

19-7759
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

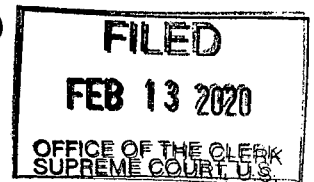
ORIGINAL

Lyarron T. Emers — PETITIONER
(Your Name)

vs.

People of the State of Illinois RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO



Appellate Court of Illinois, Fourth Judicial District, No. 4- 17-0254
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Lyarron T. Emers R-15417
(Your Name)

100 Hillcrest Road
(Address)

East Moline, IL 61244
(City, State, Zip Code)

n/a
(Phone Number)

QUESTION(S) PRESENTED

1. Is People v. Emers IL App (4th) 170254-0 parallel to People v. Maggio IL App (4th) 150287?
2. How is it not unconstitutional, if comments are made on a motion being heard by the trial judge on my sentencing date on April 5, 2017, prior to sentencing me to 18 years?
3. If a defendant choses to exercise their right to remain silent during the pre-sentence investigation; and the judge says "that cause I chose to enforce my 5th amendment right it shows my attitude and rehabilitative potential", how is not holding my liberty against me?
4. Is it not a violation to my 5th amendment right if the trial judge in the same day repeats the same comments she made during the motion hearing minutes before she sentenced me to 18 years?
5. Is this a factor took into consideration to impose a sentence if the trial judge states "that she will consider in aggravation Emers decision to remain silent when the probation officer tried to meet with him for the drafting of the PSI report"?
6. Is it a violation of my right to remain silent if the trail judge states, "It's a pre-sentence hearing, the officer was acting as an agent of the court in obtaining that information, while Emers has the right to refuse, he does so with no guarantee that the court won't consider that"?
7. To what extent does People v. Ashford, 121 Ill. 2d 55, 80-81 (1988) prevents consideration of a defendant's lack of participation in the pre-sentence investigation process?
8. Is it unconsitutional for the judge in a criminal prosecution to draw any adverse inference from a defendant's silence?
9. Is this not a constitutional violation of a defendant has the right to remain silent during the pre-sentence investigation, and invocation of the right is used as an aggravating factor at sentencing?
10. Does it matter if the comments were made during a motion hearing heard on the same sentencing day and also repeated again right before the trial judge imposed the sentence?

LIST OF PARTIES

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

[X] 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:

Emers v. Olmstead, No. 18-CV-02045, U.S. District Court for the Central District of Illinois. Judgment still pending.

People of the State of Illinois v. Emers, No. 16-CF-426, Circuit Court of the Sixth Judicial Circuit, Champaign County, Illinois. Judgment entered April 5, 2017.

People of the State of Illinois V. Emers, No. 4-17-0254, Appellate Court of Illinois, Fourth District. Judgment entered July 29, 2019.

People of the State of Illinois v. Emers, No. 125190, Supreme Court of Illinois. Judgment entered November 26, 2019.

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No. 4-17-0254. Judgment ordered July 29, 2019, PS1-6.

APPENDIX B Decision of Circuit Court of the Sixth Judicial Circuit,
Champaign County, Illinois, No. 16-CF-426. Judgment ordered April 5, 2017.

APPENDIX C Decision of Supreme Court of Illinois, leave to appeal
No. 125190. Judgment ordered November 26, 2019, PS cover page 1-12.

APPENDIX D n/a

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
People v. Ashford, 121 Ill.2d 55, 80-81	80-81
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People v. Morgan, 306 Ill. App 3d. 616, 633 (1st Dist. 1999)	
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People v. Wardell, 230 Ill. App 3d. 1093, 1103 (1st. Dist. 1992)	
People v. Boorke, 96 Ill. App 2d. 327, 333 (1983)	

STATUTES AND RULES

Amendment V of the United States Constitution
Supreme Court Rules 315 and 612
Ill. S. Ct. R. 615(6) (West 2019)

OTHER
n/a

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 _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the _____ 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.

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 July 29, 2019.
A copy of that decision appears at Appendix _____.

☐ 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

V Amendment impinges upon defendant's fundamental right to liberty.
People v. Maggio 2017 IL App (4th) 150287

procedural due process, Scope of Protection, United States v. Harris 558
F. 2d 366

STATEMENT OF THE CASE

In case number CF-426-2016, Emers was found guilty of possession with intent to deliver. During sentencing, Emers trial judge used improper and inaccurate information, as well as held his Fifth Amendment right against him in making a sentencing determination.

REASONS FOR GRANTING THE PETITION

Unfortunately, whether the consideration of a defendant's right to remain silent during the pre-sentence investigation portion of the proceedings remains an area of confusion for trial judges. The improper factor was used as aggravation to impose the sentence.

CONCLUSION

Lyarron T. Emers, petitioner, for a writ of certiorari, respectfully requests this court grant leave to review this petition.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Lyarron T. Emers

Date: 2-11-20

11-February 2020
Matthew J. Versluis
Notary Public

6.

