

T
No. 24-6561

IN THE
SUPREME COURT OF THE UNITED STATES.

Tonia Scott

- Petitioner

VS.

Commonwealth of Pennsylvania, et al. - Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
PETITION FOR REHEARING

Tonia Scott

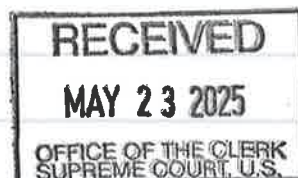
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Pursuant to Sup. Ct. Rule 44.2, Petitioner Tonina Scott request a rehearing ¹¹ AND RECONSIDERATION of the Court's April 21, 2025 order denying the "Petition for Writ of Certiorari" on the grounds of substantial intervening circumstances AND substantial grounds not previously presented.

F. BACKGROUND

On November 18, 2019, seven (7) SAND Creek and Pine Ridge Indian Communities Tribal Officials (Principal Chief Tonina Scott (Petitioner), Deputy Chief Keeba Scott Harris, Chief of Tribal Law Enforcement Adam Raking and his four (4) deputies (Nelson Raking, Troy Sutton, Suskane Heylinger and Sekou Abdullah) were arrested by the Pennsylvania State Police, Blooming Grove Barrack and charged with trespassing and various other Pennsylvania State offenses for "alleged" 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. 201760-001002), in accordance to the doctrine of the "Duro Fix". "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". See Duro v. Reina, 495 US 676 (1990). "Indian Tribes are sovereign entities and are responsible for exercising government authority over Indian lands". See 25 USC § 3605 (2).

"The Aboriginal (Indian) Title creates a legally enforceable property

right against anyone but Congress". See Beecher v. Wetherby, 95 U.S. 517 at 524 (1877); See generally, Oneida Indian Nation v. County of Oneida, 414 U.S. 661, 666-74, 94 S.Ct. 772, 776-81, 39 L.Ed. 2d. 73 (1974); F. Cohen Handbook of Federal Indian Law, p. 471-574 (1982 ed.).

The Tribal Officials, including Petitioner were charged with Pennsylvania offenses for "Alleged" conduct on tribal lands. Yet, on September 26, 2019, two (2) months prior to the ejectment, Principal Chief Tonika 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 Tonika Scott (of the) Saw 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. Herman from the Pennsylvania Governor's Office of the General Counsel. Afterwards, P.C. Tonika Scott contacted Mr. Bullock again and he directed P.C. Tonika Scott to proceed in ejecting the Non-Indian trespassers from the SCPRIC Reservation. Because of the John J. Herman letter, in which all (TD) Tribal officials, including Petitioner viewed and later agreed that without the assistance from the PSP, the ejectment must be executed.

Furthermore, there were/are "NO" contracts between the Commonwealth of Pennsylvania and the SCPRIC Tribal Government, as is required for

"Assumption by State of Civil AND/OR Criminal Jurisdiction" (25 USC § 1321 AND/OR 25 USC § 1322). In addition, there were "NO" "Special Elections" from the SCPRIC Tribal members consenting to State Court jurisdiction, as required in 25 USC § 1326.

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 comity, 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.

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; Coker's Handbook of Federal Indian Law 3.024 at 143 (2005-ed.); 25 C.F.R. Part. 83 (2005); 25 USCA 479a-1 (2001); 25 USCA 2, 9 (2001). 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.

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 refrained 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 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; (federal recognition) from the United States District Court for the Southern District of New York and validation of the location of the SEPRIC Reservation, located in Bushkill, PA, by the Common Court of Pleas of Lehigh County, PA (Lehigh County is located two (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.

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 Chelak because before Petitioner's trial began on May 15, 2023, Judge Chelak "appeared" to have "null and void" the Indian Titles of Saw Creek (Instrument No. 201600008297) and Pine Ridge (Instrument No. 201700001002), in the Pike County Office

of Land Records and fraudulently convey the SEPRIC Reservation into his name, his wife Stacey 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. All 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.

Prior to Petitioner's sentencing, 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 Howe for 1316 days. Petitioner "Never" expressed AND/OR implied to the Common Court of Pleas of Pike County that she wanted a trial continuance. Moreover, Petitioner filed several motions informing the Common Court of Pleas of Pike County, both Superior and Supreme Courts of Pennsylvania AND in her "Petition for Writ of Habeas Corpus," in the lower (federal) courts that her police complaint was "void" because it was absent a judge's signature for case No. CP-52-CR-0000687-2019. In all of Petitioner's pleadings, including the State AND Federal courts, she has always expressed AND implied that the Commonwealth of Pennsylvania lacked subject-matter AND/OR personal jurisdiction to the SCPRIC Reservation AND/OR to the conduct by the SCPRIC tribal members on the SCPRIC Reservation, such as herself. AND in "All" of Petitioner's pleadings Respondent Tonkin

"Never" disputed, defend or plead against Petitioner's Allegations.

COURT Filings (APPEALS)

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 followed:

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 issue because jurists of reason would not debate the correctness of this procedural ruling". See Slack v. McDaniel, 529 US 473, 484 (2000). 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.

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-EI v. Cockrell, 537 US 322, 336 (2003) (quoting Slack v. McDaniel, 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, MATEY, RESTREPO, BIBAS, PORTER, 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.

G. ARGUMENT

The United States District Court for the Middle District

of Pennsylvania AND the United States Court of Appeals for the Third Circuit erred in dismissing AND denying Petitioner relief for her "Petition for Writ of Habeas Corpus". Because in her initial petition, Petitioner provided both lower courts with precedent case law from the Supreme Court of the United States, relating to various exceptions to the "State Court Exhaustion Remedy".

Petitioner Affirmed to both Courts that there was AN Absence of AN Available State Court remedy to Petitioner's matter. See 28 USCS 2254(b)(1)(B). Furthermore, Respondent Raymond Tonkin "Never" disputed this fact, even when he entered his "Notice of Appearance" to the United States Court of Appeals for the Third Circuit. According to the United States Supreme Court doctrines of the below exceptions, these doctrines should have cured Petitioner's procedural defaults, pertaining to her Nonexhaustion defenses. Petitioner supplied the lower Courts with the following doctrines, relating to her matter (which were also enclosed in her "Petition for Writ of Certiorari"):

1. The Doctrine of Cause AND Prejudice;
2. The Doctrine of Extraordinary Circumstances;
3. The Doctrine of Fundamental Miscarriage of Justice.

These ARE the same three (3) Nonexhaustion defenses that the Commonwealth of Pennsylvania (by way of Respondents Raymond Tonkin, Michelle Henry AND Wendy Nicholas) eventually waived

in the Supreme Court of the United States, by failing to provide the Court with a "Brief in Opposition" to Petitioner's "Petition for Writ of Certiorari", which was due for Court filing, by each Respondent on March 17, 2025. All three (3) Respondents failed to plead, defend or oppose to Petitioner's multiple allegations, including her Nonexhaustion defenses AND/OR her petitioning and requesting the Federal Courts for a "Writ of Habeas Corpus". See Sup. Ct. Rule 15.2.

According to 28 USC § 2253, Petitioner qualified from both the lower Courts for a "certificate of appealability", for Petitioner to challenge her Nonexhaustion defenses in the Supreme Court of the United States. Due to the fact that Petitioner indicated in her "Petition for Writ of Habeas Corpus", that the below Constitutional provisions were violated by the Trial judge AND All three (3) Respondents. While Petitioner WAS arrested, tried, convicted AND sentenced for conduct on the SGPIC Reservation, (which is NOT in the jurisdiction of the Commonwealth of Pennsylvania) AS she acted in her official and representative capacity for her tribe, the SGPIC (A federally recognized tribe).

Petitioner affirms to the Court that she has fulfilled the requirements to qualify her for a certificate of appealability, in accordance to 28 USC § 2253, ^{(c)(2)} because there can be NO appeal without a certificate of appealability.

Petitioner mentioned, the following substantial showing of her denial

of Petitioner's legally protected constitutional rights, in her "Petition for Writ of Habeas Corpus":

Constitutional Provisions (Violations)

Denial of Right

1. ART. 3 / 2, cl. 3 - Petitioner stated that she was tried, convicted and sentenced for a series of crimes that did not occurred in the jurisdiction of the State and district (Pennsylvania), in which charged her the crimes. See pg. 22 #44;
2. 4th Amendment - Petitioner implied that she had a right to be secured from an unlawful arrest of her "person", "property" and to be secured in her home (the tribal lands of the SCPRIC Reservation). As well as, Petitioner repeatedly stated that the PSP and/or the Commonwealth of Pennsylvania had no jurisdiction on the SCPRIC Reservation (by way of Respondents Tonkin and Henry). See pg. 18 #33;
3. ART. 1 / 8, cl. 3 - (The Indian Commerce Clause) Petitioner indicated that Congress regulated Indian affairs not the States. As such, there was "NO" Act of Congress authorizing the Commonwealth's authority over the SCPRIC tribal members on the SCPRIC Reservation. See pg 36 #70;
4. 5th Amendment - Petitioner communicated that there was a "Due Process of Law" infringement because the Commonwealth had "NO" jurisdiction over the SCPRIC tribal members' conduct on the

SCPRIC Reservation. See pg. 23 #45; pg. 30 #61; pg. 42 #81; pg. 53 #106; pg. 66 #119(B); pg. 67 #119(B2);

5. 6th Amendment - Petitioner expressed that she was incarcerated for 1,316 days before her trial, yet ^{ENDED} according to the laws of Pa. R. Cr. P. 600, after 180 days of incarceration without a trial a defendant was to be released from custody. As such, Petitioner was denied a right to a speedy trial and an impartial jury (Batson claim). See pg. 42 #82; pg. 44 #86; pg. 25 #50;

6. 14th Amendment - Petitioner commented that her right to "Due Process of Law" was violated due to the Trial judge having a financial interest in Petitioner's conviction. In addition to the Commonwealth of Pennsylvania Courts lack personal and/or subject matter jurisdiction to Petitioner's matter (by way of Respondents Henry and Tonkin). See pg. 23 #45; pg. 30 #61; pg. 42 #81; pg. 46 #92; pg. 53 #106; pg. 66 #119(B).

Based upon the above averments, Petitioner's "Petition for Rehearing" warrants review from this Court due to the lower courts' errors.

H. CONCLUSION

Petitioner pleads to the Court to consider the below ground not previously presented as a substantial and controlling effect to add as a merit to Petitioner's case, along with Petitioner's merits in her "Petition for Writ of Certiorari".

Recently, the Commonwealth of Pennsylvania (by way of Respondents Raymond Tonkin, Michelle Henry and Wendy Nicholas) failed to oppose to Petitioner's Nonexhaustion defenses and/or opposition to the Federal courts to review Petitioner's "Petition for Writ of Habeas Corpus". Each Respondents' "Brief in Opposition" to Petitioner's "Petition for Writ of Certiorari" had failed to be submitted to the Court, which was due for Court filing in the Supreme Court of the United States on March 17, 2025. Each Respondent failed to submit a "Brief in Opposition" to Petitioner's "Petition for Writ of Certiorari" to the Court, in an effort to challenge Petitioner's Four (4) Nonexhaustion defenses of:

- A. Adjudication;
- B. Cause and Prejudice;
- C. Extraordinary Circumstances;
- D. Fundamental Miscarriage of Justice.

As such, All Three (3) Respondents have waived any and all claims, relating to Petitioner's Nonexhaustion defenses. Therefore, the Commonwealth of Pennsylvania (by way of Respondents Raymond Tonkin, Michelle Henry and Wendy Nicholas) waiver permits this Court to review an unexhausted claim when the State waives the Nonexhaustion defense. See 28 USC § 2254(b)(3) AND Sup Ct Rule 15.2.

In Granberry v. Greer, 481 US 129, 135 (1987), "IF A full trial has been held... AND it is evident that a 'miscarriage of justice has occurred', it may be 'appropriate for the Court... to hold that the Non-exhaustion defense has been waived' if State fails to assert

(14)
T

defense." "Alternative holding; State waived nonexhaustion." See Smith v. Goguen, 415 US 566, 576-77 & n.19 (1974).

In conclusion, Petitioner Tonia Scott respectfully request that this Court grant Petitioner's "Petition for Rehearing" thus in an effort for Petitioner's "Petition for Writ of Habeas Corpus," to be reviewed by this Court on the merits of this case.

Petitioner has grounds to have her "Petition for Writ of Habeas Corpus" granted to her, due to the fact that the Commonwealth of Pennsylvania's prosecution AND detention (by way of Respondents Raymond Tonkin, Michelle Henry and Wendy Nicholas) AND the Common Court of Pleas of Pike County's adjudication AND conviction, relating to Petitioner's matter resulted in a decision which was contrary to, OR involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States. See 28 USC § 2254(d)(1).

Petitioner qualifies for the "Great Writ" because she is in State custody for an act done in pursuant of an Act of Congress AND in violation of the constitution AND laws of the United States. See 28 USC § 2241(c)(2) AND (c)(3).

"Such a petition is commonly understood to be 'original' in the sense of being filed in the first instance in this Court, but none the less for constitutional purpose an exercise of this Court's appellate (rather than original) jurisdiction." See Felker v. Turpin, 518 US 651, 667 (1996). "It seems to be a necessary consequence that if the appellate jurisdiction of

habeas corpus extends to any case, it extends to this." See Ex parte
Yerger, 75 US 8 Wall. 85, 85, 102 (1868). "[D]eciding upon questions of
personal rights which can only be attained through appellate jurisd-
-iction". See 75 US at 103. That "in a proper case this Court, under
the Act of 1789, and under all the subsequent Acts, giving jurisdiction
in cases of habeas corpus may, in the exercise of its appellate power,
revise the decisions of inferior Courts... and relieve from unlawful
imprisonment authorized by them..." 75 US at 98.

Respectfully Submitted,

Tonia Smith

Date: May 11, 2025.

No. 24-6561

IN THE
SUPREME COURT OF THE UNITED STATES.

Tonia Scott

- Petitioner

VS.

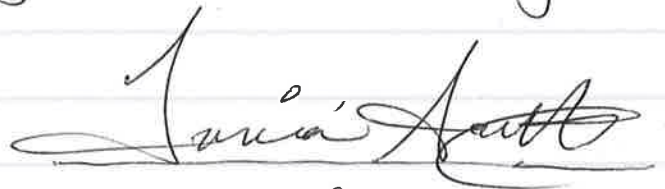
Commonwealth of Pennsylvania, et. al. - Respondents

CERTIFICATION OF PETITIONER

I, Tonia Scott hereby certify that this "Petition for Rehearing" is presented in good faith and not for delay.

May 11, 2025

Date



Tonia Scott

SCI Muncy

2454 Route 405

P.O. Box 180

Muncy, PA 17756

ID# 0826818

Petitioner

No. 24-6561

IN THE
SUPREME COURT OF THE UNITED STATES

Tonia Scott
VS.

- Petitioner

Commonwealth of Pennsylvania, et al. - Respondents

PROOF OF SERVICE

I, Tonia Scott, do swear or declare that on this date, May 11, 2025, as required by Supreme Court Rule 29 I have served the enclosed ^{transfer from lower courts} "PETITION FOR REHEARING," "PETITION FOR WRIT OF HABEAS CORPUS" AND "CERTIFICATION OF PETITIONER" on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The NAMES AND ADDRESSES OF THOSE SERVED ARE AS FOLLOWS:

1. Raymond J. Tonkin, 506 Broad Street, Milford, PA 18337
2. Michelle A. Henry, 14th Floor, Strawberry Square, Harrisburg, PA 17120
3. Wendy K. Nicholas, 6454 Route 405, P.O. Box 180, Muncy, PA 17756

I declare UNDER PENALTY OF perjury that the foregoing is true AND correct.

Executed on May 11, 2025



Tonia Scott
SCI Muncy
6454 Route 405
P.O. Box 180
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Petitioner