

NO.

18-8112

IN THE UNITED STATES SUPREME COURT

FLOYD ANDREW BROWN

Petitioner,

Verses,

UNITED STATES OF AMERICA,

Respondent,

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR REHEARING

(Supreme Court Rule 44.1)

Submitted by;

Floyd A. Brown

Floyd A. Brown ... Fed. No. 16839040

P.O. Box 24550 ... United States Penitentiary ...

Tucson, Arizona ... 85734-4550 ..

In Re Pro Se (Asistance by Brian L. Brown NLG-JHL)

B.R.O.W.N.

Floyd A. Brown ... Fed. No. 16834040

P.O. Box 24550 ... United States Penitentiary ...

Tucson, Arizona ... 85734-4550 ..

[]

The Supreme Court Of The United States

Office Of The Clerk Of The Court

1 First Street N.E.

Washington, D.C. 20435 - 0001

R.E. Motion For Rehearing ... S.C. Rule 44.1

Justices Of The Court,

Greetings from the Federal Correctional Complex
and the United States Penitentiary. I hope this filing finds
you in good health. Enclosed is the Petition For Rehearing,
Petitioner is proceeding In Forma Pauperis under Rule 39. From
an Institution under Rule 12.2 (" need only file an original

"). The Prison Mail Box was used un this case. -see- [Houston
v. Lack, 487 US. 266 (1988) .

Respectfully Submitted;

Floyd A. Brown
Floyd A. Brown ... Fed. No. 16834040

Grounds For Rehearing (1)

COMES NOW, Petitioner Floyd A. Brown, by and through, his Assistant a Member Of The NLG, (Brian L. Brown, Sr., JHL), moves this Court respectfully, within the restricted 25 day limit, through the presentation of this Petition for rehearing of the above entitled cause, its order denying of the request for the writ, and ' in the interest of Justice ' and in support thereof, respectfully shows:

I. GROUNDS FOR REHEARING

A rehearing of the decision in the matter is in the interest of Justice, because, there is an intervening circumstances of substantial or controlling effect or other grounds as presented, that was not available when the original petition was presented. -see- [Schriber - Schroth Co. v.

Cleveland Trust Co., 305 US. 47, 50; 59 S.Ct. 8; 83 L.Ed 34 (1938), -and see- Massey v. United States, 291 US. 608, 609-610, 54 S.Ct. 532; 78 L.Ed 1019 (1934). (i.e. " [thus having both] controlling effect, and being a new ground ").

Grounds For Rehearing (2)

And in light of both [Class v. United States, ___ US. ___; 200 L.Ed2d 37 (2018)-]. -and- [McCoy v. Louisiana, ___ US. ___; 200 L.Ed2d 821; 138 S.Ct. 1500 (2018)-]. And in attempting to apply the logic, for the use in the [Buck v. Davis, 580 US. ___; 137 S.Ct. 855; 197 L.Ed2d 107 (2017)-], Decision for acceptance of a Certificate Of Appealability.

Should be granted, in a summary context to direct the Court Of Appeals for the Sixth Circuit, to GRANT, the Certificate Of Appealability, in light of the recent cases, that give additional weight to the acceptance of the Certificate of Appealability request, the sole gateway to Habeas Corpus Relief, and ability to prove actual innocence, and defense counsel who acted in the capacity as a Magistrate Justice, during a Rule 11 Plea Hearing. Are now in line with the Majority of the opinions of the Court, and descendants, of the issues addressed.

1. On the [25] date of [march], (2019), this court decided not to accept, the Petitioner's request for certiorari, despite returning the Petition eleven (11) times, (because the order in which the papers were mailed, was incorrect.), Petitioner was under the belief, that a Mentally Ill Diagnosed,

Grounds For Rehearing (3)

petitioner would catch the attention of the Supreme Court, when during a Plea Hearing, his Attorney was abandoned by his counsel, (just after the Magistrate asked the Defendant) "what do you understand about you plea"? And the Defense Counsel then decided to 'play prosecutor', and took the questions required to be asked by the United States Magistrate pursuant to Rule 11, and directed his very own Client, to answer damning questions, to a plea he did not want to plea guilty, but was threatened that he would "get more time", if he did not follow the program.

Petitioner, Mr. Brown had pursuant to the opinion in, [McCoy v. Louisiana, __ US. __; 200 L.Ed2d 821; 138 S.Ct. 1500 (2018)-]. has the right not to plead guilty, to a offense he was not guilty, or believe he was not guilty of. Noting that the Majority agreed with the opinion, except that the case had a defendant, that the majority believed was not coexistent with . -see- [McCoy v. Louisiana, __ US. __; 200 L.Ed2d 821, 839-840; 138 S.Ct. 1500 (2018)-]. ("noting also that the Majority believes that such action WOULD BE a structural error, at 840").

Grounds For Rehearing (4)

This case was not available at the time of the
Petition to this Court for the review.

2. And as the United States District Court for the
Western District OF Michigan, of the Southern Division, ruled
in 2016, Refusing to permit, Brown from the Challenge of the
Constitutionality, of the conviction, and that he did not
relinquish the rights to defects [b]before the guilty plea,
rather the effects after, and the documents, and again that
his counsel, played Judge, at the exact point when the
Magistrate became interested as to "what he believed the plea
agreements was ", -see- [Class v. United States, __ US. __,
200 L.Ed2d 37; 138 S.Ct. 798, 805 (2018)-]. And that all the
Justices in this issue agree, including the decent that "no
one has suggested that a defendant's guilty plea strips an
appellate court of jurisdiction to entertain a constitutional
challenge to his conviction". Which is what the argument at
bar is on the Court of Appeals. In that the Court of Appeals
for the Sixth Circuit, they in a lengthy opinion, and for
issues not to be addressed in fact as identified in, [Buck v.
Davis, 580 US. __; 137 S.Ct. 855; 197 L.Ed2d 107 (2017)-].

3. That the Grounds for the ruling came as a surprise, especially now that the Bureau Of Prisons, has adopted the process of eliminating all new information of new cases from the controlled computer system. And now going a step further, will remove all computer typewriter devises. With prevention like this to Pro Se Petitioners already at a disadvantage, this prohibits fair and impartial adjudication by the Courts.

4. And as a direct and proximate result, injured the agreements in this case, had the Petitioner been aware of the issues ruled upon, and while the issues were pending he would have used the opinions in this case to aid in the arguments.

5. This case contains several crucial factual and procedural distinctions from the aforementioned cases, where the Petitioner believes, that a reasonable Jurist as the Majority, would then warrant a new determination, then remand for consideration in light of the cases mentioned. And if agreed Reverse and Remand for consideration by the Sixth Circuit Court of Appeals, based on the cases now in law.

Grounds For Rehearing

6. And this Court will remember, that this Supreme Court was Unanimous in the [McCarthy v. United States, 349 US. 459, - 466, 22 L.Ed2d 418; 98 S.Ct 1166 (1969). Whereas the Supreme Court, stated " Expressly Requiring the Court to Address Personally" each the Defendant in Rule 11, of the Federal Rules Of Crim. Procedure. Meaning the issues before this Court, are ripe for a reasonable Jurist, and within the Opinions of a Full Court, and would interest the Justices, that a Mentally challenged, prisoner, after his case had expired, his Counsel permitted the case to continue, (no superceding Indictment was filed), and when the case that was agreed to, meaning that Defense Counsel, informed Brown that he would not get a specific sentence, and later at the Rule 11, Federal Plea Hearing, when the United States Magistrate, began questions. That Defense Counsel, took over the role of the Magistrate, asking his client questions, forcing him (the mentally challenged), to testify, against his self, the entire hearing. Along with other questions, the issues are presented prior to the decisions expressed, and show a Constitutional deny, that a Reasonable Jurist, would agree, that warrants a constitutional consideration, but would in the Opinions presented by this Court, previously. Would change the outcome. This Mentally Challenged person slipped through the cracks of Justice, thrown away, because of a Plea he trusted his Counsel to protect him from, the fabric of the Constitution has been ripped, were asking this Court to fix it, or permitt a Remand, showing the Constitutional Ripp ro the

Grounds For Rehearing

the fabric of the Constitution, and instructions on how to repair it, and any other relief that this Supreme Court, deems Just.

Entered this 25 date of March 2019.

Respectfully Submitted;

Gerald A Brown

Gerald A Brown
Floyd A. Brown Fed. No. 16834040

P.O. Box 24550 ... United States Penitentiary ...

Tucson, Arizona ... 85734-4550

In Re Pro Se (Assistance by Brian L. Brown, A Member Of The National Lawyers Guild, a proud partner of the Jail House Lawyers Guild).

for the reasons stated, Brown urges that this Petition for a Rehearing, be Granted. The Petition For Certiorari be granted, or the Judgment of the Lawyer Court be reviewed, and the Certificate Of Appealability, be GRANTED, and the Due Process be permitted, And Any Other Relief That This Court deem Just.

Respectfully Submitted;

Gerald A Brown

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In Re Pro Se, (with assistance of Brian L. Brown NLG - JHL