

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

WINFRED A. MILNER, In Propria Personam...
And on behalf of himself and All others similarly situated,

Are the Good Faith — PETITIONER
(Your Name)

VS.
COMMONWEALTH OF PENNSYLVANIA, (For 49 Other States)

Are the — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES SUPREME COURT, FROM THE STATE SUPREME COURT
OF PENNSYLVANIA.

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

PETITION FOR WRIT OF CERTIORARI

Mr. Winfred A. Milner, AP-6690

(Your Name)

DOC/SCI-Mercer. E/B-4-2.
801 Butler Pike Road

(Address)

Mercer, PA 16137

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- I. WAS PETITIONER UNCONSTITUTIONALLY DENIED BY A STATE COURT, THE RETROACTIVE RELIEF AND APPLICATION OF U.S. SUPREME COURT DECISIONS, "UNITED STATES v. ALLEYNE, GREER, JOHNSON, SHAVERS, BOOKER; DENIED THE APPLICATION OF MARBURY v. MADISON, TESTA v. KATT; THE HARPER RULE PURSUANT TO ARTICLE VI. CLAUSE 2. "THE SUPREMACY CLAUSE," NUNC PRO TUNC?
- II. WHETHER THE STATE COURT BY ITS REFUSAL TO APPLY THE DECISIONS OF ALLEYNE-APPRENDI, VIA THE SUPREMACY CLAUSE TO THE APPELLANT'S CASE NUNC PRO TUNC, WAS TANTAMOUNT TO A STATE COURT COMMITTING A UNCONSTITUTIONAL STRUCTURAL DEFECT?
- III. WHETHER APPELLANT'S SENTENCE IS ILLEGAL?
- IV. WHETHER THE PCRA STATUTE WARRANTS RELIEF IN THE CONTEXT OF A TIMELY FILED PETITION WHEN APPELLANT'S TIMELY FILED PCRA AT CASE No. CP-02-CR-5326-1982. WARRANTS RELIEF PURSUANT TO ALLEYNE?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

☐ reported at _____ N/A _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

☐ reported at _____ N/A _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**: MILNER V. COMMONWEALTH OF PA. NO. 258 WAL 2017

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

☒ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Pennsylvania Superior - Western District court appears at Appendix F to the petition and is: No. 1062 WDA 2016...

☒ reported at 2017 Pa. Superior LEXIS 1270 _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts:** N/A.

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: N/A., and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts:** Rules of U.S. S.Ct., Rule 10(c)...

The date on which the highest state court decided my case was 11/1/2017.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date:
April 25, 2017, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Winfred A. Milner , and All others similarly situated (In 49 other States), that are affected by the Unconstitutional/Acts of the Pennsylvania State Court's Interference with their Access to Court, who are being Denied their Rights, Benefits, and Entitlements to the Decisions of the United States Supreme Court in violation of the following:

Petitioner, In Good Faith, Request the Justices of this Court would Enforce the Demands of the Constitution of the United States, Compel Respondent(s) to adhere to the Supreme Court's intent of 28 U.S.C. §1251 (a)., (b)(2) Original Jurisdiction; §1257(a) and give Petitioner's their Right to Supreme Court Decisions, Equally Both on Direct and during Collateral Appeals, their meaningful Access to Court, Enforcement of Supreme Ct. Decisions, and Equal Protection of the law.

This Case involves Violations of the following: Article 6 Sec. 2. "Supremacy Clause"; The Constitution, and the Laws of the United States shall be made in pursuance thereof...sic...Shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

I. First Amendment: Government shall not Prohibit/Abridge the Freedom of the People or Right to Petition the Government for Redress of Grievances.

V. Fifth Amendment: No person shall be deprived of Life or Liberty, without Due Process of Law.

VI. Sixth Amendment: All persons shall be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense.

XIV. Fourteenth Amendment Sec. 1: 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 or Liberty, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Also invoked under the Pennsylvania Constitution Article/Sections: 5§9, "The Right to Appeal"; 1§11, "The Right to An Open Court/Without Denial or Delay (or Limitations)"; 1§20, "The Right to Petition the Court for Redress to those in Authority.

STATEMENT OF THE CASE

We only recite a brief summary of the facts necessary to explain what has occurred over the past four(4) years history of this litigation; which forms the basis for the requested Enforcement of Petitioner's Constitutional Rights and the U.S. Supreme Court's Orders/Decisions, (Protections), and/or Hereafter find stated all substantive facts that are necessary for a fair determination of the original request to "Vacate Judgment of Sentence/Petition to Set Aside his Illegal Mandatory Minimum-Maximum Sentence(s)...Nunc Pro Tunc.

On April 12, 2015, Appellant Filed a timely Pro-Se P.C.R.A. Petition. No Direct Appeal was filed even though requested by Appellant. On June 24, 2016 - the lower Court dismissed the P.C.R.A Petition. Then, Appellant Filed A Timely "Notice of Appeal" to the Superior Court on July 12, 2016. While Appellant's timely Filed P.C.R.A. Petition was pending at the Briefing Stages of his Appeal, at Case No.1062 WDA 2016 ; Appellant gave "Judicial Notice" in a Motion Requesting the Superior Court to Consider the United States Supreme Court's Decision of Alleyne v. United States, 133 S.Ct. 2151 186 L. Ed 2d 314 (2013); and its progenies pursuant to Pa. R.A.P. Rule 2501(b) when deciding Appellant's Appeal. Appellant's Motion was granted for Consideration of Alleyne, But yet, no relief was granted as to Appellant's Unconstitutional Mandatory Minimum Sentences. On April 5, 2017 , The Superior Court affirmed the Petitioner's Unlawful Conviction-Sentence and present incarceration for Title: 18 Pa. C.S.A. §903(a)(1) "With Elements Unproven." On June 24, 2016, Judge Jill E. Rangos, Affirmed the Sentenced imposed. On March 6, 2016, Appellant Filed his "Motion to Vacate Illegal Sentence" in which the Court then Illegally Recharacterized and Construed it as A Second P.C.R.A. Petition and Ultimately denied same on June 24, 2016. That on July 4, 2016 , A Notice of Appeal was filed to the Superior Court at Case No.1062 WDA 2016. On April 5, 2017, The Superior Court affirmed the Lower Court's order while erroneously stating that "Appellant did not file his Petition seeking relief under Alleyne and its provisions until March 5, 2016...", nearly two years after that case was decided". On April 10, 2017 ; Appellant filed an "Application for Reargument" while giving the Superior Court Judicial Notice of Facts material to the outcome of his case that have been overlooked by the Court,

and as a result; Appellant's Petition was affirmed and ruled to be untimely. Finally, On April 5, 2017, The Superior Court denied Appellant's Application for Reargument. Next, A Petition for Allowance of Appeal was filed to the Pennsylvania Supreme Court and was denied on 11-14-2017. Petitioner filed A "Application for Reconsideration" (en banc) to the above said Order asking the Full Court to hear his Appeal which was ultimately denied on November 2, 2017, which brings this Appeal to this Honorable Court and Justices. Thus, to date, State Court Justices "Refuse" In Bad Faith to Hear Appeals pursuant to Mandatory Minimums Challenge... Therefore, This Court is ask to decide once and for all Whether Petitioner Was Unconstitutionally Denied by A State Court, The Retroactive Relief And Application Of U.S. Supreme Court Decisions, "United States v. Alleyne, Greer, Johnson, Shavers, Booker; Denied The Application of Marbury v. Madison, Testa v. Katt; The Harper Rule Pursuant to Article VI. Clause 2. "The Supremacy Clause", Nunc Pro Tunc? II. Whether The State Court By Its Refusal To Apply The Decisions Alleyne-Apprendi, VIA The Supremacy Clause To The Appellant's Case Nunc Pro Tunc, Was Tantamount To A State Court Committing A Unconstitutional Structural Defect? III. Whether Appellant's Sentence Is Illegal? IV. Whether The PCRA Statute Warrants Relief In The Context Of A Timely Filed Petition When Appellant's Timely Filed PCRA At Case No. 1062 WDA 2012 Warrants Relief Pursuant To Alleyne?

REASONS FOR GRANTING THE PETITION

Petitioner avers, that Judicial Notice is given to the Jurisdictional Statement, of the Appellant's Brief(s) as filed in the State Supreme Court of Pennsylvania, which is incorporated herein as if set forth both whole and in part. Furthermore, The Petitioner has showed a long line of cases, in which Pennsylvania State Courts have invalidated the statutes in question in their entirety, But yet, Refuse to afford the Petitioner the Due and Requested relief as to his Minimum/Maximum Mandatory Sentence(s).

Herein, The Requested Relief is clearly due and called for This Reviewing Court should not hesitate to deal with or correct a claimed denial of constitutional rights even some 34 years after the Petitioner has been convicted. Accord Price v. Johnson, 68 S. Ct. 1049 (1948). ... As well as ... Chessman v. Teets, 354 U.S. 156, 165 (1957). Which held, "on many occasions the Supreme Court has found it necessary to say that the requirements of the Due Process Clause of the Fourteenth Amendment must be respected, no matter how heinous the crime in question and no matter how guilty an accused may ultimately be found to be after guilt has been established in accordance with the procedure demanded by the Constitution. Evidently, Lest We Forget' it also needs to be repeated that the ultimate 'Overriding responsibility of this Reviewing Court is to the Constitution of the United States, no matter how late it may be that a violation of the Constitution is found to exist. This Court may not disregard the Constitution because an appeal as in this, as in others, has been made on the eve of execution. We must be deaf to all suggestions that a valid appeal to the Constitution, even by a guilty man, comes too late, because Courts, including this Court, were not earlier able to enforce what the Constitution demands. Especially, Since as herein, "The proponent before the Court is not the Petitioner, (Mr. Milner) but the Constitution of the United States.'" Instantly, Because on the face of the record Mr. Milner was "denied his procedural due process rights," then denied good faith correction of same; So are we still to believe even after reversible error is found to have occurred and to date the cause and effect of the Petitioner's suffering (from bad faith denial of a timely filed "PCRA Petition," and "Motion to Vacate Illegal Sentence," after reversible has occurred. Both Justice and the Constitution have been betrayed by

Judicial Fraud ... the Denial of Procedural Due Process Protected Rights; This REviewing Court shall not turn a blind-eye/cover-up the injustice, or continue to justify the inaction or incorrectness of Appellant's Unconstitutional Mandatory-Minimum/Maximum Sentence imposed pursuant to 18 Pa.C.S. §7508, as this statute was ruled to be unconstitutional in its entirety by Pennsylvania State Courts. Thus, There is no Statutory Authorization to leave Appellant's Unconstitutional Sentences/Conviction in place under an invalid statute. In Rochin v. California, 342 U.S. 165, 175-176 (1952) "[A] majority of this U.S. Supreme Court held that the Due Process Clause empowers this Court to nullify any state law if its application "shocks the conscience," offends "a sense of justice" or runs counter to the "decencies of civilized conduct." The majority further emphasized that these statements do not refer to their own consciences or to their senses of justice and decency. Stating, For we are told that "we may not draw on our merely personal and private notions"; our judgment must be grounded on "considerations deeply rooted in reason, and in the compelling traditions of the legal profession." We are further admonished to measure the validity of state practices, not by our reason, or by the traditions of the legal profession, but by "the community's sense of fair play and decency"; by the "traditions and conscience of our people"; or by "those canons of decency and fairness which express the notions of justice of English-speaking peoples." These canons are made necessary, it is said, because of "interests of society pushing in opposite directions."