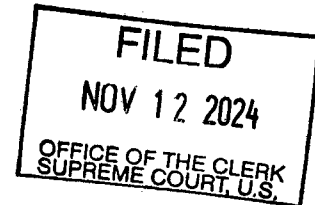


24-6957  
NO.

SUPREME COURT OF THE UNITED STATES  
HENRY PRATT,  
PETITIONER

VS,



COMMONWEALTH OF PENNSYLVANIA  
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI:  
FROM THE SUPREME COURT OF THE  
COMMONWEALTH OF PENNSYLVANIA.  
DOCKET NOS. 98: MAL 2024 – 99 MAL 2024

Henry Pratt  
2135 South 61<sup>ST</sup> Street  
Philadelphia, PA 19142  
01/05/2025

## **I. QUESTION PRESENTED**

**(1)**-Where the Trial Court erred by precluding Addie Brice, Civil Suit statement and making that statement not to be part of the evidence in this case.

This Court, will see the Commonwealth witness Ms. Brice, Civil Suit statement filed in Small Claims Court before the Commonwealth brought criminal charge against Pratt.

Ms. Brice, claims the same dollars amount, In both criminal and civil cases:

Brice stated that she borrowed money to Mr. Pratt, the money was never stolen and the Commonwealth – Judge refused to bring this crucial evidence on the records.

The District Attorney, Trail Counsel Steinberg, The Lower Court, Judge Mahon and the States Trooper knew exactly about the Civil Complaint from the Commonwealth Of Pennsylvania witness Addie Bryce, where the first statement contradicts the second statement in both Civil – Criminal

Proceedings and other evidence was withheld:

such as Addie Bryce Stepfather a friend of the Judge that preside over my case but the Court did not say anything about this evidence.

**APPENDICES-1**

**(2)**-THE Trail Court, erred because the, JUDGEMENT OF SENTENCE IS MISSING, the SENTENCING SHEETS ARE ILEGAL AND MISSING TIME

STAMP and THE PLEA COUQUIES ARE MISSING TIME STAMP, see,  
PA.R.A.P 341(a)(f) Pa.R.A.P 1925(b).

## **APPENDICES-2**

(3)-The PCRA Court erroneously Ruled that it lacked jurisdiction to rule on Pratt claim because Pratt initial probationary sentence has expired while Pratt PCRA Petition was pending, that is not truth.

Pratt is on Parole – supervised released by the Middle District Court Of Pennsylvania – DHS.

Commonwealth v. Smith, 17 A.3d 873 (Pa. 2011).

Commonwealth v. Ahlborn, 699 A.2d 718, 720 (Pa. 1997).

Commonwealth v. Martin, 832 a.2d 1141 (Pa. Super. 2003).

## **APPENDICES-3.**

(4)-The Trail Court erred, when the Court refused to consider Trail Attorney Steinberg, (“Affirmation Letter acknowledgement of incompetence of ineffective assistance of counsel”), that all parties, Judge Mahon, The District Attorney and the Court did not advise Pratt of Immigration doing Court Processing and at the time of the alleged plea. **See Plea Transcript.**

See, the Supreme Court Of The United States ruling-Decision in the cases of:

See, Jae Lee V. United States,

See, Padilla v. Kentucky,

See, Strickland v. Washington (1984 466 U.S. 668, 695, *Hill v. Lockhart*,(1985)

474 U.S. 52.

Pratt was robbed of the right that was given to these three – 3, cases above and the same right should be applied to Pratt and all these cases above were overturn.

Plea Counsel, the District Attorney, Judge Mahon and the Courts failure to provide clear warnings about the deportation penalties associated with Pratt alleged guilty plea fell below the recognized standard of professional competence under the 6<sup>th</sup> Amendment (Padilla, supra, Commonwealth v. McDermitt (2013 Pa. Super. 113)(Pa. Super, Ct. 2013); Commonwealth v. Escobar (2013 Pa. Super. 175)(Pa. Super. Ct. 2013. APPENDICES-4.

(5)-The Trail Court erred, when the Court refused to accept, Immigration Judge Daniel Conklin, Affirmation Letter, the Court also refused to accept Attorney Wayne Sachs acknowledgement that Judges Conklin, told him that he was the one that advise Pratt, that the Trail Court should had advise Pratt of immigration consequence at the time of the alleged plea and within 60 days of that advice, Pratt filed his first PCRA Petition.

Had Pratt been properly advised of the deportation consequences of him entering the instant alleged plea, there is a reasonable likelihood that the result of the instant proceedings would have been different.

Had Pratt been properly advised of the deportation consequence of him entering the instant pleas, Pratt would have sought through counsel to negotiate a different

plea or would have gone to trial on either or both transcripts.

*See, Jae Lee V. United States, See, Padilla v. Kentucky.* **APPENDICES - 5**

(6)-The Trail Court erred, when the Court refused to accept a crucial affidavit from the Commonwealth witness Essence L. Brich Wilkes:

stating the true it was because of her Pratt went into criminal processing. The Court refused to consider this evidence. She also said in her sworn statement that she intentionally knew that there was no money in her account when she gave Pratt authorization to use her account. This sworn statement letter was never addressed by the commonwealth.

#### **APPENDICES-6.**

(7)-The Plea Transcript in these cases will show, there was not any time during Court processing Pratt was advised of immigration.

There are no **restriction under** the law Padilla v. Kentucky, as an immigrant within the United States, the case or law **MUST** be told in legal criminal processing within the United States, **See Plea Transcript.**

#### **APPENDICES-7.**

(8)-There is a ***Brady*** violation in Pratt case because the presiding Judge Mahon, the District Attorney and The State Trooper, knew about the Commonwealth witness Addie civil suit, which her statement contradicts her statement in the criminal case but all parties withheld this crucial evidence from Pratt during Court Proceedings.

#### **APPENDICES-8.**

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Commonwealth v. Ahlborn, 699 A.2d 718, 720 (Pa. 1997).

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## **UNITED STATES CASES**

Doe v. Busby, 661 F.3d 1001(9<sup>th</sup> Cir. 2011)

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**IV**

## **PETITION FOR WRIT OF CERTIORARI**

Henry Pratt, respectfully Petition this Court For A Writ Of Certiorari to review the Judgment of the Commonwealth Of Pennsylvania the Superior Court Decisions, Docket Nos. 721 EDA 2023 – 164 EDA 2023 and the Pennsylvania Supreme Court Decision.

The Decision by the Pennsylvania Supreme Court and the Superior Court of the Commonwealth of Pennsylvania denying Mr. Pratt's PCRA Appeal reported as Commonwealth Of Pennsylvania vs, Henry Pratt, Docket No. 98 MAL 2024 – 99 MAL 2024

## **IV OPINION BELOW**

The decision by the Superior Court of the Commonwealth of Pennsylvania denying Mr. Pratt PCRA Appeal reported as Commonwealth of Pennsylvania vs. Henry Pratt,

## **JURISDICTION**

Mr. Pratt's Petition for hearing to the Supreme Court Of The Commonwealth Of Pennsylvania Docket Nos. 98 MAL 2024 – 99 MAL 2024, was denied on August 14<sup>th</sup> 2024.

Mr. Pratt invokes this Court's Jurisdiction under 28 U.S.C &1257, having timely filed this petition for writ of Certiorari within ninety days of the Commonwealth of Pennsylvania Supreme Court's judgment.

## **CONSTITUTIONAL PROVISIONS INVOLVED**

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 of life, liberty, or property, without due process of law; nor to any person within its jurisdiction the equal protection of the laws.

## **STATEMENT OF THE CASE**

This matter is before the Supreme Court after the petition for Allowance of Appeal was denied by the Pennsylvania Supreme Court on August 14<sup>th</sup> 2024.

Henry Pratt, was arrested and charged by Chester County authorities with, inter alia one count of Forgery in (in violation of 18 Pa. C.S. & 4101(A)(1)) as of CP-15-CR-0003331-2014, And with, inter alia, one (1) count of Access Device Fraud (in violation of 18 Pa. C.S.A. & 4106(A)(I)(II)), as of CP-15-CR-0002336-2015.

Pratt appeared before the Honorable William P. Mahon on November 20<sup>th</sup> 2015 and entered alleged negotiated guilty pleas to the above charges in exchange for which Pratt, received an alleged agreed – up consecutive sentences of two years' probation on the count of access device fraud and two years' probation on the one count of forgery following the entry of Pratt guilty pleas.

A careful review of the transcript of the alleged guilty plea hearing and the written colloquy form, Pratt alleging signed after consultation with counsel shows that plea counsel one, the Judge Mahon, and the District Attorney, never advised Pratt, that Pratt crimes to which Pratt alleging pleading guilty would result in the application of mandatory federal immigration penalties associated therewith that required deportation.

Following Pratt alleged entry of the guilty pleas and Pratt sentencing hearing deportation proceedings commenced that culminated in an order of deportation.

Thus, the fact that the entry of Pratt alleged guilty pleas would subject Pratt to mandatory deportation was a "clear consequence" of the pleas which was NOT EXPLAINED TO PRATT PRIOR TO PRATT ALLEGED ENTRY OF THE PLEAS DESPITE COUNSEL, THE JUDGE AND THE DISTRICT ATTORNEY OBLIGATION TO PROVIDE SUCH ADVICE.

On June 11<sup>th</sup> 2018, Pratt filed a pro se petition pursuant to the Post Conviction Relief Act, 42 Pa. C.S. && 9541 et seq. (hereinafter PCRA, On June 11<sup>th</sup> 2018 the Trial Court appointed counsel who filed a no-merit letter pursuant to Commonwealth v. Turner, 544 A.2d 927 (Pa. 1988), and Commonwealth v. Finley, 550 A.2d 213 (Pa. Super. 1988) (en banc). Judge Mahon, who was assigned to dispose of Pratt PCRA Petition, dismissed it on October 17<sup>th</sup> 2018 and permitted counsel to withdraw. Pratt, filed a *pro se* notice of appeal and on September 13<sup>th</sup> 2019, the Superior Court quashed the Appeal.

Pratt thereafter filed a Petition for Allowance of Appeal, which the Pennsylvania Supreme Court denied on March 16<sup>th</sup> 2020. Commonwealth v. Pratt, 227 A.3d 315 (Pa. 2020) (Table).27<sup>th</sup>

On March 26<sup>th</sup>, 2020, Part, filed a *pro se* second PCRA Petition, which was assigned to Judge Mahon for disposition. Following the filing of a Commonwealth response Judge Mahon issued a Pa. R.Crim.P 907, Notice of intent to Dismiss. Present Counsel thereafter entered his appearance and on July 10<sup>th</sup> 2020, present

Counsel filed an amended petition.

On August 26<sup>th</sup>, 2020, after the Commonwealth filed an answer to the petition asking for dismissal, Judge Mahon issued an order dismissing the petition without a Court-Ordered Pa. R.A.pp.P. 1925(b) statement of matters complained of on appeal. On January 27<sup>th</sup>, 2021, Judge Mahon filed an opinion. Copies of that opinion and the 1925(b)-statement filed in this matter have been attached hereto and make Appendices. Pratt also filed a third PCRA Appeal which the Judge denied the Appeal on the same ground that the Judge denied all Pratt PCRA Appeal

## **REASONS FOR GRANTING THE WRIT**

Judge Mahon was incompetent, the District Attorney and Trial Counsel are also incompetents, because Pratt was never advised of immigration consequence.

Judge Mahon has refused and is stubborn to admit that HE was wrong by not advising Pratt of immigration penalties. Strickland v. Washington, 466 U.S. 668, 668 (1984), Padilla v. Kentucky, 130 S. Ct. 1473 (2010).

The PCRA Court refused to except Immigration Judge Conklin and Trail Counsel affirmations, which stated clear the Mr. Conklin was the one that advised Pratt the first time, that at the time of the alleged Plea, Pratt, should had been advise of immigration penalties and within 60 days of that advised Pratt, filed his first PCRA Petition. Trail Counsel letter admitted ineffective of counsel.

The Judgment of Sentence are missing, the sentencing sheets are illegal and the pleas colloquies are missing Time Stamp, theses document can not be used to provide a conviction, because these document doesn't apply with the law.

Commonwealth witness Addie made two-2 statement in the civil case and criminal case both statement contradict each other also the State Trooper, the Court and the District Attorney withheld evidence (Addie Bric Civil Complaint), in this case. See, *Brady v. Maryland*, 373 U.S. 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963).

Judge Mahon is the best friend of Pratt then girlfriend Addie step-father and the Judge, knowing this still preside on the case. Commonwealth witness Essence stated she knew that the was no money in her account when she gave Pratt permission to use her account.

The Trail Court erred, when the Court refused to accept a crucial affidavit from the Commonwealth witness Essence L. Brich Wilkes: stating the true it was because of her Pratt went into criminal processing. The Court refused to consider this evidence. She also said in her sworn statement that she intentionally knew that the was no money in her account when she gave Pratt authorization to use her account. This sworn statement letter was never address by the commonwealth.

## **SUMMARY OF ARGUMENT**

Pratt, submits that the PCRA Court committed an abuse of discretion finding that Pratt failed to exercise due diligence and that even had Pratt done, Pratt newly discovered evidence claim lacked merit because Pratt established not only that Pratt was unaware of his Padilla claim but also that Pratt exercised due diligence in learning of that claim. In addition, Pratt also established and met his burden of proving Pratt newly discovered evidence claim, which the PCRA Court erred by finding time barred, sentence barred, and meritless.

Pratt submits that the PCRA Court committed an abuse of discretion by finding that Pratt was not serving a sentence when he filled his most recent PCRA Petition. At the times Pratt filed all his Petition Pratt, is and now under the Aegis of the Department Of Homeland Security as a direct result of the pleas he entered in the instant matter, which rendered Pratt eligible for deportation. Pratt remains so under their DHS jurisdiction as today by the Order of the Middle District Judge John III.

## **ARGUMENT**

The PCRA Court erroneously ruled that Pratt Petition was untimely, when the petition was filed within 60 -days - one – year of Pratts discovery that Trail Counsel, Judge Mahon, and the District Attorney errors were responsible for



Pratt's Deportation Custody and prosecution by immigration authorities.

The holding of the Pennsylvania Supreme Court, conflicts with a holding of the United States Supreme Court, See, Padilla V. Kentucky, 559 U.S 356 (2010), also see **Plea Transcript** from the Chester Court showing that Pratt was not advice of immigration at the time of the alleged Pleas Deal.

Pratt submits that the PCRA Court, the Superior Court and the Pennsylvania Supreme Court committed an abuse of discretion by ruling that Pratt failed to file for PCRA relief in a timely manner because Pratt exercised due diligence in bringing the claim set forth in all Pratt 3 – three PCRA Petition.

Pratt filed for PCRA relief within 60 days – one year, of the date Pratt learned that HE was subject to deportation and was placed under the supervision of the Department of Homeland Security... Accordingly, Pratt respectfully asks the Honorable Court to find that the PCRA Court – Pennsylvania Supreme Court did err for the reason stated and remand the matter with instructions that the court address Pratt claim that Pratt received ineffective assistance of counsel from Plea Counsel, Judge Mahon and the District Attorney because all 3 parties did not advise Pratt that HE could be deported based on the charges to which alleging Pleading Guilty.

Under the PCRA, a defendant has one year from the date a judgment becomes final to file for collateral relief. 42 Pa. C.S. &9545. A Petitioner may file a Petition after

that date but, to avoid having it dismissed on timeliness grounds, he must plead and prove that one of the exceptions to the filing requirements apply. 42 Pa. C.S. &9545(b) provides.

(b) Time for filing petition. ---

(1) Any petition under this subchapter, including a second or subsequent petition, shall be filed within one year of the date the judgment becomes final, unless the petition alleges, and the petitioner proves that:

- (i) the failure to raise the claim previously was the result of interference by government officials with the presentation of the claim in violation of the constitution or laws of this commonwealth or the constitution or laws of the United States,
- (ii) the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence; or
- (iii) the right asserted is a constitutional right that was recognized by the Supreme Court of the United States or the Supreme Court of Pennsylvania after the time period provided in this section and has been held by that court to apply retroactively.

(2) Any petition invoking an exception provided in paragraph (1) shall be filed within one year of the date the claim could have been presented.

(3) For purposes of this subchapter, a judgment becomes final at the conclusion of direct review, including discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania or at the expiration of time seeking the review.

The P. C. R. A.,'s time limit is jurisdictional. Commonwealth v. Yarris, 731 A.2d 581 (1999); Commonwealth v. Peterkin, 722 A.2d 638, 641 (1998). Thus, an untimely petition may not be addressed simply because it is couched in terms of

ineffectiveness. Peterkin 722 A.2d at 643. Moreover, to successfully invoke one of these exceptions a petitioner must plead and then prove that an exception to the

time for filling the petition set forth at 42 Pa.C.S. &9545(b)(1)(I)—(ii) applies.

42 Pa. C.S. & 9545(b)(2); Commonwealth v. Bennett, 930 A.2d 1264, 1272 n. 11

(Pa. 2007; Commonwealth v. Crews, 863 A2d 498, 501 (Pa. 2004);

Commonwealth v. Gamboa-Taylor, 753 A.2d 780, 783 (Pa. 2000).

Here, because Pratt claim involves newly discovered evidence claim for which Pratt exercised due diligence under the prevailing standards in bringing, Pratt had to meet the following standards to obtain relief. To prove the newly discovered evidence exception in & 9545(b)(1)(ii), requires a petitioner to plead and prove

(1) Pratt did not know the fact(s) upon which HE based HIS petition; and

(2) Pratt could not have learned those fact(s) earlier by the exercise of due diligence. Commonwealth v. Shiloh, 170 A.3d 553, 558 (Pa. Super. 2017).

Due diligence, in this context, obliges the petitioner to take reasonable steps to protect {his} own interests”. Id. (citation omitted).

Nevertheless, it does not demand “perfect vigilance nor punctilious care, but rather it requires reasonable efforts by a petitioner, based on the particular circumstances, to uncover facts that may support a claim for collateral relief.” Id. (citation omitted). As such, “the due diligence inquiry is fact-sensitive and dependent upon the circumstances presented”, and “{a} petitioner must explain why she could not have learned the new fact earlier with the exercise of due diligence.” Id. (citation omitted).

While there is no bright line definition of what 'reasonable diligence' is, Pratt submits that HE has presented evidence establishing that HE used reasonable diligence in finding and presenting the newly discovered evidence Pratt did during the evidentiary hearing and that the PCRA Court had, and this Court has jurisdiction to review the above claims on their merits. 42 Pa. C.S. & 9545(b)(1)(ii).

“(A) determination of whether a petitioner has exercised reasonable diligence is made under a subjective test: it must be considered in light of the particular circumstances of the case”. Schlueter v. Varner, 384 F.3d 69, 74 (3d Cir. 2004). Whether a defendant has used 'due diligence' is fact-specific, to be determined on a case-by-cases basis. Commonwealth v. Burton, 121 A.3d 1063, (Pa. Super. 2015). (citing Commonwealth v. Selenski, 994 A.2d 1083, (Pa. 2010)); Doe v. Busby, 661 F.3d 1001, 1013 (9<sup>th</sup> Cir. 2011) (“To determine if a petitioner has been diligent in pursuing his petition, courts consider the petitioner’s overall level of care and caution in light of his or her particular circumstances.” Ross v. Varano, 712 F.3d 784 (3d Cir. 2013; Owens v. Boyd, 235 F.3d 356, 359 (7<sup>th</sup> Cir. 2000).

Although the Pennsylvania Supreme Court has held that it will strictly enforce the due diligence standard, it has noted that “strict enforcement does not elevate the level of diligence required of a petitioner but merely describes the vigorous manner of judicial review.” Burton, supra; Commonwealth v. Fahy, 959 A.2d 312, 315 (Pa. 2008).

‘Due diligence’ demands only that a petitioner take reasonable steps to protect his own interests. Commonwealth v. Williams, 35 A.3d 44 (Pa. Super. 2011) (citing Commonwealth v. Carr, 768 A.2d 1164, 1168 (Pa. Super. 2001)). Due diligence requires neither perfect vigilance nor punctilious care, but rather it requires

reasonable efforts by a petitioner, based on the particular circumstances, to uncover facts that may support a claim for collateral relief". Burton, supra; Selenski, supra; Williams, supra; Commonwealth v. Jones, 886 A.2d 689, 700 (Pa. Super. 2005); Commonwealth v. Hunt, 858 A.2d 1234, 1241 – 42 (Pa. Super. 2004).

The level of diligence required ".....is reasonable diligence, not maximum, extreme, or exceptional diligence". Holland v. Florida, 560 U.S. 631, 649 (2010) (equating the 'reasonable diligence' required for equitable tolling in federal court with the state court & 9545 requirement); Williams, 35 A.3d at 52.

Here Henry Pratt, submits that HE met the foregoing standards and thus, contends that the PCRA Court committed an ABUSE OF DISCRETION, by holding that Pratt untimely filed all 3-three petition is facially untimely, having been filed years after the alleged judgement of sentence became final, under 42 Pa. C.S. & 9545 (b)(1)(ii), excuses the late filling petition for several reasons.

Firsts the statement of Judge Daniel Conklin, Pratt then Immigration Attorney, a copy of HIS letter which is attached as evidence as APPENDIX "D", see R.R. at 116a-17a, and which first advised Pratt that HE had legal recourse to vacate the judgment of sentence arising from Pratt alleged pleas because Pratt SHOULD have informed that HE could be deported as a result of HIS pleas prior to entering them, establishes that Pratt legal recourse to challenge the pleas on ineffectiveness grounds. Following that discussion, Pratt immediately filed HIS FIRST PCRA

PETITION but as noted above, Pratt was denied relief even though over – the course of the next six weeks following that meeting, Pratt was able to obtain the relevant alleged conviction records including the alleged written Guilty Plea Colloquy which is not Time Stamp form as well as the notes of testimony of Pratt alleged guilty plea and sentencing hearing before Judge Mahon.

**Second**, those documents established unequivocally that Pratt, had a valid claim under Padilla v. Kentucky, 558 U.S. 356 (2010), wherein the Supreme Court held that a defendant is entitled to effective assistance during the guilty plea process and that an attorney is obliged to protect a defendant's immigration right during the guilty plea process.

The Padilla Court held that "deportation is an integral part-indeed, sometimes the most important part-of the penalty that may be imposed on non-citizen defendants who plead guilty to specified crimes." Padilla, 559 U.S. at 364.

The Court went on to acknowledge that deportation is "intimately related to the criminal process." Id at 365. Pratt submits that because of the close connection between deportation and the criminal process, Pratt exercised due diligence in raising this claim and the claim possesses merit because Pratt was not advised that HE could be deported based on the charges Pratt's alleging pleaded guilty to.

**Finally**, within 60 days of when Pratt conferred with HIS attorney who is now an Immigration Judge, Mr. Conklin and Petitioner acquisition of the relevant

conviction records, Pratt filed HIS first *Pro Se* PCRA Petition on June 11, 2018, consistent with the dictates of 42 Pa.C.S. & 9545(b)(I)(ii):

The facts upon which Petitioner based his claim his claim did not become known to him until Pratt spoke to Immigration Counsel, Mr. Conklin and acted on that advice by obtaining the (PLEA – TRANSCRIPT AND THE UN TIME STAMP ALLGED GUILTY COLLOGUY FORM), REFERRED TO ABOVE.

This Substantiated Pratt, immigration claim that Immigration Attorney Conklin raised and provided Pratt with grounds to seek PCRA relief. Thus, this chronology establishes that Pratt acted with due diligence.

Despite the fact that Pratt informed prior Chester County Court Appointed Counsel about the Padilla claim, PCRA counsel filed a no – merit letter thereby ignoring the claim and providing Pratt with ineffective assistance of PCRA counsel thereby, waiving review of the claim. Recently, in Commonwealth v. Shaw, -----, 2021 WL --- 1133205 (Pa. 2021), the Pennsylvania Supreme Court noted that to effectuate the right to effective assistance of counsel during the post – conviction collateral stage of a criminal proceeding, fairness must be a consideration. Shaw, slip opinion at 7. That is all Pratt is requesting here, fair consideration of Pratt meritorious claim. See, Commonwealth v. Ahlborn, 699 A.2d 718 (Pa. 1997) (expiration of a criminal sentence precludes that grant of PCRA relief), See, Commonwealth v. Robinson, 139 A.3d 178 (Pa. 2016) (“{T}here is no statutory exception to PCRA

time-bar applicable to claims alleging the ineffectiveness....of ...counsel”). Id. at 186.

**Nevertheless**, because the errors committed by Judge Mahon, the Chester County Court Appointed Attorney, the District Attorney and PCRA Counsel are so obvious and egregious and the penalty of deportation Pratt is facing is the result of **inept** Counsel and the Chester County Court System.

Pratt submits that the Honorable Court should find that HE timely filed HIS petition and all errors is from the preside Judge Mahon, being incompetent of not advising Pratt of immigration at the time of the alleged plea.

**Finally**, Pratt submits that HIS newly discovered evidence claims should have been deemed timely filed because of a breakdown in court operation.

During Pratt alleged guilty plea hearing, Judge Mahon recognized that Pratt might not be a citizen when HE the Judge, asked Pratt “whether Pratt was a legal resident and Pratt acknowledged that HE was”. See Plea Transcript, (R.R. 72a; - 73; NT.

11/20/2015.

**Judge Mahon** should have followed up and asked Pratt whether Pratt was an American citizen because legal residency and citizenship are not the same as this case demonstrates by that fact that Pratt is currently entwined in deportation proceedings also the same plea transcript show the Judge saying:

“that Pratt have an accent, but the Judge did not ask Mr. Pratt if HE was born in the



United States or not. Accordingly, Pratt asks that the Honorable Court rule that Pratt exercised due diligence in filling all three PCRA Petition and either issue an order vacating the alleged judgment of sentence which is missing in this case and the sentencing sheets that the Commonwealth is using are illegal.

Mr. Pratt ask this Honorable Court to remand the matter for a new trial because Pratt newly discovered evidence claim possesses arguable merit, "Or" issue an order remanding the matter for an evidentiary hearing on Pratt Padilla claim.

The PCRA Court erroneously ruled that it lacked jurisdiction to rule on Pratt's claim because Pratt initial probationary sentence expired while the PCRA was pending. Mr. Pratt submits that because Pratt is subject to a removal order and is on conditional supervised release under an order of supervision by the Department of Homeland Security, See Appendix Amended petition, R.R. at 113a-115a, solely as a direct consequence of the criminal convictions which Pratt, addressed in this petition. Thus, Pratt remains constructively in "custody" as a result of these criminal cases, and the most recent PCRA Petition was properly within the jurisdiction of the PCRA Court.

Pratt asserts that because HE is currently "in custody" as a direct result of HIS having plead guilty to offenses that made Pratt eligible for deportation, Ahlborn, supra, should not have been applied to deprive him of PCRA relief. In Ahlborn, the Pennsylvania Supreme Court ruled that the provisions of the PCRA required that a

The judgment of sentences is missing, the pleas colloquies are missing Time Stamp and the sentencing sheets are illegal.

The is a **Brady** violation in Pratt case because the preside Judge Mahon, the District Attorney, Chester County Court Appointed Counsel and The State Trooper, knew about the Commonwealth witness Addie civil suit, which her statement contradicts her statement in the criminal case, but all parties withheld this crucial evidence from Pratt doing Court Proceedings.

**THE JUDGE, THE DISTRICT**  
**ATTORNEY AND TRAIL COUNSEL**  
**REFUSED TO APPLY THE LAW**

Greeting to this Honorable Court, in this Petition before this Court, will see one of the older Judge within the Commonwealth of Pennsylvania, the same Judge is the friend to Pratt then girlfriend - the Commonwealth witness, step - father, this same Judge Mahon, preside over Pratt alleged cases:

saying is ok for Him to makes an egregious error with the law. See, **Plead Transcript.**

- It is also the “mandatory duty” of Counsel and the District Attorney to apply the law, as this Court had said, they had also refused to do so. See,

**Plead Transcript and letter from Counsel as evidence in this Petition.**

## **I AM ASKING THIS COURT TO ADDRESS THESE EVIDENCE IN THIS PETITION:**

See, Strickland v. Washington, 466 U.S. 668, 686 (1984), (Padilla, supra,

See, Commonwealth v. McDermitt (2013 Pa. Super.113) (Pa. Super. Ct.2013);

the 5<sup>th</sup> Amendment and the 6<sup>th</sup> Amendment,

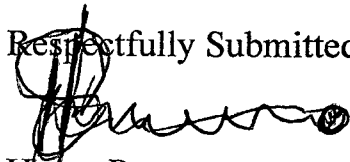
See, Hill v. Lockhart, (1985) 474 U.S. 52,

Brady v. Maryland, 373 U.S. 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963)...these cases has NOT been abrogate.

## **COCLUSION**

Based on the foregoing, Pratt first respectfully requests that the Learned Court find that the PCRA Court – the Pennsylvania Supreme Court, committed an abuse of discretion by dismissing Pratt’s petition for the above reasons and grant Pratt appropriate relief

Respectfully Submitted



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Date: 01/05/2025