

No. _____

**In The
Supreme Court of the United States**

—◆—
BENJAMIN MINIOR,

Petitioner,

v.

STATE OF RHODE ISLAND,

Respondent.

—◆—
**On Petition For Writ Of Certiorari
To The Supreme Court
Of The State Of Rhode Island**

—◆—
PETITION FOR WRIT OF CERTIORARI

—◆—
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QUESTION PRESENTED

Assuming that the necessary elements for collateral estoppel exist, do the rights conferred by the Doctrine of Collateral Estoppel, as a sub-doctrine of the Double Jeopardy Clauses of the Fifth and Fourteenth Amendments, protect a defendant from being forced to defend himself against the state for a second time in a criminal trial on the same issue after said issue had been decided against the state after the companion trial on the civil (quasi criminal) violation of “Reasonable and Prudent Speeds”?

PARTIES TO THE PROCEEDINGS BELOW

The petitioner is Benjamin Minior. The respondent is the State of Rhode Island.

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The January 11, 2018 opinion of the Rhode Island Supreme Court is cited at *State v. Minior*, No. 2016-57-C.A., P2-2014-3481A, 2018 WL 358370, ___ A.3d ___, (R.I. January 11, 2018) and is set out at pgs. 1 through 16 of the Appendix. The December 15, 2015 opinion of the Superior Court (Hurst, J.), which is not reported is set out at pgs. 30 through 34 of the Appendix. The September 14, 2015 opinion of the Superior Court (McBurney, M.), which is not reported is set out at pgs. 17 through 27 of the Appendix.



JURISDICTION

This Court has jurisdiction pursuant to 28 U.S. Code § 1257(a), which authorizes review of final judgments rendered by the highest court of a state where a right is claimed pursuant to the Constitution of the United States of America.



CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution states in part, “[N]or shall any person be subject for the same offence to be twice put in jeopardy of life and limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law . . .” U.S. Const. amend. V.

The Fourteenth Amendment to the United States Constitution states in part, “No State shall make or enforce any law 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.” U.S. Const. amend. XIV.



STATEMENT OF THE CASE

Underlying Facts

On February 17, 2014, a car accident occurred on Broad Common Road in Bristol, Rhode Island. According to Bristol Police, they found Benjamin Minior (“Mr. Minior”) sitting in the driver’s seat of a vehicle involved in an accident and he appeared to be disoriented. Mr. Minior reportedly told Bristol Police Officer Timothy Gallison that his “buddy Matt is on the other side of the vehicle.” Officer Gallison testified at the Rhode Island Traffic Tribunal (“Traffic Tribunal”) trial that he knew Matthew Ciociola and found him laying on the ground outside on the passenger’s side of the vehicle. Mr. Minior was arrested and charged by Bristol Police for driving under the influence of intoxicating liquor resulting in serious bodily injury, driving to endanger and possession of marijuana. Mr. Minior was simultaneously charged at the Traffic Tribunal with the civil violation of Reasonable and Prudent Speeds.

Procedural History

A. Trial at the Rhode Island Traffic Tribunal

The civil case for violation of R.I. Gen. Laws § 31-14-1 (Reasonable and Prudent Speeds) proceeded to trial at the Traffic Tribunal on April 28, 2014. After trial, the Traffic Tribunal (Abbate, M.), made specific findings that the State failed to show that Mr. Minior was operating the vehicle at the time of the accident. App. 35-36. Specifically, the Traffic Tribunal stated in pertinent parts:

[T]here was no testimony as to observation of the motor vehicle at the time of the accident, as to who was driving it . . . There was no testimony as to acknowledgement as to the operator of the motor vehicle, and there was no testimony as to expert reconstruction, crash reconstruction, crash reconstruction qualifications . . . What's fatal here is that, you know, there's no observation . . . that there is no observation of the vehicle operating . . . there was no observation of who was operating the vehicle either, so the Court finds that the Town has not sustained the violation for reasonable and prudent speed.

App. 35-36. The State and/or the Town of Bristol did not file an appeal.

B. Motion to Dismiss at the Rhode Island Superior Court

On August 3, 2015, Mr. Minior filed a Motion to Dismiss, in the Rhode Island Superior Court (“Superior Court”), Count I, driving under the influence of intoxicating liquor resulting in serious bodily injury and Count II, driving to endanger, based on the doctrine of collateral estoppel asserting that the State failed to prove the element of operation at the Traffic Tribunal. On September 14, 2015, after a hearing, the Superior Court (McBurney, M.) granted Mr. Minior’s Motion to Dismiss based on the doctrine of collateral estoppel. App. 27. The State filed an appeal pursuant to Superior Court Rule of Practice 2.9 and R.I. Gen. Laws § 8-2-39, which was heard on December 15, 2015.

On December 16, 2015, the Superior Court reversed the previous decision and denied Mr. Minior’s Motion to Dismiss. App. 34. The Superior Court (Hurst, J.) held that the doctrine of collateral estoppel/issue preclusion did not apply in this particular instance as the ultimate fact decided in the Traffic Tribunal was whether Mr. Minior failed to drive within reasonable and prudent speeds. App. 32-34. Mr. Minior then appealed to the Rhode Island Supreme Court.

C. Decision of the Rhode Island Supreme Court

On January 11, 2018, the Rhode Island Supreme Court (in a 3-1 decision, with Justice Flaherty dissenting) ultimately affirmed the decision of the Superior Court (Hurst, J.), however, upon very different

grounds. Thus, the Rhode Island Supreme Court denied Mr. Minior's Motion to Dismiss based on the Doctrine of Collateral Estoppel. App. 2.

In doing so, the court held that, assuming that all factors of collateral estoppel existed, it would be inequitable to hold the State to the doctrine of collateral estoppel as "a traffic violation is only a small part of a larger, ongoing criminal investigation" and "to require the state to complete its entire investigation before resolving the violation can effectively hinder its ability to carefully strategize the prosecution of criminal suspects and, consequently, provide for public safety." App. 16. The Rhode Island Supreme Court further reasoned that "[e]stopping the state from pursuing criminal charges against the defendant, or anyone accused similarly, based on the resolve of a non-criminal traffic citation would compromise public safety and undeniably be an inequity to the community." App. 11-12.

Citations to the Record Raising the Federal Question/Constitutional Issue

The federal question here is whether the Fifth Amendment prohibition against "double jeopardy" and the Fourteenth Amendment right of due process bar the government from re-litigating the same issue in a criminal trial after having failed to prove the same issue in a civil (quasi criminal trial). Or put otherwise, does the Doctrine of Collateral Estoppel, a sub-doctrine of the Double Jeopardy Clause, invoke the protections of the United States Constitution when the issue has

been previously fully and finally litigated in a companion civil trial on the merits.

The federal question in this case was first raised in Mr. Minior's Motion to Dismiss filed in the Rhode Island Superior Court and then again in his brief to the Rhode Island Supreme Court when the Defendant argued, citing *Ashe v. Swenson*, 397 U.S. 436, 444, 90 S.Ct. 1189, 1194 (1970), that "[t]he doctrine of collateral estoppel bars the re-litigation of an issue of ultimate fact after it has been previously determined by a valid judgment."

In his Brief submitted to the Rhode Island Supreme Court, Mr. Minior further argued the merits of collateral estoppel in this case and, citing Chief Justice Weisberger of the Rhode Island Supreme Court, stated:

.. the rights conferred to a defendant by the doctrine of collateral estoppel are derived, in part, from and are corresponding with the rights conferred by the Double Jeopardy Clause, as collateral estoppel has been referred to as a sub doctrine of double jeopardy.

It is apparent that the doctrine of collateral estoppel is a subdoctrine (sic) of double jeopardy but would apply in both civil and criminal cases. When a court of competent jurisdiction has decided an issue of ultimate fact, that fact may not be relitigated between the same parties.

State v. Pineda, 712 A.2d 858, 864 (R.I. 1998).

The Rhode Island Supreme Court, having assumed that all factors of collateral estoppel existed, found that it was simply unfair to hold the State to the Doctrine of Collateral Estoppel citing this Court in *Ashe v. Swenson*. App. 8.



REASONS FOR GRANTING THE WRIT

This Court should grant Mr. Minior's petition and reverse the decision of the Rhode Island Supreme Court because all elements of collateral estoppel having been met, the Fifth Amendment, as applied to the states through the Fourteenth Amendment, protects Mr. Minior from being forced to defend himself against the great power of the State for a second time on the same issue. In *Ashe v. Swenson*, this Court held that the doctrine of collateral estoppel bars the re-litigation of an issue of ultimate fact after it has been previously determined by a valid and final judgment. 397 U.S. at 444, 90 S.Ct. at 1194. This Court stated:

The federal decisions have made clear that the rule of collateral estoppel in criminal cases is not to be applied with the hypertechnical and archaic approach of a 19th century pleading book, but with realism and rationality. Where a previous judgment of acquittal was based upon a general verdict, as is usually the case, this approach requires a court to "examine the record of a prior proceeding, taking into account the pleadings, evidence, charge, and other relevant matter, and

conclude whether a rational jury could have grounded its verdict upon an issue other than that which the defendant seeks to foreclose from consideration.”

Id.

Quoting *Ashe v. Swenson*, the Rhode Island Supreme Court stated:

The United States Supreme Court has noted that collateral estoppel in criminal cases is not to be applied with hypertechnical and archaic approach of a 19th century pleading book, but with realism and rationality. The inquiry must be set in a practical frame and viewed with an eye to all the circumstances of the proceedings. To avoid unfairness, courts have declined to apply collateral estoppel where its application would be inequitable.

App. 8.

Here, the Rhode Island Supreme Court assumed, without deciding, that the necessary elements of collateral estoppel existed in the present case. Accordingly, the Rhode Island Supreme Court assumed that in this case, there was an identity of issues decided (operation of the motor vehicle), that the previous proceeding (at the Traffic Tribunal) resulted in a final judgment on the merits and the State was either the same party or in privity with the Town of Bristol. Further, the State had notice and fair opportunity to fully litigate the issue at the Traffic Tribunal and had the

opportunity to appeal the Traffic Tribunal decision. The State, however, failed to file an appeal.

The Rhode Island Supreme Court has taken dicta from *Ashe v. Swenson* and used it to insulate the State from being held to the protections of the Constitution deeming application of the doctrine of collateral estoppel inequitable to the State. Pointing out this perversion of the Constitution in his dissenting opinion, Justice Flaherty stated, “Indeed it seems it me to be far more inequitable to require a defendant to defend twice for essentially the same conduct than to apply collateral estoppel to a final judgment of a court of competent jurisdiction.” App. 15-16.

Review of State Decisions

A review of other state decisions shows no similar decision where a state court, having found all elements existed, refused to apply the doctrine of collateral estoppel due to the perceived inequity to the state. However, there appears to be a split among the states as to the issue of whether collateral estoppel may bar the state from proceeding in a criminal trial after a negative finding in a civil context. Some states have refused to apply collateral estoppel in a criminal court after a finding against the state in civil proceedings for a traffic violation. *See State v. Hooley*, 2012 OK CR 3, 269 P.3d 949 (Okla. Crim. App. 2012) (In *Hooley*, an Oklahoma court held that the Oklahoma District Attorney’s Office was not collaterally estopped from litigating the issue of probable cause at a criminal hearing, despite

the issue having been previously decided at an administrative hearing held by the Department of Public Safety (“DPS”), because there was no privity between the District Attorney’s Office and the DPS.); *see also State v. Ratliff*, 304 Or. 254, 744 P.2d 247 (1987) (In *Ratliff*, the Oregon Supreme Court held that there was no constitutional protection, which would collaterally estop the state from re-litigating the validity of an automobile stop after adjudication in an informal administrative license suspension hearing found against the state.); *see also State v. Brunet*, 174 Vt. 135, 806 A.2d 1007 (2002) (In *Brunet*, the Vermont Supreme Court found that collateral estoppel did not bar a criminal prosecution based on factual allegations decided adversely to the state in an earlier probation revocation proceeding because the state did not have a full and fair opportunity to litigate the facts due to the different purposes and procedures of the probation revocation proceedings.).

Although the above referenced cases considered the equity of applying collateral estoppel against the state, ultimately, the state courts held that an element or factor of collateral estoppel was missing and therefore, the doctrine was not applied. Specifically, in the above cases, the state courts found the *elements* of collateral estoppel did not exist either because:

1. there was no full and final judgment on the merits, as the preceding hearing was an administrative proceeding and not a full and complete trial on the merits of the case in a court of law; or

2. there was identity of the issues actually litigating in the previous proceeding; or
3. there was no privity between the parties, particularly the state's criminal prosecutorial unit and the state's administrative division regulating motor vehicles.

Other states have held that collateral estoppel does bar a state from relitigating an issue in a criminal trial after a negative finding in a civil trial. *See State v. Summers*, 351 N.C. 620, 528 S.E.2d 17 (2000) (In *Summers*, the Supreme Court of North Carolina held that collateral estoppel barred the re-litigation of the issue of whether defendant had willfully refused to submit to a breathalyzer test because that issue had been conclusively decided against the state after appeal of the corresponding civil case in the superior court.); *see also People v. Cornier*, 42 Misc.2d 963, 249 N.Y.S.2d 521 (Sup. Ct. Kings Cnty. 1964) (In *Cornier*, the New York Supreme Court found that collateral estoppel barred the State from proceeding on the felony charge of driving while intoxicated after the defendant had been found not guilty on the charge of driving without a license in the Criminal Court of New York Traffic Division.).

As previously stated, in this case, the Rhode Island Supreme Court assumed that all factors existed for collateral estoppel. The court simply refused to enforce the doctrine of collateral estoppel against the State of Rhode Island. "Where, as here, collateral estoppel is tinged by double jeopardy, equity demands its application." App. 14 (Flaherty, J., dissenting).

The elements of collateral estoppel having been satisfied, the Constitution demands its application.



CONCLUSION

For the reasons set forth above, the Petitioner, Mr. Minior, respectfully urges this Honorable Court to grant his Petition for Writ of Certiorari to determine whether the actions of the Rhode Island Supreme Court, as set forth above, were in error and, as a result, unconstitutional.

Respectfully submitted,

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