

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

FRANK PRUITT — PETITIONER
(Your Name)

vs.
THE PEOPLE OF THE STATE OF
NEW YORK — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

NEW YORK STATE COURT OF APPEALS
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

FRANK PRUITT
(Your Name)

BOX 149

(Address)

Attica, New York 14011-0149

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Was the right to a Public trial, and the right of the Public to attend trial, abrogated when the trial judge failed to conduct careful inquiry "before", ordering a removal from the trial?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A Decision of State Court of Appeals

APPENDIX B Decision of State Trial Court
 Decision of State Trial Court to Motion to Reargue

APPENDIX C Decision of State Supreme Court

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
PEOPLE V. MCRAE,	47 MISC.3d 619 (2015)
PEOPLE V. HINTON,	31 NY2d 48
WALLER V. GEORGIA,	467 U.S. 48
PEOPLE V. CLEMONS,	78 NY2d 48

STATUTES AND RULES

FIRST AMENDMENT UNITED STATES CONSTITUTION

SIXTH AMENDMENT UNITED STATES CONSTITUTION

FOURTEENTH AMENDMENT UNITED STATES CONSTITUTION

CIVIL RIGHTS LAW SECTION 12

JUDICIARY LAW SECTION 4

OTHER

New York State Constitution Article 1, Section 11

C.P.L. 440.30 (a),(b),(c)

C.P.L. 440.30 (d),(i)

New York State Constitution Article 1, Section 6

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the STATE TRIAL court appears at Appendix B to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was 9-17-2018. A copy of that decision appears at Appendix A.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The right to a Public trial protection has been recognized by the common law and was enshrined in our Bill of Rights in the Sixth Amendment to the U.S. Constitution, and applied to the states by way of the Fourteenth Amendment, and guided with procedures that must be followed before exclusion or removal of bodies from the courtroom. Procedures handed down by the United States Supreme Court, a precedent that mandates careful inquiry before ruling to close the court.

STATEMENT OF THE CASE

Petitioner Frank Pruitt was charged with two counts of intentional murder, N.Y. Penal Law sec. 125.25(1), in connection with the shooting deaths of Jahar Bellamy and Tyrone Lee. At his trial, petitioner took the stand and acknowledged that he tried to defuse a confrontation initiated by Jahar Bellamy who was intoxicated towards his friend Jerome Cordoba. Scared because of his knowledge of Bellamy and Lee's reputation in the neighborhood, the 18 year old had fired the weapon only after Bellamy pushed him twice and then charged towards him.

Petitioner's family was present at the trial, along with his three year old daughter who was being held by her mother Cassandra Hawthorne.

She witnessed the prosecution's entire presentation. After the people rested their case, defense proceeded to present theirs. The petitioner was the first witness called. However, before he was able to take the stand, the court stated:

THE COURT: Whose young child is that?

DEFENSE COUNSEL: Defendant's daughter

THE COURT: How old is she?

DEFENSE COUNSEL: Three Years old.

THE COURT: I want her out.

THE COURT: The reason I want her out, I don't want her to see her father put on the stand and crossed-examined in these crimes. I think it could serve--a very traumatic age upon her. At the age of three she has enough trauma upon her without that additional trauma. T.M. 251

Defendant did not know Cassandra Hawthorne was holding the child when the judge ordered the child out. Cassandra Hawthorne sent a sworn affidavit 26 years later stating that she was holding the child and had to leave with the three year old. But was never addressed by the judge that she could take the child home and return back to witness the trial.

REASONS FOR GRANTING THE PETITION

Ms. Hawthorne's affidavit states that she was never told that she could take the child home and return later. Ms. Hawthorne does not know the rules of the court, regarding exclusion or removal of children which is why the right to a public trial protection are guided with procedures that must be followed before exclusion or removal. The judge did not follow the guidelines mandated by the United States Supreme Court outlined in *Waller v. Georgia*; adopted in New York State in *People v. Hinton*.

The national importance of having the Supreme Court decide the question involved in this case, is that the right to a Public trial is one of the foundations of a free society. Recognized as a vital right long before our Bill of Rights, the right to a Public trial has been entrenched in the common law for centuries. It was because of the abuses of the Star Chamber which helped emphasize the importance of an open and public proceedings.

The Star Chamber evokes a dark and frightening place in history where great evils were carried out at the hands of the State. The Star Chamber, that medieval court of criminal jurisdiction which was used as an instrument of oppression by the Tudor kings operated in secret, with no juries, and no spectators allowed. Since the abolition of that body in 1641, the right to a public trial has been recognized by the common law, and was enshrined in our Bill of Rights in the Sixth Amendment to the U.S. Constitution, and applied to the States by way of the Fourteenth Amendment.

What is interesting about the right to a Public trial is that, it is unique among the other important rights that come into play in a criminal trial, in that it is at once the right of the accused, and the right of society.

The defendant's right, is enshrined in the Sixth Amendment to the U.S. Constitution which states in relevant part "In criminal prosecutions the accused shall enjoy the right to a speedy and public trial."

The public also, have a right to attend criminal trials, by virtue of the First Amendment. The right to attend criminal trials is implicit in the guarantees of the First Amendment; without the Freedom to attend such trials, which people have exercised for centuries, important aspects of freedom of speech and of the press could be eviscerated.

In this case, the judge's failure to consider or inquire as to who was holding/caring for the three year old child was error. As a result, the child's mother was ejected. The trial continued for an additional twenty-one days, and because the judge did not follow procedures before exclusion or removal as required, Cassandra Hawthorne never returned back to view the trial.

It's unreasonable to believe that when the judge ordered the three year old out the court, the judge expected that child to get up and escort herself out of the trial. The Sixth Amendment demands more, society demands more from these guarantees of the Constitution.

Certiorari should be granted as the doctrine of harmless error, or a showing of prejudice does not apply to a defendant whose right to a Public trial has been violated.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Frank Pruitt

Date: October 5, 2018