

No. 18-6298

In the
Supreme Court of the United States

Robert Alan Fratta, Petitioner

v.

Lorie Davis, Respondent

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

Petitioner's Reply Brief

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Prelude

I am unable to type this Reply Brief because TDCJ staff took my typewriter away from me after a sergeant assaulted me, and the wardens, major, and "Access to Courts supervisor" refuse to give it back to me even tho I've made them all aware I need it because I'm filing prose. I also asked this Court to intervene (see my "Emergency Motion to Order Investigations of my being Assaulted and Unjustly Punished" - received by this Court on October 31st via Certified Mail number 7018 0680 0001 5156 4459), but no action was taken. Because attorney James Rytting has refused to withdraw even tho I discharged him over 2 months ago, I also wrote and asked him to please get someone to come investigate my being assaulted and punished for offenses I didn't commit. Two friends of mine also asked Rytting to do something to help me, but he hasn't. This exemplifies how I've been treated by the system and my attorneys for over 23 years now. Hence this petition for writ of certiorari.

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Reasons for Granting Certiorari Review

This is a final stage Capital/Death Penalty case with execution imminent. My Question presents 16 unlawful acts (including a Circuit split of Schlup which this Court needs to resolve/settle), plus the denial of my COA. Many people in the U.S. who get strapped with ineffective attorneys - have, are, and/or will experience unlawful acts such as mine. So I ask the clerks and Justices reviewing this case to PLEASE READ my petition and EVERYTHING in my Appendices E thru L so you'll have a clear understanding of everything I've gone thru and the magnitude and severity of all the unlawful acts committed against me. By placing yourselves in my shoes, and by recognizing the need to resolve the Circuit split of Schlup, you'll easily see this petition does satisfy the "compelling reasons" standard for granting review.

Arguments

I. The State/Respondent Did Not Oppose or Even Address my Question at all.

My petition asks one (1) Question, which simply put boils down to this: "Is it unconstitutional for Circuit Courts to allow and commit such unlawful acts against a person, especially in

a Death Penalty case where execution is imminent?"

I then had to list the "unlawful acts" within the Question so the Question can be answered. Then because each unlawful act legally equates to separate issues also needing review and rulings by this Court in order to answer my Question, they each qualify as "subsidiary questions fairly included therein" my Question per Rule 14.1(a). So I highlighted them as subsidiary questions on the 2 pages following my Question to make them easier for this Court to address, and also give this Court a clear understanding of the magnitude and severity of all the unlawful acts committed against me. Respondent ONLY addressed subsidiary questions! And these arguments are the same mis-interpretations of laws and "procedurally default" barred "arguments they and the courts have been making to everything I've filed pro se in state and federal courts. The arguments I made in my petition, which are supported by exhibits in my Appendices, overcome all the arguments made by the Respondent and merits rulings in my favor to all my subsidiary questions, making the answer to my Question a "Yes". And since the Respondent takes NO OPPOSITION to my Question, I argue that should also factor in as a reason for this Court to grant review of my petition.

II. Denial of COA

I didn't list the denial of COA as a subsidiary question because I felt all the unlawful acts themselves showed the denial of COA to be an inclusive "obvious given" injustice - satisfied by a "yes" answer to my question. But if this Court wishes, It may of course include the unfair denial of COA as a subsidiary question.

III. "Fratta" Raising Claims and Making Objections

Contrary to the Respondent's claims, I am "Fratta"; my attorneys are not. I take issue that my attorneys are being called "Fratta" and I'm asking this Court to recognize the need to make a distinction whenever a person says or does things himself, pro se, as I've done. I, "Fratta", certainly DID object to the jury charge at trial. See my petition pages 5 + 15(h). It was my ineffective attorneys who failed to object. I, "Fratta" DID also raise EVERY CLAIM in trial, State and federal courts that I'm raising now in this Court. Again, it was my attorneys who didn't, and the lower courts didn't care. I'm asking this Court to care and see the unconstitutionality in all

this injustice.

IV. Lowering the Required Mens Rea (B.I.O. p.17)

I, "Fratta", did NOT argue this issue in MY petition, nor am I asking this Court to add it as a subsidiary question now.

Conclusion

THIS is my FINAL APPEAL. James Rytting is no attorney of mine, so I have no attorney at all. The State Courts will NOT accept a subsequent writ and I don't plan to file one. This Court's ruling now is a literal matter of life or death for me.

I raised 16 unlawful acts as subsidiary questions, including a Circuit split of Schlup in my case, ALL of which merit review and rulings by this Court - and make the answer to my Question of it being unconstitutional for Circuit Courts to allow and commit such unlawful acts against people, a resounding "YES", and gives compelling reasons for GRANTING this petition for review. And again, Respondent did NOT oppose my Question being granted for review.

Prayer

I pray this Court grants my petition for writ of certiorari for full review of my Question AND subsidiary questions, and appoints me a reputable law firm in the D.C. area to make oral arguments and any necessary filings.

Respectfully submitted,

Robert Alan Fratta

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Signed: 11/18/18

Mailed/Filed: 11/19/18

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PROOF OF SERVICE

I hereby certify that on November 19, 2018, I will have mailed a copy of my Petitioner's Reply Brief via first class mail and this prison's mailing system - to the Respondent's attorney, Ellen Stewart-Klein, Asst. A.G., at: Criminal Appeals Division - P.O. Box 12548 - Capitol Station - Austin, TX 78711-2548.



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