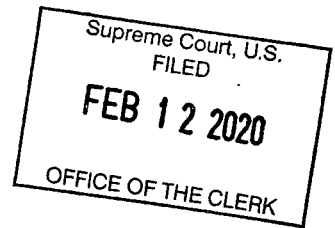


No. 19-7688

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

RICARDO NOBLE — PETITIONER
(Your Name)



vs.

COMMONWEALTH OF PENNSYLVANIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Pennsylvania Superior Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RICARDO NOBLE
(Your Name)
BX 9351
S.C.I.-Greene • 175 Progress Drive
(Address)

Waynesburg, PA 15370
(City, State, Zip Code)

NONE
(Phone Number)

DATE 02/12/2020

QUESTIONS PRESENTED FOR REVIEW

The facts, issues, and evidence related to a Juvenile Lifer's Decertification (Transfer) decision are relevant to said Juvenile Lifer's Resentencing. The decertification (Transfer) decision presents the sentencing option of light sentence as a Juvenile and an ~~extremely~~ long sentence as an adult. see, Miller v. Alabama, 132 s.ct. 2455 (2012); Alleyne v. U.S., 133 s.ct. 2151 (2013); Com. v. Munday, 78A.3d 661 (Pa. super. 2013).

1. NOTHING SUPPORTED DECERTIFICATION DENIAL, IS JUVENILE LIFER PETITIONER'S SENTENCE AND CONVICTION UNCONSTITUTIONAL SINCE, AFTER 26 YEARS, THE SAME JUDGE WHO DENIED DECERTIFYING PETITIONER TO JUVENILE SYSTEM ADMITTED AT RESENTENCING THAT NOTHING SUPPORTED HIS DECERTIFICATION DENIAL?

2. DID COURT ERR/ABUSE DISCRETION BY DENYING MOTION FOR PSYCHOLOGIST TO DO FULL EVALUATION OF PETITIONER TO MAKE DIAGNOSIS APPOINTED MITIGATION SPECIALIST WASN'T QUALIFIED TO DO, THUS IGNORING PETITIONER'S POSSIBLE AND/OR ACTUAL REHABILITATIVE NEEDS?

3. DID COURT ERR/ABUSE DISCRETION AT JUVENILE LIFER RESENTENCING HEARING BY PROHIBITING PETITIONER TO ADDRESS/CORRECT FALSE AND MISLEADING DOCUMENTS/AVERMENTS MADE AGAINST PETITIONER BY PETITIONER'S ATTORNEY AND PROSECUTION IN THEIR SENTENCING MEMORANDUMS?

4. DID MITIGATION SPECIALIST ERR AND PREJUDICE PETITIONER BY PROVIDING ~~INCOMPLETE~~ EVALUATION AND REPORT WITH FALSE/MISLEADING INFORMATION AND GIVING UNDERMINING WEAK TESTIMONY?

5. DID COURT REPORTER AND/OR THE COURT ABUSE DISCRETION AND PREJUDICE PETITIONER'S PRESENT AND FUTURE PROCEEDINGS BY PROVIDING INACCURATE RESENTENCING HEARING TRANSCRIPT/TRANSCRIPTION?

6. DID EVIDENCE SUPPORT A SENTENCE OR CONVICTION ON FELONY MURDER, ROBBERY, AND CONSPIRACY TO ROBBERY?

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:

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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 _____ 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 A to the petition and is

- ☒ reported at Com. v. Ricardo Noble, 420 WPA 2018; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Erie County, Pennsylvania Common Pleas court 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.

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 11/26/2019.
A copy of that decision appears at Appendix C.

NO Petition For Rehearing was filed.

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Eight Amendment of United States Constitution:

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Fourteenth Amendment of U.S. Constitution:

"nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

FIFTH Amendment of U.S. Constitution:

"No person shall be deprived of due process of law,"

SIXTH Amendment of U.S. Constitution:

"In all criminal prosecutions, the accused shall enjoy the right to speedy and public trial by an impartial jury, to have assistance of counsel for his defense."

STATEMENT OF THE CASE

In October 1991, at age 15, petitioner and two alleged co-defendants (Antonio Howard (age 15) and Stephon Johnson (age 16)) were charged with Felony (second degree) Murder, Robbery, conspiracy to Robbery and related charges. Defendant Stephon Johnson ("Johnson") was decertified to juvenile system by Judge Shad Connelly ("Connelly") against prosecution expert witness's recommendation in 1992. Defendant Antonio Howard ("Howard") was denied decertification to juvenile system by Judge Connelly in agreement with prosecution expert witness's recommendation in February 1992. On May 8, 1992, Judge Connelly denied decertifying petitioner to juvenile system based only on Judge Connelly's knowingly false statement that "uncontradicted evidence" proved that petitioner was the actual shooter ("killer"), despite fact that all witnesses (defense and prosecution) recommended decertifying petitioner to juvenile system. On 06/05/1992, petitioner and Howard were tried together and convicted by a jury of the prosecution's peers of Second Degree Murder, Robbery, and conspiracy to Robbery. Then, given Life without Parole.

On 02/26/2016, petitioner filed a Post-Conviction Relief Act ("PCRA") petition under Miller v. Alabama,

13a s.ct. 2455 (2012), and Montgomery v. Louisiana,
136 S.Ct. 718 (2016), regarding resentencing of juveniles
sentenced to mandatory life without parole
("Juvenile Lifer"). On 04/13/2016, the court
appointed unethical attorney Robert Barbato
("Barbato") to represent petitioner. On 01/29/2018,
petitioner's life without parole ("LWOP") sentence
was removed and Judge Connelly resentenced
petitioner to a manifestly excessive and bias
40 years to life. On 03/22/2018, after Appellant's
(petitioner's) appeal rights were reinstated, attorney
Barbato filed Notice of Appeal and concise
Statement of Matters complained of on Appeal
("1925(b)") and refused to give petitioner a copy of
said documents. On 04/06/2018, Trial court filed
Memorandum opinion to said 1925(b). On 06/15/2018,
after Grazier Hearing, appellant was granted permission
to represent himself. On 08/06/2018, petitioner filed
Amended 1925(b). On 08/29/2018, lower (Trial) court
filed Memorandum opinion to said 1925(b). On 12/03/2018,
petitioner filed Brief in support of Appeal of Sentence.
On 04/15/2019, Pennsylvania Superior court denied certain
issues and remanded certain issues to trial court. On
05/14/2019, petitioner filed Petition for Allowance of Appeal
to Pennsylvania Supreme court. On 11/26/2019, Pennsylvania
Supreme court denied said petition without review.

REASONS FOR GRANTING THE PETITION

1. NOTHING SUPPORTED DECERTIFICATION DENIAL. IS JUVENILE LIFER'S SENTENCE AND CONVICTION UNCONSTITUTIONAL SINCE, AFTER 26 YEARS, THE SAME JUDGE WHO DENIED DECERTIFYING PETITIONER TO JUVENILE SYSTEM ADMITTED AT RESENTENCING THAT NOTHING SUPPORTED HIS DECERTIFICATION DENIAL?

The facts, issues, and evidence related to a Judge's Juvenile Lifer's Decertification (Transfer) decision are relevant to said Juvenile Lifer's Resentencing. The courts abused discretion and violated United States Constitution Amendments 1, 5, 6, 8, and 14 by ignoring such. Especially, since the decertification ("Transfer") decision presents the sentencing option of a light sentence as a juvenile and an extremely long sentence as an adult (Miller v. Alabama, 132 S.Ct. 2455 (2012)) and Judge Shad Connelly stated that the only reason he denied petitioner decertification to juvenile system in May 1992 was his knowingly false statement that "uncontradicted evidence" proved that petitioner was the actual shooter ("Killer") and, thus, he wanted petitioner to spend a very long time in prison (which was mandatory Life without Parole). See, page 12 of Judge Connelly's 02/08/1993 Memorandum Opinion. Imposing a mandatory minimum based on an alleged fact that has not been proven beyond a reasonable doubt violates due process of 14th Amendment of U.S. Constitution and 6th

Amendment of U.S. Constitution right to a jury trial. see, Alleyne v. U.S., 133 S.Ct. 2151 (2013); Com. v. Munday, 78 A.3d 661 (Pa. Super. 2013); Apprendi v. New Jersey, 120 S.Ct. 2348 (2000). Then, after 27 years of Judge Connelly, prosecutors, and Erie TV and newspaper reporters falsely accusing petitioner of being the actual shooter, the same Judge Shad Connelly admitted at the Resentencing Hearing that NO evidence EVER existed to establish petitioner as the actual shooter. See, Resentencing Hearing Transcript, page 62. Which further evidences that any sentence given to petitioner in adult court is unconstitutional and petitioner is also actually innocent of the sentence of 40 years to life and petitioner's sentence is manifestly excessive, bias, abuse of discretion and miscarriage of justice. Normally, the actual innocence doctrine is applied to the conviction, but it's also applied to sentence. See, Schulp v. Delo, 513 U.S. 298 (1995); U.S. v. Maybeck, 23 F.3d 888 (4th Cir. 1994); Bousley v. U.S., 523 U.S. 614, 623-24 (1998); In the Interest of J.B., 189 A.3d 390; No. 31 WAP 2017 (Pa. Supreme 2018); Com. v. Lawson, 549 A.2d 107 (Pa. 1998); Jackson v. Virginia, 443 U.S. 307 (1979). But the same Judge Connelly transferred the oldest alleged co-defendant ("Stephon Johnson"), who

petitioner only knew for two DAYS (Not two years as Judge Connelly/court reporter erroneously transcribed in Resentencing hearing transcript, page 44), to the juvenile system in 1992 and Stephon Johnson ("Johnson") was released after a short juvenile sentence, despite fact that: (1) Antimony and Barium tests revealed that the only defendant with gun powder residue on his hands was Johnson, Trial Transcript ("N.T.") 06/02/1992 and 06/04/1992; (2) the only defendant with blood on their clothing was Johnson, N.T. 06/03/1992; (3) the only defendants' fingerprints on the victim's possessions (over 70 items) were Howard's and Johnson's, N.T. 06/03/1992 and 06/04/1992; (4) at trial, defendant Antonio Howard ("Howard") testified that he and Johnson conspired to falsely accuse petitioner of being actual shooter, N.T. 06/04/1992 and 06/05/1992 (page 5 and 29), that Johnson was the actual shooter, N.T. 06/04/1992 and 06/05/1992 (page 5 and 29), and that petitioner did Not conspire to rob or kill the victim, N.T. 06/05/1992 (page 33-34); (5) at petitioner's May 1992 Decertification Hearing, ALL witnesses (defense and prosecution) recommended that petitioner be placed in juvenile system, including the same prosecution expert witness who recommended that Johnson Not be placed in Juvenile system; (6) at

trial, defendant Howard testified that he gave the gun (alleged Murder weapon) to police and that he stole the gun from his (Howard's) aunt two weeks before coming in contact with petitioner and the shooting happened, N.T. 06/04/1992 and 06/05/1992 (page 18-19). But petitioner was the only defendant charged with possession of said gun. And defendant Howard was Never charged with stealing the gun from his aunt.

Petitioner always stated that he does Not know who the actual shooter was/is.

2. DID COURT ERR/ABUSE DISCRETION BY DENYING MOTION FOR PSYCHOLOGIST TO DO FULL EVALUATION OF PETITIONER TO MAKE DIAGNOSIS APPOINTED MITIGATION SPECIALIST WASN'T QUALIFIED TO DO, THUS IGNORING PETITIONER'S POSSIBLE AND/OR ACTUAL REHABILITATIVE NEEDS?

The Pennsylvania superior court's 04/15/2019 decision affirmed trial court's denial of Motion for Psychologist to do full evaluation of petitioner, but remanded second part of the above question regarding assertion that trial court did not consider petitioner's rehabilitative needs, including mental health rehabilitation. Superior court Memorandum (Appendix-A), p. 13-15. The court can not properly consider, identify, or understand petitioner's possible and/or actual mental health issues or mental health rehabilitative needs for resentencing without a qualified

psychologist to do full evaluation of petitioner.

Petitioner's court appointed attorney (Robert Barbato ("Barbato")) requested (and was granted) appointment of psychologist William Niles ("Niles") to be mitigation specialist to investigate and present mitigating evidence regarding, among other things, petitioner's psychological/psychiatric issues and history, education, etc. for resentencing.

Niles admitted that he did not do full evaluation and investigation of mitigating factors that he was hired to do and petitioner's case was his first mitigation report of such. 01/29/2018 Resentence Hearing Transcript, p. 46, and Multiple Motion for continuance. Niles expressed concerns about petitioner's mental health, after multiple interviews/communications with petitioner, and stated that he believed that petitioner was suffering from a significant history of significant trauma that a psychologist more qualified than himself would be able to diagnose. So, Niles recommended and petitioner's attorney requested that a psychologist more qualified than Niles be appointed to do said evaluation. The court denied said Motion. Expert is needed where mental condition and future danger are central issues. Ake v. Oklahoma, 470 U.S. 68 (1985); Com. v. Curnutte, 871 A.2d 839 (Pa. Super. 2005).

Also, petitioner has experienced long-term involuntary solitary confinement from 2006 to 2013 and 2014 to present which is also known to have significant damaging mental and physical effects/affects on prisoners, Wilkinson v. Austin, 545 U.S. 209 (2005) ("No study of the effects of solitary confinement or Supermax-like confinement that lasted longer than 60 days failed to find evidence of negative psychological effects."); Reid v. Wetzel, 1:18-cv-00176 (M.D. Pa. 2019); Shoatz v. Wetzel, 2016 U.S. Dist. Lexis 17515 (W.D. Pa. 2016); Johnson v. Wetzel, 2016 WL 5118149 (W.D. Pa. 2016).

Considering the foregoing, the court abused discretion and violated U.S. Constitution Amendments 1, 5, 6, 8 and 14 by denying motion for a qualified psychologist to do full evaluation of petitioner. Miller v. Alabama, 132 S. Ct. 2455 (2012); Rompilla v. Beard, 545 U.S. 374 (2005); Corn v. Kelly, 33 A.3d 638 (Pa. Super. 2008); 42 Pa. C.S. 9721(b); Pa. R. Crim. 18, 702, 702(b); Pa. Const. Art. I, sec. 9 and 13.

3. DID COURT ERR/ABUSE DISCRETION AT JUVENILE LIFE RESENTENCING HEARING BY PROHIBITING PETITIONER TO ADDRESS/CORRECT FALSE AND MISLEADING DOCUMENTS AND AVERMENTS MADE AGAINST PETITIONER BY PETITIONER'S ATTORNEY AND PROSECUTION IN THEIR SENTENCING MEMORANDUMS?

Page 16 of PA Superior Court's Memorandum (Appendix - A) states, "if the allegations in Appellant's Brief are not supported by the record, the resolution of this question will not implicate the discretionary aspects of

his sentence." Petitioner's allegations are supported by the record. At the Resentencing Hearing, the court (Judge Shad Connelly) told petitioner that he is not allowed at any time during said hearing to mention, address, or correct any false or misleading negative information about petitioner in prosecution's and petitioner's own attorney's Sentence Memorandums. And, if petitioner tries, he will be kicked out of the courtroom and hearing held without him. See, Resentencing Hearing Transcript, page 2-4. Despite fact that petitioner was not trying to argue the law and the issues were mainly about petitioner's prison file, a main issue considered at Resentencing. See, Miller v. Alabama, 132 S.Ct. 2455 (2012); Tatum v. Arizona, 137 S.Ct. 11 (2016). Resentencing Judge also told petitioner that he is not allowed to say that he is innocent. Page 30, Resentencing Transcript. Despite fact that petitioner's unethical attorney falsely stated in "Defendant's sentence Memorandum" (page 4 and 5) that petitioner admits to being guilty of crimes charged, except murder, without petitioner's knowledge or consent. Petitioner always stated (and evidence proved) that he is innocent of all charges (Felony Murder, Robbery, and conspiracy to Robbery) against him, Resentencing Transcript, pages 2, 43, and 56.

Barbato's actions are unconstitutional, Jones v. Barnes, 463 U.S. 745 (1983). Petitioner also wrote a book declaring and proving his innocence, called "Erie, Pennsylvania's Betrayal of child" ©2007 by Ricardo Noble, that can be read and downloaded for free at: www.PrisonFoundation.org. Petitioner's attorney (Barbato) stated in his 05/25/2016 letter to petitioner that he read said book. Further evidencing attorney Barbato's malicious intent. Also, "Resentencing: Erie, Pennsylvania's Betrayal of Child, Book Three" by Ricardo Noble can be read/downloaded for free at: www.PrisonFoundation.org.

There is a lot of false/misleading negative information in and attached to prosecution's and attorney Barbato's Sentence Memorandums and Judge Connelly denied petitioner's right to tender effective and potentially ~~persuasive~~ allocution and meaningful right to express relevant mitigation information before an attentive and receptive Judge. Especially, with Judge Connelly's expressed personal animosity against petitioner, dismissiveness, and repeatedly interrupting petitioner, see, U.S. v. Plotts, 359 F.3d 247 (3d Cir. 2004); U.S. v. Li, 115 F.3d 125 (2d Cir. 1997); Com. v. Knighton, 415 A.2d 9 (E.D. Pa. 1980).

Sentencing Judge abused discretion and violates due process when he relies on false and misleading information to decide sentence, even if

(13)

the sentence is not rendered illegal. U.S. v. Tucker,
404 U.S. 443 (1972); Com. v. McAfee, 849 A.2d 270
(Pa. super. 2004); Townsend v. Burke, 334 U.S. 736
(1948); Com. v. RHodes, 990 A.2d 732 (Pa. super. 2004),
Petitioner should've been permitted to address
and correct said issues at Resentence Hearing.
Com. v. Jacobs, 900 A.2d 368 (Pa. super. 2005);
Com. v. Devers, 546 A.2d 12 (Pa. 1988); U.S. Const. Amendments,
1, 5, 6, 8, and 14; Pa. const. Art. I, Sec. 9 and 13,

4, DID MITIGATION SPECIALIST ERR AND PREJUDICE
PETITIONER BY PROVIDING INCOMPLETE EVALUATION
AND REPORT WITH FALSE/MISLEADING INFORMATION
AND GIVING UNDERMINING WEAK TESTIMONY?

Mitigation specialist/psychologist William
Niles ("Niles") admitted that he did not do the full
evaluation the he was appointed, but not ~~qualified~~ qualified,
to do and that he did not review petitioner's
entire prison file relevant to Resentencing,
Miller v. Alabama, 132 S.Ct. 2455 (2012). But only agreed
with and reviewed portions of petitioner's prison
file ("Juvenile Lifer Information Packet") provided by
the prosecution and prosecution's negative, false
and misleading interpretation of it. See, Resentence
Transcript (Appendix-B), p. 46. Juvenile Lifer
Information Packet is an abridged version or
"recitation" of petitioner's prison file of 27

years compiled by state correctional Institution ("S.C.I.") Greene prison staff with No actual education documents, misconducts, etc. and full of false/misleading information. Niles' report did not report any mitigating ~~facts~~ or evidence regarding petitioner's case (crimes charged, etc.). Among other false/prejudicial things, Niles' report falsely stated that petitioner is "offering" to accept a 20 to 60 year sentence, without petitioner's (appellant's) knowledge or consent, despite fact that petitioner always stated/requested his release from prison as the only sentence he is requesting; Niles severely maliciously under represented petitioner's education participation/completion; and maliciously crafted his report to give false impression that petitioner was admitting guilt. Despite fact that petitioner always stated (and evidence proved) that he is innocent of all charges. See, pages 7-9 and 12-13 of this petition.

A constitutionally sufficient mitigation and presentence investigation report were not done and, thus, mitigation specialist/psychologist Niles' actions did prejudice, negatively effect/affect discretionary aspects of sentence, And the court abuse discretion/violated his constitution by relying

On such, see, Rompilla v. Beard, 545 U.S. 374 (2005);
Com. v. Kelly, 33 A.3d 638 (Pa. Super. 2001); Tatum v. Arizona,
137 S.Ct. 11 (2016); Com. v. Martin, 351 A.2d 650 (Pa. 1976);
Pa. R. Crim. P. 702(A)(3) and (B); Pa. Const. Art. I, Sec. 9
and 13; U.S. Const. Amendments, 1, 5, 6, 8, and 14; Townsend v.
Burke, 334 U.S. 736; Jones v. Barnes, 463 U.S. 745 (1983).

5. DID THE COURT REPORTER AND THE COURT ABUSED
DISCRETION AND PREJUDICE PETITIONER'S PRESENT
AND FUTURE COURT PROCEEDINGS BY PROVIDING INACCURATE
RESENTENCE HEARING TRANSCRIPT/TRANSCRIPTION?
Pa. R. Crim. P. 704 C(4)(b) states that a verbatim
account of entire sentence proceeding shall be made.
Pa. R. Crim. P. 115, Pa. R. A. P. 1926 permits correction or
modification of errors in the record, see, Com. v. Telford,
960 A.2d 1 (Pa. 2009); Com. v. Fields, 387 A.2d 83 (Pa. 1983).
Due process and Equal protection of 14th Amendment of
U.S. Constitution requires that defendants be given
full and accurate Transcripts. Griffin v. Illinois,
351 U.S. 12 (1956); Mayer v. City of Chicago, 404 U.S.
189 (1971).

In Pennsylvania Superior Court's 04/15/2019 opinion
the court errs/abuses discretion by stating that
petitioner's issue is untimely because Resentencing
Hearing Transcript was filed on May 7, 2018 but
petitioner filed "Motion For Correction of Resentence
Transcript" on August 8, 2018. The court overlooked
the fact that petitioner could not challenge errors in
01/29/2018 Resentence Hearing Transcript within 5 days of

May 7, 2018 because petitioner was represented by unethical adverse court appointed attorney Robert Barbato (who only worked against petitioner) and did not receive said Transcript until long after 5 days. On June 15, 2018, after a Grazier Hearing, petitioner was permitted to represent himself. On 08/08/2018, petitioner filed an Amended 1925(b) ("Concise statement of Matters complained of on Appeal") raising the issue objecting to the text of the Resentence Hearing Transcript, com. v. Ricardo Noble, 420 WDA 2018. Also, on 08/06/2018, petitioner filed a Motion for correction of Resentence Hearing Transcript. Trial Court denied it on 08/28/2018. So, on 09/14/2018, petitioner appealed to PA superior court (com. v. Ricardo Noble, 1505 WDA 2018). On 04/09/2019, the PA Superior Court erroneously labelled it as an appeal of the 01/29/2018 Judgment of sentence and Quashed it as untimely. Petitioner's 04/15/2018 Motion for Reconsideration was denied on 06/26/2018. Petitioner's 07/08/2019 appeal to PA supreme court (com. v. Ricardo Noble, 215 WAL 2019) was denied on 01/22/2020). The errors in the Resentence Transcript are not harmless. One of the many examples: Petitioner stated that he only knew defendant Johnson for "TWO DAYS." How long and well petitioner knew defendant Johnson was a significant case issue. But Transcript says: "TWO YEARS,"

Petitioner's court appointed attorney, Robert Barbato ("Barbato"), prejudiced and only worked against petitioner in order to sabotage petitioner's Resentencing and appeal rights. Among other unethical/prejudicial things, attorney Barbato maliciously/falsely stated in "Defense Sentencing Memorandum" that petitioner is admitting guilt, without petitioner's knowledge or consent, challenged experts' FAVORABLE recommendations/evaluations of petitioner's requested an excessive 20 to 60 year sentence for petitioner without petitioner's knowledge or consent, then against petitioner's repeated objections at Resentencing Hearing, only reviewed and agreed with portions of petitioner's prison file provided by prosecution and prosecution's negative, false and misleading interpretation of it, didn't file Motion for Reconsideration/Modification of sentence, withheld documents and refused to communicate with petitioner about the case.

An attorney who adopts and acts upon belief that his client should be convicted or receive a harsh sentence fails to function function in any meaningful sense as prosecution's adversary. An attorney failing to subject prosecution's case to any meaningful testing makes entire adversary process unreliable. U.S. Cronin, 104 S.Ct. 2039 (1984),

6. DID EVIDENCE DID NOT SUPPORT A SENTENCE OR CONVICTION ON FELONY MURDER, ROBBERY, OR CONSPIRACY TO ROBBERY ?

Petitioner is actually innocent of all charges against him. No evidence ever existed to support a conviction or sentence on any charges (Felony Murder, Robbery, and conspiracy to Robbery). See, pages 6-9 and 12-13 of this petition; "Erie, Pennsylvania's Betrayal of child" ©2007 by Ricardo Noble and "Resentencing: Erie, Pennsylvania's Betrayal of child, Book Three" by Ricardo Noble free at: www.PrisonsFoundation.org,

CONCLUSION

WHEREFORE, considering the foregoing, petitioner respectfully requests that this petition be GRANTED.

I declare under penalty of perjury, 28 U.S.C. 1746, that the foregoing is true and correct.

Respectfully submitted,

Ricardo Noble

Ricardo Noble

#BX935)

S. C. I. Greene

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DATE: 02/12 /2020