
IN THE SUPREME COURT
OF THE
UNITED STATES

IN RE: THOMAS W. SPINDLE,
PETITIONER,

V.

THE UNITED STATE EXECUTIVE BRANCH,
RESPONDENT,

ON A PETITION FOR CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

CASE NUMBER: _____

SUBMITTED BY:

THOMAS W. SPINDLE, PRO-SE

40039-000

FCI FAIRTON

P.O. BOX 420

FAIRTON, NEW JERSEY 08320

QUESTIONS PRESENTED

I. WHETHER THE THIRD CIRCUIT MISAPPLIED 28 USC 2244 (a) TO IMPROPERLY DISMISS PETITIONER'S SUCCESSIVE 2241 PETITION CONTRARY TO A TENTH CIRCUIT RULING THAT 2244 (a) DOES NOT APPLY TO MILITARY PRISONERS WHOM HAVE NO 28 USC 2255 AVENUES OF AVAILABLE REDRESS TO MAKE COLLATERAL CHALLENGES. ?

II. WHETHER THE PRISON LITIGATION REFORM ACT OF 1995, SPECIFICALLY 28 USC 1915 (e) (2) (B) APPLIED TO DISMISS PETITIONER'S SUCCESSIVE 2241 IN FORMA PAUPERIS WITHOUT ADDRESSING THE MERITS UNDER A SCHULP GATEWAY OF ACTUAL INNOCENCE WHERE LIBERTY INTERESTS STILL EXIST. ?

III. WHETHER THE NON-DELEGATION DOCTRINE WAS VIOLATED BY GRANTING JUDICIAL AND LEGISLATIVE POWERS TO THE EXECUTIVE BRANCH CONTRARY TO THE LANGUAGE OF UNITED STATES CONSTITUTIONAL PROVISION ARTICLE I, SECTION 1 AND ARTICLE III, SECTION 1 BECAUSE A MILITARY TRIBUNAL IS NOT "A COURT OF THE UNITED STATES" UNDER THE DEFINITION PROVIDED FOR IN 28 USC 451 BECAUSE COURTS-MARTIAL DISSOLVES FOLLOWING SENTENCING AND IS NOT AVAILABLE TO ENTERTAIN COLLATERAL CHALLENGES, NOR DO THEY PROVIDE REDRESS OF GRIEVANCES. ?

IV. WHETHER THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL (JAG) AND THE UNITED STATES ARMY'S CRIMINAL INVESTIGATIONS COMMAND (CIC) VIOLATED BRADY BY FAILING TO DISCLOSE RELEVANT MATERIAL EVIDENCE FROM THEIR 1982 HOMICIDE INVESTIGATION WHICH WAS EXCULPATORY TO THE PETITIONER AND PETITIONERS CO-ACCUSED, BUT, CRITICALLY FATAL TO THE PROSECUTORS CIRCUMSTANTIAL CHARGES.?

V. WHETHER THE UNITED STATES PAROLE COMMISSION'S THREE-PRONG REQUIREMENT FOR THE ELIGIBLE RELEASE FROM WRONGFUL CONFINEMENT IS UN-CONSTITUTIONALLY COERCIVE IN NATURE. ?

LIST OF PARTIES

That all parties appear in the caption of this case on the cover page. Petitioner states that 28 USC 2403(a) duly applies and Respondents copy shall be served on the Solicitor General of the United States in order to fulfill his mandatory obligation under rule 29.4(a).

NOTICE

Petitioner was granted 60 days from the date of January 8th, 2009, to make corrections to his Petition as well as to file Petitioner's In Forma pauperis under 28 USC 1746. Petitioner also presents a notarized "Declaration of Actual Innocence" for this Honorable Court's perusal with a clear challenge to the weigh the truth of Petitioners attestation or to have him prosecuted for perjury. It is not enough to provide notice that a true Innocent has come before this Court in this way. Let him be witnessed by the whole world itself. www.ippi.org/inmates/armedforces/thomaspindle.html. Here, then, shall he also be observed.

TABLE OF CONTENTS

Opinions Below.....	pg. 1
Jurisdiction.....	2
Declaratory Judgment Act.....	2
Constitutional & Statutory Provisions.....	3
Original Jurisdiction of The Supreme Court.....	3
Statement of The Case.....	4
Reasons for granting the writ.....	18
Conclusion.....	19

INDEX TO THE APPENDICES

APPENDIX A: Judgment from the U.S. Court of appeals for the Third Circuit (August 21,2008)

APPENDIX B: Opinion from the U.S. Court of Appeals for the Third Circuit (September 16,2008)

APPENDIX C: Order from the U.S. District Court of New Jersey (May 1,2008)

APPENDIX D: Order from the U.S. District Court of New Jersey (June 16,2008)

APPENDIX E: Memorandum order from the U.S. District Court of New Jersey (July 30 2008)

APPENDIX F: Denial of En Banc from the U.S. Court of Appeals for the Third Circuit (Oct 9,2008)

APPENDIX G: Declaration of Actual Innocence of Petitioner.

TABLE OF AUTHORITIES CITED

CASES:

<u>Ackerman v. Novak</u> , 10th Cir No. 06-1464. 3-15-07.....	pg. 7
<u>Brady v. Maryland</u> , 373 US 83 (1963).....	15
<u>Brecht v. Abrahamson</u> , 507 US 619 (1993).....	15,16
<u>Giglio v. United States</u> , 405 US 150,154 (1972).....	15
<u>House v. Bell</u> , 115 L.Ed 2d 1,21 (2006).....	15
<u>Kyles v. Whitley</u> , 514 US 419,434 (1975).....	15
<u>McClesky v. Zant</u> , 499 US 467,491-92 n.31 (1976).....	11
<u>Mistretta v. U.S.</u> , 488 US 361,371-72 (1989).....	12
<u>Ohio v. Roberts</u> , 448 US 56,65 (1980).....	16
<u>Sanders v. U.S.</u> , 373 US 1,9 (1963).....	9
<u>Schulp v. Delo</u> , 513 US 298,329 (1995).....	15
<u>Stone v. Powell</u> , 428 US 465,491-92 n.31 (1975).....	11
<u>U.S. v. Agurs</u> , 427 US 97,107-11 (1976).....	15
<u>U.S. v. Silva</u> , 380 F.3d 1018,1020.....	16
<u>Valona v. U.S.</u> , 138 F.3d 694.....	8
<u>Walker v. O'Brien</u> , 216 F.3d 626 (CA 7 Wis 2000).....	8
<u>Weinsberger v. Wiesenfeld</u> , 420 US 636,638 n.2.....	11

STATUTES AND RULES

28 USC 1331	28 USC 2201
28 USC 1338	28 USC 2241
28 USC 1651	28 USC 2244
28 USC 1915(e)(2)(B)	28 USC 2255

OTHER

Public Law 106-546; The DNA Backlog Elimination Act.....	pg. 6
--	-------

IN THE SUPREME COURT OF THE UNITED STATES

IN RE:

THOMAS W. SPINDLE,
Petitioner.

v.

THE UNITED STATES EXECUTIVE BRANCH,
Respondents.

)
)
)
)
)
)
)
)
)
)
)
)

CASE NUMBER: _____

PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment of the Third Circuit Court of Appeals.

OPINIONS BELOW

The Judgment of The United states Court of Appeals appears at Appendix A to the petition and is unpublished; The Opinion is Appendix B.

The Orders of the United States District court appears at Appendix C,D, and E and are unpublished.

The denial En Banc of the United States Court of Appeals appears at Appendix F and is also unpublished.