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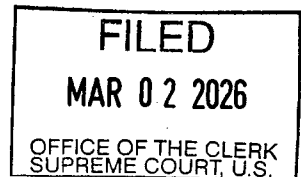
IN THE SUPREME COURT OF THE UNITED STATES

JESSE D. PELLOW,
Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA,
Respondent.

ORIGINAL



PETITION FOR A WRIT OF CERTIORARI

On Petition for a Writ of Certiorari from the
Supreme Court of Pennsylvania

215 WAL 2025

Jesse D. Pellow

Petitioner, Pro Se

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QUESTION PRESENTED

1. Whether, consistent with the Due Process Clause, a criminal conviction for harassment may be sustained where the trial court, acting as factfinder, relied upon its authority to determine credibility and weigh the evidence, but the Commonwealth was nevertheless required to present evidence sufficient to prove beyond a reasonable doubt the essential statutory element of intent to harass, annoy, or alarm. Factfinder authority does not displace the constitutional standard governing the degree of proof necessary to establish an essential element of a criminal offense. Even accepting the trial court's authority to determine credibility and weigh the evidence, Due Process independently required constitutionally sufficient evidence from which a rational factfinder could find the essential element of intent beyond a reasonable doubt.

LIST OF PARTIES

Jesse D. Pellow, Petitioner, and the **Commonwealth of Pennsylvania**, Respondent, are the only parties to the proceeding in the court whose judgment is sought to be reviewed.

There are no other parties to this proceeding.

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TABLE OF AUTHORITIES

CASES

Commonwealth v. Charlton

Commonwealth v. Gibbs

In re Winship, 397 U.S. 358 (1970)

Jackson v. Virginia, 443 U.S. 307 (1979)

CONSTITUTIONAL PROVISIONS

U.S. Constitution. Amendment. XIV

STATUTES

18 Pa. Cons. Stat. § 2709(a)(7)

28 U.S.C. § 1257(a)

OPINIONS BELOW

1. The order of the Supreme Court of Pennsylvania denied Petitioner's petition for allowance of appeal, No. 215 WAL 2025, is unpublished and is reproduced at Pet. App. 1a.
2. The memorandum of the Superior Court of Pennsylvania affirming Petitioner's judgment of sentence, *Commonwealth v. Pellow*, No. 1040 WDA 2024 (Pa. Super. Aug. 21, 2025), is unpublished and is reproduced at Pet. App. __a.
3. The opinion of the Court of Common Pleas of Blair County pursuant to Pennsylvania Rule of Appellate Procedure 1925(a), *Commonwealth v. Pellow*, No. CP-07-CR-2281-2022 (Blair Cnty. Ct. Com. Pl. Sept. 19, 2024), is unpublished and is reproduced at Pet. App. __a.

JURISDICTION

The Superior Court of Pennsylvania affirmed Petitioner's judgment of sentence on August 21, 2025. The Supreme Court of Pennsylvania denied Petitioner's petition for allowance of appeal in *Commonwealth v. Pellow*, No. 215 WAL 2025.

This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides, in pertinent part:

"No State shall ... deprive any person of life, liberty, or property, without due process of law."

U.S. Const. amend. XIV, § 1.

18 Pa. Cons. Stat. § 2709(a)(7) provides, in pertinent part:

"A person commits the crime of harassment when, with intent to harass, annoy or alarm another, the person:

(7) communicates repeatedly in a manner other than specified in paragraphs (4), (5) and (6)."

STATEMENT OF THE CASE

Petitioner was employed as a Licensed Practical Nurse at Presbyterian Senior Home at Hollidaysburg beginning in October 2022. During his employment, Petitioner reported concerns regarding resident care. Petitioner was subsequently suspended and thereafter communicated with facility personnel and administration concerning his suspension, employment status, and related matters.

The circumstances surrounding those communications ultimately resulted in a charge of harassment by repeated communications. From the outset, Petitioner disputed that his communications were made with the intent to harass, annoy, or alarm. As Petitioner explained in his Superior Court brief, the underlying dispute concerned whether communications arising from an employment matter constituted criminal harassment and whether the Commonwealth could establish the requisite intent.

Petitioner's communications continued following his termination. According to Petitioner's appellate brief, the Commonwealth and trial court relied in part upon the fact that the investigating officer had instructed Petitioner to stop communicating with his former employer. Petitioner maintained that his communications concerned his termination and related employment matters rather than an intent to harass.

Following proceedings in the Court of Common Pleas of Blair County, Petitioner was convicted of harassment. Petitioner subsequently challenged the conviction, including the Commonwealth's proof of the intent element. In his Superior Court appeal, Petitioner expressly argued that the burden rested upon the Commonwealth to establish intent and that the Commonwealth had failed to satisfy that burden. Petitioner separately invoked the standard governing sufficiency of the evidence.

Petitioner's appellate brief summarized the issue by asking whether the Commonwealth presented sufficient evidence to prove that Petitioner's communications were made with the intent to harass.

The Court of Common Pleas addressed Petitioner's challenge in its September 19, 2024 opinion pursuant to Pennsylvania Rule of Appellate Procedure 1925(a). In addressing Petitioner's challenge concerning intent, the trial court relied upon its role as factfinder and Pennsylvania authority governing the weight of the evidence and credibility determinations. The court concluded that relief was not warranted.

The Superior Court of Pennsylvania subsequently affirmed Petitioner's judgment of sentence on August 21, 2025. In doing so, the Superior Court recognized Petitioner's contention that the evidence was insufficient to establish the intent element of harassment and rejected that challenge.

Petitioner sought allowance of appeal in the Supreme Court of Pennsylvania. The Supreme Court of Pennsylvania denied the petition for allowance of appeal on February 19, 2026.

REASONS FOR GRANTING THE WRIT

I. The Petition Presents a Federal Due Process Question Concerning the Sufficiency of the Evidence Required to Prove an Essential Element of a Criminal Offense.

The Due Process Clause requires the prosecution to prove beyond a reasonable doubt every fact necessary to constitute the offense charged. *In re Winship*, 397 U.S. 358 (1970). A conviction therefore cannot constitutionally stand unless, viewing the evidence under the applicable standard, a rational factfinder could find each essential element of the offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307 (1979).

Petitioner was convicted under 18 Pa. Cons. Stat. § 2709(a)(7), which requires an intent to harass, annoy, or alarm. The existence of that intent was therefore an essential element the Commonwealth was required to prove beyond a reasonable doubt.

Petitioner does not ask this Court to reassess witness credibility or substitute its judgment for that of the trial court concerning the weight of competing evidence. The trial court was entitled, as factfinder, to make credibility determinations and to weigh the evidence presented. The constitutional question is different: whether those principles of factfinder deference can sustain a conviction where the evidence was insufficient to permit a rational finding beyond a reasonable doubt that Petitioner possessed the statutorily required intent.

Petitioner raised this issue in the Pennsylvania appellate proceedings. His Superior Court brief expressly argued that the Commonwealth bore the burden of proving intent and had failed to establish that element, and separately invoked the standard governing sufficiency of the evidence. The brief ultimately framed the issue as whether the Commonwealth had presented sufficient evidence to prove Petitioner's intent to harass.

The distinction between evidentiary weight and constitutional sufficiency is material. Deference to a factfinder's credibility determinations does not displace the independent constitutional requirement that the prosecution present evidence sufficient to prove every essential element beyond a reasonable doubt.

The petition should therefore be granted to determine whether Petitioner's conviction is consistent with the Due Process principles established in *Winship* and *Jackson*.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted, the judgment below vacated, and the case remanded for further proceedings consistent with this Court's decision.

APPENDIX

APPENDIX A

Order of the Supreme Court of Pennsylvania
Commonwealth of Pennsylvania v. Jesse D. Pellow
No. 215 WAL 2025
February 19, 2026

Order denying Petitioner's Petition for Allowance of Appeal.

Pet. App. 1a

APPENDIX B

Memorandum of the Superior Court of Pennsylvania
Commonwealth of Pennsylvania v. Jesse D. Pellow
No. 1040 WDA 2024
August 21, 2025

Memorandum affirming Petitioner's judgment of sentence.

This is the Superior Court decision that expressly identifies the claim that the evidence was insufficient to prove the intent element and ultimately affirms the judgment.

Pet. App. __a

APPENDIX C

Opinion Pursuant to Rule 1925(a) of the Pennsylvania Rules of Appellate Procedure

Court of Common Pleas of Blair County, Pennsylvania

Commonwealth of Pennsylvania v. Jesse D. Pellow

No. 2022 CR 2281

September 19, 2024

Hon. Jackie Atherton Bernard

This should contain **pages 1–12 of the September 19 opinion**. The first page identifies the document, case, judge, date, and its Rule 1925(a) status.

This is also the opinion containing the *Gibbs* and *Charlton* discussion concerning weight, credibility, and the factfinder.

Pet. App. __a

APPENDIX E

Verdict

Court of Common Pleas of Blair County, Pennsylvania

Commonwealth of Pennsylvania v. Jesse D. Pellow

No. 2022 CR 2281

November 13, 2023

Hon. Jackie Atherton Bernard

Order entering the guilty verdict for harassment under 18 Pa.C.S. § 2709(a)(7), following the November 7, 2023 bench trial.

The verdict appears on pages 15–16 of the PDF.

Pet. App. __a

CERTIFICATE OF SERVICE

I, Jesse D. Pellow, Petitioner pro se, hereby certify that on 8/26, 2026, a true and correct copy of the foregoing **Petition for a Writ of Certiorari** was served by United States mail, postage prepaid, upon counsel for Respondent at the following address:

Peter J. Weeks, Esquire
District Attorney of Blair County
Counsel for Respondent, Commonwealth of Pennsylvania
Blair County District Attorney's Office
423 Allegheny Street, Suite 421
Hollidaysburg, PA 16648

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8/26, 2026.