

In the Supreme Court of the United States

TOBIAS R. REID, PHD,

Petitioner,

v.

CLEVELAND POLICE DEPARTMENT, *et al.*,

Respondents.

On Petition for Writ of Certiorari to the Supreme Court of Ohio

**BRIEF IN OPPOSITION TO PETITION FOR WRIT OF
CERTIORARI**

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Table of Contents

Question Presented.....	i
Table of Authorities	ii
Statement of the Case.....	1
Reasons for Denying the Writ.....	2
A. Whether Petitioner complied with Supreme Court Rule 10.	
B. Whether the Supreme Court of Ohio properly applied the standard in <i>Nolan v. Nolan</i> , 11 Ohio St. 3d 1, 4, 462 N.E. 2d 410 (1984) when it determined that a decision in a criminal action is not the “law of the case” in a separate civil action involving different parties and different legal issues.	
Conclusion.....	4

QUESTION PRESENTED

1. Whether Petitioner complied with Supreme Court Rule 10.
2. Whether the Supreme Court of Ohio properly applied the standard in *Nolan v. Nolan*, 11 Ohio St. 3d 1, 4, 462 N.E. 2d 410 (1984) when it determined that a decision in a criminal action is not the “law of the case” in a separate civil action involving different parties and different legal issues.

Table of Authorities

Nolan v. Nolan, 11 Ohio St. 3d 1, 4, 462 N.E. 2d 410 (1984)

Santobello v. New York, 404 U.S. 257 (1971)

Supreme Court Rule 10

BRIEF IN OPPOSITION TO WRIT OF CERTIORARI

Tobias Reid, *pro se*, filed a petition of *certiorari* claiming without explanation that two state court decisions involving him personally should be certified as being in conflict to necessitate review by this Court.

STATEMENT OF THE CASE

Although Petitioner set forth a statement of facts, counsel has an obligation to point out in the Brief in Opposition that the facts presented in the slip opinion more accurately set forth the facts and procedural history below. Notably, Petitioner claims for the first time in this writ that his criminal and civil cases should be certified as being in conflict pursuant to the Fifth Amendment and the authority presented in *Santobello v. New York*, 404 U.S. 257 (1971). The Fifth Amendment and *Santobello* have not been cited in any proceeding below. Even if they had been, Petitioner fails to explain how these citations support an argument that this matter should be reviewed by this Court.

REASONS FOR DENYING THE WRIT

Supreme Court Rule 10 mandates that a petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

- 1.

(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;

(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;

(c) a state court or 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, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.

A. Petitioner fails to comply with Supreme Court Rule 10.

Despite the clear mandates of this rule, the crux of Petition's writ rests on his own personal interests in an SUV. Petitioner does not cite to any federal

or state law that are in conflict or otherwise call the Ohio Supreme Court's decision into question.

While Petitioner cites to *Santobello*, supra, without analysis, as the basis for this writ, *Santobello* is inapposite. The *Santobello* court determined that the sentence of the defendant should be vacated because the plea agreement specified that the prosecutor would not recommend a sentence, but the prosecutor breached the agreement by recommending the maximum sentence. This writ, however, does not involve Petitioner's criminal sentence, even if it had, the Court of Appeals affirmed Petitioner's criminal conviction on October 8, 2015 and Petitioner failed to appeal that decision.

B. The Supreme Court of Ohio properly applied the standard in *Nolan v. Nolan*, 11 Ohio St. 3d 1, 4, 462 N.E. 2d 410 (1984) when it determined that a decision in a criminal action is not the “law of the case” in a separate civil action involving different parties and different legal issues.

The underlying Supreme Court opinion, from which Petitioner attempts to further appeal, involves the “law of the case” doctrine. The Supreme Court of Ohio carefully explained that the “law of the case” doctrine does not require a court to follow a superior court's decision in a prior appeal involving one of the parties (but not all of the parties) in the context of a different case. The Petitioner does not cite to any federal or state case that conflicts with this law or analysis.

Instead, Petitioner appears to seek a determination that “reasonable minds” could differ as to whether Petitioner is entitled to compensation in

light of the prior proceedings that upheld the guilty plea despite the failure to return his SUV. Here, Petitioner challenges exactly what the Supreme Court has cautioned will not generally be considered appropriate for certiorari review: factual findings or the Ohio Supreme Court's application of a standard of review.

CONCLUSION

The crux of this Petition for a Writ of Certiorari rests on Petitioner's own personal interests and is unlikely to have any local, state or national significance. Moreover, the Petition fails to cite a question of law seeking to harmonize conflicting decisions in state or federal Circuit courts or have the potential of providing precedential value. As a result, Petitioner's writ fails to identify an appellate issue of sufficient general importance to justify the grant of Certiorari and should be denied.

Dated: December 11, 2017

Respectfully submitted,
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