



FOR IMMEDIATE RELEASE

Media Inquiries: [Joe Martyak](#), 703-403-1111

Expert Amici Back NCLA Supreme Court Case Against “Petty-Offense Exception” to Jury-Trial Right

David Lesh v. United States

Washington, DC (January 17, 2025) – Criminal law academics, defense attorneys, and advocacy groups have filed five *amici curiae* briefs in support of the New Civil Liberties Alliance’s pending [Lesh v. U.S.](#) petition before the U.S. Supreme Court. NCLA’s lawsuit challenges an unjust precedent that denies jury trials for people charged with “petty offenses”—generally those punishable by six months’ imprisonment or less. This erroneous precedent led the U.S. Court of Appeals for the Tenth Circuit to rule that NCLA client David Lesh was not deprived of his constitutional jury-trial right when prosecuted and convicted of violating U.S. Forest Service regulations. NCLA thanks *amici* for urging the Justices to hear this case and end the ahistorical and atextual “petty-offense exception.”

Excerpts of the briefs filed by *amici curiae* in support of the Petitioner follow:

“The jury trial is vital regardless of perceived practical difficulties it may pose ... First, practical considerations should not justify maintaining a rule that leads to unconstitutional criminal convictions ... This is especially so because part of the jury trial’s very rationale is to serve as a hurdle to conviction. It shields defendants from ‘arbitrary enforcement of laws.’ ... In particular, jury trials are more transparent and publicly accountable than plea bargaining. ... The absence of jury trials can also ‘result in an “adversarial deficit” ... that allows police and prosecutorial practices to go unchecked.’ ... Inefficiencies that jury trials pose to conviction are an intended feature, not a bug.”

— [Cato Institute](#)

“The petty offense exception creates anomalies where the Constitution explicitly guarantees defendants multiple rights in the text, yet of those rights, only the jury trial right is cut short. Neither the text or reasoning of the Constitution warrants this exception.”

— [Southern Policy Law Institute](#)

“This Court’s petty-offense detour not only was ill advised, but also is doing serious damage to criminal defendants, defense lawyers, and society as whole. The number and variety of petty crimes punishable by up to six months in prison are staggering. So are the consequences facing defendants charged with petty offenses. Every day, countless defendants risk being labeled as criminals and stripped of their liberty without any of the vital protections and benefits that the jury-trial right offers.”

— [National Association of Criminal Defense Lawyers](#)

“Perversely, the petty offense doctrine not only exceeds but also abdicates the judicial role, ceding to the legislative and executive branches the power to control the metes and bounds of the jury trial right with respect to certain crimes ... This judicial abdication should not stand.”

— [Americans for Prosperity Foundation](#)

“The right to a jury trial was intended to ensure against prosecution that was unfair, an overreach, or beyond what (very wide) prosecutorial discretion would otherwise counsel. Extending this right, then, may actually decrease the number of such prosecutions. But, even assuming recognizing the jury trial right for petty offenses could hypothetically introduce additional costs in the very few cases that a jury trial is actually sought, such costs are vastly outweighed by the constitutional and societal benefits of ensuring fair and consistent application of criminal justice. The right to a jury trial serves as a critical check on government power via community participation in determining guilt or innocence ... By reinforcing this safeguard, the justice system gains legitimacy and fairness, particularly for individuals accused of offenses that carry significant collateral consequences.”

— [Criminal Law Professors Andrea Roth and J.D. King](#)

NCLA released the following statements:

“We are grateful for the *amici*’s support in this important case. Beyond establishing how far the Court has unfortunately wandered from the Constitution’s text, they highlight the significant collateral consequences stemming from criminal convictions without juries. These consequences include long-term social and financial harms to the convicted, erosion of trust in our judicial system through reduced civic participation and judicial accountability, and impositions on our democratic heritage.”

— **Kara Rollins, Litigation Counsel, NCLA**

“The significant support Mr. Lesh has received from organizations that range across the ideological and political spectrum is evidence that the Supreme Court’s petty-offense exception to the jury-trial right has no constitutional basis. To safeguard the rights of all Americans, the Supreme Court should take the opportunity to reconsider its flawed precedent and rectify the situation.”

— **Jenin Younes, Litigation Counsel, NCLA**

For more information visit the case page [here](#) or watch the case video [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

###