NO._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2003

ANDREW T. RODGERS - PETITIONER

VS.

PHILLIP JOHNSON, Superintendent S.C.I.P.
ATTORNEY GENERAL OF THE COMMONWEALTH
OF PENNSYLVANIA - RESPONDENT(S)

ON PETITION FOR AN EXTRAORDINARY WRIT TO

THE UNITED STATES SUPREME COURT

PETITION FOR AN EXTRAORDINARY WRIT

Andrew T. Rodgers
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EXHAUSTION OF STATE REMEDIES
UNDER 28 U.S.C. § 2254 (B)

Petitioner, submits that he has satisfied the "EXHAUSTION" requirement under **28 U.S.C. § 2254 (b)** and denial of Allocatur in the Pennsylvania Supreme Court at, NO. 0405 E.D. ALLOCATUR DOCKET - 1999.

On December 10, 1997, the Honorable David N. Savitt, dismissed Petitioner's PCRA PETITION as "untimely" filed Pursuant to **42 Pa. C.S.C. SECTION 9545.** Judgement, was affirmed by the Pennsylvania Superior Court, on May 11, 1999, at NO. 179, Philadelphia 1998.

Respectfully Submitted,

Andrew T. Rodgers AF-4532

STATEMENT IN ACCORDANCE
WITH 28 U.S.C. § 2242(B)(2)

Petitioner, filed an HABEAS CORPUS Petition, on March 10th, 2000, to the United States District Court of Pennsylvania, upon the Highest State Court, becoming Silent; the Docket was Assigned **NO. CA 00-522 .**

On April 27, 2000, the aboved Jurisdiction "Transferred" the Habeas Petition to the U.S. District Court in the Eastern District of Pennsylvania, upon scrutinizing that the latter District was the Region where the Trial took place and where the "TRIAL RECORDS," should be more accessible, which were subsequently disclosed to be a Constitutional grave error of the Original Jurisdiction. The District Court for the Eastern District assigned the Case Docket under **RODGERS VS. JOHNSON, et al,** at NO. 00-2257 (E.D. Pa. 2000), to which the Honorable U.S. District Court Judge Marvin Katz, adopted the U.S. Magistrate's Report/Recommendation which failed to address Petitioner's EXCEPTIONAL-CIRCUMSTANCES on the basis that no TRIAL TRANSCRIPT were available, nor, did the Court write an OPINION for its denial on October 18, 2000.

The Third Circuit Court of Appeals, denied Petition for Certificate of Appealability on July 20, 2001, under **NO. 00-3681,** without reviewing the STATE RECORDS as in the Case with the U.S. District Court & State Appellate Courts, due to the missing Trial Records which prohibited each Appellate

Review from Granting a Meaningful Appeal. The absent Trial Records, however, placed no obstacles in the prior Courts' path that impaired the open and blatant Miscarriage of Justice in the Case at Bar, which occurred Pre-PCRA filing, during and following the Unusual events of the Post-Conviction Court in, **COMMONWEALTH VS. RODGERS**, supra, clearly supported by the RECORD.

Petitioner, cannot bring the ***EXTRAORDINARY-CIRCUMSTANCES***, at Bar, before any other Court, in that, the U.S. District Court as well the Third Circuit Court of Appeals, has demonstrated double-standards' when reviewing simultaneous EXCEPTIONAL-CIRCUMSTANCES with that of Petitioner's, in **PACE VS. VAUGHN**, 151 F.Supp.2d 568 (E.D. Pa. 2001) and **BANKS VS. HORN**, 2001, 271 F.3d 527 (Pa. 2001), each of which were Granted "Relief" bywhich the Presiding U.S. District Court Judge & Third Circuit Court of Appeals' Panel, possessed **TRIAL TRANSCRIPTS** & **TRIAL RECORDS**, to effectuate a Meaningful Review in **BANKS** & **PACE**.

Thus, the abundance of EXCEPTIONAL-CIRCUMSTANCES, existing in the Case at Bar, warrant the exercise of the Court's Discretionary Powers, to GRANT the Petition for an **EXTRAORDINARY WRIT**, and requested Relief which cannot be obtained in any other form or from any other Court. SEE: **APPENDICES A, A-1 & C.**

Respectfully Submitted,

Andrew Thomas Rodgers AF-4532

QUESTIONS PRESENTED FOR REVIEW

(I) Should this SUPREME COURT, allow Review where Detective in Charge Sylvester Scanzello, executed an Unauthorized/Unconstitutional COMPLAINT to Arrest Petitioner, when he had not been implicated in a Crime, nor confronted with an Accuser prior to or following arrest?

(II) Should this SUPREME COURT, allow Review where Arresting Officers, abducted Petitioner, Wife and three minor Children, at 1:30 a.m., on July 17th, 1972, without PROBABLE CAUSE and without an ARREST WARRANT? **SEE: APPENDICES H & I;** also **SEE: I(a) & I(b)** [ARREST WARRANT BLANKS].

(III) Should this SUPREME COURT, allow Review where the Dectective in Charge fraudulently testified at Trial an "Arrest Warrant" and "Search & Seizure Warrant," were issued on July 17th and July 18th, 1972, blatant perjury which were sustained by the Trial Court and Pa. State Supreme Court?

(IV) Should this SUPREME COURT, allow Review where the Pennsylvania State Supreme Court, wrote an OPINION (Table) on October 3, 1975, without a FULL Stenographic TRIAL TRANSCRIPT, referring to Non-Existing TRIAL RECORDS, when in reality its DECISION were based upon Unconstitutional Information composited in a makeshift -**CHRONOLOGICAL**- hypothesis in which the Commonwealth, personally designed in an attempt to "Paint a Picture" of what occurred, below? **SEE: APPENDICES L, L-IV.**

(V) Should this SUPREME COURT, allow Review where the Philadelphia D.A.

Office, solicited an entire Witness slate in the Case of **COMMONWEALTH VS. RODGERS**, Nos. 1246-1249, August Term (C.P. 1972), of Police Officers from the District where Petitioner resided, each of whom given a Script that which supported the contents of the two created Statements constructed by Homicide Detectives William Thompson and David Lee Porter, thus, within a concise period following the perjured Testimonies each Commonwealth Witness (Officers), were CHARGE WITH CRIMES from Official Corruption to Murder as well as Murder/Suicide which are the reason(s) for the District Attorney Office failing to file a SERIATIM "Answer" and ADDRESS Petitioner's Claims in prior Court Proceedings?

(VI) Should this SUPREME COURT, allow Review where the POST-CONVICTION REVIEW ACT COURT, sustained PCRA PETITION for Eight (8) Months, Set a Listed Hearing Date and Appointment of Counsel, REVERSED its former Constitutional adjudication upon discovery that Appointed Counsel could not "Amend" PCRA PETITION in light of the missing, TRIAL TRANSCRIPT & TRIAL RECORDS, nor could the Commonwealth Constitutionally "Answer" PCRA PETITION, therefore set aside Petitioner's **6th AMENDMENT RIGHTS** and Due-Process with the pretense of "time-barring" the valid PCRA PETITION?

(VII) Should this SUPREME COURT, allow Review where the STATE SUPERIOR COURT, STATE SUPREME COURT, THE UNITED STATES DISTRICT COURT for the Eastern District of Pennsylvania and THE THIRD CIRCUIT COURT OF APPEALS, **DENIED** Petitioner a Meaningful Appeal and Due-Process under the virtue of the **SIXTH AMENDMENT** of the **UNITED STATES CONSTITUTION**, on the basis

that neither had the TRIAL TRANSCRIPT/RECORDS in **COMMONWEALTH VS. RODGERS**, supra, at its disposal that each Forum deemed necessary to give credence to Petitioner's **EXCEPTIONAL-CIRCUMSTANCES**, which were clearly visible to which no impediemts prevented the prior Courts' from correcting the multiple Years of Miscarriage of Justice and denial of Due-Process?

(VIII) Should this SUPREME COURT, allow Review where the PCRA COURT-APPOINTED ATTORNEY Lee Mandell, upon discovery that no TRIAL TRANSCRIPT and TRIAL RECORDS existed which created a dilemma, compelling PCRA COUNSEL to inform the Post-Conviction Court, of his "Handicap" and inability to file an "Amended Brief," without the existence of the "Trial Notes" immediately thereof, a secretive MEETING took place in the Chambers of PCRA Judge David N. Savitt, with the presence of D.A. Assistant Catherine Marshall and Atty. Mandell, wherein, a unanimous decision was concluded that the PCRA COURT "time-bar" the Petition to protect the interest of the Commonwealth?

(IX) Should this SUPREME COURT, allow Review where PCRA COUNSEL Lee Mandell, selected to engage in a Conspiratorial intrigue to stagnate Petitioner's pursuant of Justice in light of the fact that he was Court Appointed and the Commonwealth was defraying the cost for his representation, than to file a Constitutional Brief/Petition requesting a vacate of "Conviction" and Sentence since no TRIAL RECORDS were completely recorded in _____ **COMMONWEALTH VS. RODGERS**, Nos. 1246-1249, August Term (C.P. 1972), etc?

Respectfully Submitted,

Andrew T. Rodgers AF-4532

TABLE OF CONTENTS

	PAGE
OPINIONS BELOW.....	v
JURISDICTION.....	vi
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	vii
QUESTIONS PRESENTED FOR REVIEW.....	ix
STATEMENT OF THE CASE.....	1
REASONS FOR GRANTING THE WRIT.....	4
CONCLUSIONS.....	37
PROOF OF SERVICE	

INDEX TO APPENDICES

APPENDIX A - ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT DENYING PETITION FOR APPEALABILITY.

APPENDIX A-1 - ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT DENYING PETITION FOR RE-HEARING.

APPENDIX B - U.S. MAGISTRATE'S REPORT/RECOMMENDATION FROM THE U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF PA.

APPENDIX C - UNITED STATES DISTRICT COURT JUDGE'S ADOPTION OF U.S. MAGISTRATE'S REPORT/RECOMMENDATION.

APPENDIX D - LETTER OF CONSTITUTIONAL DECEPTION (CLERK OF COURT).

APPENDIX E - COMMONWEALTH'S ADMISSION OF MISSING TRIAL TRANSCRIPT.

APPENDIX F - COMMONWEALTH'S FURTHER AFFIRMATION OF MISSING TRIAL RECORDS.

APPENDIX G - UPDATED LETTER OF DECEPTION AND MIS-LEADING INFORMATION FROM CLERK OF COURT OF PHILADELPHIA COUNTY.

STATEMENT OF THE CASE

Petitioner, was convicted by a Jury on October 16, 1973, of First Degree Murder, Second Degree Murder and two Counts of Robbery, in the Court of Common Pleas, Philadelphia County. The presiding Judge in **COMMONWEALTH VS. RODGERS**, NOS. 1246-1249, August Term (C.P. Phila. 1972), imposed a Sentence of LIFE Imprisonment, and three consecutive ten to twenty years on the additional charges.

A Direct Appeal was taken in the Pennsylvania Supreme Court; on October 3, 1975, that Court Affirmed the judgement of the lower Court in **COMMONWEALTH VS. RODGERS**, 463 Pa. 399, 344 A.2d 892 (1975).

On September 15, 1977, Litigant's Petition under the the Post-Conviction Hearing Act (PCHA), was Filed of Record. Following FOUR YEARS & Three -Months delay, a mock Hearing took place where ultimately, relief was Denied, by Judge Edward J. Blake.

A Direct Appeal was taken in the Pennsylvania Superior Court, **COMMONWEALTH VS. RODGERS**, 468 A.2d 854 (Pa. Super. 1983), in which the Court devised an OPINION without the presence of a Full TRIAL TRANSCRIPT nor COURT RECORDS, Affirming the judgement of the PCHA Forum, on November 25th, 1983. A timely Petition for Allowance of Appeal, was taken in the Pa. Supreme Court; on April 3, 1984, Allocatur was Denied.

On April 23rd, 1997, Petitioner, filed a Post-Conviction Relief Act