

25-5995

No. \_\_\_\_\_

FILED

JUL 30 2025

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Vernon L. Montgomery Jr. — PETITIONER  
(Your Name)

vs.

Brian Emig, State of Delaware RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Third Circuit Court of Appeals  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Vernon L. Montgomery Jr.  
(Your Name)

1181 Paddock Road  
(Address)

Smyrna, DE 19977  
(City, State, Zip Code)

?  
(Phone Number)

RECEIVED

OCT 29 2025

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SUPREME COURT, U.S.

#### QUESTION(S) PRESENTED

- 1) Should the Third Circuit Court of Appeals grant the certificate of appealability and issue a writ of mandamus to compel the Commonwealth to address claims presented to the Delaware Supreme Court with respect to the Commonwealth's petition for certiorari to the Supreme Court of the United States? The Commonwealth's petition for certiorari was filed on January 10, 2017, and the Commonwealth has not yet filed a response. The Commonwealth's petition for certiorari is based on the following grounds:
  - a) The Commonwealth's petition for certiorari is timely because the Commonwealth filed its petition for certiorari within 90 days of the Commonwealth's petition for writ of mandamus to the Supreme Court of the United States, which was filed on January 10, 2017.
  - b) The Commonwealth's petition for certiorari is not barred by the one-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2018.
  - c) The Commonwealth's petition for certiorari is not barred by the two-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2019.
  - d) The Commonwealth's petition for certiorari is not barred by the three-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2020.
  - e) The Commonwealth's petition for certiorari is not barred by the four-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2021.
  - f) The Commonwealth's petition for certiorari is not barred by the five-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2022.
  - g) The Commonwealth's petition for certiorari is not barred by the six-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2023.
  - h) The Commonwealth's petition for certiorari is not barred by the seven-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2024.
  - i) The Commonwealth's petition for certiorari is not barred by the eight-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2025.
  - j) The Commonwealth's petition for certiorari is not barred by the nine-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2026.
  - k) The Commonwealth's petition for certiorari is not barred by the ten-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2027.
  - l) The Commonwealth's petition for certiorari is not barred by the eleven-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2028.
  - m) The Commonwealth's petition for certiorari is not barred by the twelve-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2029.
  - n) The Commonwealth's petition for certiorari is not barred by the thirteen-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2030.
  - o) The Commonwealth's petition for certiorari is not barred by the fourteen-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2031.
  - p) The Commonwealth's petition for certiorari is not barred by the fifteen-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2032.
  - q) The Commonwealth's petition for certiorari is not barred by the sixteen-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2033.
  - r) The Commonwealth's petition for certiorari is not barred by the seventeen-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2034.
  - s) The Commonwealth's petition for certiorari is not barred by the eighteen-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2035.
  - t) The Commonwealth's petition for certiorari is not barred by the nineteen-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2036.
  - u) The Commonwealth's petition for certiorari is not barred by the twenty-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2037.
  - v) The Commonwealth's petition for certiorari is not barred by the twenty-one-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2038.
  - w) The Commonwealth's petition for certiorari is not barred by the twenty-two-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2039.
  - x) The Commonwealth's petition for certiorari is not barred by the twenty-three-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2040.
  - y) The Commonwealth's petition for certiorari is not barred by the twenty-four-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2041.
  - z) The Commonwealth's petition for certiorari is not barred by the twenty-five-year statute of limitations for filing a writ of mandamus to the Supreme Court of the United States, which is January 10, 2042.

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to the 3rd Circuit.

## 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:

## RELATED CASES

~~Case 1~~  
~~Case 2~~  
~~Case 3~~

## JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 29, 2025.

[ ] 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: July 11, 2025, 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).

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 & 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 F to the petition and is

[ ] reported at Montgomery v State, 2020 Del. LEXIS 128; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the Superior Court of Delaware court appears at Appendix 6 to the petition and is

[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[✓] is unpublished.

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

Anderson v Bessmer City, 470 U.S. 564

Johnson v Williams 568 U.S. 289

Smith v Ohio 494 U.S. 541

Steagald v United States 451 U.S. 204

### STATUTES AND RULES

Rules of Ambiguity

Rule of Lenity

4th Amendment

5th Amendment

6th Amendment

14th Amendment

### OTHER

Appellate Courts must defer to the trial judge's finding of fact  
on Appellate De novo Review.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

4<sup>th</sup> Amendment violation of illegal arrest

5<sup>th</sup>, 6<sup>th</sup> Amendment & 14<sup>th</sup> Amendment violation of due process, waiver doctrine, and refusal to address claim

De novo review as mandated by this court. All appellate courts must defer to the trial judge's finding of fact

## STATEMENT OF THE CASE

This is clear. Montgomery argued illegal arrest stemming from a road block on Oct. 2, 2017. The trial judge clearly stated to Montgomery at final case review on page 21 of the final case review transcripts at (Appendix H pg 21) That the officer didn't have probable cause until he found evidence of a gun and money. Which was after Montgomery was arrested. Montgomery clearly argued illegal arrest. This was the exact reason Montgomery did not take a plea.

The Delaware supreme court at Direct Appeal made up its own argument for denial. See Appendix F at 15 "On appeal, Montgomery argues (i) his initial detention was illegal (ii) the police did not have probable cause to conduct a warrantless search of his backpack. See also Appendix F at 22 "Next Montgomery argues that the search of his backpack was an improper warrantless search." This is the very important part. "Admittedly the Superior Court muddied the waters somewhat by later finding (cpl. whitehead had probable cause after he opened the backpack and saw the gun and money)!"

First I need the court to look at Montgomery's Opening Brief to the Delaware Supreme Court. Montgomery never argued illegal search of a backpack. See (Appendix I). Montgomery spent 20 pages arguing illegal arrest. Period!

Next Montgomery argued the Delaware Supreme Court violated S.G.O.T. U.S doctrine by not deferring to the trial judges finding of fact. Which he found 6 times including 3 times at the final case review. See App H pg 14 and 21

The District Court erroneously found that the Delaware Supreme Court explicitly rejected Montgometry's 5th, 6th and 14th amendment due process claim of malice. Which is addressing + on the merits. That is rebuffed by clear and convincing evidence that on the denial of Montgometry's 6th they argued with the Superior Court that Montgometry failed to argue with the Supreme Court that Montgometry's claim of malice deftive in which his reply brief. Despite Montgometry spending 20 pages arguing So at this point neither of Montgometry's claims were addressed. Despite Montgometry spending 20 pages arguing addressed. Despite Montgometry's claim of Montgometry's claim. illegal arrests in the opening brief. Montgometry is seeking a summary reversal to either the Delaware Supreme Court with instructions to finally address S.C.T. U.S. or remand back to the U.S. District Court deferring to the trial judges findings of fact as mandated by Montgometry's illegal arrest claim while simultaneously Court, refused to address Montgometry's claims. This court should grant certiorari and remand summary To show we are still a nation of laws and courts and juries any citizen's claims. I had no idea the Delaware Supreme Court would change the judges finding of fact after searching.

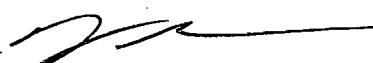
## REASONS FOR GRANTING THE PETITION

The nation is polarized right now. How can Democrats argue that immigrants deserve due process of law while simultaneously denying due process to criminal defendants? Delaware has a Democratic Attorney General. How can she in good faith argue to you to deny my right to have my claims heard on the merits, while simultaneously suing the Executive Branch for denying immigrants these same due process rights I am asserting were violated in my case? With this case S.C.O.T.U.S. has a chance to show one American that like quoted in Marbury v Madison we are still a nation of laws. And nobody is above or below the law. All I am asking is for a summary remand to have my claims heard and adjudicated on the merits while adhering to S.C.O.T.U.S. doctrine. Exactly what they should've done the first time. Allowing Delaware's highest court to classify a lower court judge's clear finding as "muddy waters" is just as bad as allowing any appellate court to substitute what it believes is right for what any lower court judge found. It also puts undue burden on defendants who do defer to the trial judges findings. The number 1 reason for granting this petition is to stop an injustice. As a defendant I had no idea they would change the judge's finding ex post facto. If I did I would've taken the plea because I would've knew it was impossible for me to win.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Vernon L. Montgomery Jr. 

Date: 7-11-25