

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 PETITION FOR REHEARING

Robert Alan Fratta, Petitioner  
Polunsky Unit, #999189  
3872 FM 350 South  
Livingston, TX 77351

\*\*\* CAPITAL CASE \*\*\*

To the Honorable Justices of the Supreme Court:

Comes now the Petitioner, Robert Alan Fratta, and files this Petition for Rehearing pro se in first person narrative.

I.

On January 7th 2018 this Court denied my Petition for a Writ of Certiorari. Per Rule 44(2) and (3), I will list intervening and extraordinary circumstances and substantial grounds demonstrating the need for this Court to conduct a rehearing.

1) This is a Death Penalty case. By denying my petition, this Court is allowing an **innocent** citizen of the United States to be **executed**. Surely that's a miscarriage of justice.

2) I don't believe any Justice has bothered to read my petition, reply brief, and appendices I presented as support with new evidence. I hereby ask the Justices to please read it all now to see it merits being reheard and granted.

3) As explained in my reply brief, my sole Question, altho lengthy, is quite simple. I asked if it's unconstitutional for Circuit Courts to allow and commit various unlawful acts in upholding a conviction, especially in a death penalty case with execution imminent. I had to cite the unlawful acts within my Question, then presented them as subsidiary questions on the 2 pages following my Question. By denying my petition - this Court is now also allowing all those unlawful acts to be committed against me by the Circuit Court, federal district court, TCCA and trial court. Surely that's unconstitutional too.

4) Because my petition also presents the 16 subsidiary questions, by denying my petition - this Court is ruling it's specifically okay to:

- a) Execute a person even when the evidence was legally insufficient.
  - b) Allow the Circuit Courts to remain split in their interpretations of Schlup v. Delo.
  - c) Allow the government to add other parties into a jury charge even when the indictment charges only a sole actor.
  - d) Allow appellate courts to add uncharged unpresented elements into assessing the sufficiency of the evidence.
  - e) Allow fatal/material variances.
  - f) Allow constructive amendments.
  - g) Allow unpolled general verdicts and alternative theories not charged and which create different offenses.
  - h) Allow Circuit and appellate courts to refuse to conduct Jackson reviews of the sufficiency of the evidence requested by attorneys.
  - i) Allow executions of people strapped with ineffective attorneys and the Courts refused to accept meritorious pro se filings and requests for new and effective attorneys.
  - j) Allow courts to deny persons from proceeding pro se in direct appeal.
  - k) Allow attorneys to refuse their clients' lawful objectives - in opposition of the McCoy v. Louisiana ruling.
  - l) Allow courts to deny persons any kind of "hybrid" representation regardless of how ineffective the attorneys are.
  - m) Allow federal courts to refuse to remand meritorious issues back to State courts for rulings/exhaustion.
  - n) Allow Circuit and federal district courts to disregard relevant U.S. Codes in refusing to accept meritorious pro se filings and issues.
  - o) Allow executions thru proof of substantial trial IAC.
  - p) Allow all the above miscarriages of justice to be allowed and committed by Circuit Courts and appellate courts.
- 5) Under Rule 10 - the 5th Circuit has entered a decision in my case in conflict with the decision of other U.S. Courts of Appeals. See my Petition

argument "m" on pages 16-17. This Circuit split needs to be settled by this Court now.

6) Also under Rule 10 - the 5th Circuit's decision in my case: "has so far departed from the accepted and usual course of judicial proceedings", **and**, has "sanctioned such a departure from a lower court as to call for an exercise of this Court's supervisory power." Surely the "usual course of judicial proceedings" is for laws to be followed and Constitutional Rights to be upheld. My petition proves **the opposite occurred** in my case, and this Court's supervisory power needs to be exercised to correct this injustice.

## II.

I argued (and proved) I've been wrongly accused (and convicted). Justice Kavanaugh also argued he'd been wrongly accused. It's not fair that he got to argue his side and be heard and fairly judged - yet I be denied from doing so by this Court. He of all Justices should support my need to be heard by this Court. I therefore **specifically request Justice Kavanaugh** read my petition, **reply brief**, and Appendices, and be on the panel for rehearing.

## III.

To not conduct a rehearing and grant my petition will be allowing violations of my Constitutional Rights. Specifically:

1) The 14th and 5th Amendments. My petition and Appendices prove I've not only been denied life, liberty and property without Due Process of law by the State of Texas, but also equal protection of the laws. My pro se filings presented in my Appendices cite numerous State legislative and case laws used **many times in acquitting others** with the same or even weaker grounds. I've been **discriminated against**.

2) The 8th Amendment. To allow me to be executed even tho I'm completely innocent and already unlawfully confined for almost 25 years now - constitutes cruel and unusual punishment. I need **Justices** of this Court to **read** my petition, reply brief and Appendices, conduct a rehearing and **grant** my petition for a writ of certiorari.

Respectfully submitted,



Robert Alan Fratta, Petitioner

Polunsky Unit, #999189

3872 FM 350 South

Livingston, TX 77351

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CERTIFICATION

I, Robert Alan Fratta, hereby certify that my enclosed Petition for Rehearing is restricted to the grounds specified in Rule 44.2, and that it is presented in good faith and not for delay.

Executed on this day of January 21st, 2019.



Robert Alan Fratta, Petitioner

Polunsky Unit, #999189

3872 FM 350 South

Livingston, TX 77351

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