

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

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- 1) Should the Third Circuit Court of Appeals grant the Certificate of Appealability and remand Montgomery's petition to the Delaware Supreme Court with instructions to address his claim of illegal arrest?
- 2) Should a state court be required to address claims presented while simultaneously following S.C.O.T.U.S. mandated doctrine?
- 3) If an appellate court on de novo review is mandated by S.L.B.T.U.S. to defer to the trial court's/judge's finding of fact. Can that court then refer to that same judge's findings as "muddy waters" in support of facts they want?
- 4) Do I Vernon L. Montgomery Jr. deserve to be treated like S.C.A.T.U.S. mandates every other criminal defendant in this country. Am I entitled to due process rights like everyone else?
- 5) How can a state court address a claim on the merits if it create/makeup it's own argument for the appellant? If the appellant argues illegal request, and the court says: "next Montgomery argues illegal search of the back pack"? Is that addressed on merits?

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APPENDIX E	Denial of Rule 61 petition by Del. Superior Ct.
APPENDIX F	Denial of Direct Appeal by Delaware Supreme Court
App. G :	Denial of motion to suppress and transcripts Delaware Superior Ct.
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App. K	Montgomery's Petition for Habeas relief Del. Dist. Ct.
App. L :	Montgomery's Application for Certificate of Appealability 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

~~None~~

~~None~~

~~None~~

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 G 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 Bessimer City 470 U.S. 564

Johnson v Williams 568 U.S. 289

Smith v Ohio 494 U.S. 541

Stengaldu United States 451 U.S. 204

STATUTES AND RULES

Rules of Ambiguity

Rule of Levity

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

4th Amendment violation of illegal arrest.

5th, 6th Amendment to 14th 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 it's 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. "Admitted by 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 judge's 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/implicitly ignored Montgomery's 5th, 6th and 14th amendment due process claim of waiver doctrine. Which is addressing it on the merits. That is rebutted by clear and convincing evidence that on the denial of Montgomery's let they agreed with the Superior Court that Montgomery failed to argue waiver doctrine in his reply brief. Clear evidence of inadvertent ignorance of Montgomery's claim. So at this point neither of Montgomery's claims were addressed. Despite Montgomery spending 20 pages arguing illegal arrest in the opening brief. Montgomery is seeking a summary remand to either the Delaware Supreme Court with instructions to finally address Montgomery's illegal arrest claim while simultaneously deferring to the trial judge's findings of fact as mandated by S.C.O.T. U.S. Or remand back to the U.S. District Court of Delaware for De novo review of the Delaware Supreme Court's refusal to address Montgomery's claims. This court should grant certiorari and remand summarily. To show we are still a nation of laws and courts can't ignore any citizen's claims. I had no idea the Delaware Supreme Court would change the judge's finding of fact after sentencing.

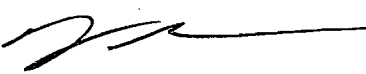
REASONS FOR GRANTING THE PETITION

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 known 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