

SUPREME COURT OF THE UNITED STATES

SCOTT SUMMERHAYS,)
Petitioner,)
) CASE NO. 19-6045
)
v.) PETITION FOR REHEARING
)
) (Rule 44)
UNITED STATES OF AMERICA,)
Respondent,)
)

Comes now Scott Summerhays, pro se, with a petition, per Rule 44, requesting a rehearing of his writ of certiorari.

JURISDICTION

Rule 44: Any petition for the rehearing of any judgement or decision of the Court on the merits shall be filed within 25 days after the entry of the judgement or decision, unless the Court or a Justice shortens or extends the time. Petitioner's writ of certiorari was denied on November 4, 2019. This Petition for rehearing is timely.

ISSUE FOR REHEARING

Is it a substantial denial of the petitioners Constitutional rights, when the district court lied in it's written opinion denying the petitioner's § 2255, and, when the Court of Appeals affirmed his conviction without reading the petitioner's brief?

It is not possible for the Court of Appeals, as well as this court, to read the Briefs and deny the petitioner relief.

Writ of Certiorari Ground One:

Does a criminal defendant have a right under the Sixth Amendment to reassert his right to counsel at a critical stage (a change of plea hearing) after he had previously waived his right to counsel per Faretta?

The answer to this question is YES; because it was not for the purpose of delay. "I can't--" "I can't represent myself." I a unequivocal request (plea) for counsel. And taking into account the entire circumstances of the February

7, 2014 Change of Plea Hearing--writ of certiorari Appendix G--where Petitioner asked for an attorney numerous times, this fact denied him his Sixth Amendment right to counsel; at the least, as argued in the C.O.A. in the Ninth Circuit, as well as this Court, standby counsel should have been appointed. Petitioner had never asked for a continuance, only his previous lawyers had. And, the fact that the district court incorporated everything from February 7, 2014, into the actual taking of the plea 5 days later, only cements the fact that Petitioner was denied counsel. No witnesses had been subpoenaed for trial, and although a petitioner has no right to standby counsel, once appointed, and once a Milton v. Morris motion has been denied, there are certain expectations.

The fact of the matter is that during the vetting process used by the appellate courts, as well as the Supreme Court, Petitioner's briefs were probably not read. Most pro se defendant's briefs are treated in this manner and constitutional violations go unchecked daily; The case at hand is a perfect example of this common practice.

CONCLUSION

Petitioner only asks for one question to be answered: Does stating in court, "I can't represent myself", fall under unequivocal request for counsel, and, that someone actually read his C.O.A. brief, or writ of certiorari, before denying his appeal.

Respectfully Submitted by


Scott Summerhays

Dated this 6, Day of December 2019