

NO. 19-7204

IN THE SUPREME COURT OF THE UNITED STATES

ERIC WILSON – PETITIONER

vs.

MARK INCH, Fla. Dept. of Corr., Secretary

RESPONDENTS

PETITION FOR REHEARING

Petitioner, ERIC WILSON, proceeding pro-se and Informa Pauperis, files rehearing from the denial of his Writ of Certiorari pursuant to Supreme Court Rule 44(2). The issue raised is Whether claim one in Petitioners Writ of Certiorari amounts to structural error which would defile analysis by harmless error standards, and is restricted to the grounds specified in this paragraph. Structural error is defined in black's Law Dictionary as:

“A defect in a trial mechanism or framework that, by deprivation of basic constitutional protections, taints the trial process, making it unreliable and rendering any punishment fundamentally unfair.”

The court in *Taylor v. Louisiana* 95 S.Ct. 692, 419 U.S. 522 (1975) stated that selection of a petit jury from a representative cross-section of the community is an essential component of the Sixth Amendment right to a jury trial. The court in

Thiel v. Southern P. Co., U.S. 217 (1946) stated that jury service is a duty that

RECEIVED
APR - 8 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

cannot be shirked on a plea of inconvenience or decreased earning power, except where the financial embarrassment is such as to impose a real burden and hardship.

The Magistrate Judges report at page 30 stated that an African American Juror was sat on the jury. He unfortunately had a financial conflict and was removed. The report does not show record evidence of financial embarrassment, real burden or hardship was present when the sole African American was removed, from the jury panel.

The court in *Brecht v. Abrahamson*, 507 U.S. 619 (1993) held that: "Trial error occurs during the presentation of the case to the jury, and is amenable to harmless error analysis because it may be quantitatively assessed in the context of other evidence presented in order to determine the effect it had on the trial. At the other end of the spectrum or constitutional errors lie, "structural defects" in the constitution of the trial mechanism, which defy analysis by harmless-error standards.

The court also clarified that the concept of fundamental unfairness is not the only criterion we use for defining structural error. An error also may be deemed structural and prejudicial per se because of the difficulty of assessing the effect of the error. Errors such as erroneous deprivation of the right to counsel of choice, violation of the public-trial guarantee, selection of a petit jury upon improper criteria and exposure of a petit jury to prejudicial publicity have been deemed

structural because their consequences and necessarily unquantifiable and indeterminate.

Under the facts of the jury selection all African Americans were excluded through voir dire peremptory challenges and the last one after being placed on the panel because of alleged financial reasons was removed. Florida statutes § 40.013(6) state that a person may be excused from jury service upon a showing of hardship, extreme inconvenience, or public necessity. The case law states that this qualification process under section 40.013(6) occurs days prior to the trial and counsel or a defendant does not ordinarily participate in this *O Quendo v. State*, 823 So.2d 834 (Fla. 5th DCA 2002), *Wright v. State*, 857 So.2d 861 (Fla. 2003), *Jones v. State*, 749 So.2d 561 (Fla. 2nd DCA 2000) finding that a jury panel may be challenged up until the time a juror is examined. The petitioner was denied this opportunity because the juror was on the jury panel fixed for trial when he was removed at the last minute. Therefore the selection of the petit jury was upon improper criteria. Petitioner seeks reversal of his conviction and sentence based on the above facts and law his conviction clearly violates the United States Const. Amend 6 and 14.

/s/ Eric Wilson L23159
Eric Wilson L23159
Hardee Correctional Institution
6901 State Road 62
Bowling Green, Florida 33834

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and copy of the petition for rehearing and CERTIFICATE OF UNREPRESENTED PARTY was placed in the hands of Hardee Correctional Institution mailroom Officials for purpose of mailing to: United States Supreme, 1 First St. N.E. Washington D.C. 20543, and to the Attorney General Office one S.E. 3rd Ave. Suite 900 Miami, FL 33131 via the United States Postal Service on this 30 day of March 2020.

/s/ Eric Wilson L23159
Eric Wilson L23159
Hardee Correctional Institution
6901 State Road 62
Bowling Green, Florida 33834

CERTIFICATE OF UNREPRESENTED PARTY

I ERIC WILSON proceeding pro-se and Informa Pauperis Hereby attest that the petition for rehearing filed with this Court is limited to intervening circumstance of a substantial or controlling effect or to other substantial grounds not previously presented and that the petition is presented in good faith and not for delay on this 30 day of March 2020.

/s/ Eric Wilson L23159
Eric Wilson L23159
Hardee Correctional Institution
6901 State Road 62
Bowling Green, Florida 33834