

19-8391

ORIGINAL

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Joseph M. Coffman — PETITIONER.
(Your Name)

vs.

State of Illinois — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Illinois Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joseph M. Coffman
(Your Name)

(Address)

P.O. Box 112

(City, State, Zip Code)

Joliet, Illinois 60434

None

(Phone Number)

FILED

FEB 20 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- I. Whether the trial court erred in denying your petitioner's Motion to Suppress Statements?
- II. Whether the trial court erred in denying your petitioner's request for an involuntary manslaughter instruction?

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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OTHER

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☐ is unpublished.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☐ is unpublished.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☒ is unpublished.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 Illinois Appellate 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☒ is unpublished.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 Nov. 26, 2019.
A copy of that decision appears at Appendix A.

☐ 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 April 28, 2020 (date) on February 28, 2020 (date) in Application No. TLCA D4 No. 4-17-0115

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth, Fifth, and Sixth and Fourteenth,
Amendments of the U.S. Consti-
tution

STATEMENT OF THE CASE

On July 19, 2014 I was placed under arrest after calling 911 to get medical help because I stabbed him (Dennis Coffman) 16 times while Dennis and going down the freeway (R. 959) (R. 963; St. Ex. 65). I told officers when I was brought in that I had nothing to say til I spoke with my lawyer. I was placed on suicide watch because Officer Greenwood testified I was put on watch because one of my sisters was in fear that I might kill myself. (St. Ex. 2 at 15:30-41). I told Greenwood that I needed to talk to someone because I was having trouble feeling, that I needed to talk to somebody when he was visiting my cell on the 20th. Because I was on suicide watch I could not leave my cell. I tried to tell him I was not suicidal. Officer Greenwood visited me on the 21st as well, after being well aware of me invoking my right to remain silent on July 19th, 2014 around 4:25am. Officer Greenwood continued to visit my cell after that.

as he testified to (R. 452-58). Because I did not take the stand and testify I could not put it on record how Officer Greenwood continued to persuade me to tell everyone what happened that night each time he visited my cell. On the afternoon of July 21st I told Officer of the jail in Pike County that I wanted to talk to Greenwood. I was brought into an interrogation room (R. 448). Officer breezed through a miranda form which I signed. (St. Ex. 2 at 10:23-11:45). After a few minutes of talking to Officer Greenwood about my family, the Officer then started talking about his investigation where I fell quiet. (St. Ex. 2 at 13:05-14:40) He wanted to know then that if it happened in Missouri or Illinois. Again I fell quiet. He asked if it occurred before or after the bridge. I told him I wanted to see my lawyer before I got into that (St. Ex. 2 at 14:35-15:30) Okay and then asked if I wanted to keep on talking about my family. I told him "No sorry to get your hopes up." (St. Ex. 2 at 15:27-30) After my

third time telling Greenwood that I don't want to talk about the incident or my family who was the murder victim. Greenwood kept on questioning me. I explained that I had trouble feeling and that I needed someone to talk to. To this Greenwood replied "How can I help with that?" (St. Ex 2 at 15:45-16:03) I told him I needed someone to talk to. He told me "I'm here for you." (St. Ex. 2 at 16:15-18). It was only after the interrogation that I could talk to two members from a nearby church to get counsel. It was only after the interrogation that I could take a shower and wash off all my brother's blood. I fell silent after he told me he was here for me. He continued pushing me to talk to him in hopes of finding an opportunity to maneuver the conversation back to the offense. He asks me then, "Why don't you ask me some questions?" and "What on your heart? What's on your mind?" (St. Ex. 2 at 16:25-35).

Motion to suppress evidence filed July 28, 2015. At suppression hearing, the suppression judge denied motion. In November of 2015 Motion for a new trial was filed. Motion denied. Motion was based on court erred in denying my motion to suppress. At trial, judge allowed expert testimony from neurologist and a psychiatrist to evaluate me and prepare a report. Medical records show a TBI were in 2002 when I was 16 years old I suffered a fracture to the medial orbital wall and floor and a fracture to the medial and posterolateral wall of the maxillary antrum of my skull. In 2004 I was jumped by inmates in jail and sent to Maricopa Hospital. In 2002 I was beaten with bottles. In 2004 I was beat up by other inmates. In 2010 I suffered another TBI (traumatic brain injury) were I was struck in the head with a 2x4 in my forehead and a hammer in the back of my head. Fractures were a depressed left frontal

(R.1377)

~~left~~ skull fracture frontal and sphenoid sinus fractures, left maxillary fracture, left temporal fracture, left and right orbital fractures. I had pneumocephalus and it increased which caused a hemorrhage over the left frontal pole. I had a frontal craniotomy elevation of my depressed skull fracture, repair of a dural laceration, frontal bone repair with pericranial graft, and frontal sinus cranialization. Subsequent neuropsychological assessment showed persistent difficulties, with mild improvement at the three month follow-up but worsening function at the eighth month follow-up. I visited the emergency room on Jan. 8, 2013 because of headaches. A CT scan revealed Frontal encephalomalacia ^(R.1381) (deterioration of brain tissue). Of _(caused by disease encephalopathy) the three TBI's I've had in my ~~life~~ ~~life~~ life they all affected my left frontal lobe. Everybody's right-handed. This area of the brain controls decision-making, impulse-~~control~~ control, emotions, your ability to ~~evaluate~~ evaluate the consequences of your actions ahead

(R.606-08,1342) (R.1376-78,1382,1384-85)
of time, like stabbing your own brother while he's driving down
the freeway because he tells you, your sister was loose the night he
knows you know he raped her. On top of the neurologist's
testimony was the psychiatrist's report who after examined me and
found me to have (PTSD) and possible dissociative disorder. All
the facts combined supported a finding that I acted recklessly, but
but the judge declined to issue an involuntary manslaughter
instruction. This court may review this preserved issue where ~~the~~
my counsel requested an involuntary manslaughter instruction
and challenged the trial's denial of her request in a post-trial
motion (C.267,310; R.1428) ~~and~~. Motion for ~~reconsideration~~ ^{a new trial} was
filed November 18th of 2016. Motion was denied. Motion for new
trial was based on the court erred in not granting my counsel's
request on jury instructions was submitted to the court to be
given to the jury for their determination which were

denied. As well as based on a denial of ~~an~~ motion to suppress. Motion was denied in proceedings held on January 26, 2017. Same Day at the same hearing a motion reconsider sentence that was filed November 18, 2016 was also denied.

REASONS FOR GRANTING THE PETITION

~~July~~ July 19, 2014, Petitioner was placed on suicide watch. Because some family member claimed I might kill myself. A fake pretense no doubt. After invoking Right to Remain Silent. Petitioner could not take shower, could not talk to counsel in proper setting, and had to sleep on floor. After 2 days of sleeping on floor covered in blood still, with no one to talk to, I felt lost and worthless. After Officer Greenwood's third friendly conversation slash indirect attempt to get me interrogated I requested to speak with him later on the day of July 21, 2014. I saw though that Officer Greenwood wanted to talk about the incident. I informed him I did not want to talk about it until I saw or without counsel. The United States and Illinois Constitutions both enshrine "an individual's right not to be a witness against himself" *People v. Hernandez*, 362 Ill.

App. 3d 779, 785 (1st Dist. 2005) (citing U.S. Const. amend. V, and Ill. Const. 1970 art I, § 10. To protect that right and others, police must warn a suspect at the beginning of a custodial interrogation that he "has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he if he so desires." *Miranda v. Arizona*, 384 U.S. 436, 479 (1966).

If the defendant indicates in any manner prior to or during questioning, that he wishes to remain silent, questioning must cease. *People v. Edwards*, 144 Ill. 2d 108, 137-42 (1991); *People v. Henenberg*, 55 Ill. 2d 5, 10-12 (1973) (citing *Miranda* 384 U.S. at 444-45)); ^{*People v. 2*} *Flores*, 2014 IL App (1st) 121786, at ¶ 37. Once silence is invoked, "interrogation may be resumed...."

only if the suspect's right to remain silent was scrupulously honored." *People v. R.C.*, 108 Ill. 2d 349, 353 (1985) (quoting *Michigan v. Mosley*, 423 U.S. 96, 103-04 (1975)). The failure to scrupulously honor a request to remain silent renders any subsequent statements inadmissible. *R.C.*, 108 Ill. 2d at 353; *Mosley*, 423 U.S. at 96; *Hernandez*, 362 Ill. App. 3d at 786. Here, police failed to scrupulously honor my invocations of my constitutional rights. In evaluating whether a suspect's right to silence was scrupulously honored, courts consider multiple factors, including whether: (1) police immediately halted the interrogation after the initial invocation; (2) a significant amount of time elapsed between the interrogations; (3) a fresh set of Miranda warnings was given before the second interrogation; (4) the second interrogation involved a different crime; (5) the second interrogation took place in a different location; and (6) the second interrogation was conducted by different officers. *Mosley*, 423 U.S. at 13.

105-06; *Hernandez*, 362 Ill. App. 3d at ¶ 786; *R.C.*, 108 Ill. 2d 354; *Flores*, 2014 IL App (1st) 121786 at ¶ 58. Application of these factors to the facts of this case establishes that police violated my rights.

• At trial the judge allowed expert medical testimony from neurologist and reviewed medical records relating to a traumatic brain injury suffered in (2004) and (2010). Both (TBI's) causing huge bruises to the brain, specifically to the left frontal lobe which were known to cause impairment in decision-making and impulse control. (R. 606-08, 1342-43). Testimony supporting a finding that I acted recklessly. (R. 1376-78, 1382, 1384-85). Judge in trial declined to issue a involuntary manslaughter instruction erroneously finding the commission of deliberate acts inconsistent with a reckless mental state. (R. 1437) In doing so the trial judge deprived the jurors the opportunity to decide on an involuntary manslaughter. As well as depriving me of due process and violating my right to a fair jury trial. Defense counsel preserved issue in post-trial motion.

(C.267, 310; R.1428). Trial judge's denial of a request for a lesser-included instruction is reviewed for an abuse of discretion. *People v. McDonald* 2016 IL 118882, ¶42. A criminal defendant's constitutional rights to a jury trial to a meaningful opportunity to present a defense, and to due process depend upon the right to have the jury fully and properly instructed on the law applicable to the defendant's theory of the case. U.S. Const. amends. V, VI, XIV; Ill. Const. 1970, art. I, §§2, 8, 13; *Holmes v. South Carolina*, 547 U.S. 319 (2006); *Beck v. Alabama*, 447 U.S. 625, 634-37 (1980); *People v. DiVincenzo*, 183 Ill. 2d 239, 249 (1998) (overruled on other grounds). Thus, a lesser-included instruction is warranted if "there is some evidence in the record that, if believed by a jury, will reduce the crime charged to a lesser offense[.]". *McDonald*, 2016 IL 118882 at ¶25. Providing instructions on a defense supported by evidence "enables the jury to use the applicable law in making a full and fair evaluation of the competing theories[.]". *People v. Lockett*, 339 Ill. App 3d 93, 101 (1st Dist. 2003). In this case, the State prosecuted me on one count of intentional first-degree murder and the defense requested a jury

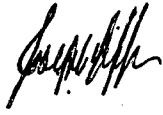
instruction on the lesser-included offense of involuntary manslaughter. (C.26; R.1428, 1435); see also *McDonald*, 2015 IL 118882 at ¶ 51 (recognizing involuntary manslaughter is a lesser-included offense of intentional or knowing murder). A defendant is reckless when he consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow.] "720 ILCS 5/4-6(2014); *DiVincenzo*, 183 Ill.2d at 250. Thus, a defendant may act ~~re~~ recklessly where he commits deliberate acts but disregards the risks of his conduct." *People v. Jones*, 404 Ill.App 3d 734, 744 (1st Dist. 2010) (citing *DiVincenzo*, 183 Ill.2d at 252). The record here in my case contains plenty of evidence indicating I committed deliberate acts without regard for the consequences. §

- For the violation of my constitutional right to remain silent and to counsel, for the violation to a fair jury trial and due process. I pray that this Court grant certiorari so that others that go before the ~~the~~ Circuit Court of the Eighth Judicial Circuit in

and other Judicial Courts like may have a fair and just chance at fighting their case. I respect the Honorable Judge Diane M. Lagoski but I feel these decisions that she made were prejudicial and in violation of my constitutional rights that all Americans have. So I pray that this court might grant my/this Writ of Certiorari and bring my charge of First Degree Murder down to an Involuntary Manslaughter. If not overturning my conviction, ~~than~~ than granting me a new trial so that I may have a fair chance.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted, 

Joseph M. Coffman

Date: February 19, 2020

Resubmitted, April 16 2020