19-8247

IN THE
SUPREME COURT OF THE UNITED STATES

ORIGINAL

CASE NO.

LOWER CASE NO. 3D15-2653

JOHN WILSON,

Petitioner,

-vs-

STATE OF FLORIDA,

Respondent.

PETITION FOR WRIT OF CERTIORARI

FROM THE SUPREME COURT OF THE STATE OF FLORIDA

CHARLES G. WHITE, ESQ.

CHARLES G. WHITE, P.A.
Counsel for Petitioner
1031 Ives Dairy Road
Suite 228
Miami, FL 33179
Tel: (305) 914-0160
Fax: (305) 914-0166
Florida Bar No. 334170
Email: cgwhitelaw@aim.com

QUESTION PRESENTED

WHETHER THE TRIAL COURT WAS OBLIGATED TO DETERMINE THE MENTAL COMPETENCY OF A DEFENDANT BEFORE GRANTING HIM THE RIGHT TO REPRESENT HIMSELF AT TRIAL IF IT HAD REASON TO BELIEVE THAT HE LACKED A RATIONAL AND FACTUAL UNDERSTANDING OF THE PROCEEDINGS; AND IF SUCH DEFENDANT BE FOUND INCOMPETENT OR BARELY COMPETENT, THAT IT HAD THE RIGHT TO DENY THAT DEFENDANT THE RIGHT OF SELF-REPRESENTATION.

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INTRODUCTION

Petitioner, JOHN WILSON, through counsel, hereby petitions for a Writ of Certiorari from the Supreme Court for the State of Florida which affirmed the Judgment of the Circuit Court for the Eleventh Judicial Circuit, in Miami-Dade County, Florida, and affirming a 20-year Sentence for a Residential Burglary, Grand Theft, and Resisting Arrest with Violence imposed after a jury trial during which the Petitioner represented himself.

OPINION BELOW

In the first stage of the direct appeal, Florida's Third District Court of Appeal, issued an Opinion affirming the Conviction and Sentence which has been reported as Wilson v. State, 259 So.3d 941 (Fla. 3d DCA 2018). A copy of that Opinion is attached as Appendix "1". Petitioner filed a timely Notice to Invoke the Jurisdiction of the Florida Supreme Court. After considering Petitioner's Jurisdictional Brief, the Florida Supreme Court denied jurisdiction on December 27, 2019. A copy of the Order is attached as Appendix "5".

BASIS OF JURISDICTION

JOHN WILSON invokes the jurisdiction of this Court to hear final judgments or decrees issued by the Florida Supreme Court pursuant to Title 28, United States Code, Section 1257.

CONSTITUTIONAL PROVISIONS

AMEND. VI–RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district where the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

STATUTORY PROVISIONS

Florida Rule of Criminal Procedure 3.111.

STATEMENT OF THE CASE

On January 15, 2015, JOHN WILSON, who was at the time homeless, walked up to a pricey condominium located at 3667 Park Lane in Miami, Florida. The owner of the condominium, Alexis Korybut, a wealthy businessman, was in Colorado on business. He had told the gardener, Oscar Herrera, that a friend of

his, was going to housesit his condominium while he was gone. When WILSON arrived, he introduced himself to Herrera and asked to be let into Koryburt's unit. Herrera believed that WILSON was the house-sitter Korybut had told him about, and let him in.

Once inside, WILSON made himself at home. He grabbed a bottle of wine out of the refrigerator, poured a glass, and sat down to use a laptop computer. After a short while, WILSON left the apartment, took Korybut's black Jaguar to the store to pick up some food, and returned.

At around 4:00 p.m., Korybut called Herrera to see if his houseguest had arrived. After Herrera described the person he had let into Korybut's residence, and Korybut confirmed that the real houseguest had not yet arrived, Korybut told him that the man he had let into his residence had no permission to be there, and he should call the police.

At trial, Korybut testified to having known WILSON for ten years and having had a business relationship with him "on and off" for four of them. Apparently, this now homeless man had been a businessman in Argentina in the past. Korybut insisted that his relationship with WILSON ended when WILSON started asking for money or a place to stay. WILSON was so persistent in these requests that Korybut had to block his telephone number. WILSON still managed

to call or text him using other telephone numbers. The evidence established that on at least one prior occasion, WILSON had tried to persuade a neighbor to let him into Korybut's residence.

City of Miami Police Officer Fonseca was the first officer at the scene. He was able to get WILSON to step outside the residence where he could place him under arrest. Testimony established that WILSON resisted arrest like a "wild man". After he was secured in a police car, he kicked out the rear side window, and stuck his head out yelling obscenities. In order to subdue him, Officer Cruz, another officer who had responded to the scene, and Victor Miller, the real house-sitter, pulled WILSON out of the police car, and placed him on the ground. After he calmed down, he was placed back in the police car, where he claimed diplomatic immunity.

The State Attorney's Office for Miami-Dade County filed two separate Informations against WILSON. The first Information charged him with Burglary of an Unoccupied Dwelling, in violation of Florida Statute Section 810.02(3)(B) (Count 1), and Grand Theft, in violation of Florida Statute Section 812.014(2)(C) (Count 2), and was assigned Case No. F15-1083.

WILSON was also charged in Case No. F15-1084 with Resisting an Officer With Violence, in violation of Florida Statute Section 843.01 (Count 1), Criminal

Mischief between $200.00 and $1,000.00, in violation of Florida Statute Section 806.13(1)(b)2 (Count 2), Battery on a Law Enforcement Officer, in violation of Florida Statute Sections 784.07(2)(B) and 784.03 (Count 3).

Initially, WILSON was adjudged to be indigent and appointed an attorney from the Public Defender's Office. The State of Florida has funded Regional Counsel Offices around the State in order to represent indigent defendants who cannot be represented by the Public Defender. If the Regional Counsel has a conflict, then a private attorney will be appointed.

At his first appearance in Court, WILSON began a pattern of erratic, irrational and bizarre behavior in Court. He demanded a Speedy Trial the day after his Arraignment. Under Florida law, a defendant can only Demand a Speedy Trial if he is ready and prepared to go forward. At the time of his first Demand, the State had not even fulfilled its initial discovery obligations. WILSON's Public Defender refused to adopt his Speedy Trial Demand. Thus began WILSON's incomprehensive fixation on his Speedy Trial rights under Fla.R.Crim.P. 3.161. The Court ordered WILSON's Speedy Trial Demand stricken.

On March 26, 2015, someone posted bond for WILSON, and he was released from jail. He was rearrested on new charges less than one week later, on April 1, 2015, and his bond was revoked. WILSON was eventually charged in

Case No. F15-6748 with attempting to defraud a bank by trying to open an account with obviously phoney identification.

Meanwhile, the Public Defender had filed a Motion to Withdraw, which was granted. The Regional Counsel was appointed to represent WILSON.

On April 28, 2015, Assistant Regional Counsel Taylor, without WILSON present, announced that WILSON wanted to represent himself in F15-1083, but not F15-1084. He recommended the Court conduct a Faretta[1] Hearing. The Court agreed to schedule a hearing, and told Mr. Taylor he would remain on the case as standby counsel.

Mr. Taylor advised the Court that the Regional Counsel had represented WILSON on a "prior withhold" in the past. In that case, Mr. Taylor explained that "[t]here were three evaluations according to that attorney and they're all incompetent and I don't have the actual evaluations." Despite having been put on notice of a prior mental incompetency, the Court took no action to address WILSON's mental state.

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[1] Faretta v. California, 422 U.S. 806, 807, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975)

A. Faretta Hearing

On May 1, 2015, WILSON appeared for a Faretta Hearing on F15-1083. Before the hearing started, the State announced it might consolidate the two cases. WILSON objected, despite having previously requested consolidation. WILSON protested the removal of his Public Defender from his case, despite accusing him of taking an unauthorized continuance.

The Court told WILSON that she would keep Mr. Taylor on the case as "shadow" attorney. The Court explained that because both cases would be consolidated, he could not represent himself on only one. WILSON wanted to keep Mr. Taylor on as his attorney on F15-1084.

WILSON insisted that he had a pending Speedy Trial Demand. Mr. Taylor refused to adopt WILSON's Speedy Trial Demand. The Court and the State advised him that his latest Demand would not be stricken under any circumstances.

The Court then conducted the Faretta Hearing.

WILSON claimed he had studied contract law at the University of Miami for an M.B.A. This claim was never verified by the University. WILSON was not aware of the maximum penalties he was facing.

A Notice of Intent to Habitualize had been filed. When the Court tried to explain what it meant it to WILSON, he stated that he "need[ed] legal guidance at trial." After Mr. Taylor explained the Habitualization Notice to him privately, WILSON claimed he was ineligible because he had withdrawn his plea in one of the qualifying cases, which had not happened. He had filed for post-conviction relief in that case, but was denied.

WILSON did not know the elements of the charges he was facing. WILSON knew nothing of the Florida Ethics or Evidence Codes. He did not know what voir dire meant. WILSON had never heard of Neil/Slappy Objections. He was told to educate himself before the trial.

WILSON defined hearsay as "not based on fact, but on somebody's word or opinion." The Court told him that he was wrong, but did not clarify. WILSON said he would have to "brush [up] on" the exceptions to the Hearsay Rule.

WILSON claimed he knew about impeachment, but could not describe it. WILSON claimed to know when it was appropriate to introduce character evidence, but thought character evidence was inadmissible in his case.

WILSON claimed to know when to make a Motion for Judgment of Acquittal; how to proffer evidence and ask for a mistrial, but was unable to describe them. That he lacked understanding, was apparent from his answers.

The Court never asked WILSON any questions intended to probe his mental competency. It was not only his answers to the Court's questions, but his demeanor that suggested further inquiry would have been appropriate. The Court never asked him about a prior finding of incompetence by another Judge in the same courthouse one year earlier.

Following the inquiry, the Court allowed WILSON to represent himself in F15-1083. She noted that WILSON "now has a bunch of homework to brush up on." The Court made no findings of fact concerning WILSON's competence to represent himself. No written Order was entered.

Immediately thereafter, the State filed an Amended Information in Case F15-1083 adding a fourth Count charging Burglary of an Unoccupied Conveyance, in violation of Florida Statute Section 810.02(4)(B). WILSON objected and demanded discovery. The State refused to comply because of the Speedy Demand, and the Court agreed. WILSON's request for a continuance in F15-1084 was denied. The two cases were subsequently consolidated for trial.

On May 20, 2015, Regional Counsel filed a Motion to Withdraw in F15-1084, which was granted over WILSON's objections. WILSON again complained of the Public Defender's earlier withdrawal.

The Court again addressed the Faretta issue. When she advised WILSON that he was facing a maximum of 30 years, he called the prosecutor a "terrorist", and claimed that "[t]hese [cases] all stem from intelligence operation that occurred in the jurisdiction of Aventura and Miami Beach and I have evidence to support that new evidence."

Further questioning revealed that WILSON was still not familiar with the legal elements of the charges he was facing. He questioned how he could be charged with burglary if he had not "broken and enter[ed]" any dwelling. When discussing the consolidation of the cases before the Court, WILSON stated that "[a]ll the cases are intertwined . . . since 2012 are based on illegal intelligence operation." WILSON told the Court that he was the victim of a "plot", but still wanted to represent himself. No further inquiry was made, but the assumption was that WILSON was now representing himself in F15-1084.

WILSON requested standby counsel, but was denied. The Court stated that any "shadow" attorney appointed could not help him with his access to legal services, and would not be paid. This was not correct. Stand-by counsel are paid the same as Private Court-Appointed Attorneys.

WILSON complained that he was unable to get case law regarding "Federal

jurisdiction issues over State criminal cases". He wanted to list witnesses he claimed could establish his defense.

WILSON proffered his defense. He stated "[it] all stems from the failure to receive a money transfer going back to 2010." His witnesses could testify to his ejection from his home in 2012 by "intelligence assets". He claimed that an attorney named Christopher Lyons could purportedly testify to WILSON being the victim of a violent foreign intelligence group. He wanted to prove it through "digital evidence", but could not explain what that was. The Court ruled all his proffered evidence and Witness List were inadmissible.

Charles G. White, Esquire, Private Court-Appointed Counsel in F15-6748, consulted with WILSON as a friend of the Court. WILSON requested Mr. White be appointed as standby counsel in F15-1083, which request was denied.

WILSON had filed a Motion to Dismiss on the grounds of "malicious prosecution". He stated that the "proof" of his innocence was contained in a Civil Complaint pursuant to 42 U.S.C., Section 1983, he had filed in Federal Court. The Federal lawsuit he had filed listed President Obama, U.S. Senator Marco Rubio, and other high Government officials as defendants from whom he was seeking "immunity". The Complaint contained a number of bizarre accusations of complicity in a coverup of foreign intelligence operatives allegedly persecuting

WILSON and engaged in other criminal conduct such as the murder of the King of Spain. See, WILSON's Civil Complaint, Appendix "119".

The Court stated: "[i]t is becoming apparent to me that there is some kind of disconnection and perhaps you are not understanding the rules of evidence and the evidence code." WILSON wanted a "Florida handbook so I can familiarize myself with those questions." He asked the Court to give him the book she had on the bench, which she refused. WILSON thought Mr. White, as standby counsel, could provide him with the book. The Court told him that he was not entitled to standby counsel. WILSON wanted "to be my own attorney and I would like a little bit of help, just a little." No inquiry was made into WILSON's mental capacity to represent himself, despite the increasingly bizarre and delusional statements he had been making in Court, and in his written pleadings.

Prior to trial, WILSON filed numerous handwritten pro se motions. Typically, he would file these motions as a package of what would appear to be unrelated documents with notes scribbled on them. He would attach prior pleadings to new ones subsequently filed. Consequently, some of the pleadings two or three times. When the Clerk compiled the Record on Appeal, duplicate filings were not included. Prior motions attached to subsequent ones appeared in the Record on Appeal as attachments. Pages 7-63 of the Appendix contain an

example of WILSON's pro se motions, but not all of them. Although some of them were filed after the trial, prior filings made before trial were included as attachments. The pro se pleadings are presented in the Appendix in the order they were contained in the Record on Appeal.

B. Trial

Trial commenced on June 22, 2015. During the course of the trial, WILSON's bizarre incompetence was on full display. His incompetence was not based solely upon his lack of knowledge of the law, the Rules of Criminal Procedure and trial practice, but by an irrational and bizarre idea of what constituted a defense to the charges., and how to pursue it.

For instance, WILSON proffered emails he had acquired in which Korybut warned others of him, claiming he [WILSON] was mentally disturbed and dangerous. WILSON proffered a copy of the Federal Complaint he had filed under the bizarre reasoning that it proved a plot by foreign intelligence agencies aided and abetted by the President of the United States, Prince Charles, and a lot of other notables would help his defense. This "evidence" was rejected by the Court.

Once jury selection began, and WILSON began exercising his challenges, he confessed to not knowing the difference between a cause and peremptory

challenge. He would simultaneously move to have someone on the jury and then strike the same juror for cause. After the Court explained the process, WILSON moved to strike jurors for cause, but could never articulate a reason. WILSON objected to the Court preventing him from walking around the well of the courtroom during voir dire, and in the end complained that the whole jury selection process was unfair. He accused the Court of "tilting" the process against him.

WILSON argued to the jury in opening statement that he was a victim of malicious prosecution, based on the excluded "evidence". The Court was forced to threaten WILSON with contempt of Court, if he continued to argue matters that had been ruled inadmissible. When WILSON persisted, his opening statement was prematurely terminated.

WILSON's cross-examinations were a disaster. He repeatedly solicited testimony that was prejudicial, and would not have been admissible had it been presented by the State. He had great difficulty articulating questions, and every objection by the State was sustained. As a result, WILSON frequently saw his cross-examinations cut short. In frustration, WILSON accused the State and the Court of sabotaging his case. Outside the presence of the jury, the Court observed that he did not understand cross-examination.

The Court repeatedly disrupted WILSON's closing argument. After many interruptions from the Court and objection from the State, the jury was excused so the Court could admonish WILSON to stop testifying during closing argument. After a short while, the Court called a sua sponte sidebar to admonish WILSON for making improper argument. Within minutes, the Court again excused the jury. She told WILSON that he was not following her instructions. She directed him to write down what he was going to say, and show it to her before saying it to the jury. WILSON did not understand why he was unable to say certain things. Within minutes, the Court terminated WILSON's closing argument.

At different times during the trial, the Court made limited inquiry into WILSON's continuing desire for self-representation. Invariably, WILSON and the Court would have an argument regarding WILSON's desire to introduce fanciful and imaginary exculpatory evidence and pursue bizarre theories of defense. They also argued about proper courtroom conduct and the Rules of Evidence. For instance, the Court and WILSON sparred over the definition of impeachment, and it was clear that WILSON's understanding or lack thereof was irrational.

During these many Faretta Hearings, the Court never took into account what should have been clear to even the most casual observer: that WILSON was

suffering from a mental illness and lacked a rational understanding of the proceedings and how to defend himself. WILSON's insufficiencies went beyond a lack of knowledge of the law, and incompetent trial tactics. His deficiencies appeared grounded in his lack of foundation in the real world. Nevertheless, without making any inquiry into his mental state, the Court seemed satisfied with his announced desire to keep going with the trial. WILSON did have a sufficient grasp on reality to periodically request legal counsel, which he viewed as "stand-by" counsel, but was rebuffed by the Court.

C. Post-Trial Motions

After he was convicted, WILSON buried the Trial Court with pro se motions, most of which were incoherent. Many of these motions did not immediately arrive in the Court file because they were addressed to other Judges, one of whom was deceased. WILSON pursued a Petition for Writ of Prohibition to Florida's Third District Court of Appeal, and finally the Florida Supreme Court. He even filed for relief in this Court under Case No. 16-6372. The grounds that WILSON raised were obscured by his written rantings and conspiracy theories, but were related to a meritless claim that his Speedy Trial rights were violated, his trial was unfair because of "malicious prosecution", the Trial Judge should recuse

herself, and Mr. White was part of the conspiracy against him. See, Appendix "62".

On August 26, 2015, WILSON was before the Court addressing his pending pro se motions. The Court told him that she had heard that Korybut had been receiving "hate mail" from WILSON. When asked to explain, WILSON stated that he was required to contact Korybut to serve him a civil complaint. The following colloquy occurred.

The Defendant:	If we are addressing 1083, I made a motion to appear in persona, which was not acknowledged or honored for due process of filing mistrial for cause on F15-1083 based on perjury and witness coding (sic) and materially inconsistent testimony, also of prosecution witnesses, Officers Johnny Fonseca D4088 and Victor Miller Davis.
The Court:	Mr. Wilson. Stop. You can't just file random motions. You see (sic) send them to my JA so she can print it. You cannot file, make up motions and jurisdictions that don't apply. I know it might be a lot of fun and entertaining, but when you file a motion like that, demanding to put in front of the Chief Judge because you want a judge to hear the–
The Defendant:	It is a Motion for Mistrial that was not acknowledged or properly docketed. All of those correspondence have been ignored by the Court. I ask for–and the Motion for the Writ of Prohibition that was not ruled upon in 30 days.
The Court:	Fantastic, your oral motions are inappropriate and all denied.

* * *

The Defendant: A Motion for Mistrial is not frivolous and it is backed up with evidence.

The Court: Mr. Wilson, I'm not going to educate you on the law and the Motion for Mistrial has to be done at the appropriate time, not after jury verdict.

The Defendant: This is a travesty of justice.

The Court: You are becoming a travesty of justice because you're incompetent to represent yourself.

The Defendant: Because I don't have an attorney to contact to talk about my legal matters.

The Court: Whose fault is that?

The Defendant: It is the Court's fault for appointing a lawyer that does not abide by the laws of The Florida Bar.

WILSON began discussing another case he was arrested for in 2006. He talked about being acquitted in that case, and leaving Miami-Dade County. He went on to state the following.

The Defendant: . . . I have been screwed over by all my friends. I have been targeted by intelligence groups and falsely arrested and I have it documented on the Writ of Prohibition and I would like to read it to you. The Brady Violation.

The Court: It is not entertaining anymore.

On September 9, 2015, during a Hearing that went much like the one held on August 26, 2015, WILSON requested counsel be appointed to represent him in F15-1083, which was pending sentencing. Mr. White was appointed. WILSON filed additional pro se motions, but none of them were adopted by Mr. White. Mr. White did ensure that the Court ruled on all WILSON's post-trial motions he had filed prior to his Appointment.

D. Sentencing

On October 16, 2015, WILSON appeared for Sentencing. The Court discussed one of WILSON's pro se pleadings that contained letters he had sent to the U.S. Department of Intelligence requesting asylum in the United Kingdom. The Court noted it described a "diagram of his defense".

The Defendant:	That's the grounds that I have been prosecuted by through the Miami Beach Police Department.
The Court:	The King of Spain is on there.
The Defendant:	Who has assaulted me in my sleep–
The Court:	I'm sorry, it's horrible that happened but what does it have to do with this case.
The Defendant:	It has to do with all the arrests in 2012 when I was homeless and Jeremy Triana found me a place in Camillus House and–
The Court:	Mr. Wilson, don't. If you don't want to follow the rules you don't have to be here.

The colloquy between the Court and WILSON became more unreal. WILSON related a previously undisclosed personal history. He talked about being a securities broker, who was president of a financial services company. He claimed to having a college degree, and having taught high school. He began to explain how he was a victim of financial fraud, who had been "literally put out onto the street and targeted by law enforcement who were appearing to be informing the intelligence group that I ran into in Argentina."

Mr. White interrupted this exchange to ask the Court to order a competency evaluation. Mr. White stated:

> Mr. White: We have representations that were made by Mr. Wilson that may or may not be true. But he may actually in his state of mind, he may believe it to be true and I think that is something that the Court has to determine before it imposes sentence in this case.

The Court immediately made findings that WILSON was competent. She did not order a competency evaluation. She found him "oriented to time and place", and understanding of the charges. He "intended" to file legal motions appropriately. She complimented WILSON on his ability to keep track of the different courts where he filed his motions. She stated that WILSON had been able to assist counsel.

The Court remembered WILSON making inconsistent statements relating to his M.B.A. from the University of Miami. The Court mentioned the teaching certificate that he had never brought up "anywhere, anything like that". WILSON interrupted to tell the Court that his teaching certificate had expired, but that he had taught high school in the 1990's. The Court mentioned WILSON's reported employment with "Bell Pop Partners in Spain", which the Probation Officer was unable to verify even existed. WILSON's listings of witnesses who were excluded was considered indicative of his competence. The Court found WILSON competent, "meeting [the] criteria in assisting counsel, understanding the charges and the rest of it."

After finding WILSON competent, the Court discussed the Royal Institute of International Affairs, and how WILSON had "signed documents that he has provided to the Court as a Special Agent to Red Hot Partners Association (sic)." WILSON stated that the RAA stood for something else. He then observed that it was "funny he had a trial date on 9/11." The Court discussed with the prosecutor adding the digits, and coming up with a trial date on "6/6/6 which was amusing." WILSON believed that the digits were significant as related to the "operation" that falsely targeted him in 2012.

The Court then proceeded to pronounce Sentence. After finding that WILSON qualified as an Habitual Offender, he was sentenced to 20 years in State prison to be followed by five years of reporting Probation as an Habitual Felony Offender. A timely Notice of Appeal was filed. The Public Defender was reappointed to represent him on appeal.

Even after he was sentenced, WILSON continued to file pro se motions and pleadings. They were all incoherent, accusatory of both the Court and Mr. White, and frivolous. Periodically, WILSON was brought to Court and told that his motions were denied.

The Public Defender conflicted off the case on May 25, 2016. The Regional Counsel conflicted off the case on June 3, 2016, and Mr. White was reappointed for purposes of appeal.

WILSON filed a pro se motions to the Appellate Court and in the Trial Court in Case No. 15-6748, which was still pending seeking to dismiss Mr. White, and to represent himself on appeal. He believed Mr. White was in cahoots with the same foreign intelligence conspiracy that had persecuted him on the streets of Miami, and was sabotaging his efforts to gain his freedom. All of these pro se pleadings were filled with bizarre statements indicative of a person divorced from reality.

Meanwhile, in Case No. F15-6748, Mr. White had filed a Motion for a Judicial Determination of Competency. He attached an Order that adjudged WILSON incompetent to stand trial on May 29, 2014, in Case No. F14-192 by a different Circuit Court Judge in the same courthouse in Miami where this case was tried. He also included a Notice of Intent to Rely on Insanity Defense filed on October 16, 2014, in Case No. F14-192 listing three forensic psychologists who had found him delusional. On January 12, 2017, the Trial Court that had found WILSON competent to represent himself in the trial in the instant case, declared him incompetent to proceed to trial in Case No. F15-6748.

While WILSON's appeal was pending, but before the Record on Appeal had been compiled, WILSON had filed a pro se Petition in the Third District requesting to have Mr. White discharged as his appellate attorney. WILSON's pro se Petition had been docketed with Florida's Third District Court of Appeal under a different case number than his direct appeal. When asked to respond, Mr. White advised the Court of the finding of incompetency that had just been entered by the Trial Court as follows:

> She [the Trial Court] came to that conclusion after hearing testimony from Dr. Michael DiTomasso, Ph.D., Dr. Sanford Jacobson, M.D., and Dr. Pedro Saez, Ph.D. Dr. Jacobson and Dr. DiTomasso had found WILSON mentally competent during their Court-ordered evaluations. When given the opportunity to observe WILSON's courtroom demeanor and hear him utter bizarre and delusional

> statements, they reversed their original findings and agreed that he was mentally incompetent. Judge Miranda also considered evidence that Circuit Judge Stacy Glick had issued an Order on May 29, 2014, finding WILSON incompetent to stand trial in Case No. F14-192. That Order of Incompetency was later orally vacated to enable WILSON to accept a credit time served plea. In Case No. F14-192, WILSON's counsel [the Public Defender] filed a Notice of Intent to Rely on Mental Health Defense Listing Dr. Ralph V. Richardson, Ph.D., Dr. Christine Jean, Psy.D., and Dr. Cristian Del Rio, Psy.D., as having 'diagnosed the Defendant from suffering from delusional thinking which affects the decision to make competent decisions'. A copy of this Notice of Intent was dated October 16, 2014, approximately five months prior to WILSON's Faretta Hearing in the case before the Court. [F15-1083].

Mr. White requested that the Court temporarily relinquish jurisdiction to enable the Circuit Court to conduct a competency hearing in F15-1083.

On February 6, 2017, the Third District Court of Appeal temporarily relinquished jurisdiction to permit the Trial Court to conduct a hearing, pursuant to Nelson v. State, 274 So.2d 256 (Fla. 1973); Faretta v. California, supra; and Fla.R.Crim.P. 3.111(d) and thereafter "determine whether Appellant is competent to make a knowing and intelligent waiver of his right to counsel, and whether Appellant suffers from severe mental illness to the point where Appellant is not competent to proceed pro se in this direct appeal."

On remand, WILSON consented to Mr. White's continuing representation on appeal, and his pro se Petition was dismissed.

E. Appeal

WILSON raised the following issues to Florida's Third District Court of Appeal:

ISSUE I

WHETHER THE TRIAL COURT ERRED IN DETERMINING THAT WILSON WAS COMPETENT TO REPRESENT HIMSELF UNDER THE SIXTH AND FOURTEENTH AMENDMENTS.

ISSUE II

WHETHER THE TRIAL COURT ABUSED ITS DISCRETION BY NOT APPOINTING STANDBY COUNSEL AFTER PROMISING TO DO SO BEFORE WILSON WAIVED HIS RIGHT TO COUNSEL.

ISSUE III

WHETHER THE TRIAL COURT ERRED BY NOT STRIKING WILSON'S SPEEDY DEMAND WHEN HE WAS NOT PREPARED FOR TRIAL.

ISSUE IV

WHETHER WILSON DID NOT KNOWINGLY AND VOLUNTARILY WAIVE HIS RIGHT TO TESTIFY.

ISSUE V

WHETHER THE TRIAL COURT'S ON THE RECORD INTERRUPTIONS AND ADMONISHMENTS CULMINATING IN HER FORCED EARLY TERMINATION OF WILSON'S CLOSING ARGUMENT DEMONSTRATED PARTIALITY AND PREJUDICED WILSON'S DEFENSE.

ISSUE VI

WHETHER THE TRIAL COURT ERRED BY NOT CONDUCTING A COMPETENCY HEARING FOR WILSON BEFORE TRIAL AND SENTENCING.

ISSUE VII

WHETHER THE TRIAL COURT ERRED WHEN IT SENTENCED WILSON AS AN HABITUAL OFFENDER.

ISSUE VIII

WHETHER THE EVIDENCE WAS LEGALLY INSUFFICIENT TO CONVICT OF BURGLARY.

On November 21, 2018, the Third District affirmed WILSON's Conviction and Sentence rejecting all his claims. Wilson v. State, 259 So.3d 941 (Fla. 3rd DCA 2018). The Court noted that the Trial Court had held several Faretta Hearings where WILSON was "repeatedly caution[ed]" about the consequences of both the Demand for Speedy Trial and self-representation. The Court found that WILSON "articulately and unequivocally asserted his desire to represent himself." Id., at 942.

In the Opinion, there was no mention of the decision of this Court in Indiana v. Edwards, 554 U.S. 164, 128 S.Ct. 2379, 171 L.Ed.2d 345 (2008), that permits a Trial Court to insist upon representation by counsel for a defendant who may be

competent enough to stand trial with counsel, but who suffered from severe mental illness to the point where he would not be competent to conduct trial proceedings by himself. No reference was made to the strong possibility that WILSON's delusional mind was impaired to the point where he lacked the capacity to knowingly and voluntarily waive his right to counsel.

In Florida, a decision by a District Court of Appeal is considered final, and the Florida Supreme Court has only limited jurisdiction to accept the case other than direct appeals of death sentences or when State statutes are declared unconstitutional. Jenkins v. State, 385 So.2d 1356 (Fla. 1980). WILSON filed a timely Notice of Intention to Invoke the Jurisdiction of the Florida Supreme Court. He was ordered to submit a Jurisdictional Brief, which he did. In his Jurisdictional Brief, WILSON raised the following two issues:

ISSUE I

> WHETHER THE SUPREME COURT SHOULD ACCEPT JURISDICTION IN ORDER TO RESOLVE THE CONFLICT BETWEEN THE OPINION BELOW AND JOHNSTON v. STATE, 497 So.2d 863 (Fla. 1986); WILLIAMS v. STATE, 163 So.3d 694 (Fla. 4th DCA 2015); NEAL v. STATE, 132 So.3d 949 (Fla. 1st DCA 2014), WHICH REQUIRE THE TRIAL COURT ACCESS A DEFENDANT'S MENTAL COMPETENCE OR LACK THEREOF BEFORE PERMITTING HIM TO WAIVE HIS RIGHT TO COUNSEL.

ISSUE II

WHETHER THE SUPREME COURT SHOULD ACCEPT JURISDICTION IN ORDER TO RESOLVE THE CONFLICT BETWEEN THE OPINION BELOW AND STATE EX REL. HANKS v. GOODMAN, 253 So.2d 129 (Fla. 1971); CARTER v. STATE, 509 So.2d 1126 (Fla. 5th DCA 1987), THAT REQUIRE THE TRIAL COURT TO STRIKE A SPEEDY TRIAL DEMAND BY DEFENDANT NOT PREPARED FOR TRIAL.

WILSON relied on Indiana v. Edwards, supra, to argue that the Trial Court and the Third District Court of Appeal failed to take into account evidence that WILSON suffered from a mental illness that rendered him incompetent to stand trial or lacking sufficient competence that he should have been forced to proceed with counsel. The Florida cases cited incorporated Edwards in their analysis of whether a Court can refuse to allow a defendant to represent himself if his mental condition would prevent him from knowingly and voluntarily waiving his right to counsel.

On December 27, 2019, the Florida Supreme Court issued an Order denying jurisdiction. This decision by the Florida Supreme Court rendered WILSON's Conviction and Sentence final for purposes of jurisdiction of this Court pursuant to 28 U.S.C. Section 1257.

This Court should accept certiorari in this case in order to clarify and enforce Edwards. In Edwards, this Court permitted States to insist upon

representation by counsel for those who are competent to stand trial but not competent to represent themselves. The Court in Edwards did not require the Trial Court to make sure that a defendant who wants to represent himself is competent to do so, even if he would be competent to stand trial if represented by counsel. A Trial Court should be required to conduct reasonable investigation into a defendant's mental competency to represent himself, even if the defendant is competent to stand trial represented by counsel. The Court must clearly state that any decision by a trial court to permit self-representation must take into account the defendant's mental capacity.

In the instant case, the Trial Court ignored clear signs of WILSON's mental impairment. His bizarre, irrational and delusional statements made and pleadings filed before, during and after the trial were clearly the actions of someone who was mentally impaired. That he had been declared incompetent by another Circuit Court Judge in the same courthouse eight months before his arrest was never considered by the Trial Court despite it having been brought to her attention. The Trial Court failed to consider whether WILSON's unequivocal assertion of his desire to represent himself could be challenged by evidence that he lacked the mental capacity to truly understand the rights he was giving up.

The Third District Court of Appeal also ignored WILSON's manifestations of mental illness. Although acknowledging that Fla.R.Crim.P. 3.111(d), which codified Faretta, made the right of self-representation contingent on a defendant "not suffer[ing] from severe mental illness to the point where the defendant is not competent to conduct Court proceedings by himself or herself," no inquiry was necessary into WILSON's mental condition, because he was a bad lawyer. The Court acknowledged that WILSON conducted his trial incompetently, but not based upon any mental illness.

Technical incompetence in the sense of being a bad lawyer was never the rationale argued by WILSON on appeal why he should not have been permitted to represent himself. He argued on appeal that he was impaired by delusional thinking and had lost his grasp of reality. His desire to represent himself was based on his warped understanding of the law and warped perceptions as to what witnesses would say on his behalf. In WILSON's mind, he was a victim of a vast conspiracy involving rogue intelligence agencies and high officials in the United States, Great Britain and Spain. Insisting on his right to self-representation in order to present his defense, but insisting on his Speedy Trial rights that would preclude him from presenting that defense was a clear indication of his

irrationality. Before making a decision to allow self-representation, the Trial Court should have evaluated his mental state.

The Trial Court set up WILSON for failure. Despite the numerous assertions of his right of self-representation, he clearly requested the assistance of counsel throughout the trial. His initial request for self-representation only related to one of the two cases before him. Initially, he was promised stand-by counsel, but that offer was withdrawn, despite his frequent requests for the assistance of counsel. His conduct and statements belied any claim that he was capable of forming a rational understanding of how he intended to conduct his own defense at trial.

In dealing with defendants who suffer from mental illness, trial courts must be vigilant not only of a defendant's right to self-representation, but the practical limitations that may prevent him from exercising that right. WILSON's trial was a travesty of justice. The Trial Court allowed a mentally impaired person make a fool of himself before the jury, and then sentenced him to 20 years in prison upon conviction. This Court needs to not only right this wrong, but send a clear signal to the trial courts throughout the United States, both State and Federal, that the mental competence of a defendant asserting his right to self-representation must be considered.

REASON FOR GRANTING THE WRIT

The Sixth and Fourteenth Amendments include a constitutional right to proceed without counsel when a criminal defendant voluntarily and intelligently elects to do so." Faretta v. California, 422 U.S. 806, 807, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975). The Court implied that right from a "merely universal conviction," that "forcing a lawyer upon a unwilling defendant is contrary to his basic right to defend himself if he truly wants to do so." Id., at 817-18. Even in Faretta, this Court offered support from preexisting State cases that were consistent with, and at least two of which expressly adopted, a competency limitation on the right to self-representation. Id., at 813, and n. 9. But Faretta did not address a defendant who had exhibited any degree of mental illness or incompetence.

The intersection of a defendant's right of self-representation and his mental competency to waive it was answered by this Court in Indiana v. Edwards, supra. In Edwards, the Court established a different standard to be applied to determine whether a defendant was competent to stand trial with counsel and whether he was competent to waive his right to counsel. Edwards, 554 U.S. at 171-72, citing Godinez v. Moran, 509 U.S. 389, 393-93, 113 S.Ct. 2680, 125 L.Ed. 321 (1993). The Edwards Court noted that Godinez applied to a defendant who wanted to

represent himself in order to plead guilty, while Edwards was borderline incompetent, and wanted to represent himself at trial. Id., at 173. Godinez also failed to address whether the Constitution "requir[ed] self-representation by gray area defendants even in circumstances where the State seeks to disallow it (question here)." Id., at 173-74.

The Edwards Court considered persuasive the *Amicus* Brief filed by the American Psychiatric Association (APA). The APA observed without dispute that "[d]isorganized thinking, deficits in sustaining attention and concentration, impaired expressive abilities, anxiety, and other common symptoms of severe mental illnesses can impair the defendant's ability to play the significantly expanded role required for self-representation even if he can play the lesser role of represented defendant." Id., at 176. This Court found that the motions and other documents that Edwards prepared in his case "suggest[ed] to a lay person the common sense of this general conclusion." Id. WILSON contends that a similar conclusion would be drawn by a review of the motions and other documents he presented to the Trial Court both before, during and after trial as well as the statements and arguments he made at numerous pre and post-trial hearings, and his conduct at the trial itself.

The Edwards Court found that "a right of self-representation at trial will not 'affirm the dignity' of a defendant who lacks the mental capacity to conduct his defense without the assistance of counsel." Id., at 176, citing McKaskle v. Wiggins, 465 U.S. 168, 176-77, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984). The Court found that "given that defendant's uncertain mental state, the spectacle that could well result from the self-representation at trial is at least as likely to prove humiliating as ennobling." Such a spectacle "undercuts the most basis of the Constitution's criminal law objectives, providing a fair trial." Id., at 176-77. See also, Martinez v. Court of Appeal of Cal., 4th Appellant Dist., 528 U.S. 152, 162, 120 S.Ct. 684, 145 L.Ed.2d 597 (2000) ("even at the trial level . . . the Government's interest in ensuring the integrity and efficiency of the trial at times outweighs the defendant's interest in acting as his own lawyer"); Massey v. Moore, 348 U.S. 105, 108, 75 S.Ct. 135, 99 L.Ed. 135 (1954) ("no trial can be fair that leaves the defense to a man who is insane, unaided by counsel, and who by reason of his mental condition stands helpless and alone before the Court").

Edwards and its antecedents referenced above provide the framework to evaluate the case before the bar. In Edwards, the Trial Judge had possession of

psychiatric records indicating that Edwards suffered from schizophrenia. He concluded that despite the mental diagnosis, he was competent to stand trial, but not competent to waive his right to counsel and represent himself. He was denied his right of self-representation.

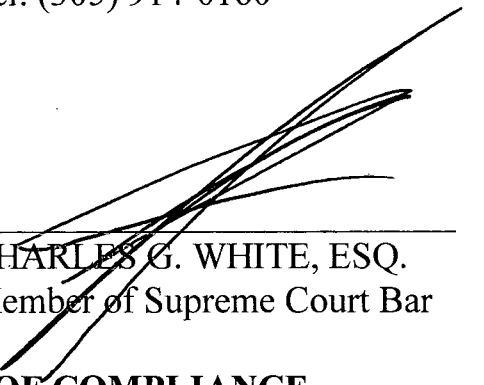
In the instant case, the evidence of WILSON's mental illness and impairment were obvious to even a casual observer. The Trial Court chose to ignore all signs of his mental impairment. The Trial Court failed to not only order a psychiatric evaluation or gather prior evaluations that had led to an incompetency finding by another Judge, but never inquired of WILSON of his mental state except to express frustration and disdain, and to threaten contempt when WILSON's irrational acts and bizarre behavior interfered with the proceedings. This Court needs to send a clear message to the Trial Courts in the United States that the constitutional right to self-representation must in all instances be balanced by the mental limitations of the defendant requesting it.

CONCLUSION

Upon the authorities and arguments aforementioned, Petitioner requests this Court issue a Writ of Certiorari, and hear his case on its merits.

Respectfully submitted,

CHARLES G. WHITE, P.A.
Counsel for Petitioner
1031 Ives Dairy Road, # 228
Miami, FL 33179
Tel: (305) 914-0160

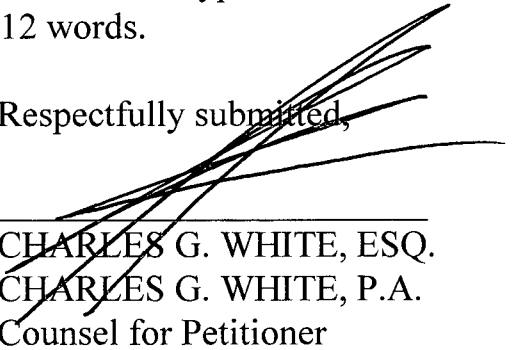


CHARLES G. WHITE, ESQ.
Member of Supreme Court Bar

CERTIFICATE OF COMPLIANCE

I CERTIFY that this brief complies with the type-volume limitation set forth in FRAP 32(a)(7)(B), and contains 7,412 words.

Respectfully submitted,



CHARLES G. WHITE, ESQ.
CHARLES G. WHITE, P.A.
Counsel for Petitioner
Member of Supreme Court Bar