

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JEREMIAH LYLE VAN TASSEL)

Petitioner,)

v.)

MICHAEL CLARK,)

Respondent.)

Case No. 1:21-cv-172 Erie
Magistrate Judge Richard A. Canzillo

FILED

PETITIONER'S OBJECTIONS TO DISTRICT ATTORNEY'S RESPONSE

Comes the Petitioner in the above captioned action, Jeremiah Lyle Van Tassel, and objects to the District Attorney's response by page number of that response *seriatim*:

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Petitioner was not served with the Response on the 20th day of December, 2021. The Certificate of Service states 'On this day' (day not stated) and gives the address of #10745 Route 18 Albion, PA 16475-0001, though Petitioner received it through Smart Communications PO Box 33028 St. Petersburg, FL. 33733.

I.e., it appears that the District Attorney may be committing a crime or two of his own in his determination to 'win at any cost' (offering a false instrument for filing, obstruction of justice, etc.).

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WEST. DIST. OF PENNSYLVANIA

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That attorney Hathaway 'dropped the ball' should be self-evident from the pleadings.

1. Petitioner was offered the basic do-nothing public defender for trial who told him 'Nothing I can do'.

2. 'Ostensibly'?

ostensible: adjective os·ten·si·ble | \ ă-'sten(t)-sə-bəl , ə- \

Essential Meaning of ostensible

: seeming or said to be true or real but very possibly not true or real

Merriam-Webster <https://www.merriam-webster.com/dictionary>

This sort of dishonest use of language has not gone unnoticed:

The bending of the meanings of words is symptomatic of a diseased institution, with the angle of linguistic deflection indicating the seriousness of the cancer within. The Spanish Inquisition represented an advanced case.

Rawson's Dictionary of Euphemisms and Other Doubletalk, Revised Edition, page 35 (1995).

3. The District Attorney is misrepresenting the 2254 petition in re vouching. The issue was raised in the Pennsylvania state court and then buttressed in the 2254 petition, Memorandum of Law, Pg. 4-6, Exhibit C, pg. 1-4, which describes *dozens* of examples of the prosecutor vouching for her witness.

I.e., the District Attorney is attempting to mislead this Court into believing

that the only vouching for the witness took place in closing arguments.

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The District Attorney's arguments in re statute of limitations appear to contradict themselves. See *Wertz v. Vaughn* 228 F.3d 178 (3rd Cir. 2000) pg. 4, Petitioner's Memorandum.

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See paragraph 1, pg. 5, last sentence. Petitioner submits that the District Attorney has a judicial estoppel problem.

The case before us involves the application of judicial estoppel in the context of a motion for summary judgment. The District Court was correct to note that we have applied a multi-factor analysis to determine whether a party is judicially estopped from making certain assertions that are contrary to : assertions he has made in the past. See, e.g., *Dam Things from Denmark v. Russ Berrie & Co.*, 290 F.3d 548, 559 (3d Cir.2002) (listing three considerations in a judicial estoppel analysis); *Montrose*, 243 F.3d at 777 (same); *Krouse v. Am. Sterilizer Co.*, 126 F.3d 494, 501 (3d Cir.1997) (listing two main considerations in a judicial estoppel analysis); *Ryan Operations G.P. v. Santiam-Midwest Lumber Co.*, 81 F.3d 355 (3d Cir.1996) (same). That test is concerned with whether the party's positions are inconsistent, whether he has acted in bad faith, and whether judicial estoppel is an appropriate remedy that is tailored to address the harm caused to the integrity of the court. *Detz*, 224 F.Supp.2d at 911.

109 *Detz v. Greiner Industries, Inc.*, 346 F.3d (3rd Cir. 2003).

That the entire proceedings against this Petitioner have proceeded in bad faith should be self-evident.

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Most of this page appears to be mere 'boilerplate'.

-7-

'Purportedly'?

purportedly adverb pur·port·ed·ly | \ (,)pər-ˈpɔr-təd-lē \

Definition of *purportedly*

: it is purported : OSTENSIBLY, ALLEGEDLY

Merriam-Webster <https://www.merriam-webster.com> > dictionary

>

The District Attorney has a language advantage described in an earlier satire on the legal system:

"When *I* use a word," Humpty Dumpty said, in rather a scornful tone, "it means just what I choose it to mean—neither more nor less."
"The question is," said Alice, "whether you *can* make words mean so many different things."
"The question is," said Humpty Dumpty, "which is to be master—that's all."

The Annotated Alice: Alice's Adventures In Wonderland & Through The Looking Glass by Lewis Carroll 269 (Martin Gardner 1960).

[I]mproper statements made during closing arguments? How about dozens of improper vouching statements during trial?

How about *dozens* of improper vouching statements made during trial?

This Court isn't precluded from anything. See *Wertz*, *supra*.

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The exceptions are self-evident.

Petitioner waived nothing.

A waiver is an:

‘Intentional relinquishment or abandonment of a known right or privilege.’

Johnson v. Zerbit, 304 U.S. 458, 0464, 58 S. Ct. 1019, 1023, 82 L. Ed. 1461 (1938). *Campbell v. Wood*, 18 F 3d 662 (9th Cir. 1994).

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Once again, the District Attorney engages in the dishonest use of language.

‘Coerce’, ‘forced’, and ‘pressured’ are not synonyms for ‘abandoned’.

coerce verb co·erce | \ kō-‘ərs \

coerced; coercing

Essential Meaning of *coerce*

- 1: to make (someone) do something by using force or threats.
- 2: to get (something) by using force or threats; A confession was *coerced* from the suspect by police.

Full Definition of *coerce* transitive verb

- 1: to compel to an act or choice; was *coerced* into agreeing abusers who *coerce* their victims into silence.
- 2: to achieve by force or threat *coerce* compliance, *coerce* obedience.
- 3: to restrain or dominate by force; religion in the past has tried to *coerce* the irreligious— W. R. Inge

forced adjective \ ‘fōrst \

Definition of *forced*

- 1: compelled by force or necessity : INVOLUNTARY; a *forced* landing.
- 2: done or produced with effort, exertion, or pressure; a *forced* laugh.

pressure noun pres·sure | \ ‘pre-shər \

Definition of *pressure*

1. a: the burden of physical or mental distress.
b: the constraint of circumstance : the weight of social or economic imposition.
- 2: the application of force to something by something else in direct contact with it.

abandoned adjective aban·doned | \ ə-ˈban-dənd \

Definition of *abandoned*

1. a: left without needed protection, care, or support; an *abandoned* baby... she ... began to live in what she referred to as the straitened circumstances of an *abandoned* woman.— Richard Russo
- b: left by the owner; an *abandoned* car. left to fall into a state of disuse; an *abandoned* field, *abandoned* property, an *abandoned* factory.
- c: no longer held or thought of, given up; *abandoned* hopes/dreams.

Merriam-Webster <https://www.merriam-webster.com> › dictionary

abandoned adjective

1. left unoccupied or unused; she consciously avoided walking past the abandoned house, with its broken windows and sagging porch.

Synonyms for abandoned

derelict, deserted, desolate, disused, forgotten, forsaken, rejected, vacant, vacated, void.

2. showing no signs of being under control; wild, abandoned dancing that shocked the staid chaperones at the debutante ball.

Synonyms for abandoned

intemperate, rampant, raw, runaway, unbounded, unbridled, unchecked, uncontrolled, unhampered, unhindered, unrestrained

abandoned verb

2. to cause to remain behind; abandoned the group that he had been hiking with and struck out on his own.

Synonyms for abandoned

deserted, forsook, left, marooned, quit (also quitted), stranded.

Merriam-Webster <https://www.merriam-webster.com> › thesaurus

Perhaps the District Attorney should purchase a dictionary and thesaurus so he may be cognizant of the proper use of words.

Note also that any references to Petitioner being *satisfied* with the choice of counsel offered to him are *wholly absent*.

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This Petitioner is not in Pennsylvania State Court, which *this* Court does not need to take guidance from.

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Again, dozens of vouching quotes, described as Exhibit C, have shrunk to 'closing argument'. This type of prosecutorial dishonesty – some day – must come to an end.

CONCLUSION

The relief prayed for must be granted.

Respectfully Submitted,

Jeremiah L. Van Tassel

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SCI Albion
10745 Route 18
Albion, PA. 16475

Certificate of Service

This certifies that I have on this ____ day of February, 2022, placed a true and exact copy of my

PETITIONER'S OBJECTIONS TO DISTRICT ATTORNEY'S RESPONSE

in the U.S. Mails, first-class postage prepaid, addressed to:

Erie County (PA) District Attorney's Office
140 West St, Suite 506
Erie, PA. 16501

Jeremiah L. Van Tassel