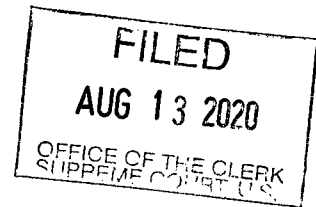


20-5468

No. 7

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

Corey L. Manning — PETITIONER  
(Your Name)

vs.

State of Michigan — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

3rd Judicial Circuit Court (Wayne County)

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

PETITION FOR WRIT OF CERTIORARI

Corey L. Manning (#251889)  
(Your Name)

Muskegon Corr. Fac., 2400 S. Sheridan Dr.  
(Address)

Muskegon, Michigan 49442  
(City, State, Zip Code)

N/A

(Phone Number)

## QUESTION(S) PRESENTED

- 1.) WHETHER DEFENDANT-APPELLANT WAS DENIED HIS CONSTITUTIONAL RIGHT TO BE PRESENT AT ALL CRITICAL STAGES OF TRIAL WHERE HE WAS INTENTIONALLY NOT SUMMONED BY THE TRIAL JUDGE TO APPEAR IN COURT IN PERSON?
- 2.) WHETHER THE STATE COURT ERRED IN CONCLUDING THAT DEFENDANT-APPELLANT WAS COMPETENT TO STAND TRIAL WHERE THE DOCTOR CONDUCTING THE TESTING ADMITTEDLY FAILED TO CONDUCT COMPLETE TESTING OF DEFENDANT-APPELLANT?
- 3.) WHETHER THE STATE COURT'S ADJUDICATION OF DEFENDANT-APPELLANT'S CLAIMS VIOLATED PRECEDENCE SET BY THE UNITED STATES SUPREME COURT WHERE a) AN ACCUSED HAS THE RIGHT TO BE PRESENT AT ALL CRITICAL STAGES OF THE TRIAL WHERE HIS ABSENCE MIGHT FRUSTRATE THE FAIRNESS OF THE PROCEEDINGS, b) WHERE THE TRIAL STATED THAT TESTING WAS NECESSARY UPON THE SHOWING IN THIS CASE THAT DEFENDANT MAY BE INCOMPETENT, THUS ESTABLISHING THAT THE COURT HAD A BONA FIDE DOUBT AS TO DEFENDANT-APPELLANT'S COMPETENCY TO STAND TRIAL, AND c) WHERE THE STATE COURT FAILED TO OBSERVE PROCEDURES ADEQUATE TO PROTECT DEFENDANT-APPELLANT'S RIGHT NOT TO BE TRIED OR CONVICTED WHILE INCOMPETENT TO STAND TRIAL?

## 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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# TABLE OF AUTHORITIES CITED

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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 ~~2020 Mich. App. 5760~~ \_\_\_\_\_; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

The opinion of the <sup>MI</sup> Michigan Court of Appeals court appears at Appendix B to the petition and is 5760

☒ reported at People v. Manning, 2019 Mich. App. LEXIS 5760  
☐ 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**:

App. denied 3/27/20

The date on which the highest state court decided my case was ~~recon denied~~ 7/28/20  
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: 7/28/20, and a copy of the order denying rehearing appears at Appendix D.

☐ 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

This case involves application of the 14th Amendment to the United States Constitution.



# STATEMENT OF THE CASE

Defendant-Appellant, Corey L. Manning, was convicted by a jury of two counts of first degree murder, MCL 750.316-A, MSA 28.548; assault with intent to do great bodily harm less than murder, MCL 750.84, MSA 28.279; first degree home invasion, MCL 750.110A-2, MSA 28.305; and felony firearm, MCL 750.227, MSA 28.424 before the Honorable Wendy M. Baxter in the Recorder's Court for the city of Detroit, now called the Third Judicial Circuit Court for the county of Wayne. On September 25, 1996 he was sentenced to two terms of life without the possibility of parole, 6 to 10 years, 10 to 20 years, and a mandatory 2 years, respectively.

The prosecutor's theory of the case was that on October 11, 1995 Defendant struck the complainant, Jameaka Davis. She told him that she did not want to see him anymore, but that Defendant was not going to take "no" for answer. On October 12, 1995, at 4:30am Defendant entered a home on Sheridan street where Davis was staying. Before he entered the house, he recruited his "crew" to accompany him to the house. The three men went to the house, forced the door open, and began shooting. During the incident, Defendant was allegedly heard telling the others to shoot everyone in the house. The only thing that ended the incident was the fact that Defendant ran out of bullets. The prosecutor further stated that Defendant was the leader and that he wanted revenge because Davis wanted to live her life.

During this incident, Yvette Fulton was shot several times and killed. Witness Edward Burrell was shot in the lower left side of his abdomen.

On November 6, 1995, during one of Defendant's preliminary examination hearings there was a disruption in the courtroom that led to Defendant being removed from the courtroom. Several minutes later there was a disturbance in the cell-block which prompted defense counsel to orally motion the court for an evaluation by the clinic. (Preliminary Examination Transcript, pg. 27)(Appendix E). The Magistrate Judge, Theresa Doss, denied the motion. (pg. 29).

On December 1, 1995, defense counsel made another request to have Defendant evaluated by the Recorder's Court Clinic. (Arraignment on the Information Tx., pg. 3)(Appendix F). The trial court granted the motion and issued a written order. (pg. 5).

Defendant was evaluated at the Recorder's Court Clinic by Dr. Sandra K. Paige on January 25, 1996, and a report was generated on January 31, 1996, in which Dr. Paige found Defendant competent to stand. No statutorily required hearing was held on the report and the report was never entered on the record. At a Special Pretrial hearing held on March 8, 1996, the State's Attorney, Robert Pearl, informed the court that Dr. Paige no longer worked at the clinic, and "that there have been some difficulties in bringing her in and so on." Mr. Pearl requested that the court order Defendant evaluated by the Center for Forensic Psychiatry (C.F.P.). (Special Pretrial Tx., pg. 10-11)(Appendix G).

On April 18, 1996, trial Judge Wendy M. Baxter issued an order stating that "Upon the showing in this case that the Defendant may be incompetent to stand trial, IT IS ORDERED that defendant shall undergo an examination, relating to the issue of competency to stand trial, by the Center for Forensic Psychiatry." (Evaluation Orders for Competency to Stand trial, Criminal Responsibility and Diminished Capacity)(Appendices H and H1).

Defendant was transported to the C.F.P. in Ypsilanti, Michigan, where he underwent an evaluation by Dr. Stephen A. Norris on May 22, 1996. Defendant was never returned to the C.F.P. to complete the testing.

On June 7, 1996, Defendant was required to be present at a continuation of an evidentiary/Walker hearing. (Appendix I).

On June 19, 1996, Dr. Norris authored several reports; competency to stand trial, competency to waive Miranda rights, diminished capacity, and criminal responsibility. However, Dr. Norris did not submit these reports until July 23, 1996, well after the statutory time limit of 60 days. It was his professional opinion that

Defendant was competent to stand trial, competent to waive his Miranda Rights, not suffering from diminished capacity, and criminally responsible for his actions. Dr. Norris came to these conclusions without having completed the requisite testing.

A competency hearing was held on August 2, 1996. Trial judge Wendy M. Baxter failed to order the Defendant out to be present at the hearing. Trial counsel was asked by Judge Baxter whether he would waive Defendant's presence, to which he answered in the affirmative. Defense counsel then went on to waive Defendant's defense and stated that Defendant no longer wanted to raise the issue of competency. The trial court then went to find Defendant competent to stand trial. (appendix J)

Defendant's trial began on August 26, 1996. At the beginning of the trial, Michael F. Sapala, who was filling in for Judge Baxter during *voire dire*, admonished Defendant that if there were any disruptions from him he would be shackled to a chair. Defendant was subsequently found guilty. The defense did not offer any defense to the charges.

At sentencing, after being given an opportunity for allocution, Defendant attempted to grab an officer's weapon, hoping to be shot and killed: "Suicide by Cop".

Defendant is currently serving time on the remaining life sentences, having completed all other sentences.

## REASONS FOR GRANTING THE PETITION

Defendant was placed on trial while incompetent. After making the initial determination that there had been a showing that Defendant may be incompetent to stand trial, the trial judge accepted the findings of the forensic psychologist, Dr. Norris, who admittedly did not complete the testing. Additionally, Defendant's right to be present at ALL critical stages of the trial process was denied when the trial intentionally failed to have Defendant brought to the courtroom for the competency hearing.

Defendant tested on May 22, 1996. However, only a portion of the testing was completed. Defendant was supposedly scheduled to return to complete the testing. Defendant had no knowledge of when this testing would be done.

On June 7, 1996 Defendant was scheduled to appear in court for an evidentiary hearing. Court record's show that Defendant was present at court on that day. Ironically, this is the same day that Defendant was scheduled to return to the Forensic Center to complete testing.

According to documents received from the Forensic Center, an anonymous deputy at the Wayne County Jail informed C.F.P. staff that Defendant had stated that he would not return to complete the testing. (Addendum to Competency Report)(Appendix ~~K~~. ased on this information Dr. Norris considered the Defendant to have voluntarily absented himself and therefore he concluded that based on Defendant's failure to cooperate that Defendant was competent to stand trial. The error in this approach is that Defendant was in the custody of the Wayne County Sheriff's Department and had no control over transportation, nor was he privy to any information with regards to the transportation of prisoners from one place to another as this would be a breach of security.

Accordingly, the findings of the doctor as relating to competency to stand trial, competency to waive Miranda rights, diminished capacity and criminal responsibility were made prematurely and as a result Defendant was placed on trial.

without a defense and while incompetent, thus violating his Due Process Rights.

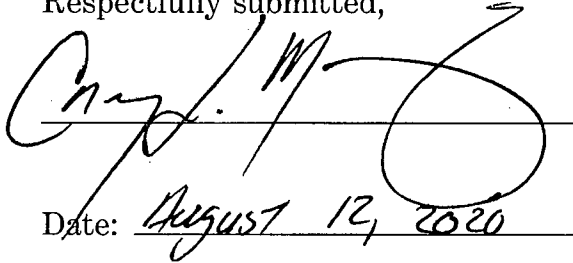
It is well established that the Due Process Clause of the Fourteenth Amendment prohibits the criminal prosecution of a defendant who is not competent to stand trial. *Medina v. California*, 505 U.S. 437, 438; 112 S.Ct. 2572, citing *Drope v. Missouri*, 420 U.S. 162; 95 S.Ct. 896; and *Pate v. Robinson*, 383 U.S. 375; 86 S.Ct. 836. The rule that a criminal defendant who is incompetent should not be required to stand trial has deep roots in our common-law heritage. It is recognized that a defendant has a constitutional right not to be tried while legally incompetent, and that a state's failure to observe procedures adequate to protect a defendant's right not to be tried or convicted while incompetent to stand trial deprives him of his Due Process right. *Medina*, supra. at 449.

The right to personal presence at all critical stages of a criminal trial is a fundamental right of each criminal defendant. *Rushen v. Spain*, 464 U.S. 114; 104 S.Ct. 453. It is essential to Due Process of Law in a fair adversary process that an accused have the right (1) to be present at all critical stages of the trial where his absence might frustrate the fairness of the proceedings. *Faretta v. California*, 422 U.S. 806; 95 S.Ct. 2525. A competency hearing is unanimously considered a critical stage. *Van v. Jones*, 332 F.3d. 430, 438 (6th Cir. 2003). In the present case, the successor trial judge has already acknowledged that Defendant has a right to be present at the competency hearing and that he was not.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

  
Date: August 12, 2020