

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

KENNETH EUGENE CARTER — PETITIONER
(Your Name)

vs.
NANCY A. BERRYHILL,
Acting Commissioner of Social Security — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

KENNETH EUGENE CARTER #3485500
(Your Name)

MOCC-ONE MOUNTAINSIDE WAY
(Address)

Mt. Olive, W.V. 25185
(City, State, Zip Code)

MOUNT OLIVE CORRECTIONAL COMPLEX
(Phone Number)

QUESTION(S) PRESENTED

- 1.) How can a lower court overrule the higher court's statute enactment of government regulation, without representing the mere oversight or problem of an unreasonable application of law, in violation of the Constitution?
- 2.) Did passing the No Social Security Benefits for Prisoner's Act of 2009 not violate individuals constitution or substantive rights to backpay as is required, when there is no exceptions to receive prior sum award of past dues, if one is later convicted to serve life without parole sentence?
- 3.) Question is whether the No Social Security Benefits for Prisoner's Act of 2009 is constitutionally intended to serve a remedial purpose or serve to twice punish one for the same offense after the fact on unrelative circumstance or does discriminatory unfairness deny what is require, court award of past dues, to be paid?

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:

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	7
CONCLUSION.....	8

INDEX TO APPENDICES

APPENDIX RECORD

APPENDIX A, CASE LAW of CARTER V. COLVIN of Social Security, 2017 US Dist Lexis 166144	AR 1-3
APPENDIX B, W.V. SOUTHERN DISTRICT COURT, CASE 2:15-11485 - Defendants' Brief to Dismiss	AR 4-10
APPENDIX C, REQUEST REVIEW SSA -during- W.V. DISTRICT COURT CASE AND A LINE-Item Notice to SSA	AR 11-12 AR 13-18
APPENDIX D, W.V. DISTRICT COURT -Memorandum Opinion and Order JUDGEMENT ORDER -dismisses without prejudice	AR 19-23 AR 24
APPENDIX E, SSA - Notice of Decision - Unfavorable	AR 25-31
APPENDIX F, United States Court of Appeals for the Fourth Circuit - Informal Brief	AR 32-43
APPENDIX G, SSA - Request to Appeals Council SSA - Notice Letter of Procedure	AR 44-45 AR 46-47
APPENDIX H, United States Court of Appeals for the Fourth Circuit - Judgement, Affirmed Mandate	AR 48 AR 49

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<i>Evitts v. Lucey</i> , 469 U.S. 387, 401 (1985)	7
<i>Fowkes v. Thomas</i> , 667 F.3d 270 (2d Cir 2012)	4
<i>Franchise Motor Freight Ass'n v. Seavey</i> , 196 Cal.77, 235 P. 1000, 1002	6
<i>Mackley v. United States of America</i> , 79 F. Supp. 3d 57 (2015)	4
<i>Carter v. Colvin</i> , 2017 US Dist. Lexis 166144	AR.01

STATUTES AND RULES

<i>No Social Security Benefits for Prisoner's Act</i> , Pub. L. No. 111-115, 123 Stat. 3029 (2009)	4
---	---

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 H 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 D to the petition and is

- ☒ reported at Carter v. Colvin of Social Security, 2017 US Dist Lexis 166144; 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 FEBRUARY 16, 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: _____, 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 _____.
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

United States Constitution of America

Equal protection of law

discriminatory factors of selective process

Double and multiple punishments

Statutory

2009 Act of No Social Security Benefits for Prisoner's

discriminates any individual doing life without parole sentence
AND

2009 Act view certain traits for const. violation, imposes
additional punishments for an offense

For Social Security or life insurance, are same in policy benefits
Rule states on p.4 it does not affect their substantive right to those benefits
which is contradict to one doing life without that was priorly before
conviction awarded backpay for loss

STATEMENT OF THE CASE

The matter comes on appeal to Supreme Court of the United States from dismissal of the pro-se Petitioner, Kenneth Carter's "Petition for Execution Judgement Payment Owed," (see, AR.01) and both lower federal courts, Southern District of West Virginia as of October 5, 2017 (AR.24) and the United States Court of Appeals for the Fourth Circuit on February 16, 2018 (AR.48). With the possibility of change or correction for as follows:

Because, lower courts have no jurisdiction to set aside or rule out the higher courts statute enactment of the No Social Security Benefits for Prisoner's Act, Pub. L. No. 111-115, 123 Stat. 3029 (2009) (the "Act") as an unreasonable application of law for it fails to include inmates doing a "capital case" of life without parole sentence. In all the cases of record they state "the Act alters only the procedure and timing by which certain individuals receive their retroactive social security benefit payments; it does not affect their substantive right to those benefits." *Fowlkes v. Thomas*, 667 F.3d 270 (2d Cir 2012) and *Mackley v. United States of America*, 79 F. Supp 3d 57 (2015). Which those inmates therein have the likeliness of a given release date and contrary to the above beliefs the individuals without an out-date, as the denial of Petitioner's Social Security Administration (SSA), awarded sum rest wholly upon the construction of the 2009 Act, brought about methods that breach the sense of justice.

Substantially, based on previous judicial decisions, there

stands no case law of record to the Petitioner's circumstances at hand. (AR.01-03). In doing so, case probability serves as an unforeseen event that occurs without anyone's fault or negligence, unexpectedly confirms the confusion or oversight between judicial and political functions of governmental regulation. But, through some problem there's a lack of clear direction, for those who pass laws not only are under duty to pass laws. They are also under duty to observe the Constitution:

It has been said into practice, no question can be brought before a judicial tribunal of greater delicacy than those which involve the constitutionality of legislative acts. If they become indispensable necessary to the case, the court must meet and decide them; but if the case may be determined on other grounds, a just respect for the legislature requires that the obligation of its laws should not be unnecessarily and unwarrantably assailed.

There is a guard against injustice through error and the 55A 2009 Act should not deny nor unnecessarily infringe on the constitution to deny Petitioner endlessly his award sum of past loss. (AR.04-10 and 13-18). Without restriction, how does it become innocent or lawful not to ever pay a debt owed once awarded in court, outside of being financially insolvent? According to, Rule or Amendment Petitioner has a substantive right to the awarded benefit sum as others and denying an equal protection of law claim is of a particular concern:

"In Constitutional law, the effect of a statute which confers particular privileges on a class arbitrarily selected from a large number of persons, all of whom stand in the same relation to the privileges granted and between whom and those not favored no reasonable distinction can be found."

FRANCHISE MOTOR FREIGHT ASS'N v. SEAVEY, 196 Cal. 77, 235 P. 1000, 1002.

Obviously, situation that presents uncertainty, whether the statute serves solely a remedial purpose or serves to punish, such as discriminatory unfairness of imposing new burdens on persons after the fact. The prejudice must yield to the imperative of correcting a fundamentally unjust action, as such opportunity to meet that constitutional responsibility should be afforded.

In light of the previous case development as a precaution the Constitution prohibits multiple or selective punishments stemming from same offense and punishments are the same if they grow out of a single criminal act, occurrence, episode or transaction. Which the 2009 Act essentially views certain traits for violation thereof, or imposes additional punishment for an act which was not punishable when the financial loss sum was awarded, alters the situation and partake of the character of Ex Post Facto laws, are not prohibited by the Constitution.

REASONS FOR GRANTING THE PETITION

As a matter of law, it is unconstitutional to use superior resources of government to harass or to achieve a tactical advantage over the petitioner's awarded sum. When engaged places the award with false value in a discriminatory practice, as well reckless indifference to federally protected rights of an aggrieved individual would raise a serious constitutional question, to be had.

It's apparent, as for the defendant's opposition and past action for defense "failure to exhaust administrative remedies," (AR. 04) throughout the lower court mirrors a troublesome way to petitioner, where numerous attempts were made to resolve the claim, requesting a review, (AR. 11-18 and 44-47). Social Security Administration never would take notice, nor respond till the filing against in federal court and refusing thereafter to any SSA decision towards the finality till, once each lower court issued an order of dismissal (AR. 25-31). In so doing, (AR. 13-18) continuously tending government office power to a misleading appearance of legality depriving the petitioner due process and equal protection of law. As in this case, when an agency "opts to act in a field where its actions has significant discretionary elements, it must nonetheless act in accord with dictates of the Constitution" *Evitts v Lucey*, 469 U.S. 387, 401 (1985). Whereas, total exhaustion requirement was not intended to unreasonably impair one's federally secured rights to the

Constitution or right to a fair administration.

Further, it is illogical for either lower federal court to overrule the higher court's enactment or remedy the unreasonable application of law with Petitioner's interest in justice that arises herein.

CONCLUSION

Court direct an Order for awarded sum of \$10,784.16 for past financial loss to Petitioner with cost expended and in alteration rectify the 2009 Act, such other relief the Court deems appropriate. The petition for a writ of certiorari should be granted.

Respectfully submitted,

 #3485560

Date: MAY 15, 2018