

Supreme Court, U.S.
FILED

APR 12 2019

OFFICE OF THE CLERK

18-9142

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Joshua Neil Harrell — PETITIONER
(Your Name)

People of the State of California vs.
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

In The Supreme Court of California
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joshua Neil Harrell, CDCR# BH7394
(Your Name)

P.O. Box 950
(Address)

Folsom, CA 95763
(City, State, Zip Code)

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

1. Did the insufficient record fail to establish a knowing, intelligent and voluntary waiver of appellant's ~~Sixth Amendment~~ right to counsel which was structural and/or reversible error?
2. Was the violation of appellant's right to counsel of choice a per se denial of Due Process and ~~Sixth Amendment~~ structural error?
3. Did appellant's conflicts with counsel and issues effecting rights of self-representation amount to ~~Sixth Amendment~~ and Due Process violations under the ~~Fifth and Fourteenth Amendments~~ to the United States Constitution?

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:

Solano County District Attorney's Office
675 Texas St. Ste. 4500
Fairfield, CA 94533

Office of the Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550

Superior Court of California, County of Solano
600 Union Ave.
Fairfield, CA 94533

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STATUTES AND RULES

Penal Code

- § 459
- § 473.6
- § 475. e
- § 530.5(c)(2)
- § 1368

OTHER

- United States Proposition 47
- United States Constitution
- Fifth Amendment
- Sixth Amendment
- Fourteenth Amendment

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 is unpublished.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 B 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 Court of Appeal, First Appellate Dist. Division Three 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 _____.

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 July 3, 2019. A copy of that decision appears at Appendix B .

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

United States Constitution

Fifth Amendment - Providing that a person cannot be "compelled to engage in self-incrimination on a criminal matter", [or] "deprived of life liberty or property without due process of law."

Sixth Amendment - guaranteeing in criminal cases "the right to a speedy and public trial by jury, the right to be informed of the nature of the accusation... the right to counsel..."

Thirteenth Amendment - that abolished "involuntary servitude."

Fourteenth Amendment - whose primary provisions effectively apply the Bill of Rights to the states by "prohibiting states from denying due process and equal protection."

STATEMENT OF THE CASE

In March of 2014, appellant Joshua Neil Hassell, received a check as payment for my Toyota Corolla, coerced into cashing the check at Wells Fargo (without having knowledge the check was a fraud). Consequently, I was arrested for second degree commercial burglary and forgery. (Never regaining dominion of the vehicle after this transaction).

In April of 2014, in a separate incident, I was carrying a backpack that belonged to another woman, arrested for receiving stolen property and identity information theft. (Without any evidence I intended to use it for a crime).

Held to answer in Superior Court of California, County of Solano Case Nos. FCR306522 and FCR308925. My court-appointed attorney Vince Maher declared a doubt to my competence to stand trial against my objection on June 25, 2014, and the criminal proceedings were suspended, appointing two experts to evaluate my competency.

The two experts appointed by the trial court disagreed on whether I was competent to stand trial. The trial court then appointed a third expert, who concluded that I was competent to stand trial. On January 7, 2015, the trial court found I was competent to stand trial and reinstated the criminal proceedings and I made a Maser Motion that was granted.

My second court-appointed attorney Marshowsky declared a doubt to my competency against my objection on February 19, 2015. At this point, I was so frustrated with the criminal proceedings

were continuously being suspended for competency issues, that against my better judgment, I decided to represent myself. I was competent to stand trial but incapable of self-representation.

On February 19, 2015, talked me into representing myself when I presented doubts about self-representation.

The trial was held March 2, 2015, and I did not receive a fair trial. I was found guilty of all charges by a jury.

The Court of Appeal, First Appellate District Case No. A145661, affirmed this judgment.

The Supreme Court of California granted the Petition for Review holding for decisions in People v. Gonzales (2013) 6 Cal.5th 44. People v. Guererro S238401, and People v. Franco (2013) 6 Cal.5th 43.

On January 23, 2019, The Supreme Court of California dismissed the Petition.

REASONS FOR GRANTING THE PETITION

The Petition Should Be Granted To Settle The Standard Of Prejudice For An Insufficient Record To Establish A knowing, Intelligent, And Voluntary Waiver Of The ~~Sixth~~ Amendment Right To The Assistance Of Counsel Which Was Structural And/Or Reversible Error.

The Petition Should Be Granted Because The Trial Judges Active Dis-
couragement Violated Appellant's Right To Counsel Of Choice Enacted
By The Due Process Clause Of The Fourteenth And The ~~Sixth~~
Amendment Which Required Reversed Per Se As Structural Error.

The Petition Should Be Granted Because The Conflicts With Counsel
And Appellant's Rights Of Self-Representation Violated The ~~Sixth~~
Amendment, Due Process, and Equal Protection Under The Fifth
and Fourteenth Amendments To The United States Constitution.

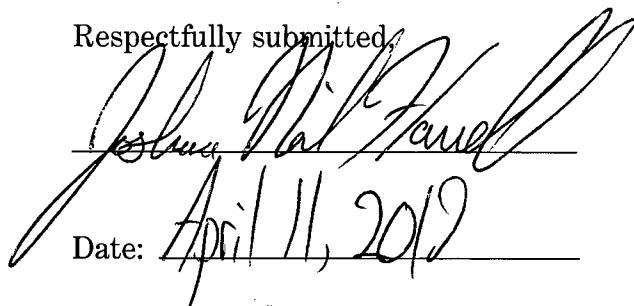
The Petition Should Be Granted Because I Have The Right To
Be Free From Involuntary Servitude Under The Thirteenth Amendment
To The United States Constitution's Protections.

I reallege and incorporate by reference the arguments in Appendix C.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



A handwritten signature in black ink, appearing to read "John M. Fawell". The signature is fluid and cursive, with "John" on the top line and "M. Fawell" on the bottom line.

Date: April 11, 2012