

No. 19-5065

IN THE
SUPREME COURT OF THE UNITED STATES

CHESTER RAY CRANK — PETITIONER, *pro se*

vs.

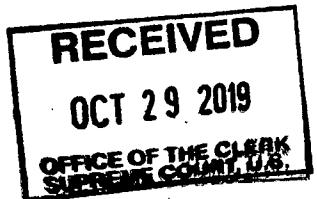
CHARMAINE BRACY, WARDEN — RESPONDENT

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

PETITIONER'S MOTION FOR REHEARING
OF THE DENIAL OF HIS WRIT OF CERTIORARI

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**NEW POINT TO BE ADDRESSED IN THE
MOTION FOR REHEARING**

The Respondent has provided the Court with a Motion for Rehearing pursuant to USCS Supreme Ct R 44. Petitioner respectfully submits the following issue not directly addressed in the Writ of Certiorari that may impact the Court's decision to deny the Writ rendered on October 7, 2019:

1. THE COURT SHOULD GRANT REVIEW TO ADDRESS THE ISSUE OF THE LOWER COURTS' ALTERATION OF THE TESTIMONY TO THE PREJUDICE OF THE PETITIONER RESULTING IN THE COVERING OF THE POLICE MISCONDUCT IN THIS CASE.
2. THE COURT SHOULD GRANT REVIEW TO CLARIFY THE POSITION OF THE COURT ON THE ISSUE OF PREJUDICE CAUSED BY THE INTRODUCITON OF "OTHER ACTS" EVIDENCE AND THE REMEDY FOR THE SAME.
3. THE COURT SHOULD GRANT REVIEW TO ADDRESS THE ISSUE OF THE CUMULATIVE ERRORS IN THIS CASE RESULTING IN A CONVICTION THAT WAS DEVOID OF FUNDAMNTAL FAIRNESS.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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the issue of cumulative error in a definitive manner and remove the speculations regarding the same.

The issues invoke protections under Amendments V and XIV to the U.S. Constitution and the underpinnings of the Constitution which require fundamental fairness.

PETITIONER'S ARGUMENTS IN SUPPORT OF A REHEARING

1. THE COURT SHOULD GRANT REVIEW TO ADDRESS THE ISSUE OF THE LOWER COURTS' ALTERATION OF THE TESTIMONY TO THE PREJUDICE OF THE PETITIONER RESULTING IN THE COVERING OF THE POLICE MISCONDUCT IN THIS CASE.

The Supreme Court has consistently held that there needs to be deterrence and discouragement of wrongful conduct and improper behavior by actors in a criminal proceeding. See, e.g., the exclusionary rule "designed to safeguard Fourth Amendment rights generally through its deterrent effect." *United States v. Calandra*, 414 U.S. 338. The same principle should hold when a court impermissibly manipulates the testimony of a witness to the prejudice of the accused.

Due process is not a technical conception with a fixed content unrelated to time, place and circumstances. Due process is flexible and calls for such procedural protections as the particular situation demands. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under federal law, evidence is relevant if: "(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Federal Rule of Evidence 401. Under Federal Rule of Evidence 402 relevant evidence is admissible unless the United

purpose of purchasing “the” liquor used to get Petitioner drunk. There can be no other possible use of the ellipsis in this circumstance other than to prejudice Petitioner, as it takes just as many keystrokes to type an ellipsis as it would to type the word “the.” It is also not the purpose of an ellipsis, as an ellipsis is to be used only where the omission of the word “is not necessary for understanding” or an omission of a word or words “not necessary to convey meaning.” The American Heritage Dictionary, 4th Edition and Black’s Law Dictionary, 6th Edition, respectively.

Judicial misconduct is the greatest danger to the loss of confidence in the judicial process. This Court's precedents have recognized the vital interest in safeguarding public confidence in the fairness and integrity of the nation's judges. *Caperton v. A. T. Massey Coal Co.*, 556 U. S. 868, 889, 129 S. Ct. 2252, 173 L. Ed. 2d 1208. The Court also recognized a court's authority depends in large measure on the public's willingness to respect and follow its decisions. Public perception of judicial integrity is accordingly an “interest of the highest order.” 556 U. S., at 889, 129 S. Ct. 2252, 173 L. Ed. 2d 1208. The error shows an intentional denial of fundamental fairness. The Court should hear the issue to establish that this and similar acts are intolerable in the criminal justice system, especially when committed by a court.

2. THE COURT SHOULD GRANT REVIEW TO CLARIFY THE POSITION OF THE COURT ON THE ISSUE OF PREJUDICE CAUSED BY THE INTRODUCITON OF “OTHER ACTS” EVIDENCE AND THE REMEDY FOR THE SAME.

Lower federal courts have failed to reach the merits on the prejudicial issue of “other acts” evidence. See, e.g., *Primeau v. Kelly*, 2018 U.S. Dist. LEXIS 221378 (N.D. Ohio).

jury. Petitioner specifically did not testify to avoid these offenses from prejudicially coming to the jury's attention. In a case where the evidence was feckless, at best, these issues were critical to provide a tipping point to the finding of guilt. There cannot be a more prejudicial act presented to a jury than the physical assault of one's mother.

Petitioner prays the Court will accept his case for review to address the extreme prejudice he suffered at his trial.

3. THE COURT SHOULD GRANT REVIEW TO ADDRESS THE CONTROVERSIAL ISSUE OF THE CUMULATIVE ERRORS IN THIS CASE RESULTING IN A CONVICTION THAT WAS DEVOID OF FUNDAMENTAL FAIRNESS.

There appears to be a confusion of opinion as to whether the Court agrees that cumulative error can rise to the level of a constitutional error cognizable on habeas corpus. In regard to cumulative error being unavailable as an issue of constitutional magnitude which would not be cognizable on habeas corpus, Petitioner submits the following cases: *Darks v. Mullin*, 327 F.3d 1001 (10th Cir. 2003) ("The Supreme Court has not held that distinct constitutional claims can be cumulated to grant habeas relief."); *Bertuzzi v. Harris*, 2018 U.S. Dist. LEXIS 128039 (N.D. Ohio) (This Court must reject [the claim of cumulative error] because the Supreme Court has never held that cumulative errors may form the basis for issuance of a writ of habeas corpus. *Lorraine v. Coyle*, 291 F.3d 416, 447 (6th Cir. 2002). Petitioner's cumulative error claim, therefore, is not cognizable on habeas corpus review. *Sheppard v. Bagley*, 657 F.3d 338, 348 (6th Cir. 2011) (citing *Moore v. Parker*, 425 F.3d 250, 256 (6th Cir. 2005)).)

CONCLUSION

The Petition for Writ of Certiorari should be granted review due to the grounds presented herein and Petitioner should be provided a fair trial under the principles of fundamental fairness, especially where Petitioner has suffered grave injustices and has been sentenced to a life of imprisonment without the possibility of parole.

Respectfully submitted,

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P.O. Box 901
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Petitioner, *pro se*

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PROOF OF SERVICE

I, Chester Ray Crank, do swear or declare that on this date, as required by Supreme Court Rule 29 and under penalty of perjury, I have served the enclosed MOTION FOR REHEARING PURSUANT TO USCS Supreme Ct R 44(2) on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Ohio Attorney General, 150 East Gay Street, 16th Floor, Columbus, Ohio 43215.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 18, 2019.

Chester Ray Crank #A660-156
Chester Ray Crank, #A660-156

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CERTIFICATION OF COMPLIANCE WITH USCS
SUPREME CT R 44.2 AND 33.1(g)

I hereby certify, under penalty of perjury, that this Motion for Rehearing complies with USCS Supreme Ct R 44 and is restricted to the grounds specified in that paragraph and that it is presented in good faith and not for delay. The issues presented herein comply with USCS Supreme Ct R 44. The grounds are limited to substantial grounds not previously presented.

The Motion for Rehearing contains 2,568 words and does not exceed 3,000 words in the applicable sections pursuant to USCS Supreme Ct R 33.1(g).

Date: 10-18-19

Clerk, CL 660-156
Chester Ray Crank, #A660-156

