring? What would that "chunk" look like or consist of? Accordingly, Rule 10(a) seems most applicable here. The inefficiency and the injustice were enough to compel me despite being broke, near ruin, and with what little reputation I have in disarray, even while knowing I'm innocent at state and federal levels. Hopefully the time savings here will provide better fact finding in the future. Pg 5

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 11-22-22