

22-7066
UNITED STATES SUPREME COURT

OCTOBER TERM 2022

BONNIE PFLUGLER, Petitioner

Leigh County
CP-39-CR-0003835-2017

Against

SUPERINTENDENT OF S.C.I.
MUNCY, PA

2:21-cv-04889-GEKP
No. 21-4889

22-2841

Supreme Court, U.S.
FILED

MAR 08 2023

OFFICE OF THE CLERK

PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Petitioner pro se

BONNIE PFLUEGLER PA 3152/ OO 8719 (number changed in process?)

C/O Smart Com, PADOc Muncy

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Respondent

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QUESTION(S) PRESENTED

WHETHER THE DEFENDANT CAN BE FOUND GUILTY FOR A PAROLE VIOLATION AND A CRIMINAL VIOLATION FOR ILLEGAL POSSESSION OF A FIREARM IF IT IS ILLEGAL TO TRANSFER THE FIREARM OUT OF HER POSSESSION, AND

WHETHER A STATUTE WHICH PROHIBITS POSSESSION AND LIKEWISE (DISPOSAL) DIVESTING OF POSSESSION OF AN ILLEGAL ITEM IS CONSTITUTIONAL?

AND WHETHER A STATE CAN MAKE IT ILLEGAL TO OBEY THE LAW BY BILL OF ATTAINER OR OTHERWISE?

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PENNSYLVANIA CASE:

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JURISDICTION

The Court of Appeals denied my appeal on February 1, 2023. This Court has jurisdiction under 28 U.S.C. 1254. This Court has supervisory authority over courts below. (U.S.S.C. Rules Part III)

CONSTITUTIONAL PROVISIONS

Petitioner cites violations of Due Process as applied under the Fourteenth Amendment.

APPENDIX

The appendix contains the decision of the District Court and the decisions of the Court of Appeals.

A, District Court decision.

B, Court of Appeals Decision.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page and respondents are represented by the Leigh County District Attorney.

WHETHER THIS CASE WILL ASSIST THE COURT IN ITS APPELLATE JURISDICTION?

This case involves a simple question of whether a statute can make possession of a firearm illegal and simultaneously make it illegal to be rid of the firearm. The fact that this statute makes simultaneous contradictory acts illegal defies logic, and as such violates due process.

This matter was held to be not subject to the courts' jurisdiction because Pennsylvania has a Bill of Attainder (time bar) which makes this defendant permanently guilty, but fails to address the impossibility of obeying an illogical law which can be no more than a legislated miscarriage of justice. There is no time bar on illogical laws.

STATEMENT OF THE CASE

1, She is presently imprisoned at S.C.I. Muncy on a parole violation subsequent to a conviction in Northampton County for murder based on a guilty plea from 05/16/1989, minimum controlling date of 12/26/2017.

2, She was paroled and her present incarceration stems from a parole violation finding of 12/06/2017 from Leigh County. She was found guilty of a parole violation and a new charge under: 18 Section 6105, A1 (F2), subsequent to 18 Pa.C.S. 6105(b). Specifically she was charged with

possession of a firearm prohibited and sentenced to imprisonment of three (3) years and six (6) months to seven (7) years.

3, She was charged as a person "not to possess " a firearm that was left in her residence by a border. Her plea was irrational, involuntary and not willful, as the rifle was left by a border.

4, The same statute prohibits her from having "possessed... control a firearm, (or) controlled, sold or transferred, " a firearm, particularly a Savage 308 Winchester rifle left by another person.

5, She applied to the District Court for habeas relief and was denied. (2-21-cv-04889)

6, She sought permission to appeal and was denied by the Third Circuit Court of Appeals. (22-2841) February 1, 2023.

7, She now seeks review by this Supreme Court and supervisory intervention over the courts below.

ARGUMENT

THE DEFENDANT CANNOT BE FOUND GUILTY FOR A PAROLE VIOLATION AND A CRIMINAL VIOLATION FOR ILLEGAL POSSESSION OF A FIREARM IF IT IS ILLEGAL TO TRANSFER THE FIREARM OUT OF HER POSSESSION, AND

A STATUTE WHICH PROHIBITS POSSESSION AND LIKEWISE (DISPOSAL) DIVESTING OF POSSESSION OF AN ILLEGAL ITEM IS NOT CONSTITUTIONAL.

A STATE CAN NOT MAKE IT ILLEGAL TO OBEY THE LAW, BY BILL OF ATTAINDER OR OTHERWISE.

“To satisfy the due process clause a penal statute must define the criminal offense with **sufficient definiteness** that the ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement (*Skilling v. U.S.* 2010, 561 U.S. 358, 130 S.Ct. 2896, 2928-9, citing *Kolender v. Lawson*, 1983, 461 U.S. 352, 357, 103 S.Ct. 1855) “subject to whether the prescription is amenable to a limiting construction” (Id. p. 2930) and “consider any limiting construction that a state court or enforcement agency has proffered” (*Kolender*, p. 357) and “the requirement that a legislature establish minimal guidelines to govern law enforcement. Where the legislature fails to provide such minimal guidelines, a criminal statute may permit a standard less sweep that allows policemen, prosecutors and juries (courts to “define” : *Kolender*, p. 373 Blackmun, Burger, White) to pursue personal predilections. (*Kolender* p. 358) a statute (or court decision) is unconstitutionally vague on its face because it encourages arbitrary enforcement by failing to describe with sufficient particularity what a suspect must do in order to satisfy the statute.” (Id. *Kolender*, p. 361)

PLEA TO AN IRRATIONAL CHARGE WAS UNLAWFUL

Counsel was ineffective for counseling defendant to plead guilty. Defendant’s plea was irrational, involuntary, not willful, nor knowing and not based on effective assistance of counsel. (*Commonwealth v. Marsh*, 271 A.2d 481, 483; *McMann v. Richardson*, 397 U.S. 759)

STATUTE WHICH REQUIRES HER TO POSSESS AN UNLAWFUL
ITEM IS UNCONSTITUTIONAL AS ENTRAPMENT

Defendant "is entitled to an entrapment instruction whenever there is sufficient evidence from which a reasonable jury could find entrapment -- a defense that has two related elements of Government inducement of the crime and a lack of predisposition on the defendant's part to engage in criminal conduct." (*Mathews v. U.S.* 1988, 485 U.S. 58, 108 S.Ct. 883) and under (*Sherman v. United States*, 1958, 356 U.S. 369, 78 S.Ct. 819) ("entrapment was established as a matter of law")

BILL OF ATTAINER DECLARING DEFENDANT PERMANENTLY
GUILTY IS UNCONSTITUTIONAL MAKING FOR NO STATE REMEDY
AS TO WHETHER ITS STATUTE IS UNCONSTITUTIONAL.

Pennsylvania declares innocent defendants permanently guilty if their case is inactive for one year, based on legislative fiat. The court system is closed even to questions of constitutionality.

"No Bill of Attainder or ex post facto Law shall be passed"
(U.S. Constitution, Art. I, Sect. 9, [1])

A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If punishment be less than death, the act is termed a bill of pains and penalties. Within the meaning of the Constitution, bills of attainder include bills of pains and penalties. (*U.S. v. Lovett*, 328 U.S. 303, 314, 1946, 66 S.Ct. 1073, 1078) It is not within the province of a legislature (or court) to declare an individual guilty or presumptively guilty

of a crime. (*Patterson v. New York*, 1977, 97 S.Ct. 2319, 2327)

Yours,

CONCLUSION

A statute which prohibits a defendant from obeying the law is illogical and unconstitutional.

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February 22, 2021

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