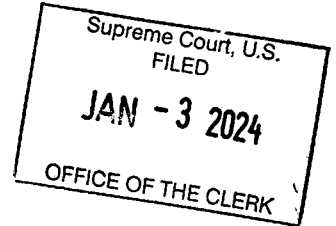


23-6822 ORIGINAL
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES



ROBERT PAUL BROZENICK — PETITIONER
(Your Name)

vs.

COMMONWEALTH PENNSYLVANIA — RESPONDENT(S)
and DISTRICT ATTORNEY OF ALLEGHENY COUNTY
ON PETITION FOR A WRIT OF CERTIORARI TO

FEDERAL COURT OF THIRD CIRCUIT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ROBERT PAUL BROZENICK
(Your Name)

P.O. BOX 393
(Address)

CARNEGIE, PENNSYLVANIA 15106
(City, State, Zip Code)

267-761-2210
(Phone Number)

QUESTION(S) PRESENTED

Would this honorable court allow any caselaw that would irresponsibly assists in the wrongful conviction of any U.S. Citizen convicted by Judicial advocacy and fraud to remain convicted especially when violations to caselaw of Maryland v Brady 373 u.s. 83 (1963) were present and never properly addressed preventing appropriate due process promised by the Fifth Amendment of the U.S. Constitution?

Would Maleng v Cook 490 u.s. 488(1989) overshadow other caselaw such as Maryland v Brady 373 u.s. 83(1963) especially where the "In Custody" status could be argued by the states own documentation unfavorable to the state, while all 3 items that would established Maryland v Brady 373 u.s. 83(1963) violations exist and were hidden in violation of Title 18 Section 242 Deprivation of Rights throughout all appeals and compares to the caselaw of Strickland v Washington 466 u.s. 688(1984) ?

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

THIRD CIRCUIT COURT OF APPEALS No. 23-2102 ROBERT PAUL BROZENICK V COMMONWEALTH OF PENNSYLVANIA DISTRICT ATTORNEY STEPHEN ZAPALLA

WESTERN DISTRICT OF PENNSYLVANIA FEDERAL COURT No. 2-22-cv-01583
ROBERT PAUL BROZENICK V COMMONWEALTH OF PENNSYLVANIA DISTRICT ATTORNEY
STEPHEN ZAPALLA HABEAS CORPUS

COMMONWEALTH OF PENNSYLVANIA V ROBERT PAUL BROZENICK No. CP-02-CR-0002351-2017
POST CONVICTION RELIEF APPLICATION

SUPREME COURT OF PENNSYLVANIA No. 225 WAL 2020
COMMONWEALTH V ROBERT PAUL BROZENICK WRIT OF CERTIORARI

SUPERIOR COURT OF PENNSYLVANIA No.1086 WDA 2018
COMMONWEALTH V ROBERT PAUL BROZENICK SUPERIOR COURT OF APPEALS

ALLEGHENY COUNTY CRIMINAL DIVISION COURT No. CP-02-CR-0002351-2017
COMMONWEALTH OF PENNSYLVANIA V ROBERT PAUL BROZENICK JURY TRIAL
5 COUNTS SIMPLE ASSAULT BY MENACE M2 5 COUNTS TERRORISTIC THREATS M1

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Conclusions Page

Proof Of Service

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A. Third Circuit Court of Appeals United States Decision / Opinion

B. Form of Declarations attached Forma Pauperus

C. Pages 1-3 Western District of Pennsylvania Federal Court Decision / Opinion

D. Notice of Appeal Writ of Habeas Corpus Western District Pennsylvania Federal Court

E. Supreme Court of Pennsylvania Order

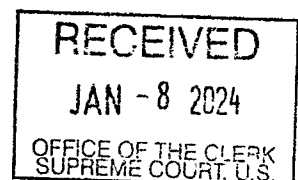
F. Pages 1-20 Superior Court Pennsylvania Order / Opinion

G. Court of Common Pleas Amended Trial Court Opinion

H. Pages 1 and 2 PCRA Order of The Court Intention To Dismiss

I. Pages 1-12 Office Of The Public Defender Preliminary Hearing 2/23/2017 *

* Modified Note Due to the Honorable Court not being able to process the Digital Audio and Video that was supplied originally with this Petition it has been replaced with the text in Appendix I 1-12 of that hearing 2/23/2017 and an explanation on Pages 24 and 25 of Granting The Petition .



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- B. Form of Decarations Pages 1-3
- C. Western District of Pennsylvania Federal Court Decision/Opinion Pages 1-3
- D. Notice of Appeal Writ of Habeas Corpus Western District Pennsylvania Federal Court
- E. Supreme Court of Pennsylvania Order
- F. Superior Court of Pennsylvania Order/Opinion Pages 1-20
- G. Court of Common Pleas Amended Trial Court Opinion Pages 1-7
- H. Order of The Court Intention to Dismiss Pages 1 and 2
- I. * Office of The Public Defenders Preliminary Hearing Text 2/23/2017 *

* Note * Originally Digital Audio was attached to this petition but was not able to be processed by this Honorable Court so Appendix I Pages 1-12 has been substituted in it's place in accordance to Brady V Maryland 373 U.S.83 (1963), and is a true accurate account of the audio

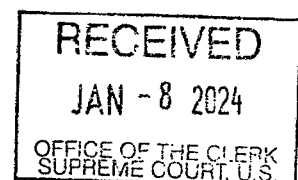


TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

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Commonwealth v Lawson 519 Pa. 504,549,A.2d 107 (1988)	Reasons for granting the petition 2,10,21
Commonwealth v Szuchon 534 Pa. 483,487,633 A.2d 1098,1100 (1993)	Reasons for granting the petition 2
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18 Pa. C.S. 2701(A)(3)

18 Pa. C.S. 2706(A)(1)

OTHER

TITLE 18 U.S.C. SECTION 242

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Fifth Amendment Constitution

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Sixth Amendment Constitution

reasons for granting the petition 7,21

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&C to the petition and is

☒ reported at Justia Law; 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 E 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 SUPERIOR COURT OF PENNSYLVANIA court appears at Appendix F 1-20 to the petition and is

☒ reported at Justia Law; 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 October 4, 2023.

☐ 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: October 30, 2023, 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 September 22, 2021. A copy of that decision appears at Appendix E.

☐ 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

Title 18 U.S.C. Section 242 : Deprivation Of Rights :

Reason for granting petition Pg. 1,7,10,22,23

Maleng v Cook 490 U.S. 488 (1989)

Reason for granting petition Pg. 1,5,12,17,23

Questions presented

Brady v Maryland 373 U.S. 83 (1963)

Reason for granting petition Pg. 1,4,7,10,17,23

Statement of the case Pg. 2

Questions presented

Strickland v Washington 466 U.S. 688 (1984):

Questions presented

Reasons for granting the petition Pg. 2,7,21,

Commonwealth v Lawson 519 Pa. 504,549,A.2d 107 (1988)

Reasons for granting the petition Pg. 2,10,21,

Commonwealth v Szuchon 534 Pa. 483,487,633 A.2d 1098,1100 (1993)

Reason for granting the petition pg. 2

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6th Amendment of the Constitution of the United States

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STATEMENT OF THE CASE

Page 1



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	CINUS Case Number G 784411-4	Complaint/Incident Number 2016-11804
Defendant Name	First ROBERT	Middle PAUL	Last BROZENICK

On Thursday, December 22, 2016, at approximately 1447 hours, Carnegie Police were dispatched to 604 6th Avenue in regard to an initial complaint of drug activity.

The Affiant and additional responding officers spoke with the Defendant, Robert Brozenick, the adult victim, Trey Gieg and four juvenile victims, Jane Doe 1, 2, and 3 and John Doe. The victims stated that they were sitting in Gieg's vehicle, in front of the defendant's residence, 604 6th Avenue, waiting to go to a friend's residence down the street. While sitting in the vehicle, the Defendant approached the vehicle and tapped on the right rear passenger with the barrel end of a pistol. The Defendant then scanned the vehicle, with the pistol, pointing it at all four occupants of the vehicle. While pointing the pistol at the victims, the Defendant accused the victims of using drugs in front of his home and he was calling the police on them. The defendant then holstered his weapon and called police.

The Defendant stated to Sgt Seaman that "I pulled my firearm because I felt threatened." The Defendant however, later stated that the victim's had made no threatening gestures or remarks toward him.

The names of the juvenile victims will be available for court proceedings.

Based on the information outlined in this Criminal Complaint, the Affiant respectfully requests a summons be issued for the Defendant, Robert Brozenick.

I, **DAVID GITTINGS**, BEING DULY SWORN ACCORDING TO THE LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

(Signature of Affiant)

Sworn to me and subscribed before me this 17th day of JANUARY, 2017

1/17/17 Date Raymond Z... Magisterial District Judge

My commission expires first Monday of January, S.R. 1105

This is the original affidavit which started this case and was not presented to the jury in the case of the Commonwealth v Robert Paul Brozenick. There was a preliminary hearing with Magistrate Judge Shaffer presiding. One witness Brandon Ball testified and this hearing was on audio on 2/23/2017.

The judgement was that this matter would be held over for trial in April of 2017 with Robert J. Colaizzi representing Mr. Brozenick and he was given a continuance till June 2017, then another till September 2017, to obtain the audio of the preliminary hearing with Brandon Ball's testimony which was damaging to the Commonwealth's case and was later hidden from the jury along with Brandon Ball, who failed to appear because he Ball was lodged in a drug rehabilitation center which was also hidden from the jury.

STATEMENT OF THE CASE

Page 2

The trial court in September 2017 allowed Mr. Brozenick to dismiss his counsel and allow Mr. Brozenick the counsel from Stephen Tehovnik from the Allegheny County Public Defenders office and after several continuences a jury trial took place on April 2, 2017 to April 4, 2017. 4 witnesses, 2 Carnegie police officers testified with one witness who failed to appear because he was lodged in a drug rehabilitation center, which the jury was not informed about this witness Brandon Ball, and that he had prior testimony concerning this case. As a result Mr. Brozenick was convicted on April 4, 2017.

A timely appeal to the Superior Court of Pennsylvania followed, the issues raised were a violation of Brady v Maryland 373 U.S. 83(1963), a missing witness violation, and the reopening of the record. The Superior court upheld the conviction and sentence due to defense counsel failing to provide Brandon Ball's true relevance that he testified that this was a big miscommunication/misunderstanding concerning threats being made on audio. A Writ of Certiorari was filed with the Supreme Court of Pennsylvania timely and the issue of Reopening the record was filed and a hearing was held on May 18, 2021 morning session, and on 9/22/2021 was Improvidently Granted.

Mr. Brozenick's public defender Brandon Ging, stated that he could no longer represent Mr. Brozenick past the state level, so Mr. Brozenick ended up representing himself Pro Se for he is disabled and not sure how to get SUFFICIENT counsel and on 9/13/2022 he timely filed PCRA with the trial court in Allegheny county and filed a Writ of Habeas Corpus with the Western District of Pennsylvania timely, which was held in a stayed status till PCRA was completed. On 2/14/2023, an Intention to Dismiss was filed and a timely answer was filed and on 3/7/2023 an order of the trial court dismissing PCRA occurred.

A timely motion with the Western District of Pennsylvania was filed in March 2023 requesting to reopen Habeas Corpus.

STATEMENT OF THE CASE

Page 3

On May 15, 2023, the Western District Pennsylvania court dismissed the Habeas Corpus case. A timely appeal to the Third Circuit Court of Appeals was filed and was dismissed on October 4, 2023, then rehearing was timely filed which was dismissed on October 30, 2023.

Now in Forma Pauperis Mr. Brozenick files this Writ of Certiorari Pro Se for he has no attorney assigned and wishes to challenge the Commonwealth of Pennsylvania for the plaintiff believes he was convicted by Judicial advocacy misconduct, prosecutorial misconduct and Constitutionally deficient counsel.

REASONS FOR GRANTING THE PETITION

Page 1

Now here comes Robert Paul Brozenick, Pro Se, requesting this Honorable U.S.

Supreme Court grant him review of his Writ of Certiorari, on the grounds that his Habeas Corpus was denied based on the caselaw of *Maleng v Cook* 490 U.S. 488(1989), while fraud and Judicial advocacy had taken place in the trial court and throughout all appeals that followed up to this point.

If this case is allowed to be disposed of based on this caselaw where this kind of fraud existed it would set a precedence of courtroom clicks such as what happened in this case in Allegheny county to endanger any innocent person that could prove their innocence through material fact to be violated by public defenders, prosecutors, and judges that repeat actions like this because it goes against their political view points regardless of what any law states and get away with it citing this caselaw allowing for severe civil disabilities in an innocent persons life and allow them to remain convicted while other statutes and caselaw were clearly violated.

There were other caselaw, constitutional amendments, and statutes that were involved in this case of the Commonwealth v Brozenick such as Title 18 Section 242 Deprivation of Rights where his own attorneys, and Trial court judge all acted as advocates for the Commonwealth of Pennsylvania, by failing to allow material facts that STILL exist to be released to the jury in this case.

Violations to *Brady v Maryland* 373 U.S. 83 (1963), also exist with the prosecutor failing to release exculpatory evidence to this case that a witness who failed to show up under subpoena was lodged in a drug rehabilitation center and the trial court judge furthered this violation by SPECULATING this witnesses testimony was cumulative by nature against Mr. Brozenick's request to have his jury review this witness Brandon Ball, and his prior testimony on audio that exists to this day. See (Appendix G pg.7) of his court trial opinion.

This same judge didn't feel it was cumulative when he allowed Mr. Brozenick's then attorney Robert Colazzi from June to September 2017, to retrieve the recording of Brandon Ball, for which Mr. Brozenick ended up retrieving the audio himself and resupplied it to Steven Tehovnik, who even had it transcribed to text then withheld it from the jury in this case, and in an email to Mr. Brozenick claimed jury's don't usually view such evidence. This recording STILL EXISTS and has to this day been HIDDEN from both the jury in this case and all appeals till Mr. Brozenick released it himself through PCRA where it was ignored by the same judge, the trial court judge Kevin Sasinoski, who in conflict of interest has a daughter that works for the same District Attorney that prosecuted this case her name is Megan Sasinoski Pa. ID. # 318970.

The original affidavit (See Statement of the Case pg. 1) shows Trey Gieg the driver whose jury testimony varies greatly from this affidavit was also hidden from the jury viewing it, in a sidebar the Trial court judge asked if there were any statements made and the prosecutor failed to provide it as did Mr. Tehovnik the defense attorney.

It was said in *Commonwealth v Lawson* 519 Pa. 504,549,A.2d 107 (1988), a standard is met if the petitioner can demonstrate either (1) that the proceedings resulting in the petitioners conviction were so unfair that a miscarriage of justice had occurred which no civilized society can tolerate. (2) that the petitioner is innocent of the crimes charged See *Commonwealth v Szuchon* 534, Pa. 483,487,633, A.2d 1098, 1100 (1983), the case of *Commonwealth v Brozenick* meets this standard definitely. These violations occurred before any termination of the sentence was supposedly completed and were not addressed in violation of the 5th amendment due process clause.

These violations would also meet the *Strickland v Washington* 466 U.S. 688 (1984) rule.

REASONS FOR GRANTING THE PETITION

Page 3

9/30/2021

Gmail - Questions about my case.

EXHIBIT 1

Gmail

FILED

Bob Steel <steelwurks@gmail.com>

22 SEP 13 AM 8:50

Questions about my case.

Tehovnik, Steven A. <Steven.Tehovnik@allegheynycounty.us>
To: Bob Steel <steelwurks@gmail.com>

Wed, Apr 11, 2018 at 9:25 AM

Mr. Brozenick,

EXHIBIT #1

The police report in your discovery packet and transcript from your preliminary hearing were not released to the jury. Typically, neither of these items are admitted for consideration by the jury. Though there are exceptions, your case did not present any such exception to that general rule. While I could have potentially used your transcript to impeach the credibility of the witness that testified there, he did not testify and those charges were dismissed.

I have attached to this email a copy of the order as requested.

Unfortunately, there is only one copy of your case file. I am unable to copy your case file for you. I require your case file to prepare for your sentencing hearing, and our office will require your case file to prepare your appeal. You are welcome to come to the office and review your file at any time, just make arrangements with me so I can either have someone sit with you while you review it, or be there myself if practicable.

As always let me know if you have any additional questions or concerns.

Best,

Steve Tehovnik

[Quoted text hidden]

<https://mail.google.com/mail/u/0/?ik=7e55b19279&view=pt&search=all&permmsgid=msg-f%3A1507456388842200378>

Above is an example where the defense attorney in Mr. Brozenick's case tells him why he didn't release the discovery and transcripts of Brandon Ball, claiming it doesn't meet discovery rules when it clearly did as the statement made by Trey Gieg would have impeached his jury testimony and the recording of Brandon Ball would have went against any charges when Ball admitted this was a big miscommunication/misunderstanding .

REASONS FOR GRANTING THE PETITION

Page 4

9/30/2021 ✓

Gmail - Commonwealth vs Brozenick

EXHIBIT 8



Bob Steel <steelwurks@gmail.com>

Commonwealth vs Brozenick

Bob Steel <steelwurks@gmail.com>
To: Joseph.Peluso@alleghenycounty.us

Sat, Feb 29, 2020 at 10:44 AM

Mr Peluso, this is Robert Brozenick, and I received your response that you will be my attorney.

I would like to inform you that I contacted Mr Ging concerning my appeal after receiving Ms. Ivorie's appelle, that I'm wondering why Mr Stine and Mr Tehovnik, keep downplaying Brandon Ball's relevance.

Brandon can be heard as he was the star witness at my preliminary stating that he and others tried to stop me from calling the police.

That is more important than the drug use that I witnessed. I'm also concerned reading a side bar discussion of Richard Lorenz claiming first that he was not sure if Brandon was on his list, then later states he isn't sure if the affiant subpoena'd him(Brandon Ball).

Mr Ball took the stand against me in the first place and was extremely relevant no matter how much Judge Sasinoski and Lorenz stomped their feet in protest.

I would like to no why, this is downplayed? and Was Brandon contacted or not? Attached is a recording of the preliminary that EVERYONE seems to hide from the jury and the Superior court, listen for yourself. I want to go on record as objecting to the hiding of thid Brady material.

Sincerely Robert Brozenick steelwurks@gmail.com 412-722-5219

 Robert Brozenick.m4a
8734K

This email to another attorney in the Allegheny county pubic defenders office is more of an example of the insufficient counsel in Mr. Brozenick's case in violation to the caselaw of *Strictland v Washington* 466 U.S. 688 (1984) where Mr. Brozenick inquired why this evidence wasn't released, this attorney refused to release it as did Mr. Stine to the Superior court of Pennsylvania. Although Mr. Stine did file a violation of *Brady v Maryland* 373 U.S. 83 (1963), he claimed Ball was needed to prove drug use and failed to mention that Brandon Ball stated that he and others tried to stop Mr. Brozenick from calling the police and this was a miscommunication/misunderstanding, and never mentioning any threats communicated and that Mr. Brozenick stated he was calling the police while Brandon Ball, Trey Gieg, and the other witnesses failed to call the police and instead tried to stop Mr. Brozenick from calling the police. There were no threats nor did the witnesses appear threatened disputing the Commonwealth of Pennsylvania's case in favor of Mr. Brozenick.

REASONS FOR GRANTING THE PETITION

Page 5

9/30/2021

Gmail - Your reply letter by mail

EXHIBIT 9



Bob Steel <steelwurks@gmail.com>

Your reply letter by mail

Bob Steel <steelwurks@gmail.com>
To: Brandon.Ging@alleghenycounty.us

Tue, Sep 8, 2020 at 10:41 AM

Mr Ging, this is Robert Brozenick, and I am writing you concerning your letter concerning what's on record, 2. The end of appeal, 3. Conflict of interest.

The reason the recording I attached was not on the record is that Steven Tehovnik corruptly withheld it. I requested these things (recording, discovery report) be entered and if they were the Superior court would understand Brandon Ball's real relevance that Ball admitted that he and the other occupants in Trey Gieg's car called Elliott Azaletto who is of the age of 18 to try to me from calling the police that this was a misunderstanding/miscommunication, showing that Ball and the others failed to call the police and enlisted another to approach a man the Commonwealth depicted as making threats and committing simple asst. by menace.

Mr. Tehovnik withholding this information and the discovery report which showed that Elliott Azaletto insisted Ball and the others were NOT permitted at the residence and that's why they were parked up the street HIDING and partaking in drug use.

Had Mr Tehvnik released that instead of representing the Commonwealth instead of myself, Brandon could have been ordered to court, but instead was collaborated by Sasinoski, and Lorenz, into hiding Ball and the fact he (Ball) was in a drug rehab, and hiding that from a jury.

Mr Ging, there is caselaw Conneticut vs Micheal Skakel for one that allows for the court to be informed of this information that Tehovnik withheld, and I DEMAND THAT IT BE RELEASED, with a full excuse why it was criminally withheld because, I did request Tehovnik to submit this, I also inquired with Mr. Stine, Peluso, as to why this is not on record. I even submitted this recording to Streighly the asst. D.A., because Ivory, claimed she did not know what evidence I was talking about.

I'm also wondering why a larger panel wasn't requested concerning my Superior Court appeal, because it is allowed, and one of the last stops is Federal court sir, so don't B.S. me.

Last is you mentioned conflict of interest, listen who are you representing, Tehovnik? Who is representing me?

In conclusion, I demand you release this recording and discovery report and the reason of relevance to the higher court sir. Thankyou. Robert Brozenick 604 6th Avenue Carnegie Pa 15106

 Robert Brozenick.m4a
8734K

As on page 3 and 4, here is another violation NOTE: On page 4 the date of the email from Mr. Brozenick to Joseph Peluso, Saturday, February 29, 2020, months before the supposed completion of this sentence where Mr. Peluso filed with the Pennsylvania Supreme court, and WHY, did a hearing take place May 18, 2021, if the sentence was complete and why didn't the Commonwealth object then with Maleng V Cook 490 U.S. 488 (1989)? Why didn't the Commonwealth object when PCRA was filed on September 13, 2022? This only happened when the trial judge, and public defenders could no longer act as advocates in federal court.



RICH FITZGERALD
COUNTY EXECUTIVE

COUNTY OF ALLEGHENY

LAW OFFICE OF THE PUBLIC DEFENDER

400 COUNTY OFFICE BUILDING
PITTSBURGH, PENNSYLVANIA 15219
PHONE (412) 350-2401 • FAX (412) 350-2390

T. MATTHEW DUGAN, ESQUIRE
DIRECTOR

September 8, 2020

Robert Brozenick
604 6th Avenue
Carnegie PA 15106

RE: *Commonwealth v. Robert Brozenick*
225 WAL 2020 (1086 WDA 2018, CC 201702351)

Mr. Brozenick:

For the reasons I explained in my previous letter dated August 27, 2020, I cannot submit allegedly new evidence to the Supreme Court, nor can I make new arguments to the Supreme Court. Accordingly, I cannot honor your "demand" that I "release" your recording to the Supreme Court.

If you feel that Mr. Tehovnik was ineffective and should have handled your trial differently, the proper way to address such claims is through a petition for relief under the Post Conviction Relief Act ("PCRA"). Please note, however, that "[a] PCRA petition may only be filed after an appellant has waived or exhausted his direct appeal rights." *Commonwealth v. Leslie*, 757 A.2d 984, 985 (Pa.Super. 2000) (citations omitted). In other words, a PCRA petition filed while an appeal is pending is premature, and the trial court lacks jurisdiction to consider it. *Id.*

Finally, the Pennsylvania Supreme Court is the end of the state appellate process. Under the Public Defender Act, 16 P.S. §§ 9960.1-9960.13, mandated, state-sponsored representation of an indigent defendant ends at the Pennsylvania Supreme Court level. See 16 P.S. § 9960.6 (relating to "duties" of public defenders). If the Pennsylvania Supreme Court denies your petition for allowance of appeal (or, if it grants the petition but denies relief on the merits), that will end my office's representation of you. Thereafter, you may elect to file a petition for writ of

As shown on pages 3,4,5, and 6, Mr. Brozenick consistently inquires why these material facts are being withheld from the record, by not releasing them they are violating Mr. Brozenick's 6th amendment rights to have the jury in his case review these material facts then when that was violated by his own appointed insufficient counsel, these facts continued to be hidden from the Superior court. Mr. Stine even filed a Brady v Maryland 373 U.S. 83 (1963) violation but never told the Superior court of Pennsylvania, Brandon Ball's true relevance and that there was prior testimony from this witness that would disprove the Commonwealth's case in Mr. Brozenick's favor. Instead, his attorneys acted as advocates for the Commonwealth and each other. Who was representing Mr. Brozenick?

Also in violation to the 6th amendment was not only hiding these material facts as stated above there was a lack of appropriate sufficient counsel, Strickland v Washington 466 U.S. 688 (1984), established the standard for determining when a criminal defendants 6th amendment rights to counsels is violated by that counsels inadequate performance and this would definitely meet the Strickland rule.

A Deprivation Of Rights occurred with this insufficient counsel under Title 18 U.S.C. Section 242, this also includes the trial court judge as well who all were aware of these material facts as they were mentioned in Mr. Brozenick's PCRA petition and the trial court judge was the same judge that decided to dismiss this petition, and it wasn't based on the caselaw of Maleng v Cook 490 U.S. 488 (1989), the judge claimed this was after a thorough review of the record (see Appendix H pg.1), the judge even allowed 20 days to respond by law, but this would not apply if the sentence was complete.

As stated before this claim of the completion of the sentence only occurred when the trial court judge and defense counsel could no longer get away with acting as advocates for the Commonwealth of Pa. once Mr. Brozenick filed for Habeas Corpus in a federal court.

Here, appellant fails to identify any evidence that was not set forth at trial. He postulates about the existence of supposed evidence favorable to him, contends that the Commonwealth suppressed it, and requests a new

EXHIBIT 12
PAGE TWO

trial. All without any support whatsoever. He does not demonstrate that evidence was actually suppressed as there is nothing of record to substantiate his claims that he was denied access to the non-testifying complainant. Nor does appellant show that evidence was favorable to the defendant or that the evidence was material, in that its omission resulted in prejudice to him. As noted by the trial court in its Opinion: "Other than baldly asserting a violation defendant failed to adequately develop this argument."
(Trial Court Opinion at 7)

For these reasons, this claim does not merit relief.

Above is page 12, and 13 of Margeret Ivory's brief from the commonwealth to the Superior court of Pa., and she mentions Mr. Brozenick claims there was evidence suppressed, and claims the defendant failed to adequately develop this argument, when actually it was his counsel, and she admits a claim of suppressed evidence back at trial.

The trial court judge also knew of this evidence as he allowed Mr. Brozenick's then attorney Robert Colaizi from June to September 2017 to retrieve this audio. Why was this if it was cumulative as Margeret Ivory, and the trial court judge later stated?

The Discovery was the commonwealth's own documentation and it was not in their favor and was withheld from the record from the trial all the way through the appeals.

REASONS FOR GRANTING THE PETITION

Page 9

9/30/2021

Gmail - Commonwealth vs Brozenick

EXHIBIT 13



Bob Steel <steelwurks@gmail.com>

Commonwealth vs Brozenick

Bob Steel <steelwurks@gmail.com>
To: mstreily@da.allegheny.pa.us

Wed, Mar 4, 2020 at 10:41 AM

Greetings Mr Streily,

Respectfully, I have read Margaret Ivory's brief concerning the case and she expressed about not knowing Brandon Ball's relevance other than another conviction for me, and that the defendant complained there was testimony relevant, but she (Ivory) knew of none.


Attached is an audio recorded on 2/22/2017 at the preliminary hearing.

A little history sir, after this was recorded Robert Colaizzi my attorney at that time had requested a continuance from June to September 2017, to acquire that recording, and it was granted by Judge Sasinoski, who even commented on this after Mr Tehovnik from A.P.D. office had taken over the case, and Judge Sasinoski, was aware of this recording evidence where Ball admits they enlisted a friend Elliot to try to stop me from calling the police, instead of calling the police themselves showing they were not threatened by me, and even confronted me.

Margaret Ivory commented about reopening the record in an attempt to prevent a miscarriage of justice, so is this recording, and Brandon Ball who was hidden from a jury, and his relevance down played, while he resided in a drug rehab.

I mean no disrespect sir, I'm looking to set the record straight, and have both read and heard from Anita Kulik, that you and Mr Zapalla, are both with integrity.

Sincerely, Robert Brozenick

 Robert Brozenick.m4a
8734K

Above is an email from Mr. Brozenick to Michael Streily of the District Attorney's office after reading Margeret Ivory's brief and this was ignored, notice at the bottom it says Robert Brozenick.m4a, this was the audio attachment of the hearing with Brandon Ball that was withheld from the record, these commonwealth persons were aware this hearing took place as Shelly Rohrer from the commonwealth was there and it was recorded by Robert Disney from the Allegheny county public defenders office, while all attorneys except for Mr. Disney, and trial court judge were aware of it remember on the previous page the trial court judge Kevin Sasinoski gave Mr. Brozenick's attorney from June to September 2017, to retrieve it.

The Pennsylvania unified court records for the Commonwealth v Brozenick Docket number CP-02-CR-0002351-2017 shows on page 5 that Shelly K. Rohrer was the commonwealth attorney and she was aware this hearing was being recorded and the commonwealth's discovery was their own documentation, so they had to know it existed.

Richard Lorenz from the commonwealth attorney also knew this and at a sidebar when the trial court asked him " There were no statements made?" and Mr. Lorenz never revealed there were, he also stated " two of the remaining three were present today", you see Mr. Lorenz was aware Brandon Ball was missing then as he failed to show up under subpoena, and in violation to Brady v Maryland 373 U.S. 83(1963), the commonwealth attorney failed to inform the trial court and jury that 1. There were statements made 2. That there was prior testimony of Brandon Ball 3. He failed to inform the jury that Brandon Ball failed to show and that he was lodged in a drug rehab. 4. He didn't even inform Mr. Brozenick till the day after of Ball's absence.

This also violated the 6th amendment as to allow the jury to hear ALL material facts and witnesses involved in this case.

Concerning Commonwealth v Lawson 519 Pa.504,549, A.2d 107 (1988), there was a definite miscarriage of justice with all the misconduct that took place with all the material facts that were withheld by the commonwealth, defense counsel, and trial judge all acting as advocates for the commonwealth, violating Mr. Brozenick's 5th amendment to due process 6th amendment for a fair trial, and allowing all material facts and witnesses to be questioned by competent counsel and jury, Title 18 U.S.C. Section 242 Deprivation of Rights when all the attorneys for both sides and trial judge were bias against him acting as advocates for the Commonwealth of Pennsylvania.

The trial court judge amended opinion which was completed 1YEAR after 7 delinquent appeals court requests and the administrative judge in Allegheny county forced the trial courts Amended Opinion,

Appendix G pg 7 of his opinion he states Mr. Ball would appear to be cumulative in nature this is SPECULATION on his part as he didn't seem to think so when he allowed from June to September of 2017, for Mr. Brozenick to retrieve the recording.

This SPECULATION was just another form of advocacy in favor of the Commonwealth for in a fair hearing we cannot speculate what a witness might say, especially when the prior testimony sheds doubt on that speculation.

On May 18,2021, in the morning session the Supreme court of Pennsylvania held a hearing on video for all to see where they discussed this case and the trial court allowing for the re-opening of the record. Justice Dougherty in his reply to Margeret Ivory (commonwealth) stated one he didn't understand why defense counsel Tehovnik, requested an acquittal outside of the presence of the jury, and upon viewing the record felt the trial court judge acted as more of an advocate for the commonwealth and felt Margeret Ivory was somehow mischaracterizing the record as she stated the commonwealth attorney was leaning toward reopening without the trial court suggesting this. Justice Donahue asked " What was the miscarriage of justice the trial court was reffering to?"Till this date this miscarriage of justice is unknowned and he doesn't state this in his court trial opinion except to state caselaw of Commonwealth v Baldwin, 58 A.3d 754 (Pa.2012) .

NOTE: The material facts that were hidden were NOT mentioned by Defense attorney Brandon Ging, and the Supreme court of Pa., was not aware of this and still a Supreme court justice thought the trial court acted as an advocate and the REAL miscarriage of justice was the material facts that were hidden and remain hidden from these courts.

The trial court judge violated Mr. Brozenick under Title 18 U.S.C. Section 242 when he acted as advocate for the commonwealth as stated by Justice Dougherty, and when he speculated a witnesses testimony and refused to have him brought to court as he deprived Mr. Brozenick a fair trial and he should have recused himself for Mr. Brozenick's PCRA since his advocacy was mentioned in the petition and the fact his daughter Megan Sasinoski Pa. Id. #318970 works for the District Attorneys office that prosecuted this case.

Judge Sasinoski dismissed this PCRA petition claiming after thorough review of the record (appendix G page 1) and NOT *Maleng v Cook* 490 U.S. 488 (1989), even though this PCRA application was filed after the supposed completion of the sentence.

As long as these proceedings were kept within the state where the pubic defenders could continue acting as advocates, and the trial judge could act as an advocate, would these proceedings be allowed to continue, and only when Mr. Brozenick had taken over his case without counsel, and file with the Western District of Pennsylvania did all of a sudden the commonwealth make claims of the completion of his sentence even though there is nothing on the Pa. Docket report that reflects this (Docket # CP-02-CR-0002351-2017).

There were conditions to be met with this sentence that were NOT met and after the administrative judge forced the trial court judge to finish his trial court opinion did the probations office Lisa Almo on 8/14/2019, 12 days after the trial court was forced to complete his opinion did this take place where Lisa Almo threaten a warrant of arrest on Mr. Brozenick who is disabled, Lisa Almo informed Mr. Brozenick that his probation officer Nichole Petito was fired and that he had 5 probation violations filed against him and that a violation hearing would follow which did on 9/24/2019 conducted by the trial courts Michael McGeever, and without an attorney present he was given 180 days to compete this sentence which did NOT occur.

2:22-cv-01583-CRE BROZENICK v. COMMONWEALTH OF PENNSYLVANIA

**COURT OF COMMON PLEAS OF ALLEGHENY COUNTY
FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
ALLEGHENY COUNTY ADULT PROBATION**

MANOR BUILDING - 564 FORBES AVENUE, SUITE 1212
PITTSBURGH, PENNSYLVANIA 15219
(412) 350-2320 FAX (412) 350-6025

Frank Scherer
Director

Alan Pelton
Deputy Director

8/14/2019

Robert Brozenick
604 6TH AVE
CARNEGIE, PA 15106

Re: INITIAL INTERVIEW

Date: 08/28/2019

Time: 11:15

Dear Mr. Brozenick:

Your initial interview is scheduled for Wednesday, 8/28/2019, at 11:15. At that time you will be assessed and may be placed on a level of supervision that will not require monthly face-to-face contact with your probation officer.

Failure to attend your initial interview will lessen your chances of being placed on a reduced level of supervision and continued neglect will result in a violation hearing and/or issuance of a warrant for your arrest.

The interview and enrollment process will take no longer than an hour and a half (1 1/2) and will be held at the following location:

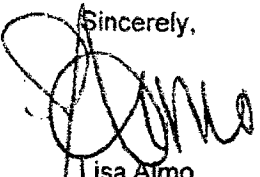
Adult Probation Office

2320 Arlinton Avenue
Pittsburgh, PA 15210
(412) 431-1014

To ensure that your time and the time of others is not wasted, please arrive ten (10) minutes prior to your scheduled interview so that the session can begin promptly.

Please bring this letter with you to the interview.

Sincerely,


Lisa Almo
Probation Officer

*- Failure to report will result in a
warrant*

- Please call completed date 8/14/19

REASONS FOR GRANTING THE PETITION

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2:22-cv-01583-CRE BROZENICK V. COMMONWEALTH OF PENNSYLVANIA

Robert Brozenick

HEARING DATE: 09/24/2019

CC# CC201702351

OTN# G 764411-4

ASSIGNED JUDGE: KEVIN G SASINOSKI

☒ Probable cause has been established that the offender has violated his/her probation/parole/IP. ☐ Probable cause has NOT been established that the offender has violated his/her probation/parole/IP.

☒ A Gagnon II violation hearing shall be scheduled with the assigned judge as follows: ☐ ASAP. ☒ Within 30 days
☐ at the discretion of the assigned probation officer. ☐ Upon disposition of pending charges.

In regard to the probation detainer that has been lodged against the offender:

- ☐ Transfer detainer to alternative housing if offender is eligible.
- ☐ Remain detained pending the Gagnon II violation hearing. ☐ and participate in the reentry program if eligible.
- ☐ Referred to the Drug and Alcohol Diversion Program. PO shall email the CLU to seek judicial approval.
- ☐ Lift Detainer ☐ Upon verification of residence by Probation Officer.
- ☐ Lift Detainer to JRS upon acceptance into the Mental Health Diversion Program.

☐ The offender shall be placed on electronic monitoring. Lift detainer to a representative from EM only. ☐ Offender shall pay past due EM fees of \$ prior to release from the Allegheny County Jail.

☐ Upon release, offender shall ☐ report to his/her probation officer ☐ call his/her probation officer:

☐ Offender shall comply with the following:

- ☐ Pay restitution ☐ at a minimum rate of \$ per month.
- ☒ Pay court costs, fines, or supervision fees at a minimum rate of \$ per month.
- ☐ Complete ☐ Drug/Alcohol assessment. ☐ Mental Health assessment; and/or treatment as ordered by the Court.
- ☐ Report as directed to the probation office. First report date on
- ☐ Complete DUI requirements: ☐ JCRN ☐ JD/A Evaluation & comply with recommendations
- ☐ Successfully complete alcohol highway safety school ☐ Pay fines, court costs and supervision fees.
- ☐ Report as instructed by the assigned PO to DRC/CRC for purpose of: ☐ drug/alcohol screening ☐ job search
- ☐ cognitive behavioral therapy (new mind, new me program) ☐ drug/alcohol evaluation ☐ BIP

☒ Other: Start & cont w/ pmts

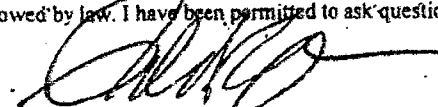
☐ Offender failed to appear. Unless a valid reason exists for missing this hearing, PO to issue warrant.

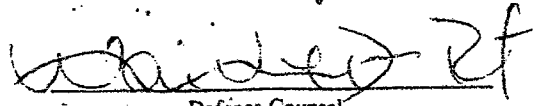
☐ If pending charges are ☐ dismissed and/or ☐ or ☐ reduced to summary level offenses, PO shall seek detainer lift through CLU.

☒ Other: Community services - complete & show proof

I understand that if the judge assigned to my case finds that I am in violation of my probation/parole/IP, that I could face incarceration up to the statutory maximum and/or the balance of the maximum term allowed by law. I have been permitted to ask questions and present facts in my defense regarding the alleged violation.

R. Brozenick
Offender


Hearing Officer


Defense Counsel

9-24-19
Date

REASONS FOR GRANTING THE PETITION

Page 15

As shown on page 13, Lisa Almo, from the Allegheny county adult probations office contacted Mr. Brozenick and threatened him with arrest if he didn't complete his terms of probation, in an attempt to complete this sentence which was required the 40 hours community service and fines. 5 violations occurred according to Lisa Almo, and on page 14, is the copy of the hearing for these vioations, and Michael McGeever recommended the fines be paid and the community service be completed by March 20, 2020, and to show proof.

Mr. Brozenick states under the penalty of perjury that these items were NEVER completed and felt the Western district federal court was in error for not requiring the Commonwealth of Pennsylvania to prove these conditions were met instead of faulting Mr. Brozenick who has no counsel, from compaining about the grounds of his complaints.

Mr. Brozenick DID supply page 13, and 14 from this document and without counsel, he misunderstood the courts "Jurisdiction" to mean " state or federal", he also requested the commonwealth to prove the completion of this sentence for there is nothing in the states documents and docket to prove this sentence which had CONDITIONS, with vioations that were not met.

If these conditions were not met how could this sentence be complete, and if the sentence was considered complete, why is there no record of this?

Why was a Writ of Certiorari allowed to be filed? This happened after the June 28, 2020, supposed completion. Why did a May 18, 2021, morning hearing take place with the Supreme court of Pennsylvania? Why didn't Magaret Ivory claim the sentence was complete? Why did the Trial court judge and the Commonwealth object to PCRA if the sentence was complete? Remember the documentation shows this would have been after June 28, 2020.

Just like there is no explanation for a Miscarriage of Justice in the trial court allowing the commonwealth to re-open at trial, there is no explantion or PROOF of completion of sentence.

REASONS FOR GRANTING THE PETITION

Page 16



POLICE CRIMINAL COMPLAINT

Docket Number:	Date Filed:	CrimLiveScan Number G 784411-4	Complaint/Incident Number 2016-11804
Defendant Name	First ROBERT	Middle PAUL	Last BROZENICK

The acts committed by the accused are described below with each Act of Assembly or statute allegedly violated, if appropriate. When there is more than one offense, each offense should be numbered chronologically. (Set forth a brief summary of the facts sufficient to advise the defendant of the nature of the offense(s) charged. Addition to the statute(s) allegedly violated, without more, is not sufficient. In a summary case, you must cite the specific section(s) and subsection(s) of the statute(s) or ordinance(s) allegedly violated. The age of the victim at the time of the offense may be included if known. In addition, social security numbers and financial information (e.g. PAN) should not be listed. If the identity of an account must be established, list only the last four digits. 204 PA Code §§213.1 - 213.7.)

Indicate Offense	<input type="checkbox"/> Attempt 18501 A	<input type="checkbox"/> Solicitation 18502 A	<input type="checkbox"/> Conspiracy 18503						
X	1	2706	A1	of the	18	1	M1		
Lead?	Offense	Section	Subsection		PA Statute Title	Courts	Grade	NAC Offense Code	LOPINS Code
Permit/DOT Data (if applicable)	Accident Number				<input type="checkbox"/> Safety Zone		<input type="checkbox"/> Work Zone		
Statute Description/Acts of the accused associated with this Offense:									
<p><u>18 2706A1 TERRORISTIC THREATS M1 1 COUNT</u></p> <p>The actor communicated a threat, either directly or indirectly, to commit a crime of violence with the intent to terrorize Trey Gieg, in violation of Section 18 Pa.C.S. §2706(a)(1).</p>									

Ex 7

Notice above that originally Mr. Brozenick was charged with only 1 count of Terroristic Threats, why was this? This is an example of many inappropriate violations with this case. The original complaint was only for Trey Gieg, why didn't it include the others? Mr. Brozenick states under the penalty of perjury, that Steven Tehovnik tried to intimidate him into pleading these charges and was later threatened by Andrew Capone, the lead counsel, that this was not meant to go his way. They knew early on what was going to happen, either plead or else. Mr. Brozenick's statements have been consistent while the so called victims jury testimony greatly varies from their SWORN affidavit signed by Trey Gieg and Officer David Gittings. Mr. Brozenick denies as he did on the stand that he ever admitted he didn't feel threatened as he sworn he saw the 18 year old driver reach under the seat for what he believed to be a weapon and was bullied by prosecutor Richard Lorenz that he overreacted and that he got his drug training from tv's CSI, which Mr. Brozenick to this date has never viewed this. The documentation that was withheld would have disputed all of this and these charges and the trial court would not allow the jury to be instructed to Stand Your Ground laws in Pa.

The facts proven and backed up by hidden documentation show that, there were violations to the conditions of Mr. Brozenick's sentence that were NOT met and NO documentation that Mr. Brozenick ever completed these conditions so the sentence would NOT be complete and *Maleng v Cook* 490 U.S. 488 (1989), would not apply and the Commonwealth of Pennsylvania should have to PROVE these conditions were met and if not Habeas Corpus should continue for if this Honorable court ignores these DOCUMENTED material facts this Allegheny county CLICK will continue this Un-Constitutional type of actions and caselaws like *Maryland v Brady* 373 U.S. 83 (1963), will be ignored and other courts and tyrannical officials will continue this behavior in disrespect to amendments to the U.S. Constitution and caselaws set by this Honorable court.

1. As stated on page 16, this started out as 1 count of Terroristic Threats and grew to 5 counts and 5 counts of Simple assault by menace M2.
2. Only after it appeared Mr. Brozenick wasn't going to plead did Officer David Gittings take pictures of the scene in September 15, 2017, 9 months later nor did he ever interview Emmanuel Azzaletto who was the persons the so called victims were going to visit. He did interview Elliot Azzaletto who stated his mother did not permit Trey Gieg and the others to be there and this was withheld in discovery from the jury in this case by insufficient counsel and the commonwealth.
3. David Gittings did not search the car or under Trey Gieg's seat and any suggestion to any things in the car are speculative.
4. Mr. Brozenick denies he provoked anything or knock on the rear passenger window with the firearm, even Justina Wegley claimed Mr. Brozenick was having a conversation with her through the closed window so WHY would he have to knock on the window to get her attention if Wegley claims he was already having a conversation with her.

REASONS FOR GRANTING THE PETITION

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Facts: 5. Trey Gieg states on the stand in front of a jury that Mr. Brozenick was so out of control, while claiming a different account on his SWORN affidavit statement hidden from the jury (See statement of the case page 1). No verbal threat was made and Mr. Brozenick only accused them of using drugs and that he was calling the police.

6. Mr. Brozenick only brandished the firearm after he accused them of using drugs and Trey Gieg said, "Whats your problem." and reached under the seat for which Mr. Brozenick truly believed Trey was reaching for a weapon for which he pulled his firearm out, but did not fire because Trey pulled his hand out and did not have a weapon for which Mr. Brozenick then demanded they leave and that he was calling the police which he did while the persons in the car did not, and had a jury heard Brandon Ball's preliminary hearing testimony they would have learned that Ball, Gieg, and the others chose to have their friend Elliott Azzaletto confront Mr. Brozenick instead of the poice and actually tried to stop Mr. Brozenick from calling the police.

7. Mr. Brozenick had believed Gieg and the others were doing drug sales in front of his house, as they were there multiple times that day, Brandon Ball admitted they were there more than once that day, Mr. Brozenick contends it was 3 or more.

8. Pennsylvania Stand Your Ground states 1. You must be in a place your authorized to be 2. You must be permitted to legally own and posses a firearm. 3. You cannot be in a commission of committing a crime. 4. You can not intentionally provoke the incident 5. You must retreat, unless you feel you can not safely do so, and or if you reasonably believe your in danger of harm, up to death. Mr. Brozenick felt he waked in on a drug deal and when Gieg reached under the seat, Mr. Brozenick reasonably believed Gieg was reaching for a weapon. The incident occurred so fast Mr. Brozenick didn't have time to properly access the incident and Pa. law does allow these errors as long as you reasonably believed you were in danger.

REASONS FOR GRANTING THE PETITION

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The trial court judge would not allow for the jury to be instructed on stand your ground and (See Appendix G page 6) he said " It appeared to be a confusing stream of consciousness unsupported by any statute or caselaw", when in fact it's Pennsylvania stand your ground law the trial court judge doesn't agree with. How can a jury actually access what is law if they are not properly instructed, for they are civilians and may not be aware of self defense laws regarding firearms.

Mr. Brozenick was attempting to work on his vehicle that day, and needed access to the trunk only to be blocked by Gieg's vehicle, and wasn't even aware there were that many persons in the car, when he noticed drug use. His story has been consistent while the persons in the car had greatly varied. Justina Wegley admitted they were already having a conversation, so why would he have to knock on the window (Which Mr. Brozenick denies) provoking them. If anything the persons in the car were provoking Mr. Brozenick using drugs in front of his home not the other way around, and Emmanuel Azzaletto's mother did not allow them in the house and if anything they were maintaining a disordily drug using scene in front of Mr. Brozenick's home.

The Carnegie Police never interviewed Emmnuel Azzaletto and Mr. Brozenick swears that Emmanuel was the 6th person in the vehicle that exited when Mr. Brozenick went into the house to grab his cell phone and call the police he saw Emmanuel exit the car and speculates he had the drugs, and as stated the police never interviewed him, even though Gieg, Ball, and the others stated they were at that location and Emmanuel was waiting for them.

Mr. Brozenick also states that he was NOT even aware at that time that some of the persons in the car were minors, and only was told this by Shawn Seaman of the Carnegie, Police. The Commonwealth and trial court judge has tried to convince everyone that Mr. Brozenick wasn't reasonable, when in fact he was not aware of persons in the car being minors.

Carnegie Police Department

Incident Report

Supplemental

Reported by:		Reported on:	Last updated on:
David	Gittings	12/22/2016	12/22/2016 7:12:33PM
Reviewed by:		Date Reviewed	
Jeffrey	Kennedy		

- 1) On Thursday, December 22, 2016, at approximately 1447 hours, Carnegie Police were dispatched to 604 6th Avenue in regard to an initial complaint of drug activity.

The Complainant/Suspect, Robert Brozenick, advised dispatch that he had confronted a group of individuals parked in front of his residence, 604 6th Avenue, that he believed were using drugs. Brozenick did advise dispatch that he had a concealed carry permit and he had threatened the group with his firearm.

Upon arriving on scene I, Officer Gittings, went to [REDACTED] to speak with the group of victims. Sgt Seaman and Officer Cogar went to 604 to speak with Brozenick. There was a total of five individuals in the vehicle that had been parked in front of Brozenick's home. The vehicle occupants were:

Driver : Trey Gieg 18 yoa Vehicle: Honda Civic [REDACTED]
Right rear passenger: Justina Wegley [REDACTED]
Front passenger: Emmy Todd [REDACTED]
Middle rear passenger: Sadie Todd [REDACTED]
Left rear passenger: Brandon Ball [REDACTED]

I spoke with Wegley first. She stated that they were sitting in Gieg's vehicle, in front of the suspect's residence, waiting to go to [REDACTED] and visit their friend, Emanuel Azzaletto. While waiting, they were passing an e cigarette smoking device. The suspect walked up to the rear right passenger window, which was facing 604. The suspect tapped on the window with the front of a pistol, then pointed the gun at the occupants of the vehicle. The suspect accused them of using drugs and he was going to call the police. The suspect then placed the pistol in a holster and went in his residence.

I spoke with the remaining four occupants of the vehicle who confirmed the information provided by Wegley. Brandon Ball, the left rear passenger, described the pistol as having a wooden handle and it was black on the top.

I also spoke with Elliott Azzaletto, older brother of Emanuel. He confirmed that his brother was friends with the five individuals and that they were waiting up the street because his mother did not want people in the house. The group was waiting for his mother to leave for work and then they were going to come down to the house.

← Ex 5

The suspect, Brozenick, admitted to Sgt Seaman and Officer Cogar that he had pointed his pistol at the individuals in the vehicle. He further stated that he thought they were using drugs in the car and that he felt threatened. Officers did not observe any evidence that would suggest that the subjects had used any controlled substances prior to our arrival. See Sgt Seaman's Supplement for further details regarding Brozenick's statements and his version of events.

I later contacted the following parents/guardians of the above listed juvenile victims and advised them of the incident:

Date/Time Report Entered
12/22/2016 4:21:25PM

Date/Time Report Last Updated
12/22/2016 7:12:33PM

Report Print Date
12/22/2016

Page 6 of 8

See Ex 5 concerning interview with Elliott Azzaletto admitting they weren't permitted there.

As shown on prior page 20 Ex 5 the police interviewed Elliott Azzalotto, who stated the mother did not want people in the house. This was in discovery also and was hidden.

NOTE: Notice the police didn't even interview Emanuel, and he was not there because he exited the vehicle, and left the scene. As stated earlier David Gittings didn't even take pictures of the scene till September 15, 2017, a 9 months later.

This was the kind of police work that led to the miscarriage of justice that followed.

If this court would for a second set aside Mr. Brozenick's self defense claim and directly review the 5 counts of Terroristic Threats M1, if the material facts that were hidden were released what was the threat? The affidavit signed by Trey Gieg, and David Gittings shows Mr. Brozenick stated he was accuses them of using drugs and he was caing the police.

No threat was made, and nor were the individuals in the car threatened as they didn't even call the police, Mr. Brozenick did.

As far as Simple Assault by Menace M2, Mr. Brozenick brandished a firearm when he felt the driver was reaching for what he TRULY believed was a weapon, and denies ever knocking on the window, and on the stand Wegley was instructed 2 times to speak up when it came to knocking on the window with the gun, she just mumbled. Earlier in the same testimony Wegley admitted Mr. Brozenick was saying something to her, so why would he have to knock on the window if he already had he attention.

If Mr. Brozenick's insufficient counsel in violation to the 6th amendment, Commonwealth v Lawson 519, Pa. 504,549,A.2d 107 (1988), and Strickland v Washington 466 U.S. 688 (1984), would have confronted Wegley, and the others with the hidden material facts this case would have without a doubt be reaching the Supreme Court of the U.S.A. .

At a sidebar out of the presence of the jury the trial court was going to grant an acquittal then as an advocate for the commonwealth allows them to reopen unjustly.

DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state or local officials within the their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prison guards and other law enforcement officials, judges, care providers in public health facilities, and others who are acting as public officials. It is necessary that the crime be motivated by animus toward his race, color, religion, sex, and age, marital status or national origin of the victim.

The offense is punishable by a range of imprisonment up to a life term or the death penalty, depending upon the circumstances of the crime - and the resulting injury, if any.

TITLE 18, U.S.C. SECTION 242

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

Title 18 U.S.C. Section 242 : Deprivation Of Rights makes it criminal to deprive any U.S. citizen of his/her rights under the Constitution of the United States of America, and Mr. Brozenick is accusing his attorneys from the Allegheny County public defenders office and with documentation can prove that he tried in good faith to have this material facts to his case released. Also as a deprivation when the trial court acted as an advocate to the Commonwealth of Pennsylvania allowing the commonwealth to reopen while never stating the Miscarriage of Justice to this date.

As on the previous page 22, Mr. Brozenick in good faith tried to contact the D.A. office and on page 9 of granting this petition you can view his e-mail to Michael Streily who also refused to stop this miscarriage of justice in deprivation of Mr. Brozenick as did Richard Lorenz of the commonwealth who violated him Maryland v Brady 373 U.S. 83(1963), when Mr. Lorenz in prosecutorial misconduct failed to inform the jury in this case of prior statements and that prior testimony had taken place concerning Brandon Ball and that he (Ball) failed to show up under subpoena and that he was lodged in a drug rehabilitation center, all relevant to this case. The trial court judge participated in hiding this from the jury.

The 5th amendment due process was also violated in fairness to Mr. Brozenick, as was the 6th amendment concerning sufficient counsel and denying the right to examine and for the jury to examine material facts and witnesses concerning Brandon Ball, and Discovery that did meet discovery rules that was hidden from the jury and the court record.

Regarding Maleng v Cook 490 U.S. 488 (1989), Mr. Brozenick in good faith provided documentation to challenge the Commonwealth's claims that this sentence was complete when certain conditions to his sentence were not met, and there is no public record or docket to show completion while Mr. Brozenick has provided documentation that these violations existed and the commonwealth has not provided any documentation that these conditions were ever met and Mr. Brozenick is requesting to prevent a further miscarriage of justice that they prove completion and that the conditions were completed.

Mr. Brozenick also requests that considering Title 18 U.S.C. Section 242 Deprivation of rights and considering that this is a crime as stated that they not allow the commonwealth of Pennsylvania the right to use this caselaw Maleng v Cook 490 U.S. 488 (1989), in disrespect of this courts ruling, to assist in covering up a crime of Deprivation of Rights, and to stop this criminal misconduct from happening to any other U.S. citizen.

In conclusion, Mr. Brozenick has done everything to put forward and bring out the truth with Material Fact long before any conclusion of any sentence which in itself can be disputed, while the Trial court as stated acted as an advocate throughout trial and in appeals taking 1 year trying to quickly as possible to exhaust this sentence till being forced to submit his Court Trial Opinion, while the Public Defenders office also acts as an advocate assisting the Commonwealth of Pennsylvania in hiding Material fact in Mr. Brozenick's favor, while a Supreme Court of Pennsylvania filing and hearing take place, a PCRA petition takes place, all without one claim of *Maleng V Cook* 490 U.S. 488(1989) till Mr. Brozenick moved this to a federal level, where the Allegheny County clerk could no longer assist in advocacy for the commonwealth and resort to using a Supreme Court case in disrespect to the Supreme Court to assist in their advocacy creating an actual real Miscarriage of Justice in an attempt to continue to keep an innocent person to remain convicted to cover up their crime and escape any liability or blame.

Appendix I Pages 1-12 is a copy of the Preliminary hearing on 2/23/2017, that was withheld at trial and through all appeals and was transcribed from an audio recording of that hearing and Public Defender Steven Tehovnik had this transcribed then withhold it, along with Discovery, (See Statement of The case page 1), (Page 20 Granting the Petition), (Page 16 Granting the Petition), claiming juries don't usually view what is MATERIAL FACT.

There is a Supreme Court of Pennsylvania hearing that can be viewed by this court that took place May 18, 2021 Morning session on Youtube where several justices were questioning the Trial court judges actions, Justice Dougherty even stating the Trial court judge acted more as an advocate for the commonwealth than the Commonwealth's own attorney, while another Justice Donahue questioned " What was the miscarriage of justice the trial court was referring to" all without even being aware of all the hidden Material Facts criminally withheld.

Mr. Brozenick originally wanted to file the text in Appendix I Pages 1-12 in the original audio and the Supreme Court of Pennsylvania video, but unfortunately this Honorable court respectfully will not accept digital recordings so he can only supply the text and a link to the video and if requested will supply either upon request.

This is a complex case thanks to the fraud and advocacy by the Allegheny Click involved in this case, and Mr. Brozenick is requesting this honorable court accept his case for review in order to prevent a TRUE Miscarriage of Justice where so much Constitutional error and Deprivation of Rights has occurred leaving an innocent person and citizen of the Commonwealth of Pennsylvania in the United States to remain unjustly convicted.

If this behavior of Clicks of Advocacy in Allegheny County, Pennsylvania are allowed to you will without a doubt see mre cases like this that will effect others wh believe there was such a thing as justice based on LAW.

Respectfully, God is watching and Mr. Brozenick and others lives are depending on this Honorable Supreme Court of the United States of America. Thank -you.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Robert Paul Brogenius

Date: 12/31/2023