

IN THE UNITED STATES SUPREME COURT

COMMONWEALTH OF PENNSYLVANIA
Respondents

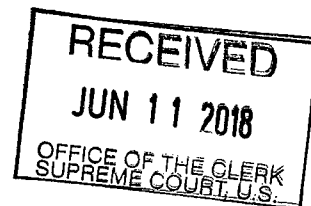
v.

VINCENT DAVIS,
a/k/a TERRELL STRONG
Petitioner

PETITION FOR REHEARING

PETITION FOR REHEARING ON THE JUDGMENT
OF THIS COURT, ENTERED ON THE APRIL 16, 2018,
AT DOCKET NO. 17-7889

Vincent Davis
a/k/a Terrell Strong
No. CC-3542
SCI @ Houtzdale
P.O. Box 1000
Houtzdale, PA 16698-1000



GROUND FOR REHEARING

I. PETITIONER WAS CONVICTED OF AN OFFENSE (CRIME) NEITHER CHARGED NOR TRIED IN ACCORDANCE WITH DUE PROCESS.

On June 27, 1990, the Commonwealth of Pennsylvania filed bills of information specifically charging Petitioner with **"Conspiring"** to commit murder with his Codefendant [admitted Principal Perpetrator] Duane Eliam. Subsequently, related offenses were filed, e.g. 18 Pa.C.S.A. §§ 2502, 2503 (first degree murder, voluntary manslaughter); 903 (criminal conspiracy); 907A, 907B (possession of an instrument of crime, possession of a weapon); and 6106-6108 (carrying a firearm in a public street or place in Philadelphia, carrying a firearm without a license).

On November 6, 1991, following a bench trial, Petitioner and Codefendant Eliam were **"acquitted of Criminal Conspiracy"**. However, judgment for first degree murder based a separate and independent vicarious liability offense Complicity (accomplice liability) under 18 Pa.C.S.A. § 306, was entered against them. However, as previously noted, Petitioner was **'NOT'** charged with Complicity under § 306.

On March 12, 1996, the PCRA Court acknowledged the fact that the judgment against Petitioner was indeed based on the separate, independent and belated offense of Complicity (accomplice liability) under § 306. A dialogue between the PCRA Court and Petitioner during a PCRA hearing produced the following exchange:

THE COURT: I found you not guilty of Conspiracy.
 PETITIONER: What I am saying ma'am, is that if anybody we never had a chance to defend against any [Complicity] accomplice liability. So I don't understand how it's possible for the Court to have found me guilty of that. That information was never disclosed to my attorney of myself.
 THE COURT: No, no, no, no, no. It was always clear that the case was not that you pulled the trigger, but you told somebody else to pull the trigger. That makes you an accomplice.
 PETITIONER: Correct.
 THE COURT: **So they didn't have to write it out.**
 PETITIONER: You're saying that we did not have to be informed that the Commonwealth was proceeding--
 THE COURT: Of course not; your lawyer knew. **[Presumption]**
 PETITIONER: Under a theory of accomplice liability [Complicity]?
 THE COURT: I'm telling you that where you are not charged with the direct commission of a crime, but with involvement with someone else in the commission of a crime, that is automatically an accomplice liability.
 PETITIONER: Don't I have to be charged with it?
 THE COURT: **No; it's not a separate charge.**

See N.T. 03/12/1996, Pgs. 10-12.

Petitioner's inherent Sixth Amendment right to due process has unequivocally been violated. Petitioner and Society's fundamental right to be informed of the nature and cause of the accusation against them must be protected. Pennsylvania has a long-standing history of arbitrarily using the "Culpability Offense" of Complicity (accomplice liability) under 18 Pa.C.S.A. § 306, as a catch-all for prosecutor's failure to sustain verdicts against accused for the "Inchoate Offense" of Conspiracy under 18 Pa.C.S.A. § 903. A court cannot permit a defendant/citizen to be tried on charges that are not made in an indictment or information against him. Petitioner has no other remedy

at law to redress the due process violation that has kept him in prison for twenty (28) years.

In the interest of justice, this Court is being asked to certify the fact that the 'Culpability Offense' of Complicity under 18 Pa.C.S.A. § 306, and the 'Inchoate Offense' of Conspiracy under 18 Pa.C.S.A. § 903, are two (2) separate and distinct, indictable offenses subject to the strictures of the Sixth (VI) and Fourteenth (XIV) amendments to the United States Constitution.

Dated: 04/23/2018

/s/ Vincent Davis

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COMMONWEALTH OF PENNSYLVANIA,
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CERTIFICATION OF PETITIONER

Petitioner hereby certify that the following
Petition for Rehearing is being presented and filed
in good faith, and not for the sake of inordinate delay.
WHEREFORE, Petitioner humbly request that this Court
entertain his Petition for Rehearing.

/s/

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