

No. 20-6829

IN THE
SUPREME COURT OF THE UNITED STATES

JOSEPH J. BUTTERCASE,

Petitioner,

v.

STATE OF NEBRASKA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE NEBRASKA SUPREME COURT

CORRECTED PETITION FOR REHEARING

Joseph J. Buttercase #76999
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PRO SE PETITIONER

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SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

CORRECTED PETITION FOR REHEARING

Pursuant to Rule 44 of this Court, Petitioner Joseph J. Buttercase respectfully prays this Court to grant rehearing of this Court's February 22, 2021 order. **Buttercase v. Nebraska**, No. 20-6829, 2021 WL 666720 (U.S. Feb. 22, 2021). This petition for rehearing calls this Court's attention to intervening circumstances of a substantial or controlling effect and to other substantial grounds not previously presented.

In support of this petition, Petitioner submits the following:

1. This case involves the challenge by Petitioner for postconviction relief of his state convictions and sentences. Our country has seen first hand that false accusations of sexual assault or misconduct, such as in Petitioner's case, can destroy a person's good name, reputation, and life in the blink of an eye. The news media will typically prosecute allegations of sexual assault with fake news during pre-trial coverage and the accused's presumption of innocence will disappear. This Court in **Marshall v. United States**, 360 U.S. 310 (1959), set aside a federal conviction "where the jurors were exposed 'through news accounts' to information that was not admitted at trial." (emphasis added).

2. Petitioner Joseph J. Buttercase was tried and sentenced before a biased judge that had a conflict of interest in the case because he knew the alleged victim. There is newly discovered evidence presented to the lower state courts that supports a significant bias of the trial judge for "favoritism or

antagonism as to make a fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994). Furthermore, two jurors from Petitioner's trial had already formed opinions at the voir dire prior to the commencement of trial. "The theory of law is that a juror who has formed an opinion cannot be impartial." *Irwin v. Dowd*, 366 U.S. 717, 722 (1961).

3. Due process requires that a prisoner's claim of actual innocence receive much more thorough and careful scrutiny and a hearing; where the prosecution suppressed material exculpatory and impeaching evidence from the defense, complex scientific issues surrounding the DNA results that are difficult for laymen and judges to grasp, and the defendant is not afforded a fair trial before an impartial judge and jury are involved.

4. The Nebraska Supreme Court (without a full court) decided the important federal constitutionality of the Nebraska Postconviction Act question in such a manner that so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory powers (Appendix A, pp.44-46). The lower state courts' denial of postconviction relief to Petitioner Buttercase undermines the integrity of our criminal justice system and, if left undisturbed, will result in a fundamental miscarriage of justice. This Court should reconsider its denial of certiorari in this case.

CONCLUSION

For the foregoing reasons, Joseph J. Buttercase respectfully requests that this Court grant rehearing and set aside the order denying the petition for a writ of certiorari to the Nebraska Supreme Court.

Respectfully submitted,


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March 30, 2021

CERTIFICATE OF PETITIONER (RULE 44)

I hereby certify that this Petition for Rehearing from the denial of certiorari is presented in good faith and not for delay, and that it is restricted to the grounds specified in Rule 44.2, namely intervening circumstances of substantial or controlling effect and other substantial grounds not previously presented.

Executed on March 30, 2021.



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