No. 18-7934

IN THE

SUPREME COURT OF THE UNITED STATES

SEAUN FARTHING- PETITIONER

vs.

DARA WATSON - RESPONDENT

PETITION FOR REHEARING A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS OF THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

SEAUN FARTHING

ST. BRIDES CORRECTIONAL CENTER

CHESAPEAKE, VIRGINIA 23328

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RULE 10. CONSIDERATIONS GOVERNING REVIEW ON CERTIORARI

(C) The Supreme Court of Virginia and the United States Court of Appeals of the 4th Circuit has decided important questions of clearly established federal law that has not been, but should be, settled by this Court and both the Supreme Court of Virginia and the United States Court of Appeals 4th Circuit has decided important federal questions in a way that conflicts with relevant decisions of this Court.

QUESTIONS PRESENTED FOR REVIEW

I. Under Jackson v. Virginia 443 U.S. 307 (U.S. Va. 1979) Was the petitioner denied Due Process of Law guaranteed by the Fourteenth Amendment after viewing the sufficiency of evidence in the light most favorable to the prosecution whether any rational trier of fact could have found the essential elements of the crime of attempted statutory burglary to prove if petitioner was guilty beyond a reasonable doubt? Was trial counsel ineffective for failing to preserve this arguement during trial in order to be heard on the direct appeal? See Va. Code 18.2-90 and 18.2-91 for attempted statutory burglary

II. Under Blockburger v. United States 248 U.S. 299 (U.S. Ill. 1932) Was the Double Jeopardy Clause of the Fifth Amendment violated by the Supreme Court of Virginia and the United States Court of Appeals of the Fourth Circuit for affirming the petitioner's wrongful conviction of attempted statutory burglary with the intent to commit assault and battery and attempted malicious wounding when assault and battery is a lesser included offense of malicious wounding? Was trial counsel ineffective for failing to preserve this arguement during trial in order to be heard on direct appeal?

I. Under Jackson v. Virginia 443 U.S. 307 (U.S. Va. 1979) Was the petitioner denied Due Process of Law guaranteed by the Fourteenth Amendment after viewing the sufficiency of evidence in the light most favorable to the prosecution whether any rational trier of fact could have found the essential elements of the crime of attempted statutory burglary to prove if petitioner was guilty beyond a reasonable doubt? Was trial counsel ineffective for failing to preserve this arguement during trial in order to be heard on the direct appeal? Was appeallate counsel ineffective for failing to invoke rule 5A:18 ends of justice exception?

The Supreme Court of Virginia along with the assistant Attorney General of Virginia and the United States Court of Appeals of the Fourth Circuit unknowingly deprived the petitioner Due Process of Law of the Fourteenth Amendment. Pursuant to Va. Code 18.2-90 and 18.2-91 for attempted statutory burglary the commonwealth has a constitutional duty to prove every element of the offense in order to sustain the conviction. The trial court erred in finding the evidence sufficient, as a matter of law, to support the attempted burglary conviction because the commonwealth's evidence failed to establish that the petitioner broke and entered into a dwelling house with the intent to commit assault and battery.

Va. Code 18.2-90 and 18.2-91 language reads: "To sustain a conviction for statutory burglary under code 18.2-91, the Commonwealth must prove: (1) the accused ..... broke and entered the dwelling house in the daytime; and (2) the accused entered with the intent to commit any felony other than murder, rape, robbery or arson." Robertson v. Commonwealth 31 Va. App. 814, 820-21, 525 S.E. 2d 640, 644 (2004)

III. Under Blockburger v United States 248 U.S. 299 (U.S. Ill. 1932) Was the Double Jeopardy Clause of the Fifth Amendment violated by the Supreme Court of Virginia and the United States Court of Appeals of the Fourth Circuit for affirming the petitioner's wrongful conviction of attempted statutory burglary with the intent to commit assault and battery with one count of a use of a firearm in the commission of a felony and attempted malicious wounding with a subsequent count of a use of a firearm in the commission of a felony when assault and battery is a lesser included offense of attempted malicious wounding which constitutes a single offense not multiple offenses? Was trial counsel ineffective for failing to preserve this arguement during trial in order to be heard on direct appeal?

Can the Supreme Court of the United States grant the petitioner a rehearing on the grounds of "erroneous conclusions of law" there is clear error based on the rulings of the Supreme Court of Virginia , in regards to Va. code 18.2-90 and 18.2-91 under the Jackson v. Virginia standard based on the Due Process of Law of the 14th Amendment to the Constitution of the United States and Article I 11 of the Constitution of Virginia Due Process doctrine. There is also clear error based on the rulings of the Supreme Court of Virginia and the Assistant Attorney General of Virginia, and the United States of the Court of Appeals of the Fourth Circuit in regards to Va. Code 18.2-51, 18.2-54 under the Blockburger v. United States standard based on the Double Jeopardy Clause of the Fifth Amendment to the Constitution of the United States and Article I 8 of the Constitution of Virginia of the Double Jeopardy doctrine. Trial counsel was ineffective for failing to argue that the petitioner was improperly sentenced which prejudiced the petitioner and affected the outcome of his trial.

According to Jackson v. Virginia 443 U.S. 307 (U.S. Va. 1979) In a challenge to a state conviction brought under this statute requires federal court to entertain state prisoner's claim he is being held in custody in violation of the Constitution or the laws of the United States, therefore the petitioner is entitled to habeas relief if it is found that upon the evidence adduced at trial no rational trier of fact could have found the essential elements of the crime of attempted statutory burglary to prove petitioner guilty beyond a reasonable doubt. U.S.C.A. Const. Amend. 14

The petitioner contends that trial counsel's assistance was deficient in this matter because the commonwealth's evidence proved that it was not a dwelling house that was broke and entered. It was in fact the commonwealth's witness in chief rented room bedroom within a larger dwelling house that was allegely broke and entered. A bedroom within a dwelling cannot constitute a seperate "dwelling house," as contemplated by Code 18.2-90.

Code 18.2-90 provides:

If any person in the nighttime enters without breaking or in the daytime breaks and enters or enters and conceals himself in a dwelling house or an adjoining, occupied outhouse or in the nighttime enters without breaking or at anytime breaks and enters or enters and conceals himself in any office, shop, manufactured home, storehouse, warehouse, banking house, church as defined in 18.2-127, or other house, or any ship, vessel or river craft or any railroad car, or any automobile, truck or trailer, if such automobile, truck or trailer is used as dwelling or place of human habitation, with intent to commit murder, rape, robbery or arson violation of 18.2-77, 18.2-79 or 18.2-80, he shall be deemed guilty of statutory burglary, which offense shall be a Class 3 Felony.

However, if such person was armed with a deadly weapon at the time of such entry, he shall be guilty of a Class 2 felony.

Code 18.2-91 provides as follows:

If any person commits any of the acts mentioned in 18.2-90 with intent to commit larceny, or any felony other than murder, rape, robbery or arson in violation of 18.2-77, 18.2-79 or 18.2-80, or if any person commits any of the acts mentioned in 18.2-89 or 18.2-90 with intent to commit assault and battery, he shall be guilty of statutory burglary, punishable by confinement in a state correctional facility for not less than one or more than twenty years or in the discretion of the jury or the court trying the case without a jury, be confined in jail for a period not exceeding twelve months or fined not mor than $2,500, either or both. However, if the person was armed with a deadly weapon at the time of such entry, he shall be guilty of a Class 2 felony. The petitioner contends that trial counsel prejudiced him because he failed to address the issue during trial of whether a bedroom may be classified as a dwelling house, pursuant to Code 18.2-90 and 18.2-91 See Hitt v. Commonwealth 43 Va. App. 473 (2004) which is very similar to the petitioner's case where the Court of Appeals of Virginia reversed and dismissed Hitt's statutory burglary conviction. Hitt's public defender was allowed to submit briefs before sentencing addressing the issue of whether a bedroom may be classified as a dwelling house, pursuant to Code 18.2-90 and 18.2-91. In Hitt's case the definition of dwelling house contemplates a residence within which human beings sleep or habitate. See Rash, 9 Va. App. at 26, 383 S.E. 2d at 751. It does not contemplate individual rooms or compartments within such a "residence," that are not "dwelling houses" in and of themselves (such as a rented room within a larger dwelling, intended to be the place of habitation/residence for the individual residing therein.)

(noting that Webster's International Dictionary defines "dwelling" as a habitation place or house in which a person lives; abode; residence; domicile" Code 36-96.1:1 (defining a "dwelling," for purposes of Virginia's Fair Housing Law, as "any building, structure, or portion thereof, that is occupied as , or designated or intended for occupancy as, a residence by one or more families..." Contrary to the Commonwealth's contention, the Supreme Court of Virginia's decision in Davis v. Commonwealth, 132 Va. 521, 110 S.E. 356 (1922), does not dictate otherwise. In Davis, the Supreme Court held that Davis could not be convicted of burglary because there was no evidence that she committed a "breaking" upon entering the "house" at issue. Id at 524, 110 S.E. at 357. The Court did not hold, nor did it in anyway indicate, that a locked bedroom within a private dwelling constitutes a "dwelling house" within the meaning of burglary statutes. Trial counsel's deficient performance affected the outcome of the trial because according to Jackson v. Virginia after viewing the sufficiency of evidence in the light most favorable to the prosecution whether any rational trier of fact could have found the essential elements of the crime of attempted statutory burglary to prove if the petitioner was guilty beyond a reasonable doubt the commonwealth's evidence adduced at trial failed to prove that the witness in chief rented room bedroom was a dwelling house pursuant to Code 18.2-90 and 18.2-91 in order to sustain the conviction. On the direct appeal the petitioner was prejudiced by appellate counsel's failure to invoke the ends of justice exception Rule 5A:18 which would have let the court know a miscarriage of justice occurred. Rule 5A:18 is appropriate where the accused was convicted for conduct that was not a criminal offense or the record affirmatively proves that an element of the offense did not occur. Redman v. Commonwealth 25 Va. App. 215,221-22 (1997) U.S. Const. Amend. VI.Strickland v. Washington 446 U.S.668,686 (1984)

The Supreme Court of Virginia, Assistant Attorney General of Virginia, and the United States Court of Appeals of the Fourth Circuit has committed a Miscarriage of Justice by denying the petitioner Due Process of Law of the Fourteenth Amendment after the constitutionality of the attempted statutory burglary Va. Code 18.2-90 and 18.2-91 of the State statute was drawn into question under Jackson v. Virginia 443 U.S. 307 (U.S. Va.1979) Pursuant to 28 U.S.C 2403 (b) the Assistant Attorney General of Virginia had knowledge that the commonwealth did not prove the witness in chief rented room bedroom was a dwelling house which is a requirement under Code 18.2-90 and 18.2-91 in order to sustain the conviction which conflicts with the Supreme Court of the United States decision under Jackson v. Virginia 443 U.S.307 Due Process Violation when no rational trier of fact could have found the essential elements of the crime of attempted statutory burglary to prove if the petitioner was guilty beyond a reasonable doubt. When a habeas applicant seeks a COA, the court of appeals should limit its examination to a threshold inquiry into the underlying merit of his claims. E.g., Slack, 529 U.S., at 481, 120 S. Ct. 1595. This does not require full consideration of the factual or legal bases supporting the claims. Consistent with this Court's precedent and the statutory text, the prisoner need only demonstrate " a substantial showing of the denial of a constitutional right. 2253 (c)(2). He satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his case or that the issues were adequate to deserve encouragement to proceed further. E.g., id., at 484 120 S.Ct. 1595. He need not convince a judge, or, for that matter three judges, that he will prevail, but must demonstrate that reasonable [537 U.S. 324] jurists would find the district court's assessment of the constitutional claims debatable or wrong, ibid pp. 1039-1040.

II. Under Blockburger v. United States 248 U.S. 299 (U.S. Ill. 1932) Was the Double Jeopardy Clause of the Fifth Amendment violated by the Supreme Court of Virginia and the United States Court of Appeals of the Fourth Circuit for affirming the petitioner's wrongful conviction of attempted statutory burglary with the intent to commit assault and battery and attempted malicious wounding when assault and battery is a lesser included offense of malicious? Was trial counsel ineffective for failing to preserve this argument during trial in order to be heard on direct appeal?

The Supreme Court of Virginia and the United States Court of Appeals of the Fourth Circuit has violated the Double Jeopardy Clause of the Fifth Amendment by wrongfully affirming the petitioner's conviction of assault and battery under the indictment attempted statutory burglary and was also convicted under the indictment attempted malicious wounding of the same victim arising out of the same incident. Under Blockburger, the applicable rule is that where the same act or transaction constitutes a violation of two distinct statutory provisions the test to be applied to determine whether there are two offenses or only one is whether each provision requires proof of a fact which the other does not. See Va. Code 18.2-54 that states: that assault and battery requires proof of an overt act or an attempt with force and violence, to do physical injury to the person of another, whether from malice or from wantoness, together with the actual infliction of corporal hurt on another willfully or in anger. Jones v. [14 Va. App. 133] Commonwealth 184 Va. 679, 681-82 (1946) In Brown v. Commonwealth 222 Va. 111 (Va. 1981) which is very similar to the petitioner's case where Brown was convicted of assaualt and battery under the indictment charging attempted murder, and was also convicted of unlawful wounding of the same victim under indictment charging malicious wounding arising out of the same incident. It was held that [222 Va. 116] assault and battery and unlawful wounding are lesser included offenses of malicious wounding.

In situations where a defendant is improperly convicted for a lesser included offense, the proper remedy is to vacate both the conviction and sentence on the included offense leaving the conviction on the greater offense intact. See United States v. Buckley 440 U.S. 982, 99 S.Ct. 1792 60 L. ed. 2d 242 (1972): United States v. Michel 444 U.S, 825, 100 S.Ct. 47, 62 L. ed. 2d 32 (1979); United States v. Rosenthal 406 U.S. 931, 92 S.Ct. 1801, 32 L. ed. 2d 134 (1972). In Brown's case Va. Code 18.2-54 revealed that malice is a element of the assault and battery offense therefore Brown's attempted murder indictment was dismissed and his conviction of assault and battery was vacated and the jail sentence and the fine imposed on Brown was set aside. Therefore trial counsel's failure to preserve this arguement during trial in order to be heard on direct appeal prejudiced the petitioner. Trial counsel should have argued during trial that conviction of two offenses, one which is lesser included in the other, offends the double jeopardy guarantee. In such case, the constitution requires that the conviction of the lesser offense and the sentence imposed upon that conviction be vacated. In Brown v. Ohio 432 U.S. 161, 97 S.Ct. 2221 (U.S. Ohio 1977) The Supreme Court authoritatively defined that the Double Jeopardy Clause of the Fifth Amendment, applied to the States through the Fourteenth Amendment held to bar prosecution and punishment for the crime of stealing an automobile following prosecution and punishment for the lesser included offense for operating the same vehicle without the owner's consent. Pp. 2224-2227. The Supreme Court of Virginia, Assistant Attorney General of Virginia, and the United States Court of Appeals of the Fourth Circuit rulings to the petitioner's attempted statutory burglary with the intent to commit assault and battery conviction and the attempted malicious wounding conviction are contrary to clearly established federal law in line with that test, the Double Jeopardy Clause generally forbids successive prosecution and cumulative punishment for a greater and lesser included offense. Their decisions conflicts with relevant decisions of this court.

Pp. 2225 -2227 Brown's joyriding conviction which was the lesser included offense was reversed. In Slack, supra,at 483, 120 S.Ct. 1595, it was held for determining what constitutes the requisite showing. Under the controlling standard, a petitioner must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed. When a court of appeals sidesteps this process by first deciding the merits of an appeal, and then justifying its denial of a COA based [537 U.S. 337] on its adjudication of the actual merits, it is in essence deciding an appeal without jurisdiction. To that end, the court opinion in Slack held that a COA does not require a showing that the appeal will succeed.

III. Under Blockburger v. United States 248 U.S. 299 (U.S. Ill. 1932) Was the Double Jeopardy Clause of the Fifth Amendment violated by the Supreme Court of Virginia and the United States Court of Appeals of the Fourth Circuit for affirming the petitioner's wrongful conviction of attempted statutory burglary with the intent to commit assault and battery with one count of a use of a firearm in the commission of a felony and attempted malicious wounding with a subsequent count of a use of a firearm in the commission of a felony when assault and battery is a lesser included offense of attempted malicious wounding which constitutes a single offense not multiple offenses? Was trial counsel ineffective for failing to preserve this arguement during trial in order to be heard on direct appeal?

The commonwealth contends that under Va. Code 18.2-53.1 in determing whether statute prohibiting use of pistol while committing murder, burglary, malicious wounding, or robbery has been violated, and if so, how many times, it is the identity of offenses which is dispositive, not the number of underlying felonies, and if single act results in injury to two or more persons, corresponding number of distinct offenses may result

Under Blockburger, the applicable rule is that, where the same act or transaction constitutes a violation of two distinct statutory provisions the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not. The petitioner suffers from a miscarriage of justice and wrongful conviction because the Supreme Court of Virginia, Assistant Attorney General of Virginia and the United States Court of Appeals of the Fourth Circuit will not to grant the pro se petitioner relief in accordance to constitutional law which benefits a U.S. citizen. For example,
If only one offense is charged, the indictment can support only one conviction and sentence; but even if two offense are charged, because they are contained in a single count, only one conviction and one sentence are permissible. The conclusion as a result of the logical extension of a rule long applicable in an analogous situation, viz., where a single-count indictment charges both housebreaking and grand larceny as part of the same act or transaction. Under the decisions of the Supreme Court of Virginia it was held while two seperate and distinct charges, one of housebreaking with intent to commit larceny, and the other of grand larceny, may be a single count, an accused may be found guilty of either of the offenses but there can be only one penalty imposed.
See Robinson v. Commonwealth 190 Va. 134, 138-39, 56 S.E. 2d 367,369 (1949); Jones v. Commonwealth 208 Va. 370,375, 157 S.E. 2d 907, 911 (1967); Clark v. Commonwealth 135 Va. 490, 496, 115 S.E. 704, 706 (1923)
It is permissible to include both housebreaking and grand larceny in single-count housebreaking indictment " because the charge of larceny in such case is the best evidence of the intent with the breaking was committed. Clark,135 Va. at 496, 115 S.E. at 706. citing Morris v. Commonwealth 228 Va. 210 (Va. 1984) under Va. Code 18.2-53.1 statute.

According to Va. Code 18.2-54 in Brown v. Commonwealth 222 Va. 111 (1981) assault and battery is a lesser included offense of malicious wounding which is a plausible line of defense trial counsel failed to pursue that affected the outcome of the trial. Because the Double Jeopardy Clause of the Fifth Amendmet forbids multiple punishments for the same offense and when a offense is lesser included within the other.

In Harris v. Oklahoma 433 U.S. 682 (U.S. Okla. 1977) Where writ of certiorari was granted and the Supreme Court of the United States held that proof of underlying felony i.e. robbery with firearms was necessary to establish intent necessary for felony murder conviction of petitioner for fatal shooting of grocery store clerk during armed robbery the double jeopardy clause barred subsequent prosection and conviction for robbery with firearms. When as here, conviction of a greater crime, murder, cannot be had without conviction of the lesser crime, robbery with firearms, the Double Jeopardy Clause bars prosecution for the lesser crime, after conviction of the greater one. The petitioner's case is similar to this case also because after conviction of attempted malicious wounding with one count of a use of a firearm in the commission of a felony under the Double Jeopardy Clause should have barred prosecution for attempted burglary with intent to commit assault and battery with a subsequent count of a use of a firearm in the commission of a felony under Va. Code 18.2-53.1

In U.S. v. Edmonds 524 F.2d 62 (C.A.D.C. 1975)(it was held where armed assault was an essential part of proof establishing armed rape, the armed assault was a lesser included offense within the armed rape, and the assault conviction would be vacated and conviction of assault with dangerous weapon was vacated as included offense.)

The petitioner case and argument has similarities with what Darius Tremayne James argued in his case where James was convicted of attempted robbery and for attempted use of a firearm during the commission

of attempted robbery under Va. Code 18.2-53.1. In James case the Commonwealth failed to prove every element of the crime attempted robbery beyound a reasonable doubt and because this is a requirement under that statute as a matter of law the commonwealth had to vacate the use of a firearm in the commission of a felony count. The petitioner prayed that the Supreme Court of Virginia and the Assistant Attorney General of VA. and the United States Court of Appeals of the Fourth Circuit to reverse conviction of attempted statutory burglary with the intent to commit assault and battery and one count of use of a firearm in the commission of a felony because the commonwealth failed to prove the witness in chief rented room bedroom within a larger dwelling house as a seperate "dwelling house" under Va. Code 18.2-90 and 18.2-91. Moreover, this is "clear error" and "erroneous conclusion of law." The ruling in the U.S.C held in Sandin 574 F.3d 847, 850 (7th Cir. 2009)(We review the district court's denial for a writ of habeas corpus under 2255 de novo as to legal questions and for clear error as to factual questions.) The Virginia Supreme Court decision to reverse James attempted robbery conviction necessarily required a reversal of the conviction for attempted use of a firearm during the commission of robbery under Code 18.2-53.1. Under the plain language of Code 18.2-53.1, there can be no conviction for use or attempted use of a firearm when there has been no commission of one of the predicate offenses enumerated in that statute. In Bundy v. Commonwealth 220 Va. 485, 488, 259 S.E. 2d at 826 828 (1979)(A violation of Code 18.2-53.1 occurs only when a firearm is used with respect to the felonies specified in the statute); Jay v. Commonwealth 275 Va. at 527, 659 S.E. 2d at 321 (2008). As a matter of law, the trial court erred in finding the evidence sufficient on the attempted statutory burglary with intent to commit assault and battery and one count of a use of a firearm in the commission of a felony conviction. The witness in chief rented room bedroom was not a dwelling house under code 18.2-90 and 18.2-91

The language in Flythe v. Commonwealth 221 Va. 832 275 S.E. 2d 582, (Va. 1981) under Va. Code 18.2-53.1 reads where several convictions results from the same act, each conviction is seperate and distinct from the other. It is the identity of the offense and not the act which is dispositive. In Flythe it was held that if two or more persons are injured by a single criminal act, this results in a corresponding number of distinct offenses. The trial court and Supreme Court of Virginia, and the Assistant Attorney General of Virginia and the United States Court of Appeals of the Fourth Circuit rulings were erroneous conclusions of law in regards to the petitioner's conviction under Va. Code 18.2-53.1 for the predicate offense (attempted statutory burglary) with the intent to commit assault and battery and one count of a use of a firearm in the commission of a felongy is a lesser included offense of attempted malicious wounding. The petitioner's case involved one person not two like in Flythe. Appellate counsel and trial counsel were ineffective for not invoking rule 5A:18 which is the ends of justice exception and it is appropriate where the accused was convicted for conduct that was not a criminal offense or the record ..... affirmatively proves that an element of the offense did not occur. See Redman v. Commonwealth 25 Va. App. 215, 221-222, 487 S.E. 2d 269, 272-73 (1997). In Miller v. Commonwealth 359 S.E. 2d 841, 5 Va. App. 22 (1987) Code 1950 18.2-51, 18.2-53.1 (Unlawful wounding is a lesser included offense of malicious wounding, and the element of malice constitutes distinction between the offenses.) In Akers v. Commonwealth 525 S.E. 2d 13, 31 Va. App. 521 code 1950 18.2-51, 18.2-53.1 (Bench trial convictions for unlawful wounding was lesser included offense of malicious wounding, and use of a firearm in the commission of malicious wounding, warranted reversal of a firearm conviction arising out of the same incident.)

The Supreme Court of the United States has consistently found constitutional error without any showing of prejudice where counsel was totally absent or prevented from assisting the defendant during a critical stage of the proceeding. Cronic 466 U.S. at 659. Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy 2253 (c) is straightforward: The petitioner must demonstrate that jurists would find the district court's assessment of the constitutional claims debatable. The District court dismissed the petitioner's petition based on procedural grounds and rejected the constitutional claims on the merits. If a district court denies a habeas petition based on procedural grounds without reaching the prisoner's underlying constitutional claims, a COA should issue when the prisoner shows, at least that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find if debatable whether the district court was correct in its procedural ruling.

CERTIFICATE

IN THE

SUPREME COURT OF THE UNITED STATES

SEAUN FARTHING, PETITIONER

v

DARA WATSON, RESPONDENT

I Seaun Farthing am the party unrepresented by counsel presenting this certification in regards to the petition for rehearing that is presented in good faith and not for delay. I declare under penalty of perjury that the foregoing is true and correct.

Excuted on : May 12th, 2019

Seaun Farthing

(Signature)