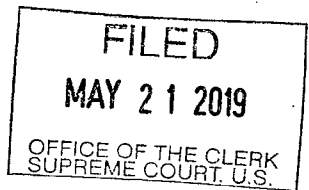


No. 18-8229

In The
SUPREME COURT OF THE UNITED STATES



Term 2019

SAM CHINN,
PETITIONER,

V.

Originally Filed As:

D. Artus,

Court Clerk Changed to:

Joseph Noeth, Superintendent, Attica Correctional facility,
RESPONDENT.

Motion For Rehearing Pursuant To U.S. Sup.Ct. Rule 44

Sam Chinn, presents the petition for rehearing in the above-entitled case, to move this Court for Rehearing pursuant to United States Court Rule 44, against the denial of a Writ of Certiorari entered April 29, 2019, under provisions and rules for reconsideration of the denial of a Writ of Certiorari.

The petition present a summary of what was briefly, to the distinctly presented grounds as previously presented:

One:

District Court, And Court Of Appeals, Abused Its Discretion On Reviewing A Rule 60(b) Motion, And Application for Leave, Presenting A Article III, § 2 Violation, Where The District Judge Who Was The Prosecuting Assistance District Attorney In The Case, Terminated 28 USC 636(b) and Federal Rule 8(b).

Two:

The Article III, § 2 Violation, Was Brought About By Violating 28 USC § 455,

To Terminate 28 USC § 636(b) And Federal Rule 8(b), That Intervened With Petitioner From Presenting Further Interpretation And Application On The Circumstances Of The Plea Not Being Knowingly, Intelligent, Or Voluntarily Done To Waive Constitutional Claims, Because The Circumstance Presented By The Plea Judge, Stated That Petitioner Could Not Waive His Constitutional Claims, Or Further Circumstance That Petitioner Was Then Misinformed On Waiving Constitutional Claims.

Three:

As Presented By The Plea Court, A Exception That Allows Pretrial Decision To Be Reviewed, And The State And Federal Courts Denied The Review.

Based on the Summary of the Grounds presented, is based on a limited issue of intervening circumstance surrounding rights to have constitutional claims reviewed on a direct appeal, as stated by the plea court judge in providing the New York exception on a plea, as the controlling law under these circumstance in *US. ex rel. Newsome v Malcolm*, 492 F.2d 116 (2nd Cir. 1974); *Lefkowitz v Newsome*, 420 US 285 (1975); and *Lugo v Artus*, 2008 WL 312298, or the petitioner was not taking the plea. So, to obtain a plea from someone who is innocent, and the assistant prosecuting attorney during that plea, who is now the Federal Judge terminated the process 28 USC § 636(b), to intervene with petitioner's further controlling arguments of the facts and circumstance as demonstrated under *Bousley v U.S.*, 523 US 614 (1998).

This petition is briefly and distinctly stating a summary of the grounds and petitioner is providing certificate that the grounds are limited to intervening circumstances of substantial rights to appeal, and the controlling Case Law of this Court under *Bousley*, supra, and its effect of misinforming a defendant on a plea of not waiving Constitutional Claims.


Specially, when the petitioner was relying on what the Judge states in support of what defense counsel had advised that everything was ready for appeal, and it was why the petitioner allowed the plea to proceed forward. More importantly, the State of New York has such exceptional standards that permits review of pretrial orders and decision on guilty pleas, without

forfeiting the rights to appeal. Lefkowitz v Newsome, 420 US 285 (1975); or that the petitioner was misinformed. Bousley v US, 523 US 614 (1998).

These are the grounds that are limited to intervening circumstance of substantial and controlling case law rights.

For the reason stated, it is respectfully requested that the United States Supreme Court Reconsiders the Denial of the Writ of Certiorari, and grant review on this gross miscarriage of justice.

Or to provide such other further relief as this Court deems just and proper.
Executed: June 8, 2019.


Sam Chinn III, 97B1683 Pro se

No. 18-8229

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RESPONDENT.

Certificate Verifying That The Ground Raised:

Are limited to issues of intervening circumstance surrounding the right to appellate review on a direct appeal, to have constitutional claims reviewed as stated by the plea Court, in providing the New York exceptional standard, on pleas, as the controlling laws under these circumstances are : U.S. ex rel. Newsome v Malcolm, 492 F.2d 116 (2nd Cir. 1974), supporting by this Court's decision in Lefkowitz v Newsome 420 US 285 (1975)(in supporting the rights that a plea does not forfeit the right to appeal review on pretrial decisions).

Executed: June 8, 2019.



Sam Chinn III, 97B1683 Pro se

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

April 29, 2019

Mr. Sam Chinn, III.
Prisoner ID 97B1683
Attica Correctional Facility
P.O. Box 0149
Attica, NY 14011-0149

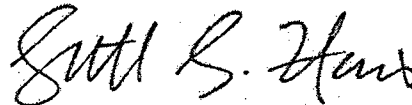
Re: Sam Chinn, aka Sam Chinn, III
v. Joseph Noeth, Superintendent, Attica Correctional Facility
No. 18-8229

Dear Mr. Chinn:

The Court today entered the following order in the above-entitled case:

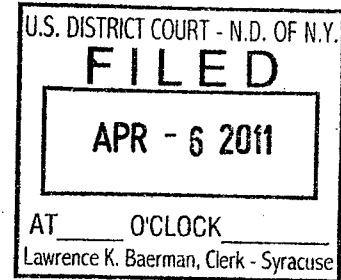
The petition for a writ of certiorari is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Harris".

Scott S. Harris, Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK



SAM CHINN,

Petitioner,

ORDER OF RECUSAL

-VS-

M. BRADT, Superintendent of Attica
Correctional Facility,

Civil Case No. 9:11-cv-376 (GTS)

Respondent.

The undersigned hereby **RECUSES** himself from the above-entitled action which was assigned to him on April 6, 2011. This plea was heard in 1997 in the County of Onondaga Supreme Court while I was employed as an Assistant District Attorney for the County of Onondaga; I therefore, recuse myself from this action.

WHEREFORE, it is hereby

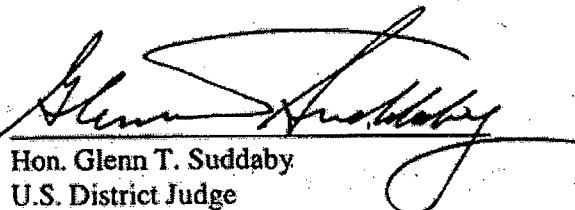
ORDERED that the Clerk enter this Order of Recusal for the undersigned;

and it is further

ORDERED that the Clerk shall randomly reassign this case to another United States District Judge; and it is further

ORDERED that the Clerk shall serve a copy of this Order on the parties and the United States District Judge to whom the case is assigned.

Dated: April 6, 2011


Hon. Glenn T. Suddaby
U.S. District Judge

Other Orders

9:14-cv-01275-LEK-TWD Chinn
v. Artus

CASE-LIST-MJ,HABEAS,PRO
SE

U.S. District Court

Northern District of New York - Main Office (Syracuse) [LIVE - Version 6.1]

Notice of Electronic Filing

The following transaction was entered on 2/11/2016 at 4:03 PM EST and filed on 2/11/2016

Case Name: Chinn v. Artus
Case Number: 9:14-cv-01275-LEK-TWD
Filer:
Document Number: 19(No document attached)

Docket Text:

TEXT ORDER: Ordered that the referral to the assigned Magistrate Judge is hereby terminated and the case will be decided directly by the assigned District Judge. Authorized by Chief Judge Glenn T. Suddaby on 2/11/16. {text order served via regular mail on petitioner}(nas,)

9:14-cv-01275-LEK-TWD Notice has been electronically mailed to:

Priscilla I. Steward priscilla.steward@ag.ny.gov

9:14-cv-01275-LEK-TWD Notice has been delivered by other means to:

Sam Chinn
97-B-1683
Attica Correctional Facility
Box 149
Attica, NY 14011

Plea

certain case law, specifically, People versus Allen, and other cases detailing constitutional cases and Court of Appeals cases, there are certain rights, sir, that one cannot waive. Those rights have been detailed to some degree in our case study. Your attorney, I'm sure, has talked to you about certain rights that you still have to appeal in this particular case, certain constitutional issues that a defendant cannot waive. I leave it up to the higher courts to determine what this waiver encompasses; but I wanted to let you know that it does not and cannot include all rights, but very many rights you will be giving up as part of this plea bargain, rights to appeal. Do you understand that, sir?

THE DEFENDANT: Yes, I do.

THE COURT: Okay. Now, before I get into the pleas, Mr. Chinn, I'm going to advise you of certain rights you have under this indictment.

You, sir, have an absolute right to a trial by a jury of twelve citizens regarding these allegations contained in the

178 A18

No. 18-8229

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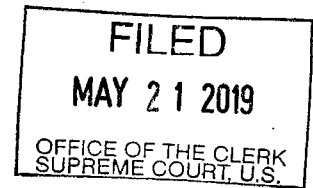
Joseph Noeth, Superintendent, Attica Correctional facility,
RESPONDENT.

Certification of Sas Chinn, as a Pro Se Petitioner

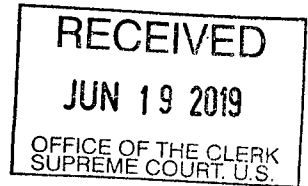
I, Sam Chinn, pro se, is making this certification to certify as a declaration for the filing of a petition for rehearing in the above-entitled case on the denial of a Writ of Certiorari, under Docket No. 18-8229, entered on April 29, 2019, and is certifying that the herein petition for rehearing is presented in good faith and not for delay, but as a last direct resource for review.

Executed: June 8, 2019


Sam Chinn, 97B1683, Pro se
Attica Correctional Facility
P.O. Box 149
Attica, New York 14011-0149



No. 18-8229



In The
SUPREME COURT OF THE UNITED STATES

Term 2019

SAM CHINN,
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Originally Filed As:

D. Artus,

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Joseph Noeth, Superintendent, Attica Correctional facility,
RESPONDENT.


PROOF OF SERVICE

I, Sam Chinn, do swear and declare that on this date of June 8, 2019, as required by Supreme Court Rule 29, I have served the enclosed application for rehearing on above party counsel, by depositing an envelope containing the above application in the United States Mail Box at Attica Correctional Facility, in E Block, properly addressed to with first class prepaid postage to:

Priscillia Steward, Attorney General of the State of New York, 28 Liberty Street, New York, New York 10005.

I declare under the penalty of perjury 28 USC § 1746, that the foregoing is correct and true.

Executed: June 8, 2019.



Sam Chinn III, 97B1683 Pro se