

In THE SUPREME COURT
OF THE UNITED STATES

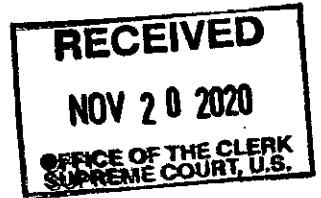
ANTHONY S. TWITTY,
Petitioner
VS.
BARRY SMITH,
Respondent

NO. 19-84446

PETITION FOR REHEARING

NOW COMES THE PETITIONER PRO-SE, AND DO HEREBY PRESENT HIS PETITION FOR REHEARING IN GOOD FAITH AND NOT FOR DELAY, AND AVER THE FOLLOWING:

1. Petitioner filed in this Court his Writ Of Certiorari on April 27, 2020, after being denied any relief from The U.S. District Court for the Eastern District of Pennsylvania. Petitioners Appeal to U.S. Third Circuit Court of Appeal was denied December 2, 2019 without hearing. Petitioner then filed his Petition for rehearing which was denied January 31, 2020. Both the U.S. District Court and the U.S. Court of Appeals denied Petitioner a Certificate of Appealability.
2. On October 5, 2020 my Petitioner for Writ Of Certiorari was denied by this court.
3. Petitioner fairly presents claims that warrants relief Under Extraordinary Circumstances. and a fundamental miscarriage of justice. The petitioner always had a Constitutional Right To A Fair Trial, related to Hypothetical jury instructions Regarding Reasonable doubt: The requirement that a criminal conviction be based upon proof beyond reasonable doubt has its roots in the due process clause of the Fourteenth Amendment and. In re Winship, 397 U.S. 358, 363-64, 90 S. ct. 1068, 25 L. Ed 368 (1970). An inadequate reasonable doubt instruction violates due process because the government must prove beyond reasonable doubt ever element of a charged offense. In re Winship id. Not every Constitutional error in a trial requires reversal. See Chapman V, California, 386 U.S. 18, 87 S. ct. 824, 17 L. Ed. 2d 705 (1967).



However, if the jury instructions on reasonable doubt is Constitutionally deficient, the defects can never be harmless, because the instruction underlies every decision the jury makes. *Sullivan V. Louisiana*, 508 U.S. 275, 113 S. Ct. 2078, 124 L. Ed. 2d. 182 (1993)

In Appellate Courts, prior counsel, in related cases could no determine that Judge Hughes instructions were flawed and Unconstitutional. It would be a great hardship and disparity to place such a burden on the petitioner! Basil Brooks id.

4. Under Martinez, *id.*, "a procedural default will not bar a federal habeas court from hearing a substantial claim of ineffective assistance at trial, if in the initial review collateral proceedings, counsel in that proceeding was ineffective." *Martinez V. Ryan* , 556 U.S. at 14, S. Ct. 1309; see also *Richardson V. Superintendent SCI Coal Township* , 905 F. 3d 750, 762 (3rd Cir. 2018). Petitioner contends that his PCRA counsel Sonjai Weaver, Esq. Was also ineffective for failing to raise trial counsel Kristin Quinn, Esq. ineffectiveness for failure to object to an improper jury instruction. *Strickland V. Washington*, 466 U.S. 668, 104 S. Ct.2052, L. Ed. 2d (1984) And because the issue is of such great importance, and the question of counsel is crucial to the ineffective assistance of counsel standard, counsel's Knowledge of the instruction at the time, and his denial of a Constitutionally fair Trial. In the interest of justice under these circumstances warrants this court's supervisory power.

5. Several court's of appeal have reached the conclusion that a 60 (b)(4) motion can never be untimely. This reflects the basic premise that no passage of time can render a void judgement valid, and a court may always take cognizance of a judgement void status whenever a rule 60(b) motion is brought. *U.S. V. One Toshiba Color Television*, 213 F. 3d 147, 157 (3rd. Cir 2000). In fact the court of appeals found that delay of ten years in bringing a 60(b), or 60(b)(4) motion did not bar consideration of the request on the merits. See *Christian V. Newfound Bay*, 103 Fed. Appx. 447, 449 (3rd Cir. 2004).

These factors give rise to a debatable question, rule 60(b) is extraordinary, and creates a special circumstance that would justify granting relief. Petitioner aver that this request for Rehearing will be in aid of the court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the court's discretionary power, and that adequate relief cannot be obtained in any other form or from any other court.

CERTIFIED STATEMENT

I, Anthony S. Twitty, do hereby certify that I am presenting this petition in good faith and not for delay

Date: November 9, 2020

CC. FILED

RESPECTFULLY SUBMITTED



ANTHONY S. TWITTY PRO-SE

INST # FM-4476

P.O. BOX 1000

HOUTZDALE, PA. 16698-1000

WHEREFORE PETITIONER PRAYS THAT THIS HONORABLE COURT
WILL GRANT THIS PETITION FOR REHEARING

CERTIFICATE OF SERVICE

I, ANTHONY S. TWITTY, Do hereby certify that I am this day serving upon the clerk/Prothonotary of The United States Supreme Court my Petition For Rehearing for filing and distribution.

I am Also Serving a true copy upon the following:

To: District Attorney Office
Tree South Penn Square
Philadelphia, Pa. 19107

DATE. November 9, 2020
CC. FILED

RESPECTFULLY SUBMITTED

Anthony Twitty

ANTHONY S. TWITTY PRO SE
INST # FM-4476

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