

23-6327
No. USAP3 NO.

Supreme Court, U.S.

FILED

AUG 04 2023

OFFICE OF THE CLERK

23-1224

IN THE

SUPREME COURT OF THE UNITED STATES

NOEL GARCIA — PETITIONER
(Your Name)

vs.
PHILADELPHIA DISTRICT ATTORNEY'S OFFICE et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. DISTRICT COURT OF PENNSYLVANIA FOR THE 3RD CIR (APPEALS)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

NOEL GARCIA
(Your Name)

Box A, 4 Rockview Pl
(Address)

BELLEVUE, PA 16823
(City, State, Zip Code)

N/A (Person)
(Phone Number) CONFIDENTIAL

QUESTIONS PRESENTED FOR REVIEW

(RULE 14.1(a))

DID THE UNITED STATES DISTRICT COURT AND THE COURT OF APPEALS FOR THE THIRD CIRCUIT OF PENNSYLVANIA ERRED IN DETERMINING DEFENDANTS ARE ENTITLED TO ABSOLUTE IMMUNITY AND IMMUNE FROM LIABILITY WITHOUT DEMONSTRATING WHY, WHEN:

- 1. DEFENDANTS ACTING AS JOINT PARTICIPANTS PLACED SIGNIFICANT CONSTITUTIONAL RESTRICTIONS ON DEFENDANT'S FREEDOM OF MOVEMENT FOR OVER 12 YEARS WITHOUT PROBABLE CAUSE FOR PURPOSES OF OBTAINING PLAINTIFF'S PRESENCE AT A JUDICIAL PROCEEDING?**
- 2. DEFENDANTS ACTING AS JOINT PARTICIPANTS EXECUTED AN ARREST WITHOUT PROBABLE CAUSE?**

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

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 1 to the petition and is

reported at 2:22-cv-03864) 23-1224; 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 is unpublished.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 2 to the petition and is

reported at 2:22-cv-03864-JMG; 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 is unpublished.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 is unpublished.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.

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 _____. 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. LARRY THOMPSON V. CLARK 142 S. ct. 1322: 212 L.Ed 2d 382: 2022 U.S. LEXIS 1885: 29 FLA L. WEEKLY FED. S. 191. NO. 20-659
2. BUCKLEY V. FITZSIMMONS 509, U.S. 259, 269, 113 S. ct. 2606, 125 L. Ed. 2d 209 (1993)
3. "COUNTY OF RIVERSIDE" , 500 U.S. @ 56
4. FEDERAL RULES OF CRIMINAL PROCEDURE 46 (h)
5. BURNS V. REED. 500 U.S. 478, 486 (1991)
6. PENNSYLVANIA RULES OF CRIMINAL PROCEDURE 506
7. PENNSYLVANIA RULES OF CRIMINAL PROCEDURE 516
8. RICKY M. PATERSON V. DR. MIN PARK et al., CIVIL ACTION NO: 171322

STATEMENT OF THE CASE

ON SEPTEMBER 15, 2008 DEFENDANTS LYNNE ABRAHAM AND THE PHILADELPHIA'S DISTRICT ATTORNEY OFFICE EXECUTED AN ARREST FOR THE PLAINTIFF NOEL GARCIA.

PLAINTIFF NOEL GARCIA WAS CHARGED WITH AGGRAVATED ASSAULT, SIMPLE ASSAULT, AND RECKLESS ENDANGERMENT OF ANOTHER PERSON.

ON FEBRUARY 12, 2021 AFTER BEING DETAINED FOR OVER 12 YEARS WITHOUT BEING ARRAIGNED OR BEING BROUGHT BEFORE A JUDICIAL OFFICER FOR A PROBABLE CAUSE DETERMINATION, CRIMINAL CHARGES AGAINST THE PLAINTIFF WERE ULTIMATELY DISMISSED WITHOUT EXPLAINATION. RESULTING IN PLAINTIFF BEING RELEASE FROM DETAINMENT RELATED TO SAID CHARGES.

ON SEPTEMBER 26, 2022, PLAINTIFF FILED CIVIL ACTION PURSUANT TO 42. U.S.C. SECTION 1983.

ON DECEMBER 22, 2022, THIRD CIRCUIT DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA DISMISSED COMPLAINT WITH PREJUDICE FOR FAILURE TO STATE A CLAIM, PURSUANT TO 28. U.S.C SECTION 1915 (e)(2)(B)(ii).

ON FEBRUARY 6, 2023 AN APPEAL WAS FILED IN THE THIRD CIRCUIT COURT OF APPEALS FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

ON MAY 11, 2023, APPEAL WAS SUBMITTED FOR POSSIBLE DISMISSAL PURSUANT TO 28. U.S.C. SECTION 1915(e)(2)(B).

OPINION BY THE THIRD CIRCUIT COURT OF APPEALS FOR THE EASTERN DISTRICT OF PENNSYLVANIA WAS FILED ON JUNE 1, 2023.

REASONS FOR GRANTING THE PETITION

1. LARRY THOMPSON V. CLARK 142 S. ct. 1322: 212 L.Ed 2d 382: U.S. LEXIS 1885: 29 FLA L. WEEKLY FED. S. 191. NO. 20-659 (SEIZED IN THE PROCESS OF THE FOURTH AMENDMENT AND CHARGES DISMISSED WITHOUT AN INDICATION OF INNOCENCE.)
2. BUCKLEY V. FITZSIMMONS 509, U.S. 259, 269, 113 S. ct. 2606, 125 L.Ed. 209 (1993) (PROSECUTORS NEITHER IS, NOR SHOULD CONSIDER THEMSELVES AN ADVOCATE BEFORE THEY HAVE PROBABLE CAUSE TO ARREST ANYBODY.)
3. COUNTY OF RIVERSIDE , 500 U.S. @ 56(AN INDIVIDUAL MAY NOT BE DETAINED FOR OVER 48 HOURS WITHOUT A NEUTRAL MAGISTRATE'S REVIEW OF THAT PROBABLE CAUSE DETERMINATION.)
4. ACTIONS BEING INCONSISTENT WITH FEDERAL RULES OF CRIMINAL PROCEDURE 46(h): (ADMINISTRATIVE REQUIREMENT TO CONDUCT A BI-WEEKLY REPORTING TO THE COURTS OF ALREADY INCARCERATED INDIVIDUALS FOR COURT PROCEEDINGS.)
5. BURNS V. REED. 500 U.S. 478, 486 (1991) (ADMINISTRATIVE DUTIES DO NOT EXTEND TO AN ADVOCATES PREPARATION FOR THE INITIATION OF A JUDICIAL PROCEEDING.)
6. PENNSYLVANIA RULES OF CRIMINAL PROCEDURE 506(PROSECUTORS ARE REQUIRED TO SIGN AND APPROVE CHARGES. WHICH DEMONSTRATES HOW DEFENDANTS ACTED UNDER COLOR OF STATE LAW AND HAD PERSONAL INVOLVEMENT IN SUBJECT MATTER.)
7. PENNSYLVANIA RULES OF CRIMINAL PROCEDURE 516(REQUIRES THAT AN ARRESTEE BE BROUGHT BEFORE A JUDICIAL OFFICER FOR A PROBABLE CAUSE DETERMINATION. WHICH DEMONSTRATES WHY ANY REASONABLE OFFICIAL SHOULD HAVE BEEN ON NOTICE THAT HE OR SHE WAS VIOLATING A CLEARLY ESTABLISHED CONSTITUTIONAL LAW ESTABLISHED BY A PERSUASIVE PRECEDENT.)
8. RICK M. PATERSON V. DR. MIN PARK et al., NO: 171322 (ACTS OF GOVERNMENT EMPLOYEES CAN BE DEEMED TO BE RESULT OF A CUSTOM OR

POLICY WHEN THE POLICYMAKER ITSELF FAILS TO ACT AFFIRMATIVELY AT ALL.
THUS BEING LIABLE UNDER SECTION 1983.)

CONCLUSION

THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE GRANTED.

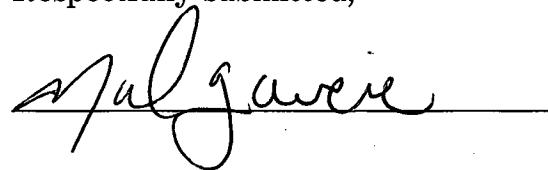
RESPECTFULLY SUBMITTED,

NOEL GARCIA, PRO SE

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive ink, appearing to read "Malgarie", is written over a horizontal line.

Date: 10-2-23