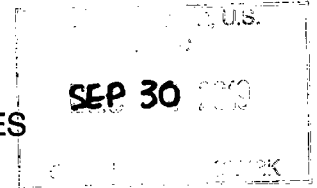


19-6963

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Roland A. Prenatt — PETITIONER
(Your Name)

vs.

Sec., FL, D.O.C. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals For The Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Roland A. Prenatt
(Your Name)

5964 U.S. Highway 90
(Address)

Live Oak, Fla. 32060
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1.) If the sixth amendment of the US constitution guarantees the accused the right to a speedy trial, then why does the Judge and Attorney feel they have the right to waive it against the accused's wishes? So many people have their rights violated like this every year, and it's a violation of their rights under the sixth amendment!
- 2.) Does the judge have the right to ignore the accused's right to go pro se, and not have a ~~farretta~~ Inquiry, when it was requested?
- 3.) If the accused's lawyer fails to file a direct appeal as requested, by the accused, then why does the accused get denied when he tries to ~~file~~ file a belated appeal when his attorney neglected to do his job by filing a direct appeal when it was requested by the accused?
- 4.) Why isn't the accused's attorney held accountable for not investigating a insanity defense, when the accused has such a long history of mental health problems?

LIST OF PARTIES

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

✓ [] 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:

- 1.) Circuit Court of the 12th Judicial Circuit, in and for Sarasota County Florida
- 2.) District Court of Appeals of the state of Florida second District
- 3.) U.S. District Court, Middle District of Florida

RELATED CASES

- 1.) Prenatt v. State (3,850) 2018 WH 522399 (Fla. 2d DCA 2018)
(2D17-2382)(mandate 5-1-18)
- 2.) Prenatt v. State 224 So.3d 224 (Fla. 2d DCA 2017)(2D16-4301) mandate 9-17-17
- 3.) Prenatt v. State 240 So.3d 701 (Fla. 2d DCA 2018)(2D17-2378) mandate 4-13-18
- 4.) Prenatt v. State 229 So.3d 337 (Fla. 2d DCA 2016)(2D16-4083) Denied 12-2-16

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
State v. Williams, 497 So.2d 730; 1986	Page #4
Barker v. Wingo, 407 U.S. 514, 33 L.Ed. 101, 92 S.Ct. 2182	Page #4
Nixon v. Singletary, 758 So.2d 618, 625 (Fla. 2000)	Page #5
Hamblen v. State, 527 So.2d 800 (Fla. 1988)	Page #5
Boyd v. State, 910 So.2d 167, 189-90 (Fla. 2005)	Page #5
Mulligan v. Kemp, 771 F.2d 1436, 1985 U.S. App. Lexis 26358	Page #4 + #5
Faretra v. California, 422 U.S. 806, 95 S.Ct. 2525	Page #5
Williams v. State, 777 So.2d 947; 2000 Fla.	Page #5
Boutwell v. State, 563 So.2d 798 (Fla. 1st DCA 1990)	Page #5
Cotto v. State, 89 So.3d 1025; 2012	Page #6
State v. Williams, 497 So.2d 730 (consolidated) (Fla. 2d DCA 1986)	Page #4
Wright v. Estelle, 572 Fed.2d 1079	Page #4 + #6

STATUTES AND RULES

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OTHER

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APPENDIX E	Court transcripts from court hearing on Nov. 27, 2012
APPENDIX F	Motion For Belated Appeal
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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 D 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 C 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 B 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 Twelfth Judicial Circuit court appears at Appendix A to the petition and is

☐ reported at 2018 WL 522399; 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 May 7, 2019.

☐ 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: July 3, 2019, and a copy of the order denying rehearing appears at Appendix D.

☐ 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 Jan. 24, 2019.
A copy of that decision appears at Appendix A B.

☒ A timely petition for rehearing was thereafter denied on the following date: March 12, 2018, and a copy of the order denying rehearing appears at Appendix A B.

☐ 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

6th Amendment of United States Constitution

14th Amendment of United States Constitution

Article ~~III~~ 1, 16 (a) of the Florida Constitution

STATEMENT OF THE CASE

On June 18, 2012, the petitioner was arrested in Sarasota, Fla. And the first time petitioner saw his attorney, Ms. Edwards, he told her that he wanted his speedy trial. Then during the next five months Ms. Edwards told the petitioner that he was going to trial in December, which was inside of speedy trial time frame. Then on Nov. 27, 2012 Ms. Edwards told the petitioner she has to file a continuance because she wasn't ready. The petitioner argued with Ms. Edwards because he didn't want to waive his speedy trial rights, and Ms. Edwards said let's see what the Judge says. Then when we went into the courtroom Ms. Edwards asked for a continuance against the petitioners wishes. Ms. Edwards did make it known on record that the petitioner objected to the continuance, twice because of speedy rules, but the Judge granted the motion without asking any questions. (See Appendix E, court transcripts from that hearing.) Ms. Edwards said the reason she asked for a continuance was because the petitioner was facing a 25 year minimum mandatory and the amount of discovery and when she received it. So after the speedy trial passed the petitioner asked Ms. Edwards to file a motion to dismiss, because of a speedy trial violation, and a violation of the 6th & 14th amendments of the U.S.C., and she refused. The petitioner did everything in his power to enforce his rights to a speedy trial. According to "Criminal Law 48 - right to speedy trial-deprivation factors (according to Barker v. Wingo 407 U.S. 514, 33 L. Ed. 2d 101, 92 S. Ct. 2182), the factors are; 1. Length of delay, 2. the reason for delay, 3. the defendants assertion of his right, 4. prejudice to the defendant. The petitioner length of delay was 2 1/2 years from arrest to sentencing, Ms. Edwards said herself the reason for delay was the amount of discovery and when she received it. So if she didn't get the discovery in time to prepare for trial, then that should be a discovery violation on the state, see "State v. Williams, 497 So.2d 730 (Consolidated) (Fla. 2d DCA 1986) says "Discovery must be furnished within sufficient time to permit the defendant to make use of without having to forfeit his right to a speedy trial, and when discovery is not promptly furnished, the court may continue a case at the states expense beyond the speedy trial limits even if such continuance effectively results in the discharge of the defendant." And the transcript will clearly show the petitioner attorney asserted his right by saying not once but twice, that the petitioner objected to the continuance due to speedy trial rights. Now the prejudice to the petitioner is clearly shown by Ms. Edwards stating that the petitioner was facing a 25 yr. minimum mandatory but because of the delay the petitioner ending up receiving 55 yrs. in prison followed by 15 yrs probation. By Ms Edwards getting a continuance, it violated the petitioners 6th & 14th amendment of the United States Constitution and Art. I, 16(c) of the Florida constitution. According to Mulligan v. Kemp 771 F.2d 1436, 1985 U.S. App. Lexis 26358 states "A defendants right to U.S. Const. Amend. VI rights are his alone, and trial counsel, while hold to a standard of "Reasonable effectiveness" is still only an assistant to the defendant and not the master of the defense." Wright v. Estelle 572 F.2d 1079 says "The wisdom or unwisdom of the defendants choice does not diminish his right to make it!"

STATEMENT OF THE CASE

Hamblen v. State 522 So.2d 800 (Fla. 1988) states "All competent defendants have a right to control their own destinies" and Boyd v. State, 910 So.2d 167, 189-90 (Fla. 2005) states "Competent defendants who are represented by counsel maintain the right to make choices in respect of their attorneys handling of their cases," and Nixon v. Singletary, 758 So.2d 618, 625 (2000) states "The defendant, not the attorney is captain of the ship." Mulligan v. Kemp, 771 F.2d 1436, 1985 U.S. App. Lexis 26358 also states because a defendant must have broad power to dictate the manner in which he is tried, it follows that, in evaluating strategic choices of counsel, the court must give great deference to choices which are made under the the explicit direction of the client."

On May 1, 2014 the petitioner sent a letter to the court asking for a Nelson hearing, and stated if the Nelson hearing was denied then he would like to go Pro Se and represent himself. So the judge ordered a Nelson hearing. Farretta inquiry for May 14, 2014. When the petitioner went to the court hearing the judge denied the Nelson hearing and never addressed the Farretta inquiry. which violated the petitioners rights under the 6th & 14th amendments of the U.S.C. when the petitioner made a unequivocal request for self representation. According Farretta v. California, 422 U.S. 806, 95 S.Ct. 2525 45 L.Ed. 2d 562 (1975) says "Once an unequivocal request for self-representation is made, the trial court is obligated to hold a hearing."

On Sept. 15, 2016, Petitioner filed a motion for belated appeal, because of counsel being ineffective and not filing a direct appeal when petitioner asked him to on Oct. 17, 2014. By the time the petitioner realized his attorney wasn't filing the direct appeal for him it was too late to file pro se. Then the petitioner was ordered to supplement his motion for belated appeal. So on Oct. 3, 2016 the petitioner filed the supplemented belated appeal according to the court order. Then on Dec. 2, 2016 the belated appeal was denied without explaining why it was denied. The petitioner should not have to be denied the right to a belated appeal, when counsel said he would file the direct appeal. According to Williams v. State 777 So.2d 947; 2000 Fla. "petitioners were entitled to file belated appeals to denial of post conviction relief, where failure to file timely appeal was due to ineffective assistance of counsel." If counsel would have done what the petitioner requested then the petitioner would have already reversed his open plea, but instead the attorney violated petitioners' 14th amendment U.S.C., due process.

During the time before the petitioner entered his open plea, attorneys Ms. Edwards and David G Taylor failed to notify petitioner about the possibility of an insanity defense. Both attorneys had full knowledge of petitioners massive mental health history, and the fact that the petitioner has been on medications since he was 14, and that prior to being arrested the petitioner was unstable due to being off his meds. Both attorneys failed to investigate a insanity defense. If the petitioner had known he would never have open pleaded and he would have insisted on going to trial. According to Boutwell v. State 563 So.2d 798 (Fla. 1st DCA 1990). When a defendant alleges sufficient facts to

Statement of The Case

establish ineffective assistance of counsel due to attorney's failure to raise an insanity defense, an evidentiary hearing is required," and according to Cotto-v-State, 89 So.3d 1025, 2012 Fla. 11, however, defendant did not limit his claim to defense counsel's failure to present an insanity defense, instead, he also claimed that defense counsel was ineffective for failing to even investigate the applicability of an insanity defense. Given the allegations and records evidence regarding defendant's mental infirmities, the motion was facially sufficient to warrant a evidentiary hearing."

All of these issues effect a wide range of people every day, and it's not right how the courts allow the accused to get screwed over and abuse their rights. It all comes down to ~~Wright~~ Wright v. Estelle, 572 F.2d at 1019 "The wisdom or unwisdom of the defendant's choice does not diminish his right to make it!"

REASONS FOR GRANTING THE PETITION

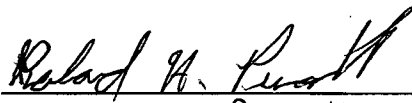
Petitioner's Petition should be granted for the following reasons;

- 1.) Petitioner did everything he could to enforce his speedy trial rights. And petitioner showed that the four prongs in Barker v. Wingo fit his case and that his 6th & 14th amendments rights were violated by his attorney and the judge. The 6th amendment clearly states that everybody has a right to a speedy trial, and that they shouldn't have to worry about it being abused by their attorney or by the judge, because it don't fit their schedule. And I think if this gets over turned, it will give people a solid foundation to argue their rights to a speedy trial.
- 2.) Court documents clearly show that the petitioner was denied his right to go pro se according to Faretta v. California. And by not having a Faretta hearing violated the petitioners 14th Amend. rights of due process. And if this petition is granted it would motivate ~~to stand up~~ a lot of people to stand up against their judges, when they neglect their duties and have to miss out on one of their rights under the 14th amendments due process rules.
- 3.) The petitioner should not be denied his belated appeal, when ineffective assistance of counsel, when counsel said that he would file the direct appeal. Everyday peoples rights get abused because of their attorneys not doing their job properly. Only the accused pay the price when the attorney neglects to do his best, ^{that can} help the accused. The attorney's ineffective assistance ^{should} not be held against the accused. And if you grant this motion it would help a lot of people that suffer from a attorney's neglect the due process according to the 14th Amendment U.S.C.
- 4.) Petitioner's attorney should be held responsible for not investigating a insanity defense, when it was available to the petitioners case, as a strong valid defense, because of the long history of the petitioners mental health issues. To many people get their rights abused because of ~~a~~ their mental health issues, and the attorney get their rights over looked when the attorney fails to do their job. If you grant this petition it will help a lot of people, and it will make the attorney sit up and take notice, that people with mental health issues deserve to get the best defense they can from their Attorneys.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Roland A. Prewatt

Date: December 2, 2019