

NO. 19-5756

IN THE

SUPREME COURT OF THE UNITED STATES

In re: JAMES BRYANT

On Petition For Rehearing
On Petition For An Extraordinary Writ
In Aid Of This Court's Appellate jurisdiction
Pursuant To Its Original Jurisdiction Under Article III
Of The United States Constitution
28 U.S.C. § 1251

CERTIFICATE STATING GROUND ON REHEARING

Pursuant to SCT Rule 44(1)(2), Petitioner submits the following grounds for rehearing, which are limited intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

Petitioner declares that his petition for rehearing is presented in good faith and not for delay.

- I. REHEARING SHOULD BE ORDERED IN PETITIONER'S CASE SINCE THE COURT HAS A DUTY TO ASSESS THE HISTORIC FACTS WHEN IT IS CALLED UPON TO APPLY CONSTITUTIONAL STANDARD TO A CONVICTION OBTAINED IN A STATE COURT.
- II. REHEARING SHOULD BE GRANTED WHERE THE WATERSHED EXCEPTION IS SATISFIED BY NEW RULE IN AARON, FINDING DUE PROCESS VIOLATED FROM A DEFICIENT REASONABLE DOUBT INSTRUCTION CONTRARY TO THE FOURTEENTH AMENDMENT. U.S. CONST. AM XIV.
- III. REHEARING SHOULD BE GRANTED WHERE THIS COURT HAS JURISDICTION TO DECIDE WHETHER THE MICHIGAN SUPREME COURT IN AARON, CORRECTLY REFUSED TO GIVE FULL RETROACTIVE EFFECT TO SUBSTANTIVE NEW RULES IN ITS FELONY-MURDER STATUTE.

The controlling U.S. Supreme Court precedent in this case were decided pre-AARON in *In re Winship*, 397 U.S. 358 (1970), and *Washington v. Texas*, 388 U.S. 14 (1967). Pre-Aaron deprived Peitioner of both proving each element beyond a reasonable doubt by exclusion of an element, and the right to "meaningful opportunity to present a complete defense". Winship, Washington, supra. These error were not harmless.

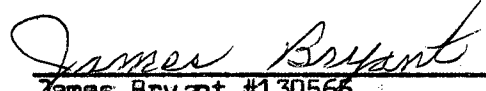
CERTIFICATE STATING GROUND ON REHEARING - (CONT.)

Petitioner contends that rehearing should be granted since the Michigan Supreme Court erred in its decision to limit retroactivity on reasoning of absence of a common-law doctrine of felony-murder in Michigan. Though, the Aaron Court abrogated the non-existent felony-murder doctrine, it declined to address the questions of the ensuing constitutional violations, e.g., instructional error of a missing element of "malice", and the compulsory right to present a defense. The Aaron Court thereafter mandated that the jury must always be instructed on malice, and instituted the use of defenses to murder in conjunction with an underlying felony. See *People v. Aaron*, 409 Mich 672, 730 n. 32-35 (1980).

This Court should GRANT rehearing on the constitutional violations as admitted by the State as argued by Petitioner.

Signed and executed under penalties of perjury pursuant to SCT Rule 44(1); 28 U.S.C. §1746.

Date: November 1, 2019


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