

CASE NO.: 19-6877

IN THE SUPREME COURT OF THE UNITED STATES

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CHRISTOPHER R. BROWN, PETITIONER

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V.
FLORIDA, Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE DISTRICT COURT OF APPEAL OF FLORIDA
FOURTH DISTRICT

AMENDED PETITION FOR REHEARING.

Christopher R. Brown, pro se ^{DEA} 379505
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SUPREME COURT, U.S.

AMENDED PETITION FOR REHEARING

THE PETITIONER CHRISTOPHER R. BROWN, prose file the Amended Rehearing in compliance with Rule 44.6 AND PETITIONER did file MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS, TO THIS HONORABLE COURT ON THE INITIAL CERTIORARI REVIEW, AND WAS PREVIOUSLY GRANTED LEAVE TO PROCEED IN FORMA PAUPERIS by ELEVENTH CIRCUIT COURT OF APPEALS, AND COMES NOW PETITIONERS AMENDED PETITION FOR REHEARING, ACCOMPANIED, CIRCUMSTANCES OF SUBSTANTIAL grounds NOT PREVIOUSLY PRESENTED.

THEREFORE, PETITIONER AMENDED REHEARING IS DESERVING OF REVIEW, AND THE FOLLOWING WILL SUPPORT AN ENTITLEMENT TO RELIEF.

THE HONORABLE COURTS DENIAL OF PETITIONER'S INITIAL WRIT OF CERTIORARI, BASED ON THE STATE OF FLORIDA'S, RESPONDENT BRIEF IN OPPOSITION, WAS ERROR, WHEREAS, RESPONDENT APPLIED INCORRECT STANDARD IN ITS DENIAL.

- 1). WHEREFORE, PETITIONER INITIAL FILING OF WRIT OF CERTIORARI, UNDER RULE 10, WAS REVIEWED ON THE BASIS OF A PLAIN ERROR AND THIS HONORABLE COURT HAS OVERLOOKED THE FACTS IN THE PETITIONER'S WRIT OF CERTIORARI AND MISAPPREHENDED SUCH ISSUES REQUIRES REVIEW ON PLAIN ERROR. SEE UNITED STATES V. OLANO, 507 US 725, 732, 123 L. Ed 2d 508, 113 S. Ct. 1770 (1993).

2) CLAIM, ONE AS RESPONDENT, OPPOSITION WAS, PETITIONER HAS NEVER RAISED A COLLATERAL ESTOPPEL CLAIM BELOW, THE CLAIM IS NOT PROPERLY BEFORE THE COURT...

A. NEVERTHELESS, THE STANDARD OF REVIEW, WHETHER THE PLAIN ERROR AFFECT THE PETITIONER'S SUBSTANTIAL RIGHTS, THAT SERIOUSLY AFFECTS THE FAIRNESS, INTEGRITY AND PUBLIC REPUTATION OF THE JUDICIAL PROCEEDINGS

B. WHERE THERE EXISTED IDENTITY OF THE ISSUES BETWEEN THE PETITIONER'S FORFEITURE CASE AND PETITIONER'S CRIMINAL CASE, WHEREAS THE FACE OF THE RECORD SUPPORT THE STATE OF FLORIDA'S THEORY AT BOTH PETITIONER'S FORFEITURE HEARING AS WELL AS CRIMINAL TRIAL WAS THE CAR AND MONEY SEIZED THEREOF WAS FOR (INTENT) TO BE USED TO PURCHASE NARCOTICS, CAUSING A PREJUDICIAL ERROR, SUCH DEFECT AFFECTED THE PETITIONER'S SUBSTANTIAL RIGHTS. WHETHER OR NOT THE ERROR IS DEEMED STRUCTURAL, IT SHOULD NOT LIMIT THIS HONORABLE COURT'S REVIEW FOR PLAIN ERROR.

C. WHEREAS, BASED ON THE ADJUDICATED DECISION IN THE STATE COURT, WAS OBJECTIVELY UNREASONABLE IN LIGHT OF THE EVIDENCE PRESENTED IN THE STATE COURT PROCEEDING See MILLER-EL V. COCKRELL, 537 U.S. 322 (2003). AND THIS ISSUE SHOULD BE REVIEW ON THIS AMENDED REHEARING, FOR PLAIN ERROR.

3). CLAIM TWO, RESPONDENT, HELD THE STATE COURTS APPLIED THE INEFFECTIVE ASSISTANCE OF COUNSEL STANDARD TO PETITIONER'S CLAIM THAT APPELLATE COUNSEL FAILED TO RAISE THE EXCLUSION OF JAMES'S PRIOR TESTIMONY ON APPEAL.

A. NEVERTHELESS, APPELLATE COUNSEL WAS INEFFECTIVE, EVEN IF PETITIONER REFERRED TO A POINT OF LAW THAT WAS NEVER SOUGHT. HOWEVER, APPELLATE COUNSEL CANNOT BE HELD ~~IN~~ FLORIDA APPELLATE COURT INEFFECTIVE ON DIRECT APPEAL, IN AND EXCEPTIONAL CIRCUMSTANCES SUCH AS MANIFEST INJUSTICE. THE MANIFEST INJUSTICE DOCTRINE, HOWEVER, PROVIDES A VERY LIMITED EXCEPTION TO THIS GENERAL RULE SEE JOHNSON V. STATE, 226 SO.3D 908, 910 (FLA. 4TH DCA 2017).

B. WHEREAS, IN THE PETITIONER'S CASE, THE ERROR THAT OCCURRED WAS A STRUCTURAL DEFECT WHERE THE LAW HOLDS: AT THE OTHER END OF THE SPECTRUM OF CONSTITUTIONAL ERRORS LIE STRUCTURAL DEFECTS IN THE CONSTITUTION OF THE TRIAL MECHANISM, WHICH DEFY ANALYSIS BY HARMLESS ERROR STANDARDS.

C. IN THE PETITIONER'S CASE, THE FORFEITURE COURT RULED THERE WAS NO PROBABLE CAUSE FOR THE SEIZURE AND ORDERED THE MONEY RETURNED TO MRS. JAMES. THEREFORE, THE FORFEITURE COURT UPHOLD A 4TH AMENDMENT VIOLATION HAD OCCURRED, AND ORDERED RETURN OF THE MONEY BASED ON SUCH VIOLATION AND FOR THE STATE OF FLORIDA TO DISREGARD THE COURT'S PRECLUSION ORDER, WAS A CONSTITUTIONAL VIOLATION OF PETITIONER 4TH AND 6TH AMENDMENT CONSTITUTIONAL

Right, that resulted in a structural defect during a critical stage of the Petitioner's trial, and direct appeal. Because trial, sentencing, and direct appeal are all critical stages at which a defendant is entitled to competent counsel see:

Smith v. State, 590 So.2d 1078, 1078 (Fla. 2d DCA 1991)

- D. Therefore, the Respondent's Brief in Opposition would be incorrect, in stating, Appellate Counsel could not be ineffective for failing to raise an issue that was never raised or ruled on by the trial court. (see Page number 12)

Where such finding the law holds: Due to the nature of structural error, whether a defendant objects or fails to object to such an error at trial is simply irrelevant: Reversal is required because structural error is a "fundamental flaw" in the trial process and undermines the structural integrity of the criminal tribunal itself." see Vasquez v. Hillery, 474 U.S. 254, 263-64, 106 S.Ct. 617, 623, 88 L.Ed.2d 598 (1986)

- E. Wherefore, the law holds contrary to the Respondent's Brief in Opposition from Page (number 12) whereas Petitioner initially raise this issue/claims to be reviewed by a writ of certiorari as plain error. Because Petitioner did not object to the error in the trial court, this Honorable Court can review only for plain error. see United States v. Rodriguez, 398 F.3d 1291, 1298 (11th Cir. 2005). This Honorable Court has overlooked this point of law. Which deserve review.

4) Claim THREE; Respondent Opposition WAS, PETITIONER did NOT SUFFER DISPARATE TREATMENT FROM HIS CO-DEFENDANT WHEN THE EVIDENCE AGAINST THE TWO DEFENDANTS WAS NOT IDENTICAL AND THEIR THEORIES OF DEFENSE WERE NOT IDENTICAL, AND A WRIT OF CERTIORARI IS NOT WARRANTED.

A. NEVERTHELESS, THE PETITIONER'S CASE WAS CONSOLIDATED, WITH CO-DEFENDANT WYATT'S DURING THEIR TRIAL PROCEEDINGS AND BOTH THEORIES OF DEFENSE WAS NOT GUILTY OF CONSPIRACY TO TRAFFIC COCAINE, ON THE BASIS OF THE EVIDENCE THAT WAS COLLECTED, IN WHICH, INCLUDED THE 15,980 CASH, THAT WAS INTRODUCED INTO EVIDENCE. THE PRESENCE OF THE CASH WAS THE PRINCIPAL EVIDENCE DEMONSTRATING BOTH WYATT'S AND PETITIONER'S KNOWLEDGE OF THEY WAS PARTICIPATING IN A DRUG TRANSACTION.

B. THEREFORE, THE BENEFIT OF MS. JAMES FORMER TESTIMONY WOULD HAVE BEEN EQUALLY SUBSTANTIAL FOR BOTH PETITIONER'S AND WYATT'S DEFENSE, AS BOTH JURY INSTRUCTIONS WERE IDENTICAL, AND THE LAW APPLIED EQUALLY TO BOTH DEFENDANTS UNDER THE PRINCIPAL THEORY, THAT WAS GIVEN TO THE JURY IN THIS CASE, AFFECTING THE SUBSTANTIAL RIGHTS. MOREOVER, THE LAW SUPPORTS THE ISSUE THAT SHOULD AND COULD BE RAISE WAS DISPARATE TREATMENT DURING DIRECT APPEAL, AS A MANIFEST INJUSTICE STANDARD OF REVIEW THEREFORE, PETITIONER HAS DEMONSTRATED THAT THE SAME REVERSIBLE ERROR OCCURRED IN HIS CASE, THAT OCCURRED IN CO-DEFENDANT WYATT'S DURING THEIR JOINT TRIALS.

C. In this case PETITIONER has shown that the DISTRICT COURT OF APPEAL FOURTH DISTRICT committed ERROR. That's A MATTER OF LAW defined AS Plain ERROR, where the defendant must show "(1) ERROR, (2) that is Plain, AND (3) that Affects Substantial Rights." see UNITED STATES v. Cotton, 535 U.S. 625, 631, 122 S.Ct. 1781, 1785 (2002), "If all three conditions are met, an appellate court may then exercise its discretion to notice a forfeited error, but only if (4) the error seriously affects the fairness, integrity, or public reputation of judicial proceedings." Id. at 535 U.S. at 631, 122 S.Ct. at 1785). Nevertheless, even absent PETITIONER's objection to the error, this Honorable Court has discretion to review only for plain error, see UNITED STATES v. RODRIGUEZ, 398 F.3d 1291, 1298 (11th Cir. 2005). And this Amended Rehearing should be further REVIEWED, AS Plain ERROR.

Respectfully Submitted,
s/ Christopher R. Brown
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CONCLUSION

FOR THE FOREGOING REASONS, PETITIONERS AMENDED PETITION
FOR REHEARING SHOULD BE GRANTED FOR FURTHER
REVIEW AS PLAIN ERROR.

Respectfully Submitted,
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DECLARATION

UNDER PENALTIES OF PERJURY, I declare that I
HAVE READ THE FOREGOING AMENDED PETITION FOR REHEARING
AND THAT THE FACTS STATED IN IT ARE TRUE AND CORRECT ACCORD.
FLORIDA STATUTES. 92.525 (2010).

Respectfully Submitted,
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