

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CHRISTOPHER LEE DUCKETT — PETITIONER
(Your Name)

VS.

ROBERT MARSH, WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

CHRISTOPHER LEE DUCKETT

(Your Name)

SCI BENNER TWP, 301 INSTITUTION DR.

(Address)

BELLEFONTE, PA 16823

(City, State, Zip Code)

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QUESTION(S) PRESENTED

1. WHETHER A DEFENDANT IN A STATE CRIMINAL CASE AT TRIAL WERE INEFFECTIVE ASSISTANCE OF COUNSEL IS A LEADING CONTRIBUTOR TO INNOCENT OR WRONGFUL CONVICTIONS?
2. WHETHER A DEFENDANT IN A STATE CRIMINAL CASE WHO IS PROHIBITED BY STATE LAW FROM RAISING ON DIRECT APPEAL ANY CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL, BUT WHO HAS A STATE LAW RIGHT TO RAISE SUCH A CLAIM IN A DEFENDANT FIRST POST CONVICTION PROCEEDING, HAS A FEDERAL CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF FIRST POST CONVICTION COUNSEL SPECIFICALLY WITH RESPECT TO HIS INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL CLAIM ?
3. WHETHER THE STATE STATUTES 42 PA. C.S.A. §9541-9546 IS BEING BROUGHT IN TO QUESTION WHERE THE VALIDITY OF THE STATE STATUTES ON THE GROUNDS ITS BEING REPUGNANT TO THE CONSTITUTION, OR TREATIES OR LAWS OF THE UNITED STATES ?
4. WHETHER A DEFENDANT WAS VIOLATED OF A MISCARRIGE OF JUSTICE OF HIS FEDERAL CONSTITUTION RIGHTS WERE VIOLATED ?
5. WHETHER A DEFENDANT WAS VIOLATED AT TRIAL BY DUE PROCESS WHEN THE JUROR #2 FAILED TO ANSWER HONESTLY A MATERIAL QUESTION ON VOIR DIRE, AND WHETHER THE CORRECT RESPONE WOULD HAVE PROVIDED A VALID BASIS FOR A PEREMPTORY CHALLENGE FOR CAUSE?

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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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 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☒ is unpublished.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 United States district court appears at Appendix B to the petition and is

☒ reported at 2016 U.S. DIST. LEXIS 137396; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C 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 TRIAL court appears at Appendix D 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 1-18-2018.

☐ 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: 2-21-2018, and a copy of the order denying rehearing appears at Appendix D.

☐ 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 6-10-2009.
A copy of that decision appears at Appendix _____.

☐ 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

U.S. CONST., AMEND. VI

IN ALL CRIMINAL PROSECUTION, THE ACCUSED SHALL ENJOY THE RIGHT TO SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND WHERE THE DISTRICT WHEREIN THE CRIME SHALL HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO 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.

U.S. CONST., AMEND. XIV

SECTION 1. ALL PERSON BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE, 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; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

STATEMENT OF THE CASE

APPELLANT, CHRISTOPHER DUCKETT, APPEALS FROM THE JUDGMENT OF SENTENCE ENTER ON MAY 30, 2006, FOLLOWING HIS CONVICTION OF FIRST DEGREE MURDER, CARRYING A FIREARM WITHOUT A LICENSE, AND POSSESSING INSTRUMENTS OF CRIME, THE RELEVANT FACTS AND PROCEDURAL HISTORY FOLLOWING.

THIS CASE ARISES OUT OF A HOMICIDE DEATH OF ARTHUR BINES, OCCURRING IN THE EARLY MORNING HOURS OF JUNE 24, 2004. ON THAT DATE, AT APPROXIMATELY 6:30 A.M. POLICE FOUND THE BODY OF MR. BINES ON THE SIDEWALK IN THE 4600 BLOCK NORTH SYDENHAM, PHILADELPHIA. POLICE RECOVERED SHOTGUN WADDING AND LEAD PELLETS FROM THE STREET, ALONG WITH BLACK PLASTIC AND SHOTGUN WADDING ATTACHED TO THE VICTIM'S SHIRT. DURING THEIR INVESTIGATION, POLICE,

concluded that the ballistic evidence came from a 12 gauge shotgun, and the lead balls recovered from the victim were consistent with a Double OO Buckshot. On March 22, 2005, Appellant was ultimately arrested for the aforementioned homicide.

Appellant's jury trial commenced on March 23, 2006. During the Commonwealth's case-in-chief, Eugene Booker testified that on June 23, 2004, he was standing in front of his house, located at 16th and Wingohocking Street, with John Conway (a.k.a. Buddha), his next door neighbor Rob, and other individuals. While they were outside, he was approached by the victim, Mr. Bines, and a fifteen or twenty minute discussion ensued regarding a football league and pitbulls for sale. After the discussion, Mr. Bines stayed because he knew John Conway previous to that day.

On June 24, 2004, between the hours of 1:00 a.m. and 3:00 a.m., Mr. Booker, Ronny Conway (a.k.a. 6-9) and Appellant were standing outside of Mr. Booker's house discussing where to buy the drug "purple". Mr. Booker

and Appellant left on bicycles in search of the drug and on their way back home, one of the bicycle tires blew and startled individuals sitting on a porch on the corner of 17th Street. After noticing Mr. Bines on the porch, Mr. Booker asked Mr. Bines if he paid back John Conway. In response, Mr. Bines acknowledged he repaid the debt. To confirm the payment, Mr. Booker and Mr. Bines went to John Conway's house. When they arrived at the house, John Conway told Mr. Booker he received the money from Mr. Bines.

After speaking with John Conway, Appellant inquired into purchasing "powder", and Mr. Bines told them about a place where they could obtain it. While Mr. Booker remained on his front porch, Appellant, Mr. Bines and Ronny Conway drove away in Ronny's vehicle. Approximately three or four minutes later, the men returned and Mr. Booker overheard an argument between Appellant and Mr. Bines. During the argument, Mr. Bines told Appellant, "I ain't trying to burn you". After Appellant exited Ronny's vehicle, he ran to Louis Bryant's (a.k.a. "Nard") house, located six doors down from Mr. Booker's residence. At this time, Mr. Bines told Mr. Booker he wasn't trying to burn Appellant. Appellant yelled "Hold that n. - - - r. I'm going to shoot him".

While Appellant retrieved his sawed-off shotgun from Mr. Bryant's residence, Mr. Booker told Mr. Bines to run away. Thereafter, Appellant

exited Mr. Bryant's residence with the shotgun and asked Mr. Booker where was Mr. Bines. Booker replied, "I told him to run".

Approximately ten minutes later, Appellant asked Ronny Conway to drive him to the ATM. Ronny and Appellant left, but came back a short time later. Mr. Booker saw both individuals jump out of the car, and Appellant informed Mr. Booker he saw Mr. Bines in the neighborhood. Appellant retrieved his shotgun, and both Ronny Conway and Appellant drove off in Ronny's vehicle. A short time later, Ronny Conway returned alone and asked Mr. Booker, "do you think he is going to do it; do you think he is going to do it?"

During this conversation, Mr. Booker heard two gunshots.

After the gunshots, Appellant came running around the corner carrying the shotgun. Appellant asked Mr. Booker to hide the gun and Mr. Booker refused. After Appellant hid the gun in a trash can in front of Mr. Bryant's house, the men argued. Mr. Booker asked Appellant why he shot Mr. Bines over \$20.00, and Appellant replied, "it was the principle". During the argument, John Conway exited his residence and participated in the argument.

Mr. Booker further testified that at some time during the early hours of June 24, 2004, he left the neighborhood with John Conway in search of the crime scene. Later that day, Appellant approached Mr. Booker and stated,

"[You] didn't see nothing" and "You can die, too; you can die too."

During the Commonwealth's case-in-chief, John Conway testified that on the afternoon of June 23, 2004, while in the presence of Appellant, Mr. Booker and Louis Bryant, he spoke briefly with Mr. Bines concerning the pitbulls. Later that night or early morning, Mr. Bines overheard an argument between Mr. Booker and Appellant. During his direct testimony, Mr. Conway admitted to the accuracy of the following statement he made to police: "Yeah; it was like - - it was after I slept for a while. I came back out. [Mr. Booker] and [Appellant] were arguing about who knew what. [Mr. Booker] was saying something like: Why did you shoot the boy? [Appellant] kept telling him: You don't know nothing."

During his cross-examination testimony, Mr. Conway testified he never went to work on June 23, 2004, and spent the day partying with Mr. Bryant, Mr. Booker, and Appellant. According to Mr. Conway, he did not know Mr. Bines, nor did he loan him money. He further testified that he never went for a walk with Mr. Booker for the purpose of looking for a crime scene.

Bennett G. Preston, Assistant Medical Examiner of City of Philadelphia testified that Mr. Bines sustained one shotgun wound to the left upper leg, and the left lower abdomen. Six pellets, consistent with a Double 00

Buckshot, were recovered from Mr. Bines' body. Dr. Preston concluded Mr. Bines' manner of death was homicide.

Following the jury trial, Appellant was ultimately convicted of the aforementioned crimes. On May 30, 2006, Appellant was sentenced to a term of life imprisonment for first-degree murder, a concurrent term of two to five years' imprisonment for carrying a firearm without a license, and a concurrent term of two to five years' imprisonment for possessing instruments of crime. Appellant filed a timely post-sentence motion, which was ultimately denied by the trial court on July 5, 2006.

On August 29, 2006, Appellant filed a petition for relief pursuant to the Post-Conviction Relief Act (PCRA), 42 Pa.C.S.A. §§ 9541-9546, requesting leave to file a direct appeal *nunc pro tunc*. On September 12, 2006, the PCRA court granted Appellant's request and this timely appeal followed.

On appeal, Appellant raises the following issues for review:

1. Whether the trial court erred in failing to arrest judgment because the evidence of Appellant's involvement in the shooting was so inherently implausible and equivocal as to be insufficient as a matter of law to sustain Appellant's conviction of first degree murder?
2. Whether the trial court erred in failing to award a new trial because the jury's guilty verdict on the charge of first degree murder was so flatly contrary to the weight of trial testimony and so incapable of dispelling reasonable doubt as to Appellant's guilt as to shock one's sense of justice?

REASONS FOR GRANTING THE PETITION

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.

THIS CASE IS IMPORTANT FOR THE ISSUES IT RAISE AS TO THE PROPER ALLOCATION OF FUNCTIONS BETWEEN THE STATE AND FEDERAL DISTRICT COURT AND THE FEDERAL COURTS OF APPEALS, THIS COURT HAS CONSISTENTLY, RECOGNIZED THAT THE PROPER OBSERVANCE OF THE DIVISION OF FUNCTIONS BETWEEN ALL COURTS IS IMPORTANT IN EVERY CASE IN THE UNITED STATES, ESPECIALLY IN CASE WHERE THE DISTRICT COURTS HAS BEEN ASKED TO ISSUE AN EFFECTIVE REMEDY TO CURE UNCONSTITUTIONAL CONDITIONS IN PUBLIC INSTITUTIONS. HUTTO V. FINNEY, 437 U.S. 678 (1978).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

CHRISTOPHER LEE DUCKETT

Date: APRIL 23 2018