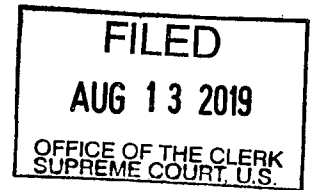


19-5950

No. _____

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

Roberto Medina-Martinez — PETITIONER
(Your Name)

vs.

STATE OF ARIZONA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF ARIZONA-DIVISION ONE
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Roberto Medina-Martinez
(Your Name)

P.O. Box 3200
(Address)

Florence, AZ. 85132
(City, State, Zip Code)

520-868-0201
(Phone Number)

QUESTION(S) PRESENTED

I'm Innocent on my Case - I don't understand why the Arizona Court of Appeals and the Supreme Court of Arizona Denied my Appeal and my Petition. The Truth is Truth - They denied me change of Counsel thru out my entire Case 2.5 Years - Then they took me to Trial with a Lawyer that I kept trying to change. They force me to Trial with a Lawyer that I kept filing Motions to Change Counsel.

LIST OF PARTIES

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

X 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:

- SUPREME COURT, STATE OF ARIZONA
No. CR-18-0592-PR
- COURT OF APPEALS No. ICA-CR17-0461
- Maricopa County SUPERIOR COURT
No. CR2015-100468-001

RELATED CASES

- State v. Chapple, 135 Ariz. 281 (1983)
- State v. Cromwell, 211 Ariz. 181 (2005)
- State v. Henry, 189 Ariz. 542 (1997)
- State v. Lagrand, 152 Ariz. 483 (1987)
- State v. Lee, 142 Ariz. 210 (1984)
- State v. Moody, 192 Ariz. 505 9/23 (1998)
- State v. Torres, 208 Ariz. 340 9/6, (2004)
- Morris v. Slappy, 461 U.S. 1 (1983)
- State v. Tejeda, 677 N. W. 2d 744 (IOWA 2004)
- State v. Galvez-Galvez CR2015-001282-001 Ariz. (2015)
- Francis v. Arizona Dept. of Transportation, 192 Ariz. 269 (App 1998)
- State v. Fernandez, 216 Ariz. 545 (App 2007)
- State v. Taylor, 187 Ariz. 567, (App 1996)
- State v. Windsor, 224 Ariz. 103 (App 2010)

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TABLE OF AUTHORITIES CITED

CASES

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State v. Cromwell, 211 Ariz. 181, 9/27, 119 P.3d 448 (2005)

State v. Lee, 142 Ariz. 210 (1984)

State v. Moody, 192 Ariz. 505, 509, 9/23 (1998)

STATUTES AND RULES

Arizona Supreme Court Rules - Rule 42 RPC ER. 1.7 (a)(1)

Arizona Rule of Criminal Procedure - Rule 32.10(a)(7)(A) & (b) Rule 6-1

Arizona Rule of Evidence - Rule 609

OTHER Arizona State Constitution: Article 2, Section 4
Article 2, Section 24
Article 6, Section 9
Arizona Rules.

~~Con~~ Constitutional Provisions: United States
Constitutional - Sixth 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 _____ 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 appears at Appendix _____ 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 denied.
A copy of that decision appears at Appendix A.

☒ A timely petition for rehearing was thereafter denied on the following date: 07/23/2019, and a copy of the order denying rehearing appears at Appendix C.

☐ 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 Sixth Amendment
United States Constitution and Under Article 2, §§ 4, 24 of
The Arizona Constitution To Due Process and to the
Effective Assistance of Counsel.

STATEMENT OF THE CASE

Medina-Martinez (hereinafter referred to as "Medina"), Moved for New Counsel on Multiple Occasions. Medina filed a Motion to change Counsel on March 31, 2015. On April 07, 2015, Medina informed the Court he was "Willing to hold the Motion pending the next hearing" and On April 28, 2015, Medina Withdraw the Motion. Medina filed a Motion to Change Counsel On October 02, 2015 and it was denied by the Court on October 06, 2015. Medina executed A Motion to Change Counsel On November 18, 2015 and it was denied by the Court on January 05, 2016. Medina executed a Motion to change Counsel on July 27, 2016 and it was denied by the Court on August 16, 2016. Medina executed a Motion to change Counsel on October 16, 2016 and the Court Never Addressed the Motion. Medina filed a Motion: Withdraw Counsel on April 24, 2017 and the trial Court denied the Motion on May 02, 2017. The State filed an Allegation of Aggravating Circumstances but did not proceed with An aggravation Hearing after Medina was found Guilty. The State filed an Allegation of Multiple Offenses Not Committed on the Same Occasion Pursuant to A.R.S. § 13-703 or 13-704 and An Allegation of Historical Priors. The State chose Not to pursue either allegation. — There were eleven Requests to either Continue or Vacate the Trial in this Case. Medina Moved for A Continuance On April 28, 2015. There was a joint Request for A continuance on January 05, 2016. The State Moved for A Continuance on January 15, 2016, June 28, 2016, September 13, 2016, January 31, 2017, February 21, 2017 and April 11, 2017. The State also Moved to Vacate the Trial date On September 27, 2016. Medina did not Object to Any of these requests. In Addition to the initial Motion to Continue, Medina Moved for a Continuance of the Trial date on April 26, 2016 and May 31, 2016. Medina filed A Motion In Limine that Sought preclusion of the State's expert, Wendy Dutton. The Trial Court denied the Motion and the State was allowed to Call Ms. Dutton as a Witness. — The Trial began on May 18, 2017 and lasted Nine days. A Fourteen person Jury was Selected and this included two alternates. Over the Course of the Trial, two jurors Notified the Court their inability to Continue serving on the jury. On May 30, 2017, Juror 10 left a Voicemail to which the Court responded. Over Medina's Objection this juror was excused. On June 05, 2017, Juror 05 did Not appear and over Medina's Objection, this juror was excused as well. Why would the Trial Court allowed this type of issues to happen — After the State rested, it filed an Amended Indictment. The State Made an Oral Motion to Amend the Indictment, requesting a change in the time frame of the

page 1 of 2 pages

Offenses and a Change of the body part Penetrated in Court 5. Over Medina's Objection, the Motion was Granted by the Trial Court and the Indictment was Amended. At the Same time, Medina Moved for A judgement of Acquittal for essentially the same reasons the States Sought An Amendment to the Indictment. Medina's Motion was denied. Can't believe that the Trial Court would allow all this Corruption to happen thru the States Request? Why would the State of Arizona still keep allowing this type of Cases to Continue When these things happen - it Only Makes the Court System become more Corrupted.

REASONS FOR GRANTING THE PETITION

Mr. Medina Martinez's Repeated Requests, Including Six Written Motions for New Counsel, Established an Irreconcilable Conflict Warranting the Appointment of New Counsel.

Alternatively, The Trial Court Failed to Conduct a Sufficient Inquiry And To Determine Whether Defense Counsel Adequately Communicated with Mr. Medina-Martinez.

The Trial Court Violated Medina's Right Under the Sixth Amendment to the United States Constitution and Under Article 2-4, 24 of the Arizona Constitution To Due Process And To The Effective Assistance of Counsel When It Denied His Numerous Requests For Change of Counsel even though it was EVIDENT there were IRRECONCILABLE DIFFERENCES between Medina and His Lawyer and there was a Breakdown in the Attorney-Client Relationship - The Trial Court Also Erred when it Accepted Defense Counsel's Equivocal And Vague Assertions Over Medina's Specific Allegations Supporting His SIX WRITTEN REQUESTS for A NEW ATTORNEY Based on A Complete Breakdown in Communication and An IRRECONCILABLE Conflict. Medina was forced to go to Trial with an Attorney Entrenched in a Deep and Irreconcilable Conflict that spanned the course of more than two years. The Record establishes that this was more than the Fleeting Singular Request for New Counsel in Lagrand and Cromwell, but was instead a Conflict which permeated and pervaded the entirety of over two years of pretrial proceedings. The Trial Court also Failed to Investigate the Financial Incentive of Contract indigent defense Counsel to take adversarial Positions Against their assigned clients and juxtapose such Occurrences with the policies of the other indigent defense Offices who direct their Attorneys, who are compensated Based on Salary rather than a per Case basis, to not take a position on such Requests. Medina was appointed one lawyer and despite his Repeated Motions for a change in Counsel, that were made early on and throughout the Prosecution, The Trial Court Refused all of his Requests.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Zpm

Date: August 06, 2019