

No.

23-5537

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

JUL 17 2023

OFFICE OF THE CLERK

Euphrates Earl Bean ^{#2037644} — PETITIONER
(Your Name)

vs.

Commonwealth of Virginia — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Virginia
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Euphrates Earl Bean ^{#2037644}
(Your Name)

3521 Woods Way
(Address)

State Farm, Virginia, 23160
(City, State, Zip Code)

^{Fiancee} (334) 652-6583 or ^{Brother} (229) 894-7555
(Phone Number)

QUESTION(S) PRESENTED

- 1) If you pay the filing fee and file a notice of appeal is there an "obligation of contracts" inferred?
- 2) Did the Courts violate Article I section 10 § I of the U.S. Constitution and impair the "Obligation of Contracts" by implementing Virginia Supreme Court Rule (Va. Sup. Ct. R.) 5A:8 without giving the appellant Notice and Opportunity to be heard/Due Process?
- 3) Did the Courts disturb vested rights under 42 U.S. Code § 1981. "Equal rights under the law... to make and enforce contracts" with Va. Sup. Ct. R. 5A:8?
- 4) If Bean, appellant, maliciously shot himself and two people, was Bean suicidal according to 38 CFR § 3.302?
- 5) In accordance with 38 CFR § 3.302 was appellant able to form an intent?
- 6) Is this an example of Unlawful Wounding?
- 7) Was appellant Maliciously Prosecuted and overcharged with Aggravated Malicious Wounding (AMW)?
- 8) How does an appellant determine if a transcript is indispensable to an appeal before the deadline?

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:

- 1) *Supreme Court of Virginia*
- 2) *Court of Appeals of Virginia*

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APPENDIX E - Statement of Facts/Criminal Complaint and Case Summary

APPENDIX F - Va. Sup. Ct. R. 5A:7

Appendix G - Va. Code Ann. §18.2-51

TABLE OF AUTHORITIES CITED

CASES

CASES	PAGE NUMBER
Belew v. Commonwealth, 284 Va. 173	#6, 8
Turner v. Commonwealth, 2 Va. App. 96	#7
Proctor v. Town of Colonial Beach, 15 Va. App 608...	#5, 9

STATUTES AND RULES

12 Va. Admin. Code § 35-105-20	#8
38 CFR § 3.302	#3, 8, QP
42 U.S. Code § 1981	#3, Questions Presented (QP)
Article I section 10 § I "Obligation of Contracts" U.S. Constitution	#3, QP
USCS Const. Amend. 14 "Due Process, Notice and Opportunity"	#3
Virginia Const. Art. I, § 11 "Due Process, Obligation of Contract"	
Virginia Supreme Court Rule (Va. Sup. Ct. R.) 5A:3, 5A:7, and 5A:8	#4-9
Virginia Code Annotated § 18.2-51	

OTHER

Christopher Wolfe, The Rise of Modern Judicial Review: From Constitutional Interpretation to Judge-Made Law 145 (1986)	#10
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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 _____ 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 _____ 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 A(A-2) to the petition and is

- ☒ reported at Sup. Ct. Building in City of Richmond (Supreme Court, VA); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Court of Appeals of Virginia court appears at Appendix B(B-2) to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was _____.

☐ 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: _____, 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. § 1254(1).

☒ For cases from state courts:

The date on which the highest state court decided my case was May 5, 2023.
A copy of that decision appears at Appendix A(A.2).

☐ A timely petition for rehearing was thereafter denied on the following date: May 5, 2023, and a copy of the order denying rehearing appears at Appendix A(A.2).

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 38 Code of Federal Regulations §3.302 (38CFR §3.302)
- 42 U.S. Code §1981, "Equal Rights under the law... to make and enforce contracts."
- Article I section 10 §I, "Obligation of Contracts" in the U.S. Constitution
- USCS Constitution Amendment 14, "Due Process"

Argument Statement of the Case

Rule 5A:8 as applied in the appeal process of #0307-22-1 and Case# CR19-2258 has disturbed vested rights, impaired contractual obligations, and violated due process. The Virginia Supreme Court along with the Court of Appeals of Virginia have affirmed a lower court's unconstitutional decision. "The decision is departed from the accepted and usual course of judicial proceedings and so far sanctioned such a departure by a lower court, as to call for an exercise of this court's power of supervision."

A Criminal Complaint ^{and Case Summary are} Statement of Facts in accordance with (I.A.W) ~~the Virginia Supreme~~

~~the~~ Virginia Supreme Court Rule (Va. Sup. Ct. R.) ~~the~~

5A:8(c) Written Statement in Lieu of Transcript. The Criminal Complaint and Case Summary are considered as "other incidents of the case" and are Prima Facie

Compliance ~~with~~ I.A.W Va. Sup. Ct. R. 5A:8(c). The Courts departed from the accepted and usual course of judicial proceedings; "Court will not dismiss appeal where prima facie compliance but will remand - The Court of Appeals will not dismiss an appeal where an appellant has established prima facie compliance with subdivision (c)(1).

Rather, in such situations, the case will be remanded to the trial judge for appropriate action as required by subdivisions (c)(2) or (d).

Proctor v. Town of Colonial Beach, 15 Va. App. 608, 425 S.E. 2d 818, 9 Va. Law Rep. 800, 1993 Va. App. LEXIS 13(1993)"

" Statement of the Case

Since the transcript was not timely filed, the Court will not consider it in evaluating this appeal. (Belew v. Commonwealth, 284 Va. 173)

Statement of the Case

"Virginia Supreme Court Rule (Va. Sup. Ct. R.) 5A:3(a) contains no language which makes the time for filing of the transcript mandatory. Likewise, Va. Sup. Ct. R. 5A:7 does not require that the transcript be made a part of the record on appeal. Rule 5A:7 states that the transcript will be included in the record on appeal if it is properly made a part of the record in accordance with the provisions of Va. Sup. Ct. R. 5A:8. (Turner v. Commonwealth, 2 Va. App. 96)"

Article I section 10 § I - No State shall... pass any... law impairing the Obligation of Contracts. Bean filed a Notice of Appeal and paid the filing fee in a timely manner, these facts are undisputed. The Commonwealth of Virginia is Contractually obligated to hear Bean's appeal.

"If the record on appeal is sufficient in the absence of the transcript to determine the merits of the appellant's allegations, an appellate court is free to proceed to hear the case. (Turner v. Commonwealth, 2 Va. App. 96). Appellant's allegations concern the Criminal Complaint, Case Summary and the Tri-partite crime; of which only two parts of the crime merits were factually proven by law. Thus, "the limited record available on appeal is sufficient to determine the merits of Bean's allegations using the Case Summary, and Criminal Complaint, and Tri-partite crime."

Statement of the Case

"Since the transcript was not timely filed, the Court will not consider it in evaluating this appeal. Belew v. Commonwealth, 284 Va. 173"

With the facts given in the Case Summary and Criminal Complaint or "the limited record available on appeal," the appellant must be deemed suicidal in accordance with 12 Va. Admin. Code § 35-105-20 and 38 CFR § 3.302! ~~###~~ A suicidal person is unable to form an intent. Thus, Unlawful Wounding is the only conviction allowed by law, and the transcript is dispensable!

Facts: Bean maliciously shot himself and two people.

- Malice infers Bean was both homicidal and suicidal.
- 12 Va. Admin. Code § 35-105-20 and 38 CFR § 3.302 - "a suicidal person is unable to form an intent."
- Rage or fear infers "Heat of Passion" and negates malice if Bean shot himself and two people accidentally.
- Without malice or intent, Unlawful Wounding is the only conviction allowed by law.
- The merits of appellant's allegations concern the Case Summary and Criminal Complaint. Both are unbiased Statement of Facts in lieu of Transcripts sworn by Detectives T. Ostulano and M.J. Walsh of the Norfolk Police Department (N.P.D.)!

REASONS FOR GRANTING THE PETITION

"Court will not dismiss appeal where prima facie compliance but will remand - The Court of Appeals will not dismiss an appeal where an appellant has established prima facie compliance with subdivision (c)(2). Rather, in such situations, the case will be remanded to the trial judge for appropriate action as required by subdivisions (c)(2) or (d). *Proctor v. Town of Colonial Beach*, 15 Va. App. 608, 425 S.E. 2d 818, 9 Va. Law Rep. 800, 1993 Va. App. LEXIS 13 (1993)"

All too often American prisoners are treated unfairly. As 13th Amendment slaves our rights have been reduced, but not eliminated! If the rules of Court do not mandate a transcript, there should be no shock when a transcript is not included on appeal. Until transcripts are deemed mandatory, they should not be considered indispensable.

The Court can not apply the rules arbitrarily, without due process. Rules are flexible, but unless the rules restrict certain facts such as the Criminal Complaint and Case Summary from being statement of facts, the evidence should be allowed as an establishment of Prima facie compliance with subdivision (c)(1).

This petition for Writ of Certiorari is of national importance. It will prove that violating an Article and/or an Amendment of the U.S. Constitution will always be noticed and addressed properly by the Judicial BRANCH of Government. It will prompt courts to recognize and seek prima facie compliance in all prose cases to include prisoner cases; it will reduce the U.S. Supreme Court's case load because of Due Process violations and impairing the Obligation of Contracts pg#9

Substantive due process

(1933) The doctrine that the Due Process Clauses of the

5th and 14th Amendments require legislation to be fair and reasonable in content and to further a legitimate governmental objective.

"The doctrine of substantive due process is so called because the inquiry focuses not on the legal procedure by which one is convicted and punished (deprived of life, liberty, or property) for violating the law, but rather on the law itself and whether a person may legitimately be required to obey such a law. One typical formulation of this doctrine is that it forbids government to deprive a person of life, liberty, or property 'arbitrarily,' that is, without sufficient grounds to do so. The origins of substantive due process are embedded in two phenomena of the traditional era. First, there was a strand of judicial review - based not on the Constitution, but on principles of natural justice; this... was a minority position and a deviation from the main principles of the era. Second, there were a number of cases, primarily in state courts, that were rooted in an analysis of the intrinsic requirements of 'law.' These two phenomena were united especially in their orientation toward property rights." Christopher Wolfe, *The Rise of Modern Judicial Review: From Constitutional Interpretation to Judge-Made Law* 145 (1986)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

#2037644

Date: July 17, 2023