
No. 19-8305

IN THE
SUPREME COURT OF THE UNITED STATES

KINGSLEY AZUBUIKE ONONUJU
Petitioner

v.

COMMONWEALTH OF VIRGINIA
Respondent

**On Petition for Writ of Certiorari
to the Supreme Court of Virginia**

PETITION FOR REHEARING

Kingsley A. Ononuju (Petitioner)
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Appearing Pro se

DATE: August 19, 2020.

TABLE OF CONTENTS

TABLE OF AUTHORITIES-----	ii.
PETITION FOR REHEARING-----	1,
BACKGROUND SUMMARY-----	1,
GROUNDS FOR REHEARING-----	1,
A. The Court should Grant Rehearing because issue hereof is issue of national importance. -----	1,
(Issue of Federal Constitutional Question)	
i. Without according nationwide free trial transcript for fair appellate review to indigent Misdemeanant, like does to indigent Felon, the machinery upon which this country was founded, will be ruined. ----- 1,	
(Issue of Federal Constitutional Question)	
ii. In divisive nation as ours, affording indigent Misdemeanant "same" treatment afforded to indigent Felon, is not only an enforcement of Equal Protection Clause, but it fully does help in "uniting" our nation. ----5.	
CONCLUSION-----	6,
CERTIFICATE OF COUNSEL-----	7,

TABLE OF AUTHORITIES

CASE LAWS:

Chambers v. Florida, 309 U.S. 227 (1940)	3,
Draper v. Washington, 372 U.S. 487 (1963)	3,
Mayer v. Chicago, 404 U.S. 189, 201 (1971)	2,

CONSTITUTION:

Fourteenth Amendment to United States Constitution..... 6,

PETITION FOR REHEARING

The undersigned *pro se* Petitioner, proceeding forma pauperis, respectfully petitions for a rehearing, following the Order of this Court entered on or around June 22, 2020, denying his Petition for Writ of Certiorari.

I. BACKGROUND SUMMARY

1. Petitioner was convicted on two misdemeanor charges and was incarcerated same day. He timely appeals his conviction, and because he could not afford the appeal filing fee, the Virginia Court of Appeals allows him to proceed forma pauperis. The cost of providing the misdemeanor transcript was never defrayed by the Respondent (Virginia government) pursuant to Virginia law, and Petitioner was indigent and thus could not timely afford the money to pay for the transcript--- he had to wait to get out of jail and look for loan from his church to pay for the transcript.

2. Transcript though was late-filed, it was still filed before his petition was reviewed and adjudicated, but the Virginia Court of Appeals refuses to make transcript part of record. Because petition was reviewed without a transcript (that contains lots of plain reversible errors), his petition was denied. Petitioner later appeals to Virginia Supreme Court, and upon swift denial to review case, Petitioner petitions this Court for writ of certiorari. It was denied around June 22, 2020, and Petitioner petitions for a rehearing.

II. GROUNDS FOR REHEARING

A. The Court should Grant Rehearing because issue hereof is issue of national importance.

(Issue of Federal Constitutional Question)

- i. Without according nationwide free trial transcript for fair appellate review to indigent Misdemeanant, like does to indigent Felon, the machinery upon which this country was founded, will be ruined.

3. A pursuit for justice was the ONLY reason upon which the creation of this country was sought and fought against arbitrary despotism of the Great Britain, and it was the focused reason upon which our constitution and 27 adopted Amendments were wrought. Hereof, the Petitioner, like millions of indigent Americans across this country, is stamped with a *permanent* criminal record, not because he committed the crimes convicted but "completely" because he could not afford the transcript with verbatim record of many reversible errors upon which were effectuated at trial. He was totally deprived and denied a fair appellate review of his petition when his untimely transcript was never made part of record by Courts below--- they were of course punishing him for being poor. Because his conviction is a permanent record, he may never find a good job for the rest of his life. So many Americans across this country are indigent and have fallen prey to same exact injustice. This has evolved to mean that "justice is now for sale" and only available to those who can afford it. It means our constitution has been hacked.

4. Importantly, this Court has been through this road before where it reverses erroneous judgment and invalidates a violative law of Illinois that deprives indigent misdemeanants "the right" to free transcript for appellate review of their trials. *See, Mayer v. Chicago, 404 U.S. 189, 196-98 (1971)* (finding state law "invalid" where it does not provide an indigent defendant access to criminal appeal through providing the transcript of relevant trial proceeding..and holds that "equal access right" should apply to felonies as well as petty offenses). But here is the problem--- the Virginia law "VA Code §19.2-165" (argued as unconstitutional in Petition for Writ of Certiorari hereof) and many state laws across this country are still "not on board" as to according free transcripts to misdemeanor indigents for fair appellate review of their trials. If this Court denies certiorari here, it will be shying away from finding this Virginia law "unconstitutional" when it has granted certiorari and found other state laws "unconstitutional" arising under same

exact discord. A denial would create atmosphere where the type of "fair trial" or "justice" an indigent gets is predicated upon the state they domicile, since denial here will leave this Virginia law with "same strength" in depriving indigent Virginians access to free transcript, unlike indigent residents of other states that this Court had granted certiorari and invalidated their laws on same issue. *E.g, Draper v. Washington*, 372 U.S. 487, 498-500 (1963) (finding a state law that distinctly disfavors an indigent defendant's ability to obtain transcript at public expense "invalid"). A denial here would also help in spreading nationwide "bedlam" against constitutional goal of guaranteeing same fundamental fairness to every American, irrespective of state of their residency, as reasoned in *Chambers*. See, *Chambers v. Florida*, 309 U.S. 227, 241 (1940) (people charged with crime must stand on an "equality" before the bar of justice in every American court).

5. Generally, all States that are still denying free transcript to indigent misdemeanants share uniform argument premised on archaic reasoning that all misdemeanor is a petty crime with a petty consequence and therefore should not be accorded provision of free transcript at government's expense, paired with watery reasoning that withholding expenses would help in furthering governmental legitimate interest in keeping economy and frugality of its spending. All these peripheral hurdles do not outbeat the defrayment of cost that ascertains "equal justice" to all Americans. This Court has held that "arbitrary denial of appellate review of proceedings of the State's lowest trial courts may save the State some dollars and cents, but only at the substantial risk of generating frustration and hostility toward its courts among the most numerous consumers of justice" *Mayer*, 404 U.S at 198. These States regrettably forget that a misdemeanor can pose synonymous (or even higher) consequences than a felony in today's world. For example, the conviction of most 'minor' misdemeanor crime can lead to deportation, denial of naturalization,

sex offender registration, vicissitude in finding a spouse, loss of public housing, loss of child custody and loss of forgiveness of some loans. In addition, criminal records are now widely available electronically, and employers, landlords, and others can readily "check anyone out". These are collateral consequences of a misdemeanor conviction and do again rationalize ground why this Honorable Court should hereof grant certiorari, reverse judgment and invalidate this Virginia Law, as did in other states.

6. The journey to achieving fair trial or fundamental fairness guaranteed under Procedural Due Process Clause is never complete until what happened at trial are "fairly" reviewed by appellate Courts in event appeal is filed, as here--- this is why we have hierarchical judiciary. And to achieve a fair review, the verbatim transcript (as opposed to statement susceptible to biased errors) needs to be timely furnished to enable the appellate tribunal have full precise understanding of what happened at trial. Its unwavering importance should make it a fundamental right, and its verbatim contents always make it an invaluable and unbeatable asset to a criminal defendant seeking justice, as one word or phrase therein can change the trajectory of an unfair verdict. In *Mayer*, Chief Justice Burger opines in pertinent part that "he quite agrees with Mr. Justice Brennan that a full verbatim record..should be provided.." *Mayer v. Chicago*, 404 U.S. 189, 201 (1971). The government thus suppose to step-in to defray the cost of it (like it does in felony) if the misdemeanant is indigent to timely afford it. All in all, the right to free transcript to misdemeanor indigent is today accelerating across the entire country, but the precedents this Court has been setting on this issue still lack "consistent clear guidelines". As the Highest Court of our land, the plenary duty still rests on this Court as to strengthening this issue and setting full nationwide "strong clear guidelines" as to circumstances upon which free trial transcript MUST

be accorded to all indigents. The Court can use granting certiorari here to set this precedent--- this would foster equal protection in administration of justice to all American region for a better nation.

(Issue of Federal Constitutional Question)

ii. In divisive nation as ours, affording indigent Misdemeanant "same" treatment afforded to indigent Felon, is not only an enforcement of Equal Protection Clause, but it fully does help in "uniting" our nation.

7. This Republic is made up of people of multifaceted backgrounds in race, religion, culture, accent, and sexual orientation. We are all one people and one nation, but we are so divided. Our criminal justice system is so polluted. As a national Court of last resort, granting certiorari here and reversing the review of the Court below that excluded the transcript and also invalidating the aforesaid Virginia law that discriminates against misdemeanor indigents, would not only be construed as enforcement of Equal Protection Clause under our federal constitution, but it would help in "uniting" the country that is so polarized and disunited. In other words, denying certiorari will help in promoting division across the country, in all fairness. How to arrive at this reasoning is by looking at the consequences that could be precipitated in denial of certiorari hereof. Because denial here totally permits this aforesaid discriminatory unconstitutional law of Virginia to keep abridging the "right to free transcript" to all misdemeanor indigent Virginians, and because this Court never denied same but rather granted certiorari and invalidated similar laws of other States, it can make any indigent misdemeanant in Virginia feel "marginalized" upon learning or noticing that similar laws were struck down in other States but not in Virginia. In other words, when every indigent in every State realizes that their law depriving them right to free transcript was struck down like did in other States, it will escalate the integrity of our judiciary and help in advancing unfeigned feeling of equalness and oneness and unity among one another in all States.

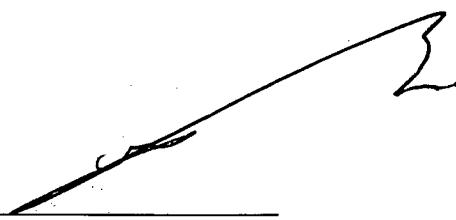
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8. The preamble provides in key part that ["We the people of United States, in other to form a more perfect union..ensure *domestic tranquility*..do ordain and establish this constitution for the United States of America"]. Fostering domestic tranquility is one of the grounds upon which the constitution was created. By granting certiorari hereof and outlawing the foregoing Virginia law that imposes duty upon indigent misdemeanor Virginians to pay for their trial transcripts, it would not only make Virginian indigents feel some sense of inward peace and tranquility that the government cares for them, but would also help in fostering nationwide domestic tranquility especially where this Court uses this opportunity to create "strong clear guidelines" on this issue to across this country. Today, George Floyd is dead from a police officer pressing leg on his neck which triggered serious protests across this country, thereby opening up the wounds and experience of racial injustice and inequality that have pervaded in this country for over 200 years ~~and~~ any grant of certiorari by this Court to reversing a serious Equal Protection violation under the constitution, as here, would honestly help in any measure in unifying the entire country. Issue here is about recognizing the right of the indigents--- but because the indigents in this country are mostly the black "the minority race" that have been seriously discriminated against due to their heritage, any invalidation of law that is depriving them their right to free transcript would help in advancing love, peace and unity in this country, as one people.

III. CONCLUSION

Based on "all" set forth above, the undersigned *pro se* Petitioner respectfully beseeches this Honorable Court to please grant him a rehearing and writ of certiorari, including answering all his prayers delineated in his petition for writ of certiorari filed on April 10, 2020.

Respectfully Submitted:


Kingsley A. Ononuju

(Petitioner/pro se)

Dated August 19, 2020

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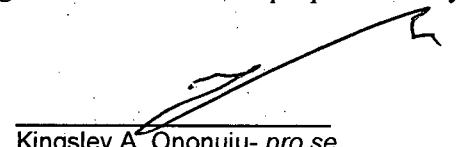
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IV. CERTIFICATE OF COUNSEL

I am my own counsel, and I sincerely believe that this petition for rehearing is meritorious and thus hereby certify that it is presented in good faith and not for purposes of any delay or deceit.


Kingsley A. Ononuju- pro se