

IN THE SUPREME COURT OF THE UNITED STATES

NO. 22-7208

FILED

MAR 31 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

ORIGINAL

IN RE: GARY LEE ROCK

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**ON PETITION FOR A WRIT OF CERTIORARI TO THE  
PENNSYLVANIA SUPREME COURT**

**PETITION FOR WRIT OF CERTIORARI**

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Sherry Rock, Petitioner  
404 Apple Blossom Way  
Chambersburg, Pennsylvania 17201  
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## QUESTIONS PRESENTED

1. Whether Petitioner (Member Of Public) Lacks Standing To Bring First Amendment Challenge To 1978 Judicial Order Sealing Police Reports Because She Was *"Not Involved In The Underlying Criminal Action,"* Did Not Explain Her *"Relationship"* To Criminal Defendant, And Failed To Demonstrate *"A Direct Or Immediate Interest In The Police Records"*?

2. Whether Police Reports, Sealed After 1978 Judicial **Brady** Ruling, *"Are Not Public Judicial Documents Subject To The Right Of First Amendment Or Common Law Access, As They Were Never Docketed, Formally Filed With The Court, Or Made Part Of The Certified Record"*?

## **PARTIES TO THE PROCEEDING**

Petitioner is Sherry Rock, a citizen of Franklin County, Pennsylvania.

Respondent Is District Attorney of Franklin County.

## **OPINIONS BELOW**

The opinion of the Pennsylvania Superior Court (Appx. A1-A4) is reported at 2022 Pa. Super. Unpub. Lexis. 1024 (Pa. Super. May 3, 2022).

## **JURISDICTION**

The Pennsylvania Supreme Court issued an order denying discretionary review of the Superior Court's decision on *03/01/23/*. (A5)  
This Court's jurisdiction rests upon 28 U.S.C. section 1257.

## **STATEMENT OF THE CASE**

In May of 1978 a criminal trial was held in Franklin County regarding homicide charges in *Commonwealth v. Gary Rock*, No. 283 of 1977. During this trial the Commonwealth submitted police reports to Judge Eppinger who "*specifically ruled that the reports were not beneficial to Rock*" and ordered them "*sealed and placed into the record only if they became an issue.*" (Appx. A1).

On June 17, 2021 petitioner filed a petition to unseal the police reports under common law and first amendment. (Appx. A2). The Common Pleas Court issued an Order on June 21, 2021, concluding petitioner lacked standing to challenge the 1978 sealing decision.

On appeal, the Pennsylvania Superior Court affirmed. Citing its controlling decision in **Kessler v. Public Documents Pen Register And Wiretaps**, 180 A.3d 406 (Pa. Super. 2018), the Court ruled petitioner lacked standing because she was *“not involved in the underlying criminal action”* and failed to explain her *“relationship to Rock”* or demonstrate an *“immediate interest”* in the police reports. (Appx. A3). The Court also ruled the police reports were not subject to common law or First Amendment access because they were *“never docketed”* or *“made part of the certified record.”* (Appx. A3).

### **REASONS FOR GRANTING THIS PETITION**

THE SUPERIOR COURT HAS DECIDED IMPORTANT FEDERAL QUESTIONS CONCERNING PUBLIC ACCESS TO JUDICIAL RECORDS THAT CONFLICTS WITH THE DECISIONS OF EVERY COURT OF APPEALS THAT HAS ADDRESSED THESE ISSUES

It is well settled nonparties (media companies and general public) may challenge sealing orders that shield judicial records from public

view. See **Company Doe v. Public Citizen**, 749 F.3d 246, 265 (4th Cir. 2014); **Pansy v. Borough of Stroudsburg**, 23 F.3d 772, 777 (3d. Cir. 1994). If nonparties must be "*involved in the underlying criminal action*" and prove "*immediate interest*" in sealed records -- as Pennsylvania demands -- every Court of Appeals' ruling is wrong and transparency in the judiciary is over.

The Superior Court's conclusion these police reports are not public documents also conflicts with federal precedent. Documents, even absent filing, merit presumptive common law access when courts adjudicate substantive rights based on their contents. **Leopold v. United States**, 964 F.3d 1121, 1128 (D.C. Cir. 2020); **United States v. Pickard**, 733 F.3d 1297, 1302 (10th Cir. 2013); **Goldstein v. Forbes**, 260 F.3d 183, 192 (3d Cir. 1992). As for first amendment access, there is no indication Superior Court applied "*experience and logic*" test of **Press-Enterprise Co. v. Superior Court**, 478 U.S. 1 (1978). Instead of a "*presumption of openness*," **Globe Newspaper v. Superior Court**, 457 U.S. 596, 605 (1982), Pennsylvania incorrectly placed burden on this petitioner to explain why she wanted these police reports unsealed.

**CONCLUSION: The Petition For Writ Of Certiorari Should Be Granted.** Respectfully submitted,

  
SHERRY ROCK, PETITIONER