

24-6561

No. _____

ORIGINAL

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In The
Supreme Court Of The United States

Tonia Scott

- Petitioner.

v.

Commonwealth Of Pennsylvania, et al. - Respondents

On Petition For A Writ Of Certiorari To
United States Court Of Appeal For The Third Circuit

Tonia Scott

SCI Muncy

6454 Route 405

Muncy, PA 17756

ID# OPE 6818

RECEIVED

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SUPREME COURT, U.S.

A.

Questions Presented

1. Is it not a violation of Art 3/2, cl 3 AND the 6th Amendment of the Federal Constitution, to try, convict AND sentence a defendant/ Petitioner for an "Alleged" crime that "never" occurred in the state or district of the "Alleged" State offenses, in which she was tried, convicted AND sentenced? AND does not these constitutional violations WARRANT Petitioner a certificate of appealability/writ of certiorari for review of her "Petition for a Writ of Habeas Corpus," due to a "fundamental miscarriage of justice"?
2. Why should Petitioner be imprisoned for 44-94 years in a Pennsylvania State Prison, based upon a conviction AND sentence for "Alleged" crimes that are not in the language of the Pennsylvania Crime Codes OR the Pennsylvania Rules of Criminal Procedures OR the Pennsylvania Rules of Civil Procedures because the Pennsylvania Assembly "never" legislated for assumption by State of Criminal AND/OR civil jurisdiction of the Saw Creek AND Pine Ridge Indian Communities Reservation (tribal lands) AND/OR conduct by the SCPRIC Tribal members on the SCPRIC Reservation (A Federally recognized Indian Tribe); AS well AS the SCPRIC Tribal members "never" had a special election for assumption by the Commonwealth of Pennsylvania for criminal AND/OR civil jurisdiction of the SCPRIC Reservation AND/OR conduct by the SCPRIC Tribal members on the SCPRIC Reservation, AS required in 25 USC §§ 1321, 1322, 1324 AND 1326?
3. How CAN Petitioner be required to "Exhaust State remedies," when there are none (28 USC) 2254(b)(1)(B) AND according to the Penns-

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YHVNIA Constitution, Art 5 (10CC), "All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution...," AS such, does not the PENNSYLVANIA Constitution conflict with the U.S. Constitution's right to "liberty" AND "Due Process of Law" of the 5th AND 14th Amendments? AND does such conflict WARRANT Petitioner "Exceptional Circumstances" to justify habeas corpus relief, in the absence of exhaustion?

4. Does Petitioner have grounds to excuse her procedural defaults, due to the "Cause AND Prejudice" Doctrine, relating to the Trial judge having a financial interest in Petitioner's conviction (which is a 14th Amendment violation) OR has Petitioner's matter been exhausted by the Commonwealth of Pennsylvania, when the Pennsylvania Governor's Office of the General Counsel provided a "legal NO ACTION" letter to the SCPRIC Tribal Government, which was determined AS A "final adjudication" that is subject to judicial review, in accordance to 2 PA. CON. STAT. 161?

B.

List of Parties

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:

The Petitioner Tonia Scott is a State Court prisoner, currently serving a sentence of 44-94 years of imprisonment in the custody of the Respondent Superintendent Wendy Nicholas of SCI Muncy, located at 6454 Route 405, Muncy, PA 17756.

The Petitioner was convicted and sentenced for "Alleged" conduct on the Saw Creek and Pine Ridge Indian Communities Reservation based upon the accusation instruments (informations) by the Respondent Pike County District Attorney Raymond Tonkin, located at 506 Broad Street, Milford, PA 18337.

Respondent Tonkin's actions are at the service of his supervisor, the Pennsylvania Chief of Law Enforcement, Respondent Attorney General Michelle Henry, located at 14th Floor, Strawberry Square, Harrisburg, PA 17120.

C. Related Proceedings

I. United States Court of Appeals for the Third Circuit

Scott v. Commonwealth of Pennsylvania, et. Al., No. 24-1465,
denied June 25, 2024.

Scott v. Commonwealth of Pennsylvania, et. Al., No. 24-1465,
denied September 27, 2024

II. United States District Court for the Middle District of Pennsylvania

Scott v. Commonwealth of Pennsylvania, et. Al., No. 24-CV-0041,
denied February 29, 2024

Scott v. Commonwealth of Pennsylvania, et Al., NO. 22-CV-1451,
denied October 13, 2022

Scott v. Commonwealth of Pennsylvania, et. Al., No. 20-CV-0828,
denied October 21, 2020

Scott v. Commonwealth of Pennsylvania, et Al., NO. 20-CV-2067,
denied November 25, 2020

III. Supreme Court of Pennsylvania

Commonwealth v. Scott, T, NO. 57 MM 2023, denied September 5, 2023

Commonwealth v. Scott, T, NO. 80 MAP 2023, transferred, September 3, 2023

Commonwealth v. Scott, T, NO. 31 MM 2022, denied August 8, 2022

IV. Superior Court of Pennsylvania

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Appendix D: Respondent Raymond J. Tonkin's tacit admission reply to Petitioner's "Application to Expedite Application to Set Bail AND/OR Application for Writ of Habeas Corpus AND Release of Tribal Personal Property," June 27, 2022, Commonwealth v. Scott, T, Supreme Court of Pennsylvania, No. 31 MM 2022.

Appendix E: Supreme Court of Pennsylvania order demanding that Respondent Raymond J. Tonkin reply to Petitioner's pleadings of, "Application for Extraordinary Relief" AND "Application to Expedite," May 16, 2023, Commonwealth v. Scott, T, Supreme Court of Pennsylvania, No. 57 MM 2023.

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Petitioner Tonia Scott, respectfully prays that a Writ of Certiorari issue to review the judgment below. Based upon Petitioner's dire need of the Court's appellate jurisdiction, due to exceptional circumstances, which warrant the exercise of the Court's discretionary powers and that adequate relief cannot be obtained in any other form or from any other Court.

E. OPINIONS

Petitioner is presently incarcerated, as such, Petitioner is unaware and it is unknown, if any Court opinions were published or reported, relating to:
 Scott v. Commonwealth of Pennsylvania, et al., NO. 24-1465, United States Court of Appeals for the Third Circuit, Judgment entered September 27, 2024;
 Scott v. Commonwealth of Pennsylvania, et al., NO. 24CV0041, United States District Court for the Middle District of Pennsylvania, Judgment entered February 29, 2024.

F. Jurisdiction

The date on which the United States Court of Appeals decided my case was September 27, 2024.

An extension of time to file the petition for a writ of certiorari was granted to and including February 24, 2025 on December 20, 2024 in Application No. 24.A619.

The jurisdiction of this Court is invoked under 28 USC § 1254(1).

G. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I. CONSTITUTIONAL PROVISIONS INVOLVED

ART. I (8, cl. 3), "The Congress shall have power to... regulate Commerce... with the Indian Tribes."

ART. 3 (2, cl. 3), "The Trial of All Crimes... Such Trial shall be held in the State where the said Crimes shall have been committed, but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed."

ART. 6 (2), "This Constitution, AND the Laws of the United States which shall be made in Pursuance thereof... shall be the Supreme Law of the Land."

4th Amendment, "The right of the people to be secured in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated."

6th Amendment, "In All Criminal prosecutions, the Accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the Crime shall have been committed... AND to have the Assistance of Counsel for his defence."

5th Amendment, "No person shall be... deprived of life, liberty or property without due process of law."

10th Amendment, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

14th Amendment, "No State shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law."

II Federal Statutes Involved

25 USC § 177, The Indian Non-intercourse Act, protects Indian tribes, in their rightful occupancy of their lands. The Act states in relevant part:

"No purchase, grant, lease or other conveyance of lands, or any title or claim thereto from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the United States Constitution."

Pub. L. No. 103-457, 103 (3), 108 Stat. 4791; Cohen's Handbook of Federal Indian Law 3.024 at 143 (2005 ed.); 25 C.F.R. Part 83 (2005); 25 USC § 479a-1 (2001); 25 USC § 2, 9 (2001), "The Federally Recognized Indian Tribe List Act of 1994, which formally established... An Indian group may become Federally recognized... by decision of a United States Court."

28 USC § 2254(b)(1)(B), "An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State Court shall not be granted unless it appears that (i) there is an absence of available State

Corrective process; or (ii) circumstances exist that render such process ineffective to protect the rights of the Applicant."

25 USC § 1041 (a), "Restricted lands," defined as "Any land the title to which is held in the name of an Indian or Indian Tribe subject to restriction by United States against alienation."

18 USC §§ 1154 AND 1156 defines Indian Country as an Indian Title,

25 USC § 3651 (2), "Indian Tribes are sovereign entities and are responsible for exercising government authority over Indian lands."

25 USC § 271.4; 5 USC § 3017.4; R.S. 4637.4, "State and Local Regulation of the Use of Indian Property," (a) "...None of the laws, ordinances, codes, resolutions, rules or other regulations of any state or political subdivision thereof limiting, zoning or otherwise governing, regulating, or controlling the use or development of any real or personal property, including water rights, shall be applicable to any such property leased from or held or used under agreement with and belonging to any Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States."

25 USC § 1321; Civil Rights Act of 1968, Sec 401, "Assumption By State of Criminal Jurisdiction" (a) Consent of United States - (1) In General - The consent of the United States is hereby given to any state not having jurisdiction over criminal offenses committed by or against Indians in the

AREAS of INDIAN Country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian Country or part thereof which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian Country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, AND the criminal laws of such State shall have the same force and effect within such Indian Country or part thereof as they have elsewhere within that State.

25 USC 1322; Civil Rights Act of 1968, Sec 402, "Assumption By State of Civil Jurisdiction," (d) The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian Country situated within such State to assume, with the consent of the tribe occupying the particular Indian Country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian Country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, AND those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian Country or part thereof as they have elsewhere within that State.

25 USC 1324; Civil Rights Act of 1968, Sec 404, "Consent to Amend State Laws," Notwithstanding the provisions of any enabling Act for the admission

of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State Constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the provisions of this title. The provisions of this title shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State Constitution or statutes, as the case may be.

25 USC 1326; Civil Rights Act of 1968, Sec 406, "Special Election", State jurisdiction acquired pursuant to this title with respect to criminal offenses or civil causes of action, or with respect to both, shall be applicable in Indian country only where the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

III. State Statutes Involved

PA R. Civ. P. 133, 42 PA. C.S. 1722(a)(1); Art. 5 10(c) of the Pennsylvania Constitution; AND Section 1722(a)(1) of the Judicial Code, "Rules Inconsistent with Laws", "All laws shall be suspended to the extent that they are inconsistent with rules prescribed under the Constitution of 1968".

PA. R. Civ. P. 13D, "Rules in Derogation of Common Law", The principle that laws in derogation of the common law are to be strictly construed, shall have NO application to the rules promulgated by the Supreme Court.

PA. R. Cr. P. 56D, "Information: Filing, Contents, Function"

(B) The information shall be signed by the attorney for the Commonwealth and shall be valid and sufficient in law if it contains:

(4) the County where the offense is alleged to have been committed;

(5) A plain and concise statement of the essential elements of the offense substantially the same as or cognate to the offense alleged in the complaint.

(D) In all court cases tried on an information, the issues at trial shall be defined by such information.

234 PA. Code 600(CB), PA. R. Cr. P. 60D, "A defendant is eligible for immediate release from prison after 180 days in custody without a trial".

71 PA. C.S. 732-301, "The General Counsel serves as the legal advisor to the Governor".

18 PA. C.S. 102, "Territorial Applicability"

2 PA. C.S. 101, "Adjudication", any final order, decree, decision, determination or ruling by an agency affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made.

H.

Statement Of The Case

ON November 18, 2019, Seven (7) Saw Creek AND Pine Ridge INDIAN communities Tribal Officials (Principal Chief Tonika Scott, Deputy Chief Keebra Scott HARRIS, Chief of Tribal Law Enforcement Adam Rakin AND his four (4) deputies (Musa Rakin, Troy Sutton, Sushane Heylinger AND Se Kon Abdullah)) were arrested by the Pennsylvania State Police, Blooming Grove Barrack, AND charged with trespassing AND various other PENNSYLVANIA State offenses for "alleges" conduct that occurred on the SEPRIC Reservation.

"The only bar to State jurisdiction over INDIANS AND INDIAN Affairs is the presence of INDIAN Country." See *Mescalero Apache Tribe v. Jones*, 411 US 145, 148-149, 93 S. Ct. 1267, 36 L. Ed. 2d 114 (1973). "State Courts generally have NO jurisdiction to try INDIANS for conduct committed in INDIAN Country." See *Negonsott v. Samuels*, 507 US 99, 102-103 (1993).

The Seven (7) Tribal Officials, including Petitioner were legally AND lawfully ejecting A Non-INDIAN trespasser From the Pike County Office of Land Records recording of the INDIAN Title of Pine Ridge (Instrument No. 2017.00001002), IN ACCORDANCE to the doctrine of the "Duro Fix".

IN *Duro v. Reina*, 495 US 676 (1990), the Supreme Court held that "INDIAN Tribes possess their traditional AND undisputed power to exclude persons who they deem to be undesirable From INDIAN Lands... INDIAN Enforcement Authorities have the power if necessary, to eject them".

The Tribal Officials, including Petitioner were charged with Pennsylvania offenses for "Alleged" conduct on Tribal lands, which is contrary to 25 USC 3651(c), 25 USC 1041(a), 18 USC 1154 AND 1156 AND 25 USC 2114.

Yet, on September 26, 2019, two (2) months prior to the ejectment, Principal Chief Tonita Scott (Petitioner) contacted the Pennsylvania State Police, Blooming Grove Barrack requesting assistance in the ejectment of a few Non-Indian trespassers from the SCPRIC Reservation (as directed to her by the Department of Justice, Tribal Justice Counselor Bob Bullock). In a reply letter, dated October 9, 2019, pertaining to the ejectment, as addressed to Principal Chief Tonita Scott (of the) Snow Creek and Pine Ridge Indian Communities, she was informed that "After careful review, it does not appear to be a matter in which our Agency can become involved," signed by Assistant Counsel, John J. Hermant from the Pennsylvania Governor's Office of the General Counsel. Afterwards, P.C. Tonita Scott contacted Mr. Bullock again and he directed P.C. Tonita Scott to proceed in ejecting the Non-Indian trespassers from the SCPRIC Reservation. Because of the John J. Hermant letter, in which all (10) Tribal officials, including Petitioner viewed and later agreed that without the assistance from the PSP, the ejectment must be executed.

In Blue Jacket v. Com'rs of Johnson Co., 18 L. Ed. 667, 5 Wall. 737 (1867), "If the tribal organization... is preserved intact, and recognized by the political department of the government as existing, then they are a people distinct from others, ... separated from the jurisdiction of [the State], and to be governed exclusively by the government of the Union." Id at 755, 18 L. Ed. 667.

Furthermore, there were/ARE NO CONTRACTS between the Commonwealth of Pennsylvania AND the SEPRIC Tribal Government, AS IS required for "Assumption by State of civil AND/OR criminal jurisdiction (25 USC) 1321 AND/OR 25 USC 1322." Absent compliance with 25 USC 1322(a), State Courts CAN exercise neither civil NOR criminal jurisdiction over Indian Country Indians". See McManahan v. ARIZONA State Tax Comm'n, 411 US 164, 93 S. Ct. 1257, 36 L. Ed. 2d 129 (1973).

Therefore, Petitioner's Pennsylvania (State) charges relating to "Alleged" conduct on the SEPRIC Reservation is AN "ERROR IN STATE LAW". IN addition, there were NO special elections "from the SEPRIC Tribal members consenting to State Court jurisdiction, as required in 25 USC 1321b." [The tribal consent that is prerequisite to the assumption of state jurisdiction... must be manifested by majority vote of the enrolled Indians within the affected area of Indian Country". See Kennerly v. Dist Ct. of Mont., 400 US 423, 429, 91 S. Ct. 480, 27 L. Ed. 2d 507 (1971) (per curiam).

"The 1968 legislation provides that [States that have not yet] extended ... jurisdiction to Indian Country can make future extensions only with the consent of the tribes affected". See Washington v. Confederated Bands & Tribes of Yakima Indian Nation, 439 US 463, 493 n.40, 99 S. Ct. 740, 58 L. Ed. 2d 740 (1979). IN COHEN'S HANDBOOK OF FEDERAL INDIAN LAW 7.03(1) (a)(i) (2019), The Court also has held that state jurisdiction is preempted by federal legislation prescribing ways for states to obtain jurisdiction over aspects of Indian Country".

There is "A governing Act of Congress," whose procedures had not been followed by the Commonwealth of Pennsylvania, relating to charging Petitioner for "Alleged" conduct on the SEPRIC Reservation, by way of Respondent Pike County District Attorney Raymond Tonkin AND his supervisor, Respondent Pennsylvania Attorney General Michelle Henry.

"The Scheme of Federal Regulation is so pervasive as to make reasonable the inference that the Congress left NO room for the States to supplement it..." "The Federal Statutes touch A field, in which the Federal interest is so dominant that the Federal System must be assumed to preclude enforcement of State laws..." "the broad treatment of any subject within the Federal power bars supplemental action by States." See Pennsylvania v. Nelson, 350 US 497 (1956).

When Respondent Tonkin charged Petitioner (who is a SEPRIC Tribal member and official) with Pennsylvania offenses for "Alleged" conduct on the SEPRIC Reservation, he failed to consider the "Infringement Barrier" Doctrine. Moreover, the Pennsylvania penal code charges pertaining to Petitioner is contrary to the "Infringement Barrier" Doctrine. The United States Supreme Court has referred to the infringement barrier as one of two "independent but related barriers to the assertion of state regulatory authority over tribal reservations," the other being federal preemption, either of which "standing alone can be a sufficient basis for holding state law inapplicable to activity undertaken on the reservation or by tribal members." See White Mountain Apache Tribe v. Bracker, 448 US 136, 142-43, 100 S. Ct 2578, 65 L Ed 2d 665 (1980).

(2)

The SCPRIC was a federally recognized Indian tribe before the commencement of Petitioner's trial on May 15-19, 2023. The SCPRIC became a federally recognized Indian tribe by United States District Judge George B. Daniels in pursuant to the Federally Recognized Indian Tribe List Act of 1994, which provides that Indian tribes may be recognized by a "decision of a United States Court," in accordance to Pub. L. No. 103-454, 103(3), 108 Stat. 4791. See *Sunter v. Jessica Keith, et. Al*, No. 21 CV 3723, United States District Court for the Southern District of New York. Judgment entered February 17, 2022.

As such, Petitioner's arrest, conviction and sentencing is a "clear indication of contrary legislative intent." See *Missouri v. Hunter*, 459 U.S. 359, 367, 103 S. Ct. 673, 74 L. Ed. 2d 535 (1983).

Respondent Raymond Tonkin (by way as Pike County District Attorney) and his supervisor Respondent Michelle Henry (by way as the Pennsylvania Attorney General) denied Petitioner's conviction relating to the SCPRIC's Tribal Sovereignty and Tribal Immunity. Petitioner could not retain her own assistance of counsel to defend against the state's charges because 122 attorneys, law firms and legal organizations refused due to the fact that there were/are no statutes in the Pennsylvania Crime Codes pertaining to the SCPRIC Reservation and/or conduct by the Tribal members relating to their Tribal lands. Because such/these statutes were never legislated by the Pennsylvania Assembly, as required in 25 USC § 1324.

During Petitioner's trial on May 15-19, 2023, she could not present one (1)

exhibit to defend against the Commonwealth's Allegations. Petitioner was retrained by the Trial (President) Judge Gregory H. Chelak of the Common Court of Pleas of Pike County. As such vital evidence was suppressed, manipulated and fabricated by the prosecution (BRADY violations) under duress, Petitioner was extorted by the Trial (President) Judge Chelak from presenting to the jury letters of the SEPRIC Tribal Government's Acknowledgements from: the Supreme Court of New York; the Pennsylvania Attorney General Office; the Pennsylvania Governor's Office of the General Counsel; the Pennsylvania State Police, Department Headquarters; the United States District Court for the Southern District of New York (Federal recognition) AND validation of the location of the SEPRIC Reservation, located in Bushkill, PA by the Common Court of Pleas of Lehigh County (Lehigh County is located (2) counties west of Pike County). See Commonwealth v. Scott, No. MD.369/2019, Common Court of Pleas of Lehigh County. Judgment entered February 12, 2020.

In Brady v. Maryland, 373 US 83, 87, 83 S. Ct. 1194, 1196-1197, 10 L. Ed. 2d. 215, 218 (1963), "Holding that the suppression of evidence by the prosecution denies Petitioner due process."

Prosecutorial AND judicial misconduct was orchestrated against Petitioner with a motive. Vital evidence was suppressed from the jury by the prosecution AND the Trial Judge Gregory Chelak because before Petitioner's trial began on May 15, 2023, Judge Chelak "appeared" to "null and void" the Indian Titles of Saw Creek (Instrument No. 201600008297) AND Pine Ridge (Instrument No. 201700001002), in

H1

the Pike County Office of Land Records and fraudulently convey the SCPRIC Reservation into his name, his wife Stacy B. Chelak, his friends and other family members names, which is contrary to 25 USC 177 (The Indian Non-intercourse Act).

On June 27, 2023, Judge Chelak sentenced Petitioner to 44-94 years of incarceration at SCI Muncy, located at 6454 Route 405, Muncy, PA 17756, in the illegal custody of Respondent Superintendent Wendy Nicholas. Because Judge Chelak has a financial interest in Petitioner's conviction. See *Scott v. Commonwealth of Pennsylvania et al*, No. 24-1465 United States Court of Appeals for the Third Circuit Judgment entered September 27, 2024.

Court Conviction

Petitioner was convicted on May 19, 2023 and sentenced on June 27, 2023, in the Common Court of Pleas of Pike County, presided by Trial Judge Gregory H. Chelak for the below:

A. At docket CP-52-CR-0000096-2020, defendant trespass

B. At docket CP-52-CR-0000687-2019: count 1, terrorism, count 2, criminal conspiracy to commit terrorism, count 3, kidnapping, count 4, kidnapping, count 5, criminal conspiracy to commit kidnapping, count 6, false imprisonment, count 7, unlawful restraint, count 8, robbery, count 9, robbery, count 10, robbery, count 11, robbery, count 12, robbery, count 13, robbery, count 14, robbery, count 15, robbery of a motor vehicle, count 16, robbery of a motor vehicle, count 17, criminal conspiracy to commit robbery, count 18, theft by unlawful taking or disposition, count 19, criminal attempt

to commit theft by unlawful taking; count 20, criminal conspiracy to commit theft by unlawful taking; count 21, burglary; count 22, criminal conspiracy to commit burglary; count 23, criminal trespass; count 24, criminal mischief; count 25, terroristic threats; count 26, terroristic threats; count 27, terroristic threats; count 28, aggravated assault; count 29, simple assault; count 30, simple assault; count 31, simple assault; count 32, recklessly endangering another person; count 33, recklessly endangering another person.

"Courts which are created by written law AND whose jurisdiction is defined by written law CANNOT transcend that jurisdiction." See Ex parte Bollman AND Ex parte Swartwout, 8 US 4 Cranch 75, 75, 93 (1807), 28 US Code § 2071-10a.

Evidently, the prosecution (by way of Respondent Tonkin) had forgotten Petitioner's SEPRIC Tribal status AND that the Commonwealth had charged Petitioner with State offenses (Absence legislation from the Pennsylvania Assembly) on Tribal land, without jurisdiction. Respondent Tonkin's obvious disregard to prior filings in the Superior Court of Pennsylvania, the Supreme Court of Pennsylvania AND the United States District Court for the Middle District of Pennsylvania, in which he was a party to ALL of Petitioner's filings, relating to the matter of jurisdiction, Tribal Sovereignty of the SEPRIC, the territorial Sovereignty of the SEPRIC Reservation AND Petitioner's Tribal immunity status. All became apparent during Petitioner's trial, in the Common Court of Pleas of Pike County, on May 15, 2023.

Prior to Petitioner's trial, she was incarcerated at the Pike County Correctional Facility, located at 175 Pike County Blvd, Lords Valley, PA 18428, in the illegal custody of Warden Craig Lowe, for 1,316 days before her sentence. Petitioner never expressed AND/OR implied to the Common Court of Pleas of Pike County that she wanted a trial continuance.

Petitioner has ALWAYS expressed AND implied in all her filings that the Commonwealth of Pennsylvania lacked subject matter AND personal jurisdiction to the SCPRI Reservation AND to the conduct by the SCPRI tribal members on the SCPRI Reservation, such as herself. As well as, there were/ARE NO laws AND/OR statutes, in which were legislated by the Pennsylvania Assembly relating to the SCPRI Reservation AND/OR conduct by the SCPRI tribal members on the SCPRI Reservation. Moreover, in all Petitioner's filings in the Superior Court of Pennsylvania, the Supreme Court of Pennsylvania, the United States District Court for the Middle District of Pennsylvania AND the United States Court of Appeals for the Third Circuit, Respondent Tonkin never disputed, defend or plead against Petitioner's allegations. Furthermore, Respondent Tonkin never discussed the availability of state remedies/relief to any of Petitioner's pleadings, even in the Common Court of Pleas of Pike County. And as expected, all the Pennsylvania (state) AND lower federal courts denied Petitioner's request for a "writ of habeas corpus", as Petitioner plead to each court for relief because each court "has decided an important question of federal law that has not been, but should be, settled by this court". See Sup. Ct. Rule 10(c).

Court Filings

I. Superior Court of Pennsylvania

Commonwealth v. Scott, T, No. 107 EDM 2021, denied relief for Petitioner's "Application to Expedite Application to Set Bail AND/OR Application for Writ of Habeas Corpus AND Release of Tribal Personal Property," on December 20, 2021.

Commonwealth v. Scott, T, No. 2462 EDA 2023, denied relief for Petitioner's "Petition to Appeal Conviction Due to Technical AND Constitutional Errors with a Writ of Coram Nobis AND Writ of Habeas Corpus," on October 27, 2023 (Case was transferred from Supreme Court of Pennsylvania, No. 80 MAP 2023).

II. Supreme Court of Pennsylvania

Commonwealth v. Scott, T, No. 31 MM 2022, denied relief for Petitioner's "Application to Expedite Application to Set Bail AND/OR Application for Writ of Habeas Corpus AND Release of Tribal Personal Property," on August 8, 2022.

Commonwealth v. Scott, T, No. 80 MAP 2023, denied relief for Petitioner's "Petition to Appeal Conviction Due to Technical AND Constitutional Errors with a Writ of Coram Nobis AND Writ of Habeas Corpus," on September 3, 2023. (Case was transferred to the Superior Court of Pennsylvania, No. 2462 EDA 2023).

Commonwealth v. Scott, T, No. 57 MM 2023, denied relief for Petitioner's "Application for Extraordinary Relief," on September 5, 2023.

III. United States District Court for the Middle District of Pennsylvania
Scott v. Commonwealth of Pennsylvania, et al, No. 20 CV 2067, denied relief
 for Petitioner's "Petition for Writ of Habeas Corpus, 28 USC 2241," on
 November 25, 2020.

Scott v. Commonwealth of Pennsylvania, et al, No. 20 CV 828, denied relief
 for Petitioner's "42 USC 1983 Filing," on October 21, 2020.

Scott v. Commonwealth of Pennsylvania, et al, No. 22 CV 1451, denied relief
 for Petitioner's "Petition for Writ of Habeas Corpus, 28 USC 2241," on October
 13, 2022.

Scott v. Commonwealth of Pennsylvania, et al, No. 24 CV 0041, denied relief for
 Petitioner's "Petition for Writ of Habeas Corpus, 28 USC 2254," on February 29, 2024.

Certificate of Appealability

Petitioner is appealing her judgments from the United States District Court
 for the Middle District of Pennsylvania and the United States Court of Appeals
 for the Third Circuit, in which Petitioner's initial "Petition for Writ of Habeas
 Corpus," after her conviction and sentence was denied by the United States
 District Court for the Middle District of Pennsylvania, along with a certificate
 of appealability. Afterwards, Petitioner plead for a certificate of appealability to
 the United States Court of Appeals for the Third Circuit and was denied relief.
 As well, Petitioner's record is as follows:

A. The United States District Court for the Middle District of Pennsylvania

ORDER FROM UNITED STATES DISTRICT JUDGE CHRISTOPHER C. CONNER STATED, "THE PETITION FOR WRIT OF HABEAS CORPUS IS DISMISSED WITHOUT PREJUDICE FOR FAILURE TO EXHAUST STATE COURT REMEDIES" AND "A CERTIFICATE OF APPEALABILITY WILL NOT BE ISSUED BECAUSE JURISTS OF REASON WOULD NOT DEBATE THE CORRECTNESS OF THIS PROCEDURAL RULING." SEE SLACK V. MC DANIEL, 529 US 473, 484 (2000). SEE SCOTT V. COMMONWEALTH OF PENNSYLVANIA, ET AL, NO. 24CV0041, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA. JUDGMENT ENTERED FEBRUARY 29, 2024.

B. WHEN PETITIONER PETITIONED FOR A CERTIFICATE OF APPEALABILITY, THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT, CIRCUIT JUDGES KRAUSE, FREEMAN AND SCIRICA ORDER COMMENTED, "THE APPLICATION FOR A CERTIFICATE OF APPEALABILITY IS DENIED. APPELLANT HAS NOT MADE A 'SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT'." 28 USC § 2253(C)(2). REASONABLE JURISTS COULD NOT DEBATE THE ACCURACY OF THE DISTRICT COURT'S CONCLUSION REGARDING APPELLANT'S FAILURE TO EXHAUST HER STATE COURT REMEDIES." SEE MILLER-EL V. COCKRELL, 537 US 322, 336 (2003) (QUOTING SLACK V. MC DANIEL, 529 US 473, 484 (2000)). SEE SCOTT V. COMMONWEALTH OF PENNSYLVANIA, ET AL, NO. 24-1465, UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT. JUDGMENT ENTERED JUNE 25, 2024.

C. AFTER PETITIONER WAS DENIED A CERTIFICATE OF APPEALABILITY, SHE PETITIONED THE COURT FOR A REHEARING. THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT, CHIEF JUDGE CHAGARES, CIRCUIT JUDGES JORDAN, HARDIMAN, SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES, CHUNG AND SCIRICA ORDER INDICATED "THE PETITION

for Rehearing by the panel AND the Court en banc is denied". See *Scott v. Commonwealth of Pennsylvania, et al*, No. 24-1465, United States Court of Appeals for the Third Circuit. Judgment entered September 27, 2024.

Tacit Admissions

A. IN Petitioner's 42 USC (1983) Filing, Filed on September 3, 2020, in the United States District Court for the Middle District of Pennsylvania, Petitioner's Common Court of Pleas of Pike County Court Appointed Attorney, Robert Reno, Esq. provided a letter, dated March 6, 2020 to the Common Court of Pleas of Pike County, which stated (pg 2, # 6), "Consequently, relying on my review of the Petition itself (from Tonia Scott), the case law contained therein, AND leading cases on Tribal Sovereignty AND Tribal Court jurisdiction, I have determined that I cannot adopt the motion as submitted". As such, Robert Reno's submitted letter is further proof that the Commonwealth of Pennsylvania's laws AND/OR statutes ARE Absent remedies to Petitioner's matter, for her to obtain relief. See *Scott v. Commonwealth of Pennsylvania, et al*, No. 20CV0828, United States District Court for the Middle District of Pennsylvania. Judgment entered October 21, 2020.

B. IN Petitioner's Filing for an "Application to Expedite Application to Set Bail AND/OR Application for Writ of Habeas Corpus AND Release of Tribal Personal Property", the Supreme Court of Pennsylvania, on June 24, 2022, ORDERED Respondent Tonkin to ANSWER Petitioner's Allegations of lack of jurisdiction, Absence of State laws AND/OR statutes, relating to Petitioner.

Speedy trial violations AND etc. ON June 27, 2022, Respondent Tonkin replied, "Please be advised that the Commonwealth of Pennsylvania will not be filing an Answer to the Appellant/Petitioner's Application to Expedite Application to Set Bail AND/OR Application for Writ of Habeas Corpus AND Release of Tribal Personal Property in the Above matter" See Commonwealth v. Scott, T, No. 31 MM 2022, Supreme Court of Pennsylvania. Judgment entered August 8, 2022. See Appendix C AND Appendix D.

C. IN Petitioner's filing for an "Application to Set Bail AND/OR Application for Writ of Habeas Corpus", the Supreme Court of Pennsylvania, on May 4, 2022, ORDERED Respondent Tonkin to answer Petitioner's allegations of lack of jurisdiction, absence of state laws AND/OR statutes relating to Petitioner, Speedy trial violations AND etc. ON May 5, 2022, Respondent Tonkin replied, "Please be advised that the Commonwealth of Pennsylvania will not be filing an Answer to the Appellant/Petitioner's Application to Set Bail AND/OR Application for Writ of Habeas Corpus in the Above matter." See Commonwealth v. Scott, T, No. 31 MM 2022, Supreme Court of Pennsylvania. Judgment entered August 8, 2022. See Appendix A AND Appendix B.

D. IN Petitioner's filing for an "Application for Extraordinary Relief", the Supreme Court of Pennsylvania, on May 16, 2023, ORDERED Respondent Tonkin to answer Petitioner's allegations of lack of jurisdiction, absence of state laws AND/OR statutes relating to Petitioner, Speedy trial violations AND etc. ON May 17, 2023, Respondent

Tonkin replied, "Please be advised that the Commonwealth of Pennsylvania will not be filing an answer to the Petitioner's Application for Extraordinary Relief AND Application to Expedite". See Scott v. Commonwealth of Pennsylvania, et al, No. 24CV0041, United States District Court for the Middle District of Pennsylvania. Judgment entered February 29, 2024, Commonwealth v. Scott, T., No. 57 NM 2023, Supreme Court of Pennsylvania. Judgment entered September 5, 2023. See Appendix E AND Appendix F.

Respondent Tonkin's three (3) separate filings of tacit admissions to Petitioner's three (3) separate pleadings were by way of his failure to address the availability of state relief, which may have been due to the fact that the state did not answer the question because there are "NO" remedies for Petitioner's legal matter. Each time Petitioner was denied relief by the Supreme Court of Pennsylvania, which only confirms the Commonwealth's absence of an available remedy at the state's highest court. "A party's failure to respond to a statement made by another, under circumstances in which a denial would be expected, is traditionally admissible in court as a tacit admission". See Wigmore, Evidence Sec 1071 (Chadbourne Rev. 1972).

I. REASONS FOR GRANTING THE PETITION

This case provides the Court with an exceptionally important opportunity to set precedent, thus in an effort to prevent future American Indian Tribes, in the Commonwealth of Pennsylvania, from experiencing the oppression from the Commonwealth actors that Petitioner's tribe, the Saw Creek and Pine Ridge Indian Communities are enduring, due to the Courts of the Commonwealth not implementing Federal law, in relations to Indian Tribes. Currently, the SEPRIC is the first Commonwealth of Pennsylvania (State) and Federally recognized American Indian Tribe, since William Penn and the Delaware Indians of 1682. As such, there are NO Pennsylvania laws and/or statutes which have been legislated relating to Indians by the Pennsylvania Assembly, including the SEPRIC Tribal Government. Therefore, Petitioner pleads to the Court to provide precedent with Petitioner's matter as a guide for the Commonwealth of Pennsylvania to enforce Federal law to/for future American Indian Tribes in the Commonwealth of Pennsylvania's regional courts.

"Special and important reasons" which would justify grant of writ of certiorari by Supreme Court under predecessor to Rule 10 implied a problem beyond academic or episodic; this was especially true where issue involved reached constitutional dimensions, for then there came into play regard for Court's duty to avoid decision of constitutional issues unless avoidance became evasion." See Rice v. Sioux City Memorial Park Cemetery, Inc., 349 U.S. 70, 75 S.Ct. 614, 99 L.Ed. 897, 1955 U.S. LEXIS 863 (1955).

On Monday, September 17, 1787, the signers of the United States Constitution provided Art. I § 8, cl 3, the "Indian Commerce Clause," which gave Congress

plenary power to regulate AND legislate INDIAN AFFAIRS; AND ART. I is expressly disclaimed ANY reservation of that power to the States. Yet, the Commonwealth of PENNSYLVANIA signers: BEN FRANKLIN, THOMAS MIFFLIN, ROBT. MORRIS, GEO. CLYMER, THOS. FITZSIMONS, JARED INGERSOLL, JAMES WILSON AND GOV. MORRIS "NEVER" implemented AN ALTERNATIVE application relating to INDIAN AFFAIRS, NOT IN THE FEDERAL CONSTITUTION NOR IN THE PENNSYLVANIA CONSTITUTION; AS SUCH, ANY AND ALL FEDERAL CONSTITUTIONAL INFRINGEMENTS committed by the COMMONWEALTH ACTORS, RESPONDENTS TONKIN, HENRY AND NICHOLAS AGAINST PETITIONER ARE illegal, unlawful AND CONTRARY to this nation's highest laws of the UNITED STATES CONSTITUTION, AS illustrated in the "Supremacy Clause," (ART. 6[2]).

AS STATED IN DENNIS V. HIGGINS, 498 U.S. 439 (1991): "The Supremacy Clause... is 'NOT A SOURCE OF ANY FEDERAL RIGHTS'; rather, it 'SECURE[S]' FEDERAL RIGHTS by ACCORDING THEM PRIORITY whenever they come in conflict with state law." (citing CHAPMAN V. HOUSTON WELFARE RIGHTS ORG., 441 U.S. 600, 617 (1979), Id. 441 U.S. at 613.

"... Held that the question of the Constitutionality of said laws is good ground for the issue by this Court of a writ of habeas corpus to inquire into the legality of the imprisonment under such conviction, AND, if the laws ARE determined to be unconstitutional the prisoner should be discharged". See Ex parte Siebold, 100 U.S. 371 (1879). "AN UNCONSTITUTIONAL LAW IS VOID, AND IS AS NO LAW. AN OFFENCE created by it is NOT A crime. A conviction under it is NOT merely erroneous, but is illegal AND VOID, AND CANNOT be A legal cause of imprisonment". See 100 U.S. at 376.

Petitioner request to the Court for a writ of certiorari, in an effort to obtain a certificate of appealability because there can be "NO" appeal without it, for Petitioner's "Petition for Writ of Habeas Corpus", to be reviewed. Petitioner affirms that she is illegally and unlawfully (falsely) imprisoned at SCI Muncy to serve a duration of 44-94 years of incarceration from an order that came from the Common Court of Pleas of Pike County. This order was made by a court without personal and/or subject matter jurisdiction, relating to Petitioner (who is a SCPRIC tribal member and official) and/or conduct by Petitioner on the SCPRIC Reservation (tribal lands).

"If the acts and orders are unconstitutional, they are not laws of the State". See Pointexter v. Greenham, 114 U.S. 288, 29 L.Ed. 192, 5 Sup. Ct. Rep. 903, 962.

"There can be no ministerial duty or discretionary power to enforce a law which does not exist." See Osborn v. Bank of United States, 9 Wheat, 738, 6 L.Ed. 204; New Orleans v. Paine, 147 U.S. 261, 37 L.Ed. 162, 13 Sup. Ct. Rep. 303; Dobbins v. Los Angeles, 195 U.S. 223, 49 L.Ed. 169, 25 Sup. Ct. Rep. 181. "Void judgments are those rendered by a court which lacked jurisdiction, either of the subject matter or the parties." See Milken v. Meyer, 311 U.S. 457, 61 S. Ct. 339, 85 L.Ed. 2d. 278 (1940).

Petitioner's informations, in which she was convicted and sentenced upon, indicated that the "Alleged" offenses occurred in Pine Ridge. Yet Pine Ridge is Indian titled and recorded in the Pike County Office of Land Records as apart of the Indian Reservation, known as the SCPRIC Reservation (Pine Ridge's instrument No 201700001002 and Saw Creek's instrument No. 201600008297). The SCPRIC Tribal Government "never" contracted with the

Commonwealth of Pennsylvania for assumption of criminal and/or civil jurisdiction of the SEPRIC Reservation AND/OR conduct by the SEPRIC Tribal members on the SEPRIC Reservation, in accordance to 25 USC § 1321 AND 1322. Neither has there ever been a "special election," by the SEPRIC Tribal members for the Commonwealth of Pennsylvania to obtain civil AND/OR criminal jurisdiction of the SEPRIC Reservation AND/OR conduct by the SEPRIC Tribal members on the SEPRIC Reservation, in pursuant to 25 USC § 1326.

Furthermore, according to the laws of Pennsylvania's P.A.R.C.P. 560 (B) AND (D), technically, Petitioner was "never" convicted because her informations that were used at her trial to convict Petitioner were invalid. Due to the fact that the location listed on her informations, relating to Petitioner's "Alleged" offenses were not in Pike County's (the Commonwealth of Pennsylvania's) jurisdiction. Moreover, the "Alleged" offenses/counts (on Petitioner's informations) are defective in the language of the Pennsylvania Crime Codes because absent in the description of each Pennsylvania Crime Code is a statute for assumption of state jurisdiction, pertaining to criminal AND/OR civil offenses, relating to the SEPRIC tribal members' conduct on the SEPRIC Reservation, as required in 25 USC § 1324. As such, Petitioner's conviction is a violation of Art. 3 § 2, cl 3 AND the 6th Amendment of the Federal Constitution.

In Ex parte Young, 209 U.S. 123, 150, 159, 28 S. Ct. 441, 52 L. Ed. 714 (1908), "Ex parte Royall, 117 U.S. 241, 29 L. Ed. 868, 6 Sup. Ct. Rep. 734 AND other cases, that affirm the authority of a Federal court, under existing statutes, to discharge upon habeas corpus, from the custody of a State officer,

one who is held in violation of the Federal Constitution for an alleged crime against a State... If he is, then the State Officer holding him in custody is a trespasser..." Id. at 209 U.S. 198-199.

Petitioner is entitled to relief because the Commonwealth violated Constitutional rights guaranteed to Petitioner

Petitioner's Pennsylvania conviction AND sentence is contrary to AND/OR involved an unreasonable application of clearly established provisions of the Federal Constitution. Petitioner's rights, which are guaranteed by the Federal Constitution were breached by the Commonwealth's actors, Respondent Raymond Tonkin, Respondent Michelle Henry AND Respondent Wendy Nicholas, based upon the following:

4th Amendment, On November 18, 2019, the Pennsylvania State Police trespassed on the SCPRIC Reservation AND illegally AND unlawfully seized (kidnapped) Petitioner, while she was secured on her tribal lands. The PSP has/had NO jurisdiction on the SCPRIC Reservation.

6th Amendment, Petitioner was prosecuted with Pennsylvania offenses, by Respondent Tonkin AND Respondent Henry for "alleged" conduct/acts that occurred on the SCPRIC Reservation (tribal lands). Yet, Petitioner's tribal lands are not classified in the language of the Pennsylvania Crime Codes. Moreover, Petitioner spent 1,316 days incarcerated at Pike County Correctional Facility before her sentence on June 27, 2023. Petitioner "Never" expressed NOR implied for a trial continuance to the Common Court of Pleas of Pike County, which is contrary to the accused shall enjoy the right to a speedy AND public trial, by

AN IMPARTIAL jury of the State AND district where the crime shall have been committed. Petitioner's right to A speedy trial was breached, even according to the laws of Pennsylvania's 234 PA. Code 600(B). In Addition, Petitioner's informations indicated the location of Petitioner's "Alleges" offenses occurred on Pine Ridge, which is AN INDIAN titled Reservation, NOT in the jurisdiction of Pike County OR the Commonwealth of Pennsylvania. "In light of policies which underlie constitutional right to speedy trial, dismissal of charges is only possible remedy where speedy trial has been denied". See Strunk v. United States, (1973), 412 US 434, 37 L Ed. 2d 56, 93 S. Ct. 2260. "Listing Speedy trial violations as among few for which "dismissal" of prosecution is appropriate habeas corpus relief." See Reed v. Farley, 512 US 339, 349 (1994), Id. 512 US at 368.

Art 3/2, cl 3, Similar to the 6th Amendment, since "NO" crime by Petitioner occurred in the jurisdiction of Pike County AND/OR the Commonwealth of Pennsylvania. Therefore, Petitioner is innocent of the Commonwealth's allegations/suit; thus, rendering Petitioner's accusation instruments "void AND invalid".

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5th Amendment, Petitioner's right to "Due Process of law" was suppressed by the prosecution (Respondent Tonkin), during her trial because Respondent Tonkin was A party to ALL of Petitioner's State AND Federal Actions, relating to Petitioner's right to "liberty" matter AND the lack of the Commonwealth of Pennsylvania's jurisdiction on the SEPRIE Reservation. Petitioner's evidence was denied to the jury, even when she requested the evidence from the prosecution during her trial,

which constitutes "BRADY violations".

3rd AND 14th, Furthermore, Petitioner's right to "liberty" is being illegally and Amendments, unlawfully restrained by Respondent Wendy Nicholas, due to the fact that Petitioner is innocent of the State's conviction because "NO" crime was committed by Petitioner in the Commonwealth of Pennsylvania's jurisdiction (6th Amendment AND Art 3, § 2, cl 3 violations). "Finding habeas relief appropriate where... specific constitutional guarantees were violated." See SUNAL V. LARGE, 332 U.S. 174, 178-79, 67 S.Ct. 1588, 1591, 91 L.Ed. 1982, 1987 (1947).

10th Amendment, The Tenth Amendment is reserved to States or people, those powers AND Art 1, § 8, cl 3, not delegated to the United States by the Constitution, AND if power is delegated to Congress in the Constitution, the Tenth Amendment expressly disclaims ANY reservation of that power to the States. As such, the Commonwealth of Pennsylvania (by way of Respondents Tonkin AND Henry) have breached Art 1, § 8, cl 3, (the Indian Commerce Clause) because the power to regulate Indian Affairs is conferred on Congress. AND Congress has not legislated the SCPRIC into the jurisdiction of the Commonwealth of Pennsylvania, relating to civil AND/OR criminal offenses on the SCPRIC Reservation AND/OR conduct by the SCPRIC Tribal members on the SCPRIC Reservation. "The Constitution vests the Federal Government with exclusive authority over relations with Indian Tribes, Article 1, § 8, cl 3." See ONEIDA INDIAN NATION V. County of Oneida, 414 U.S. 661, 670, 39 L.Ed. 2d 73, 94 S.Ct. 772 (1974).

(Citing Wroster v. Georgia, (6 Pet) 515, 526, 8 L Ed 483 (1832).

14th Amendment, "Fourteen Amendment is to be construed liberally, to carry out purposes of its framers." See STRANDER v. West Virginia, 100 US 303, 25 L Ed 264, 1879 US LEXIS 1830 (1880). The Commonwealth (by way of Respondents Tonkin and Henry) forced "their laws" upon Petitioner, in which abridged, raped and breached her "tribal immunity." As a tribal official, Petitioner is immune from prosecution for acts occurring on her own tribal lands. See Mescalero Apache Tribe v. Jones, 1973, 411 US 145, 148-149; NEVADA v. Hicks, 2001, 533 US 352, 362. In addition, the SCPRIC was "never" legislated by Congress to be subjected to "suits." "As a matter of federal law, Indian tribes are immune from suit except to the extent Congress has acted to circumscribe the immunity and authorized suit." See Santa Clara Pueblo v. Martinez, 436 US 49, 58 (1978).

Art 6/2, "The Supremacy Clause," the Commonwealth actors (by way of Respondents Tonkin and Henry) failed to apply and follow federal law, relating to Petitioner's matter, even when the Pennsylvania Governor's legal advisor's aid, Assistant (General) Counsel John J. Herman recognized the SCPRIC as a people distinct from others, "... separated from the jurisdiction of [the state]." "Summarizing precedent stating that a verdict must be set aside if it could have been decided on multiple grounds and one of the possible grounds was unconstitutional or illegal." See Griffin v. United States, 502 US 46, 52-55, 112 S. Ct. 466, 470-472, 116 L Ed. 2d 371, 378-

-380 (1991)-

In conclusion, based upon the above averments, Petitioner has a few "substantial showings" of the denial of... constitutional right(s). See Miller-E1 v. Cockrell, 537 US 322, 336 (2003). Petitioner enters to the Court for relief, because "[t]he value of constitutional privileges is largely destroyed if persons can be penalized for relying on them." See Grunwald v. United States, 353 US 391, 425, 77 S. Ct. 963, 1 L. Ed. 2d 931 (1957) (Black, J. concurring).

Petitioner's Exhaustion Claims Are Meritorious

In Petitioner's "Petition for a Writ of Habeas Corpus", she has always mentioned that the "Cause and Prejudice" Doctrine, "Extraordinary Circumstances", 28 USC § 2254 (b) (1)(B) and the "fundamental miscarriage of justice" doctrine applies to her matter as a remedy to Petitioner's failure to exhaust state court remedies.

Claim 1, Adjudication

According to the laws of Pennsylvania, the letter issued from Assistant Counsel John J. Herman of the Pennsylvania Governor's Office of the General Counsel, (See 71 PA.C.S. 732-301) to Principal Chief Tonja Scott, dated October 9, 2019, is a (legal NO action) final decision letter that warrants federal intervention, in terms of a State Exhaustion Remedy. Assistant Counsel Herman's letter to P.C. Tonja Scott is a final decision from an agency that is subject to judicial review and adjudication, in accordance to 2 PA. CON. STAT. 101.

"Under 2 PA. CON. STAT. 101, when an agency's decision or refusal to act

leaves a complainant with no other forum in which to assert his rights, privileges or immunities, the Agency's Act is an Adjudication." See *O'Brien v. Township of Ralpho*, 166 PA. Commonw. 337, 646 A. 2d 663, 1994 PA. Commonw. 440.

(PA. Commonw. Ct. 1994). "A letter from an Agency may qualify as an Adjudication so long as the letter is the Agency's final order, decree, decision, determination or ruling and such decision impacts on a person's personal or property rights, privileges, immunities, duties, liabilities or obligations." See *Boyetown Area Sch. Dist. v. Dept. of Educ.*, 797 A. 2d 421, 2002 PA. Commonw. 266 (PA. Commonw. Ct. 2002). "Protected liberty interest guaranteed by the 5th and 14th Amendments of the United States Constitution, under circumstances that implicate a liberty interest satisfies the definition of a final adjudication under 2 PA. C.S. 101, thereby making the decision subject to judicial review." See *Denko v. Luzerne County Community College*, 113 F. Supp. 2d 722 U.S. Dist. (M.D. PA 2000).

Claim 2, Fundamental Miscarriage of Justice

Petitioner implores to the Court to apply the "Absence of Available State Corrective Process Rule", (28 USC) 2254(b)(1)(B) exception, to her matter because presently, the Commonwealth of Pennsylvania's statutes and/or laws have "NO" available State procedure by which can secure review of Petitioner's relevant claims. As such, the "NO" Corrective Process Exception, allows the federal courts to adjudicate claims not raised in a state court.

Petitioner's Absence of Available State Court Remedies is due to the fact that the SCPRIC Tribal Government "NEVER" contracted with the Commonwealth of Pennsylvania for assumption by State of civil and/or criminal jurisdiction (25-

25 USC (1321 AND 1322), AS WELL AS CONGRESS HAS NOT GRANTED CIVIL AND/OR CRIMINAL JURISDICTION TO THE COMMONWEALTH TO TRY "ALLEGED" CONDUCT COMMITTED BY THE SEPRIC TRIBAL MEMBERS ON THE SEPRIC RESERVATION. AS SUCH, THERE ARE NO PENNSYLVANIA LAWS AND/OR STATUTES TO PROVIDE PETITIONER RELIEF, AS IS REQUIRED IN 25 USC (1324). THEREFORE, PETITIONER'S INFORMATION OF CP-52-CR-0000096-2020 AND CP-52-CR-0000687-2019 ARE "INVALID AND VOID" BECAUSE THE LOCATION ON PETITIONER'S INFORMATION, RELATING TO HER OFFENSES ARE ON THE TRIBAL LAND OF PINE RIDGE. AND ACCORDING TO THE LANGUAGE OF THE PENNSYLVANIA CRIME CODES, THE SEPRIC RESERVATION HAS NO PENNSYLVANIA STATUTE FOR ASSUMPTION OF JURISDICTION, NOT ON PETITIONER'S INFORMATION AND/OR IN THE DESCRIPTION (COUNTS) OF HER "ALLEGED" OFFENSES.

IN ESSENCE, DUE TO THE COMMONWEALTH OF PENNSYLVANIA'S ABSENCE OF SUBJECT MATTER (OF THE SEPRIC RESERVATION) AND/OR PERSONAL JURISDICTION OF PETITIONER, HER ART 3(2), CL 3 AND 6TH AMENDMENT RIGHTS TO BE TRIED IN THE STATE AND DISTRICT OF WHERE THE "ALLEGED" CRIME WAS COMMITTED, HAS BEEN VIOLATED, THUS WARRANTING PETITIONER'S CLAIM OF INNOCENCE OF THE COMMONWEALTH OF PENNSYLVANIA'S CONVICTION AND SENTENCING. TECHNICALLY, ACCORDING TO PA. R. CR. P. 56D (B) AND (D), PETITIONER WAS NEVER CONVICTED OF ANY "ALLEGED" OFFENSES BECAUSE HER INFORMATION WERE INVALID AT THE TIME OF HER TRIAL DUE TO JURISDICTIONAL AND TRIBAL IMMUNITY STATUS DEFECTS.

"28 USC (2254) (b) (3) (D) OF THE JUDICIAL CODE EXCUSES A PETITIONER FROM EXHAUSTION IF "THERE IS AN ABSENCE OF AVAILABLE STATE CORRECTIVE PROCESS." SEE DUCKWORTH V. SERRANO 454 US 1, 3 N. 2 (1981). PETITIONER'S MATTER IS A

"FUNDAMENTAL MISCARriage of justice" with a "colorable showing of factual innocence". See McCleskey v. ZANI, 499 US 467, 495, 111 S.Ct. 1454, 113 L.Ed. 517 (1991) (citing Kuhlmann v. Wilson, 477 US 436, 454, 106 S.Ct. 2666, 91 L.Ed. 364 (1986)).

As such, Petitioner pleads to the Court to excuse any procedurally defaulted claims, "reaffirming that the 'FUNDAMENTAL MISCARriage of justice' exception applies to procedurally defaulted claims." See Coleman v. Thompson, 501 US 722, 750, 111 S.Ct. 2546, 2565, 115 L.Ed. 2d 640, 669 (1990). Petitioner's "FUNDAMENTAL MISCARriage of justice" is "In Where a constitutional violation has probably resulted in the conviction of one who is actually innocent, a Federal habeas court may grant the writ even in the absence of a showing of cause for the procedural default." See Murray v. Carrier, 477 US 478, 496, 106 S.Ct. 2639, 2649, 91 L.Ed. 2d 397, 413 (1986).

Claim 3, Exceptional Circumstances

According to 18 Pa.C.S. 102, the SEPRIC Reservation is not in the jurisdiction of the Commonwealth of Pennsylvania. Therefore, Petitioner was arrested, charged, tried, convicted and sentenced with un-indictable offenses because no acts or failure to act, in which was charged on Petitioner's informations occurred in Pike County (the county that ordered Petitioner's injustice). There are no statutes in the Pennsylvania Crime Codes and/or the Pennsylvania Rules of Criminal Procedure and/or the Pennsylvania Rules of Civil Procedure, relating to Petitioner's matter. As such, since State statutes does not allow Petitioner to raise the issue, there is no State remedy.

State remedies are UNAVAILABLE. See Stem v. Turner, 370 F.2d. 895, 897-898 (4th Cir. 1966).

Based upon ART. 5 (10C) of the Pennsylvania Constitution AND Pa. R. Civ. P. 130, Petitioner's conviction will find "NO" remedy in any Pennsylvania Court because there ARE "NO" rules, laws or statutes in the Pennsylvania Crime Codes OR the Pa. R. Cr. P. OR the Pa. R. Civ. P. in which Petitioner CAN apply as a remedy. Presently, Petitioner's option for relief in the Courts of Pennsylvania ARE NON-existent, while the laws in Pennsylvania ARE SUSPENDED, in terms of relief for Petitioner, her 5th AND 14th Amendment rights to "liberty" in the federal Constitution is in conflict with the Pennsylvania Constitution's ART. 5 (10C).

As such, the Commonwealth (by way of Respondents Tonkin AND Henry) has defaulted in "State Court Exhaustion Remedies" because there ARE "NO" remedies for Petitioner, in terms of relief in the Pennsylvania laws or rules or statutes. Even, Respondent Tonkin "NEVER" disputed or discussed the availability of State relief for Petitioner, in his tacit admission responses to the Supreme Court of Pennsylvania, relating to Petitioner's matter.

"Constitution's Supremacy Clause (ART. VI, cl 2) nullifies state law which (1) prevents or frustrates accomplishment of federal objective, OR (2) makes it impossible for private parties to comply with both state AND federal law; furthermore with respect to federal pre-emption of state law - general federal saving provisions do not tolerate actual conflict in cases involving impossibility or frustration of purpose." See Geier v. American Honda Motor

Co. (2000) 529 U.S. 86, 120 S. Ct. 1913, 146 L. Ed. 2d 914, 2000 CDOS 3950, 2000 Daily Journal DAR 5277, CCH Prod. Liab. Rep. 15795, 2000 Colo. J. C.A.R. 2826, 13 FLW Fed. S. 344.

The United States Supreme Court has recognized nonstatutory exception to the exhaustion requirement, in "Special Circumstances". In Frisbie v. Collins, 342 U.S. 519, 522 (1952), "Nonexhaustion properly overlooked because 'special circumstances' requires 'prompt federal intervention'." "State default of exhaustion defense, special circumstances" required "prompt federal intervention." See Frisbie v. Collins, 342 U.S. at 521-22.

Petitioner beseech to the Court that her matter relates to "exceptional circumstances of peculiar urgency sufficient to require prompt federal action." Petitioner avows that she is entitled to a hearing upon the merits of her "Petition for Writ of Habeas Corpus," without having exhausted her State Court remedies because of "exceptional circumstances." Petitioner declares that her trial, conviction and sentence under such circumstances is in violation of the "Due Process Clause" of the 5th and 14th Amendments, as well as breach of Art. 3(2), cl. 3 and the 6th Amendment because "NO" crime by Petitioner occurred in the jurisdiction of the Commonwealth of Pennsylvania. Therefore, Petitioner's conviction is a nullity, "Special Circumstances," which requires prompt federal intervention.

In Ex parte Henry Hawk, 88 L. Ed. 572, 321 U.S. 114 (1944), "The statement that the writ is available in the federal courts only 'in rare cases' presenting 'exceptional circumstances of peculiar urgency', often quoted from

the option of this Court in United States ex Rel. Kennedy v. Tyler, SUPRA (269 U.S. 17, 70 L. Ed. 143, 46 S. Ct. 1), was made in a case in which the Petitioner had not exhausted his State remedies and is inapplicable to one, in which the Petitioner has exhausted his State remedies, and in which he makes a substantial showing of a denial of Federal right. "But where resort to State Court remedies has failed to afford a full and fair adjudication of the Federal contentions raised, either because the State affords no remedy." See Mooney v. Holohan, SUPRA (294 U.S. 115, 79 L. Ed. 795, 55 S. Ct. 340, 98 ALR 406), or because in the particular case the remedy afforded by State law proves in practice unavailable or seriously inadequate, Cf. Moore v. Dempsey [261 U.S. 86, 67 L. Ed. 543, 43 S. Ct. 265], Ex parte Davis, 318 U.S. 412, 87 L. Ed. 868, 63 S. Ct. 679, a Federal court should entertain his petition for habeas corpus, else he would be remediless." Id at 321 U.S. 118-119.

Petitioner Affirms that the Pennsylvania Courts have "No" remedies to afford her relief and if the Court denies Petitioner's "Petition for Writ of Certiorari," it would be a manifest injustice.

Claim 4, Cause AND Prejudice

The Doctrine of "Cause AND Prejudice," applies to Petitioner's matter, by way of the Trial Judge Gregory H. Chelak having a financial interest in Petitioner's conviction. Trial Judge Chelak seized Petitioner's "persons" and deprived Petitioner of her liberty, while he "appeared" to "null AND void," Petitioner's Tribal Lands of the Pike County Office of Land Records recordings of the Indian Titles of Saw Creek AND Pine Ridge. Trial Judge Chelak proceeded

to fraudulently convey parcels of the SCPRIC Reservation AND record the conveyance in the Pike County Office of Land Records into his name, Gregory H. Chelak, his wife Stacy B. Chelak, his friends AND other family members names as well. Afterwards, Petitioner was convicted AND sentenced to 44-94 years of incarceration at SCI Muncy, while Judge Chelak presided over Petitioner's complete proceedings.

"Holding that trial under a judge with a personal financial interest in the defendant's conviction violated defendant's 14th Amendment right." See Timney v. Ohio, 273 U.S. 510, 523, 47 S.Ct. 437, 441, 71 L.Ed. 749, 754 (1927). "Finding per-se prejudice when the trial judge is not impartial." See Edwards v. Balisok, 520 U.S. 641, 647, 117 S.Ct. 1584, 1588, 137 L.Ed. 2d 906, 914 (1997).

Petitioner was exiled from the SCPRIC Reservation AND forced into SCI Muncy because Trial Judge Chelak was well aware that his conveyance was "invalid AND void", as well as contrary to 25 USC 177. As stated in United States v. Alcea Band Tillimooks, 329 U.S. 40, 46 (1946), "As against all but the Sovereign Original Indian Title was accorded the protection of complete ownership". "The rule the Aboriginal (Indian) Title exist until expressly AND affirmatively extinguished by Congress also suggest comparatively robust protection for Aboriginal Title lands." See United States v. Santa Fe Pacific Railroad Company, 314 U.S. 339, 347 (1941).

The judicial misconduct of Trial Judge Chelak's financial interest in Petitioner's conviction is the "cause" AND the "prejudice," is violation of Petitioner's 14th Amendment right. As such, Petitioner pleads to the Court to exc-

use any procedural defaults, relating to the absence of Petitioner's State Court exhaustion remedies. "Procedural defaults can be excused for cause and prejudice." See EDWARDS V. CARPENTER, 529 U.S. 446, 451 (2000). "Stating that in some cases 'cause' and 'prejudice' will include the correction of a fundamentally unfair incarceration." See Engle v. Isaac, 456 U.S. 107, 135, 102 S.Ct. 1558, 1575-1576, 71 L.Ed. 2d 783, 805 (1982). "Noting structural errors subject to automatic reversal are... (2) biased trial judge." See ARIZONA V. Fulminante, 499 U.S. 279, 309, 111 S.Ct. 1246, 1264, 113 L.Ed. 2d 302, 331 (1991); See Also Neder v. United States, 527 U.S. 1, 8, 119 S.Ct. 1827, 1834, 144 L.Ed. 2d 35, 45 (1999).

In prior filings Petitioner provided the Courts with the orders to "null and void", the Indian Titles of Saw Creek and Pine Ridge, signed by Trial Judge Gregory H. Chelak. As well as documents of land conveyance of the Indian Titles of Saw Creek and Pine Ridge (warrants), in the names of Gregory H. Chelak, his wife Stacy B. Chelak, his friends and family members. "Cause and prejudice are satisfied by a showing on the merits." See Strickler v. Greene, 527 U.S. 263, 282 (1999). See Scott v. Commonwealth of Pennsylvania, et al, No. 24-CV-0041, United States District Court for the Middle District of Pennsylvania, Judgment entered February 29, 2024; Scott v. Commonwealth of Pennsylvania, et al, No. 24-1465, United States Court of Appeals for the Third Circuit, Judgment entered September 27, 2024.

Exceptional Circumstances

The exceptional circumstances of this case warrants the exercise of this Court's jurisdiction "because a United States Court of Appeals has decided an important

question of federal law that has not been, but should be, settled by this Court." See Sup. Ct. R. 10(c). The Petitioner's last hope for review lies with this Court. Her case presents exceptional circumstances that warrant the exercise of this Court's discretionary powers.

Exceptional circumstances warrant the exercise of the Court's discretionary powers is in 28 USC (2241(c)), "The writ of Habeas Corpus shall not extend to a prisoner unless (3) He (she) is in custody [detained] in violation of the Constitution... of the United States". Before Petitioner's "Petition for Writ of Habeas Corpus" can be reviewed, Petitioner must be granted a "certificate of appealability". As such, Petitioner pleads to the Court to grant the certificate of appealability, by way of a "Writ of Certiorari", thus, in an effort to accordingly vacate Petitioner's criminal informations and conviction of CP-52-CR-0000687-2019 AND CP-52-CR-0000096-2020, from the Common Court of Pleas of Pike County, due to the Commonwealth of Pennsylvania's error in State law. See Negonsott v. Samuels, 507 US 99, 103, 122 L ed 2d 457, 113 S. Ct 1119 (1993); Washington v. Confederated Bands and Tribes of Yakima Nation, 439 US 463, 471-474, 58 L ed 2d 740, 99 S. Ct. 740 (1979). In addition, to vacating Petitioner's conviction and informations, Petitioner directly needs to be discharged from her illegal and unlawful confinement at SCI Muncy located at 6454 Route 405, Muncy, PA 17756, in the custody of Respondent Superintendent Wendy Nicholas. Because Petitioner's incarceration is also a violation of the SCPRTC's inherent Tribal Sovereignty.

J. Conclusion

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

Lonia Lutz, Petitioner Date: 2.6.25