

No. 18-7532

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IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

Supreme Court, U.S.
FILED

DEC 04 2018

OFFICE OF THE CLERK

DALE B. GREEN — PETITIONER
(Your Name)

VS.

STATE OF FLORIDA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

DISTRICT COURT OF APPEAL OF FLORIDA FIFTH DISTRICT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

DALE GREEN, DC# R13013
(Your Name)
Tomoka Correctional Inst.,
3950 Tiger Bay Road
(Address)

Daytona Beach, Fla. 32124
(City, State, Zip Code)

NONE
(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

In light of this Court's presumption in United States v. Cronin, 466 U.S. 648, 659, 104 S.Ct. 2039, 2047, 80 L.Ed.2d 657 and n. 25 (1984), "... a trial is unfair if the accused is denied counsel at a critical stage of his trial."

Does such presumption of an "unfair trial" apply to the Petitioner's. On the ground that the Petitioner suffered a partial denial of his "Right to Counsel" at a "critical stage" i.e., the "pretrial stage" from September 10 - November 10th, 2008, of his trial below on the charged offense.

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:

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INDEX TO APPENDICES

APPENDIX A Copy of the decision from the District Court of Appeal of the State of Florida, Fifth District, Case No. 5D18-2616

APPENDIX B: Record excerpt from record on appeal, page (5):
the clerk of the circuit court docket sheet showing the dates (c) the public defender office was appointed to the

APPENDIX C Petitioner's case or re-appointed

APPENDIX D

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

UNITED STATE V. CRONIC,

466 U.S. 648, 104 S.Ct. 2039, 80 L.Ed 657, and n 25 (S)
(1984)

UNITED STATE V ROY,

855 F.3d 1133, (11th Cir 2017)

(S)

STATUTES AND RULES

OTHER

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 N/A to the petition and is

- ☐ reported at N/A; 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 N/A; 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 District Court of Appeal of Florida 5th District court 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.

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was N/A.

[] 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

[] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A N/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 Nov. 30, 2018
Sept. 11, 2018.
A copy of that decision appears at Appendix (A). Mandate

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner's Constitutional "Right to Counsel"
as an incarcerated, indigent accused.
Under the Sixth amendment to the United
States Constitution

Petitioner's substantive rights to the
due process of the law by the State under
the 14th amendment to the United States
Constitution. His Right to the effective
assistance of counsel at a critical stage
of his trial. As an indigent accused
incarcerated and awaiting trial on the
charged offense.

STATEMENT OF THE CASE

1. On September 9th, 2008, the Petitioner went before a state judge for the purpose of a first appearance hearing on the charged offenses. Appendix item ~~#1~~
2. The state judge adjudicated the Petitioner to be insolvent and appointed the Public Defender's office to represent the Petitioner - for the First appearance hearing only. Appendix (B), items #1+8,
3. On November 10, 2008, the state judge appointed the Public Defender's office back to the Petitioner's case for arraignment, Appendix (B), Item #18

REASONS FOR GRANTING THE PETITION

1. The rulings by the state courts below are in conflict with relevant decision by this Court in United State v Cronie, 466 U.S. 648, 659, 104 S.Ct. 2039, 2047, 802 Ed. 657 and n.25 (1985) the presumption that counsel's assistance is essential requires us to conclude that a trial is unfair if the accused is denied counsel at a critical stage of his trial and United States v. - Roy, 855 F.3d 1133, 1213-14, (11th Cir 2017). The Supreme Court has never held that the absence of counsel for part, but not all, of a "critical stage" of trial does not constitute structural error... The opinion speaks of the denial of counsel "at a critical stage of..." 466 U.S. at 659 (emphasis added) not "throughout" a critical stage. And the denial of counsel for part of a "critical stage" is nonetheless the denial of counsel at a "critical stage"
2. The state courts are attempting to circumvent and/or altogether do away with the accused six amendment "Right to Counsel" in their courts.

unless the Supreme Court of the United States of America intervene and let the state courts know that they reached the wrong conclusions. In the Petitioner's case below, regarding Petitioner's Sixth amendment Constitutional "Right to Counsel" at a "critical stage" not throughout a "critical stage"

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Dale B. Green, RI3013

Date: December 4th, 2018