

No. _____

24-6079

ORIGINAL

FILED

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**OFFICE OF THE CLERK
SUPREME COURT, U.S.**

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2024

LANCE HULLUM — PETITIONER
(Your Name)

vs.

MASSACHUSETTS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

MASSACHUSETTS SUPREME JUDICIAL COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MR. LANCE HULLUM
(Your Name)

[#] 26 Long pond Rd.
(Address)

plymouth mass. 02360
(City, State, Zip Code)

(617) 696-1687
(Phone Number)

[#] 1

QUESTION(S) PRESENTED

whether the Jury's verdict that the Commonwealth Failed to prove beyond a reasonable doubt that petitioner was armed with a dangerous weapon, then Found petitioner guilty of assault offense precludes a retrial **on weapon**, a critical issue of ultimate Fact in all of the remaining charges duplicative against petitioner?

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:

Superior court Justice MR Gress J. pasquale; single Justice wendlant; chief Justice Budd of the supreme judicial court.

RELATED CASES

McElrath Vs. Georgia, [#]144 S.Ct. [#]651 (2024)

Evans Vs. Michigan [#]133 S.Ct. [#]1069 (2013).

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CASES

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STATUTES AND RULES

<u>United states Supreme court Rule 16(1)</u>	# 11, 12
<u>United states Supreme court Rule 10(c)</u>	# 6, 12

OTHER

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 None; 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☐ is unpublished.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 None; 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☐ is unpublished.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 to the petition and is

☐ reported at None; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the single Justice court appears at Appendix B to the petition and is

☐ reported at None; 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 10/2/2024.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: Attorney never filed one, and a copy of the order denying rehearing appears at Appendix None.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including None (date) on None (date) in Application No. ____ A None.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. Amend. [#]5, No person shall be subject
For the same offense, to be twice put in jeopardy
life or limb;

U.S. Const. Amend. [#]14, No state shall deprive
any person of life, liberty, or property, without
due process of Law; nor deny to any person
within its jurisdiction the equal protection
of the Laws.

STATEMENT OF THE CASE

ON July 19, 2019, the plymouth county Jury reached a verdict of two seperate acquittals on alleged victims Richard saunders and Raym — and Girard on armed assault with intent to murder after petitioner was forced to trial without counsel.

The trial Judge instructed the Jury, see (R.A. #53) if they did not believe the commonwealth prove beyond a reasonable doubt that petitioner was armed with a dangerous weapon, they shall find petitioner guilty of the lesser offense of assault see (R.A. #53) (Tr.p. 109 ln. 1-12),

The Jury Found petitioner guilty of the lesser included offense of assault. The said weapon, an unseen sharp object is a ultimate fact in every charge, and essential to the prosecution to prove its case, without said unseen weapon the evidence is insufficient for the commonwealth to prove its case.

The same Jury based on Jury instructions by the trial Judge found the petitioner guilty of armed assault to main and armed assault by means of a dangerous weapon, a inconsistent verdict that was vacated see (R.A. — #28), Commonwealth Vs. Hullum, 100 Mass. App. Ct. 112 (2022), Simpson Vs. Florida, #403 U.S. #384 (1971) (the issue of whether defendant was a robber had already been decided at a previous trial, and therefore could not be re-litigated).

In the petitioner's 2022, appeal, the A.D.A. miss. Johanna Black in her brief and at oral arguments conceded charges was duplicative and should be dismissed, at the superior court level on remand, a different A.D.A. Samantha M. Mullins brought the charges back at the behest of the Department of corrections officers union in retaliation for petitioners grievances filed on them for patterns of discriminatory treatment on Black & Brown inmate, a adverse action for exercising a protected conduct First Amendment Right...

REASONS FOR GRANTING THE PETITION

A. conflicts with Decisions of other courts. The holding of other courts below that collateral estoppel barred retrial based on previous determination by a jury trial, see State Vs. Safrut, 551 S.E.2d[#] 516 (N.C. Ct. App. 2001) (holding: later trial on same charge involving different primary offense is barred by preclusion); people Vs. Joon Ho chin, 186 Misc.2d[#] 454 (N.Y. Sup. 2000), (holding: barring state by collateral estoppel from introducing evidence of physical force during rape retrial).

In Massachusetts Commonwealth Vs Dorazio, 47 Mass.[#] 535 (2015) (holding: commonwealth collaterally estopped from introducing acquittal evidence in rape retrial).

B. conflicts with Decisions of the United States Supreme Court Law of the Land.

IN Evan Vs. Michigan [#] 133 S.Ct. [#] 1069 (2013) (holding: Double Jeopardy barred retrial of the accused where acquittal rested on erroneous verdict held on particular item to be element of offense).

IN Smith Vs. Massachusetts, [#] 12 S.Ct. [#] 1129 (2005) (holding midtrial acquittal barred retrial on said offense)

IN McElrath Vs. Georgia, [#] 601 U.S. [#] 87 (2024) (holding: Verdict of not guilty by reason of insanity on malice-murder charge was an acquittal for purpose of the Double Jeopardy clause which barred retrial of defendant on that charge).

C. Importance of the Question presented:

This case presents a Fundamental Question of the interpretation of this Court's decision in Evan Vs. Michigan, [#]133 S.Ct. [#]1069 (2013) (holding: Double Jeopardy barred retrial of accused after allegedly, erroneously, verdict held on particular item to be element of offense).

The question presented is of great public importance because petitioner like so many other defendant in all Fifty states receives a not guilty on a weapon offense but is still put to a retrial on the same weapon offense instead of the courts instead of the lower courts declaring the acquittal renders insufficient evidence for the prosecution to prove the remaining charges that relied on the weapon offense see U.S. Vs. Randolph, [#]794 F.3d [#]602-[#]611-[#]612 (6th cir. 2015) (conviction for drug conspiracy estopped from

Retrial because inconsistent verdict of acquittal rendered government unable to prove essential offense), U.S. Vs. Fernandez, [#]722 F.3d [#]1 (1st cir. 2013 (same), cert. granted by United States Vs. Bravo-Fernandez, 137 S.Ct. 352 (2016), on remand United States Vs. Fernandez, 2019 U.S. App. LEXIS [#]1566 (1st cir. 2019) (required finding of not guilty entered where government unable to prove its case due to previous acquittals on inconsistent verdicts).

The question presented is also of great public importance because in McElrath Vs. Georgia [#]601 U.S. [#]87 (2024) (ruling: a verdict of acquittal is a bar to a subsequent prosecution for the same offense despite an inconsistent verdict).

This holding: a unanimous decision is the Law of the Land stare decisis which

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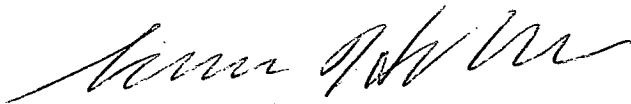
or Laws of any state to the contrary notwithstanding. In the case at bar, the S.J.C. in Massachusetts didn't even acknowledge McElrath's application to petitioner's inconsistent verdicts decision see (R.A. - [#]1), which they (S.J.C.) are bound to do under stare decisis doctrine.

This disregard of equal application of the existing Laws is an ongoing pattern in Black & Brown defendants and the poor in the Federal and state criminal Justice system. This court should grant a writ of certiorari with a court appointed effective counsel OR a summary disposition reverse and remand to the lower courts with instructions to bar usage of the weapon in petitioner's case at a retrial under Supreme Court Rule [#]16 [#](1). (petitioner's right

to request summary disposition
of a petition for a writ of certiorari
on the merits.

CONCLUSION

The petition for a writ of certiorari should be granted.



Respectfully submitted,

Lance Hullum

Date: 10/29/2024