

19-5039

ORIGINAL

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK

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Carlos Ortiz — PETITIONER
(Your Name)

vs.

STATE OF Delaware — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Delaware Supreme Court

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Carlos Ortiz

(Your Name)

1181 Paddock Road

(Address)

Smyrna, Delaware 19971

(City, State, Zip Code)

N/A

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. If the U. S. Supreme Court said in *Class v. U.S.* that misconduct by a state prosecutor that causes a constitutional violation because of not following correct procedures violates due process (plea deal) can it not be true in a regular trial when the state prosecutor fails to follow correct procedures and the trial court acknowledges it as such (Brady violation)?
2. If defense counsel argues this violation and then does nothing to correct it doesn't it make him ineffective?

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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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 is unpublished.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 is unpublished.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 A to the petition and is

- reported at 590, 2018; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the Superior court appears at Appendix A to the petition and is

- reported at 50 20800 5710; 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 is unpublished.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 Feb. 1, 2019.
A copy of that decision appears at Appendix AA.

[] 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

Brady

Due Process

6th Amendment (ineffective)

Miscarriage of justice

States power to prosecute

procedural violations

structural error

STATEMENT OF THE CASE

Carlos Ortiz was accused of breaking in the home where his wife lived. On that night of August 8, 2002 it was alleged that he put a gun to his wife's head, threatened to kill her and then raped her. On May 1st 2003 a Sussex jury convicted him of two counts 1st degree rape, one count of attempt 1st degree, 1st degree kidnapping, 1st degree burglary, aggravated menacing, terroristic threatening, possession of a deadly weapon by a person prohibited (PAP), 3 counts of endangering the welfare of a child, and 6 counts of possession of firearms during the commission of a felony. The Superior Court sentenced Ortiz to a total of 84 years of level v incarceration.

Ortiz's wife and 3 children testified against him with conflicting testimony. This trial was just before the petitioner was to be given full custody of his 3 children in family court.

REASONS FOR GRANTING THE PETITION

During the procedures of the trial a state witness who was questioned by the state that one of the key witnesses had met with her and acknowledged that his mother had planned everything and told the children that their father was going to kill them so he had to go to jail. Immediately the defense called for a closed hearing in judges chambers. At that meeting the defense asked the prosecutor how long she knew about this information and she said from the start. The defense said this was a brady violation for not informing the defense and if he knew this his defense would be totally different. The judge agreed and gave the defense a couple hours to investigate but the defense figured a couple hours were fruitless and did nothing. If this was known at a proper time defense would have found that this son also called Florida and told the grandmother about the illegal actions of the mother and that it was because the next day they were going to family court and was afraid she would lose custody of her 3 children. It has also been learned that a CO AB STVCC has informed multiple people of Ortiz's innocence and that he knows because his sister was involved and told him.

Ortiz believes that by the state's ignorance of the Jenak statements and the Brady violations along with the structural error and due process violations the state gave up their authority to prosecute him. And by his counsels inactivity after the fact violated his 6th Amendment right to effective counsel. The State of Delaware fails to address this because in 2014 they took away the right to attack convictions due to a Constitutional violation. The Brady meeting before the court in his chambers can be seen in Transcripts section A. Petitioners copy is missing after his hospitalization and placed in ^{custody of DDC property room} **CONCLUSION**

Ortiz only wants the truth to be told even if its done through an evidentiary hearing. In the interest of justice.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

* Carlos Ortiz

Date: 3-25-19