

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Dale Lloyd Challoner — PETITIONER
(Your Name)

vs.

Michael Sapanek — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Dale Lloyd Challoner

(Your Name) # 30154-013

U.S.P. Big Sandy

(Address) P.O. Box 2068

Inez, KY 41224

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1). WHETHER A PRISONER ALLEGING LACK OF JURISDICTION AND ACTUAL INNOCENCE AB-INITIO AND PROVING SUCH CLAIM MAY INVOKE 28 U.S.C. § 2241?
- 2) WHETHER PRISONER'S CONVICTION WITHOUT JURISDICTIONAL NEXUS AND WITHOUT EVIDENCE OF GUILT TRIGGERS THE PROTECTIONS OF THE 13TH AMENDMENT'S PROHIBITION OF INVOLUNTARY SERVITUDE?
- 3). WHETHER PRISONER INVOKING PROTECTIONS OF THE 13TH AMENDMENT'S PROHIBITION OF INVOLUNTARY SERVITUDE MAY INVOKE 28 U.S.C. § 2241?
- 4). WHETHER THE LOWER COURTS HAVE SERIOUSLY DENIED PETITIONER A JUDICIAL FORUM?

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 B 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☒ is unpublished.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 C 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☒ is unpublished.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 highest state court to review the merits appears at Appendix _____ 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☐ is unpublished.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 _____ 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☐ is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was August 7, 2017.

☐ 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: September 12, 2017, and a copy of the order denying rehearing appears at Appendix A.

☐ 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 _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves amendment XIII to the U.S. Constitution which provides:

Section 1: Neither slavery nor involuntary servitude, except as a punishment for crime where of the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2: Congress shall have power to enforce this Article by appropriate legislation.

The amendment XIII is enforced by Title 28 U.S.C. § 2241 United States Code and 28 U.S.C. 1331 (Federal Question).

STATEMENT OF THE CASE

On February 16, 2016 Petitioner filed a habeas Petition under 28 U.S.C. § 2241 (c)(3) seeking to be delivered from involuntary servitude and made a clear showing of actual innocence ab initio and clear lack of jurisdictional nexus for his conviction resulting from the alleged arson of a public school and use of a molotov cocktail as an incendiary device.

On May 5, 2016 the district court denied the habeas petition on the grounds that despite the error in conviction and the petitioner's actual innocence of 924(c) and 844 convictions, because there has been no intervening Supreme Court decision petitioner is without a remedy and must remain in involuntary servitude.

Petitioner then filed a motion for reconsideration and he argued that failure to grant the relief entitled to the petitioner triggers the protections of the 13th amendment's prohibition of involuntary servitude. The district court denied reconsideration.

On appeal before the U.S. court of Appeals for the Sixth Circuit petitioner raised four (4) issues: (1) Whether a prisoner alleging lack of subject matter jurisdiction and actual innocence ab initio and proving such a claim may invoke 28 U.S.C. § 2241? (2) Whether prisoner's conviction without evidence and actual innocence triggers the protections of the 13th amendment's prohibition of involuntary servitude? (3) Whether prisoner invoking protections of the 13th amendment may invoke 28 U.S.C. § 2241? and (4) Whether prisoner's involuntary servitude constitute a circumstance that makes appellant's application for release on bail "exceptional and deserving of special treatment in the interest of justice.

The Sixth Circuit denied the appeal and failed to establish precedent for involuntary servitude claims and denied a judicial forum for enforcing prohibition of involuntary servitude.

The petitioner finally filed a petition for rehearing and alleged that the sixth circuit court of appeals has denied a judicial forum for a claim of involuntary servitude violations of the 13th amendment.

Rehearing was denied on September 12, 2017.

REASONS FOR GRANTING THE PETITION

A). A QUESTION OF GREAT IMPORTANCE -- INVOLUNTARY SERVITUDE.

This case presents a fundamental question of the interpretation of the 13th amendment and this court's decision of Robertson v. Baldwin, 165 U.S. 275 (1897). The question presented is of great importance because it affects the entire United States population and it affects the enforcement of involuntary servitude in all 50 states, the District of Columbia, and the territories of the United States.

The issue's importance is enhanced by the fact that the lower courts in this case have seriously denied petitioner a judicial forum in direct conflict with this court's decision in INS v. St Cyr, 533 U.S. 289, 300 (explaining that 2241 may be invoked when failure to do so would deprive a judicial forum to hear such a claim); Webster v. Doe, 486 U.S. 592, 603 (1988)(explaining that a serious constitutional question...would arise if a federal statute were construed to deny any judicial forum for a colorable constitutional claim).

The petitioner maintains that in this case the protections of the 13th amendment were triggered when the courts below resorted to the abuse of the legal process to refuse to deliver the petitioner from involuntary servitude and denying a judicial forum.

The Second Circuit has held in U.S. ex rel. Caminito v Murphy, 222 F.2d 698 (2nd Cir 1955) that to jail a man without evidence of guilt or jurisdictional nexus is to impose involuntary servitude.

The Supreme Court has also held in Robertson v. Baldwin, 165 U.S. 275 (1897) that habeas corpus is a private action to enforce the prohibition of involuntary servitude.

The supreme Court has also held in INS v. St. Cyr, 533 U.S. 289, 300 (2001) that 2241 may be invoked when failure to do so would deprive a judicial forum to hear such a claim.

Finally, the Supreme Court in Webster v. Doe, 486 U.S. 592 (1988) held that serious constitutional problem would arise if there is no judicial forum to hear a "colorable" constitutional claims.

In this case it is clear that Petitioner's conviction for arson of a public school and use of a molotov cocktail in furtherance without a jurisdictional nexus and without evidence was obtained in violation of the 6th amendment right to effective assistance of counsel and subsequently in violation of the 13th amendment right to be free from involuntary servitude.

Accordingly, the U.S. District Court for the Eastern District of Kentucky had jurisdiction to hear the petitioner's 2241 habeas petition and similarly, the Sixth Circuit Court of Appeals and the district court have both denied the petitioner a judicial forum to enforce the prohibition of involuntary servitude resulting from the lack of factual basis and abuse of the legal process. 22 U.S.C. § 7102 (6)(B).

Thus, the courts below seriously ignored the law of the land as held in Robertson, St. Cyr, and Webster by failing to act and deliver the petitioner from involuntary servitude and interfering with the petitioner's pro-se attempts to enforce the prohibition of involuntary servitude. See Poventud v. City of New York, 715 F.3d 57 (2nd Cir 2013)(holding that a plaintiff alleging civil rights violations in connection with his conviction or imprisonment must have access to a federal remedy either under habeas or under § 1983. This court should correct the manifest injustice and make it clear that the right to be delivered from involuntary servitude via habeas corpus cannot be denied or obstructed.

- 1). WHETHER A PRISONER ALLEGING LACK OF JURISDICTION AND ACTUAL INNOCENCE AB-INITIO AND PROVING SUCH CLAIM MAY INVOKE 28 U.S.C. § 2241?

In this case Petitioner made a clear showing of actual innocence ab-initio and clear lack of jurisdictional nexus for his conviction resulting from the arson of a public school by use of a molotov cocktail as an incendiary device.

Whether a federal constitutional right to be released upon proof of "Actual Innocence" exists is an open question. See U.S. v. McDonald, 641 F.3d 596, 616-17 (4th Cir 2010)(citing cases).

The Sixth Circuit has held that in order to be entitled to relief under § 2241, a federal prisoner must show that his case falls

under the "savings clause" of § 2255. See 28 U.S.C. § 2255 5th P ("inadequate or ineffective remedy"); Charles v. Chandler, 180 F.3d 753, 756 (6th Cir 1999). The only exception that the Sixth Circuit may choose to recognize must be based on a showing of actual innocence. See Charles v. Chandler, 180 F.3d 753, 757 (6th Cir 1999). Accordingly, there is no need of intervening Supreme Court decision.

In this case Petitioner has not only shown actual innocence, he has also shown lack of jurisdictional nexus and involuntary servitude concerns.

Therefore, the time for settling such question is at hand by showing of actual innocence a defendant may excuse the procedural barriers of a successive, abusive, or defaulted claim in order to reach the merits of his constitutional claim.

2). WHETHER PRISONER'S CONVICTION WITHOUT JURISDICTIONAL NEXUS AND WITHOUT EVIDENCE OF GUILT TRIGGERS THE PROTECTIONS OF THE 13TH AMENDMENT'S PROHIBITION OF INVOLUNTARY SERVITUDE?

The second Circuit has held that to jail a man without evidence of guilt or without evidence of jurisdictional nexus is to impose involuntary servitude. See U.S. Ex. Rel. Caminito v. Murphy, 222 F.2d 698 (2nd Cir 1955). Therefore, a prisoner claiming involuntary servitude as a result of actual innocence ab-initio and lack of jurisdictional nexus is allowed to invoke § 2241. See In Re Chung Fat, 96 F. 202 (D. Wash 1899)(the right to be delivered from involuntary servitude by habeas corpus cannot be denied). The incarceration of an innocent defendant without jurisdictional nexus triggers the protections of the thirteenth amendment and the proper law applicable in this case is the thirteenth amendment right to private action to enforce the prohibition of involuntary servitude. See Robertson v. Baldwin, 165 U.S. 275 (1897).

3). WHETHER PRISONER INVOKING PROTECTIONS OF THE 13TH AMENDMENT'S PROHIBITION OF INVOLUNTARY SERVITUDE MAY INVOKE 28 U.S.C. § 2241?

In this case petitioner is alleging that the protections of the 13th amendment's prohibition of involuntary servitude are triggered when the district court refuses to release a prisoner upon

showing of actual innocence a lack of jurisdictional nexus.

To jail a man without evidence of guilt and without evidence of jurisdictional nexus is to impose involuntary servitude. Therefore, a prisoner claiming involuntary servitude is allowed to invoke § 2241. See In Re Chung Fat, 96 F. 202 (D. Wash 1899)(the right to be delivered from involuntary servitude by habeas corpus cannot be denied). See Also Robertson v. Baldwin, 165 U.S. 275 (1897).

4). WHETHER THE LOWER COURTS HAVE SERIOUSLY DENIED
PETITIONER A JUDICIAL FORUM?

The conclusion of the courts below that it lacks jurisdiction to hear the habeas petition and/or appeal is erroneous.

The Supreme Court held in INS v. St. Cyr, 533 U.S. 289, 300 (2001) that 2241 may be invoked when failure to do so would deprive a judicial forum to hear such a claim. Similarly, the Supreme Court has held in Webster v. Doe, 486 U.S. 592 (1988) that serious constitutional problem would arise if there is no judicial forum to hear a "colorable" constitutional claims. Such is the case here with petitioner's involuntary servitude claim.

Moreso, the second Circuit has held that a plaintiff alleging civil rights violations in connection with his conviction or imprisonment must have access to a federal remedy either under habeas or under § 1983. See Poventud v. City of New York, 715 F.3d 57 (2nd Cir 2013).

CONCLUSION

The Petition for a Writ of certiorari should be granted. Or in the alternative, this court should construe this as an emergency petition and demand for writ of Habeas Corpus to deliver the Petitioner from involuntary servitude.

Dated on this 20 day of November, 2017.

Respectfully submitted
By Dale Lloyd Challoner
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