

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Daryl Cook — PETITIONER
(Your Name)

vs.

City of Philadelphia, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Daryl Cook, #JR8635
(Your Name)

SCI-Fayette, Box 9999
(Address)

LaBelle, PA 15450-0999
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

I. Did the Supreme Court of Pennsylvania err and/or abused its discretion in not reversing the order of the Commonwealth Court of Pennsylvania affirming the October 13, 2015 order of the Court of Common Pleas of Philadelphia County denying Petitioner's "Motion to Strike Settlement and Reinstate Default Judgment", where the law is clear that "a void judgment" can be attacked at any time and the face of the trial court record clearly show that there is "a fatal defect" on the record which renders the January 6, 2014 order of the trial court opening and vacating the default judgments "void," "without effect" as violative of due process, in that "the trial court record clearly show" that no "Rule to Show Cause Order" was issued as of course upon the filing of the Petition to Open Judgment filed on behalf of Respondents Detective Gregory Rodden and ~~Victor~~ Lieutenant Dean, thus the subsequent January 23, 2015 Settlement Agreement regarding said Respondents is also "void," "without effect" as violative of due process?

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:

*City of Philadelphia, City Solicitor,
Lieutenant Dean, Officer Fennell,
Major May, Detective Gregory
Rodden, Jeffrey Minehart,
Michael Barry and Lee Mandell,
Respondents*

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OTHER

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 ~~2~~ 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☐ is unpublished.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 United States district court appears at Appendix _____ to the petition and is

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☐ is unpublished.

☒ For cases from **state courts**:

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

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☐ is unpublished.

The opinion of the ~~trial~~ state trial court appears at Appendix B to the petition and is

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

JURISDICTION

☐ For cases from **federal courts**:

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: _____, 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**:

The date on which the highest state court decided my case was 8/28/2017.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied 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 N/A (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

Amendment XIV, Section 1 of ^{the} United States Constitution:

"nor shall any state deprive any person of life, liberty, or property, without due process of law,".....

Article 1, Section 11 of the Pennsylvania Constitution:

"All courts shall be open; and every man for an injury done him in his lands, goods, person or reputation shall have remedy by due course of law, and right and justice administered without sale, denial or delay."

STATEMENT OF THE CASE

RELEVANT FACTS:

In May 2012, Petitioner filed a civil complaint against the City of Philadelphia, Detective Gregory Rodden, Lieutenant Dean, and five other Defendants, in the Court of Common Pleas of Philadelphia County.

On March 14, 2013, default judgments were entered against Defendants Detective Gregory Rodden and Lieutenant Dean. On December 9, 2013, a petition to open judgment was filed on behalf of Defendants Rodden and Dean. On January 6, 2014, the trial court ~~and~~ granted the petition to open judgment and ordered that the default judgments were opened and vacated. On January 23, 2015, a settlement agreement was made.

At the time the default judgments was opened and vacated, Petitioner had not been served with a copy of the petition to open judgment and no Rule to Show Cause Order had been issued to Petitioner.

As a result of the default judgments being opened and vacated without Petitioner being served with a copy of the petition to open and without a Rule to Show Cause Order being issued as required, Petitioner filed a motion to strike settlement and reinstate default judgment on September 4, 2015, which was denied on October 13, 2015 and affirmed on November 28, 2016.

REASONS FOR GRANTING THE PETITION

This matter is of grave public importance because Petitioner was denied his fundamental and substantive right to due process of law, in that he was deprived of his entitlement to default judgments against two (2) employees (namely, Detective Gregory Rodden and Lieutenant Dean) of Respondent City of Philadelphia, without being afforded notice of the petition to open the default judgments as a result of Petitioner not being served with a copy of said petition and as a further result of Petitioner not being issued a Rule to Show Cause Order to afford him an opportunity to defend against the petition to open judgment as required by Pennsylvania Rules of Civil Procedure and the Constitution of the United States. Thus, the Commonwealth Court of Pennsylvania and Supreme Court of Pennsylvania erred and/or abused its discretion in not reversing the order of October 13, 2015 (denying the motion to strike settlement and reinstate default judgment). See Pa.R.C.P. 206.1, 206.4, 206.6; Phila. County R.C.P. 206.4(C); U.S. Const. Amend. 14; Pa. Const., Art. 1 § 11; M+P Management, L.P. v. Williams, 594 Pa. 489, 937 A.2d 398, 2007 Pa. LEXIS 2434 (citing Romberger v. Romberger, 290 Pa. 454, 457, 139 A. 159, 160 (1927)); Clarion, M.+P.R. Co. v. Hamilton, 127 Pa. 1, 3, 17 A. 752 (Pa. 1889); United Student Aid Funds, Inc. v. Espinosa, 176 L.Ed.2d 158 (2010). See also George v. Mapp, 2006 Phila. Ct. Com. Pl. LEXIS 275.

Accordingly, Petitioner believe that because "a Rule to show Cause Order" was not issued and he was not served with a copy of the petition to open the default judgments entered against Respondents Detective Gregory Rodden and Lieutenant Dean, the trial court's Order of January 6, 2014 opening the default judgments is "void," "without effect," thus, the motion to strike the settlement and reinstate the default judgments against Respondents Rodden and Dean should have been granted.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dan Cook

Date: November 15, 2017