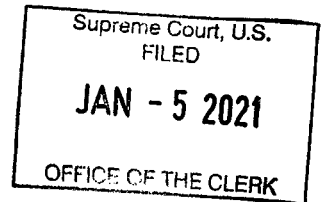


No. 20-6996

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES
Washington, Dc



Delroy T. Booth — PETITIONER
(Your Name)

vs.

Walter Berry — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court, Atlanta Division
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Delroy T. Booth
(Your Name)

Johnson State Prison
P.O. Box 344
(Address)

Wrightsville, Ga 31096
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Is a certified out-of-court social security letter considered to be clearly testimonial in nature as a statement in order to prove a fact at a Defendant's criminal trial?
2. By the Court Reporter Reading the out-of-court Certified Social Security letter During Jury Deliberation, Did that violate the Continuing testimony Rule?
3. The testimony of the Substitute Court Reporter Reading the out-of-court Certified Social Security letter From Baltimore, Maryland Did that satisfy the Right to Confrontation?
4. Does an out-of-court Certified Social Security letter From Baltimore, Maryland Rank as testimonial For purposes of the Sixth Amendment's Confrontation Clause?
5. Can the Prosecution introduce such a certified out-of-court Social Security letter without offering a live witness competent to testify to the truth of the statements made in the certified Social Security letter?
6. Can the Prosecution introduce it against an Accused at trial unless the witness who made the statement is unavailable and the Accused has had a prior opportunity to confront that witness?
7. Does the Sixth Amendment's Confrontation Clause confer upon an Accused in all criminal prosecutions the right to be confronted with the witnesses against him?
8. If an Social Security Administration Certification letter Prepared in connection with a criminal investigation or Prosecution is testimonial, Is it therefore within the compass of the Confrontation Clause?
9. Does a certified out-of-court social security statement letter

9. Have to Have a Primary Purpose of establishing or Proving Past events Potentially Relevant to later Prosecution?
10. Does a staff member who writes out-of-court Certified Statements, Does that Staff Member Have to Be Available For Confrontation even if they Possess the Scientific Acumen of MME, Curie and the Veracity of Mother Teresa?
11. Does a Document Created Solely For an evidentiary Purpose Made in aid of a Police investigation Ranks as testimonial For purposes of the Confrontation Clause?
12. Documents May Be Admitted at trial Despite their Hearsay Status, Is that the case if the Regularly Conducted Business Activity is the Production of evidence For use at trial?
13. The Certified Social Security letter From Baltimore, Maryland Ranks As a certificate, Is that out-of-court certificate considered to Be in the Form of an Affidavit?
14. Did that out-of-court certification letter Fall within the core class of a testimonial statement Covered By the Confrontation Clause?
15. Would that certification letter have led an objective witness Reasonably to Believe that the certification letter From Baltimore, Maryland was made For use in a Criminal trial?
16. Does the Confrontation Clause Restrict the introduction of out-of-court statements which are those in State Actors are involved in a Formal, out-of-court Certified Social Security letter of a witness to obtain evidence For trial?
17. Introduction of an out-of-court Certified Social Security letter that Results as an statement at trial, Can that Be unfair to the Accused if the out-of-court certification letter is untested By cross Examination?
18. Whether Formal or informal, Can out-of-court Certified

18. Statements evade the Basic objective of the Confrontation clause?
19. The out-of-court certification letter was introduced as Exhibit #2, Did that make that Administration Staff member From Baltimore, Maryland a witness?
20. Did Petitioner have the right to confront the witness From the Social security office in Baltimore, Maryland?
21. Does the Prosecution Bear the Burden of proof in a Criminal Trial?
22. Does the Confrontation Clause impose a Burden on the Prosecution to present it's witnesses, And not on the Defendant to Bring those Adverse witnesses into Court?
23. Could Petitioner's trial Counsel have Been able to Ask questions Designed to Reveal whether in competence, evasiveness or Dishonesty or any Reasons For not wanting to show up at Petitioner's trial to testify about your out-of-court certification letter that was Admitted into evidence as Exhibit #2?

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:

RELATED CASES

Bullcoming v. New Mexico, U.S. 131 S.Ct 2705, 180 L.Ed, 2d 610 (2011)

Melendez v. Massachusetts - *Petitioner Does not have the case number, But it's a United States Supreme Court Case*

Bryant v. Michigan - *Petitioner Does not have the case number, But it's a United States Supreme Court Case*

Pointer v. Texas - *Petitioner Does not have the case number, But it's a United States Supreme Court Case*

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A - Supreme Court of Georgia

APPENDIX B State Habeas Court

APPENDIX C Federal Habeas Court

APPENDIX D Court of Appeals For The Eleventh Circuit

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Bullcoming v. New Mexico, U.S. 131 S.Ct 2705, 180 L.Ed, 2d 610 (2011)
Melendez v. Massachusetts - Petitioner does not have the Case
number But it's a united states supreme Court Case.
Bryant v. Michigan - Petitioner does not have the Case number,
But it's a united states supreme Court Case.
Pointer v. Texas - Petitioner does not have the Case number, But
it's a supreme Court of the united states Case.

STATUTES AND RULES

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 D to the petition and is Dismissed Because of Default, Pursuant to Eleventh Circuit rule 42-1(b)
☐ 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 C to the petition and is
☒ reported at 1:20-cv-00423-At-JKL, Booth v. Berry; 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 Booth v. State, S17A0705; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Supreme Court of Georgia court appears at Appendix A to the petition and is
☐ reported at Booth v. State S17A0705; 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 _____, Case was Dismissed Because of Default, Pursuant to Eleventh Circuit Rule 42-1(b)

☒ 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 11-18-2019. A copy of that decision appears at Appendix B. *Petitioner Does not Have copy of that order, But it's Stated in Appendix C.

☐ 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 _____ (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

Pursuant to the Bill of Rights and Amendments to the U.S. Constitution, Amendment VI States: In all Criminal Prosecutions, the Accused shall enjoy the Right to a Speedy and Public trial, By an impartial Jury of the State and District wherein the Crime shall have Been committed, which district shall have Been previously Ascertained by law, and to Be informed of the nature and cause of the Accusation, to Be confronted with the witnesses Against Him, to have compulsory Process for obtaining witnesses in his favor, and to have the Assistance of counsel for his Defense.

STATEMENT OF THE CASE

Ground one: Judicial and prosecutorial Misconduct
Support Facts and Fact Finder:

The trial court in the state of Georgia, committed a confrontation clause violation by allowing the state to admit a certified social security letter as Exhibit #2 without testimony by a social security administration staff member who lives in the state Baltimore, Maryland. Facts - pursuant to the Bill of Rights and Amendments to the U.S. Constitution, Amendment VI states: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district where in the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Facts - pursuant to O.C.G.A. 17-8-58(b),
A party fails to object to a jury charge, the court is supposed to review the issue for plain error pursuant to O.C.G.A. 17-8-58(b). First, there must be an error or defect - some sort of deviation from a legal rule - that has not been intentionally relinquished or abandoned, affirmatively waived by the appellant. Second, the legal error must be clear or obvious rather than subject to reasonable dispute. Third, the error must have affected the appellant's substantial rights, which in the ordinary case means he must demonstrate that it affected the outcome of the trial court proceedings. Fourth and finally, if the above three prongs are satisfied the appellate court has the discretion to remedy the error, discretion which ought to be exercised only if the error seriously affects the

Fairness, integrity or Public Reputation of Judicial Proceedings.

Summary of the Argument -

The certified Social Security letter by the Social Security Administration staff member in Baltimore, Maryland was clearly testimonial in nature as a statement made in order to prove a fact at Petitioner's criminal trial. The reading of the certified Social Security letter by the court reporter during jury deliberations, by reading the letter to the jury clearly violated the continuing testimony rule because the court reporter did not read the certified Social Security letter during Petitioner's actual trial. At the beginning of trial the prosecutor placed the certified Social Security letter on the projector screen while questioning the victim's mother so the jury could take notes on the certified Social Security letter from the Social Security Administration staff member from Baltimore, Maryland. The testimony of the substitute court reporter during jury deliberation phase was a violation. The court reporter did not create, research, observe the victim's so-called disability medical profile that had a lot of conflict issues throughout Petitioner's actual trial. By the court reporter reading the certified Social Security letter to the jury during jury deliberation did not satisfy the right to confrontation.

Facts - A certified Social Security letter ranks as testimonial purposes of the Sixth Amendment's confrontation clause. The certified letter had been created specifically to serve as evidence in a criminal proceeding. Absent stipulation, the prosecution may not introduce such a certified out-of-court Social Security letter from an Social Security Administration staff member who lives in Baltimore, Maryland without offering a live witness competent to testify to the truth of the statements made in the certified Social Security letter.

Facts - As a rule, if an out-of-court statement is

Testimonial in nature, It may not Be introduced Against an Accused at trial unless the witness who made the statement is unavailable and the Accused has had a Prior opportunity to Confront that witness.

Facts - The Sixth Amendment's Confrontation Clause Confers upon An accused in all Criminal Prosecutions the Right to Be confronted with the witnessess Against him.

Facts - An Social Security Administration Certification letter Prepared in connection with a Criminal Investigation or Prosecution is testimonial, and therefore within the compass of the Confrontation clause.

Facts - For Purposes of the confrontation clause, to rank as testimonial a statement must have a primary Purpose of establishing or Proving Past events Potentially relevant to later Criminal Prosecution. Business and Public Records are generally Admissible Absent Confrontation Because having Been created For the Administration of an entity's affairs and not For the Purpose of establishing or Proving some fact at trial. They are not testimonial.

Facts - Social Security Administration staff members who writes Certified Social Security statements that the Prosecution Introduces At a Criminal trial must Be Available For Confrontation even if they Possess the Scientific Acumen of MME. Curie and the veracity of Mother Teresa.

Facts - A Document created solely For an Evidentiary Purpose Made in aid of a Police investigation Ranks as Testimonial For Purposes of the Confrontation clause.

Facts - Documents kept in the Regular course of Business may Ordinarily Be Admitted At trial Despite their Hearsay Status. Federal Rule of Evidence 803 (b). But that is not the case if

The Regularly Conducted Business Activity is the Production of Evidence For use at trial.

Facts-The Certified Social Security letter From Baltimore, Maryland ranks as a certificate which is in the Form of an Affidavit, which Fell Within the core class of a testimonial statement covered By the Confrontation Clause, and that certified letter From the Social Security office in Baltimore, Maryland was made under circumstances which would have led an objective witness Reasonably to Believe that the Certified Social Security letter From Baltimore, Maryland was made For use in a criminal trial.

Facts-The most important instances in which the Confrontation Clause restricts the introduction of out-of-court statements are those in which state actors are involved in a formal, out-of-court certified social security letter of a witness to obtain evidence for trial. Introduction of an certified social security letter that results as an statement at trial can be unfair to the accused if the certified social security letter is untested by cross examination. Whether formal or informal out-of-court statements can evade the basic objective of the confrontation clause, which is to prevent the accused from being deprived of the opportunity to cross examine the social security administration staff member from Baltimore, Maryland about her certified social security statement taken for use at trial. When a statement is not procured with a primary purpose of creating an out-of-court substitute for trial testimony, in making the primary purpose determination, standard rules of hearsay designed to identify some statements as reliable, will be relevant. Where no such primary purpose exists, the admissibility of a statement is the concern of state and federal rules of evidence, not the confrontation clause.

Facts-The state in the instant case never asserted that

Statement of the case

Page 5

the Social Security Administration Staff member From Baltimore, Maryland who signed the Certification letter was unavailable. The Prosecutor put the Certified letter on the Projector Screen while questioning the victim's Mother at the Beginning of the Actual trial so the Jury could take notes From the Certified letter while listening to the victim's Mother testimony. The trial transcript Record will show that there was no Social Security Administration Staff member From Baltimore, Maryland at Petitioner's trial testifying About her Certification Social Security letter. Nor Did Petitioner have an opportunity to cross-examine the Social Security Administration Staff member From Baltimore, Maryland.

Facts - In short, when the State elected to introduce the Social Security Administration Staff member From Baltimore, Maryland Her Certification letter was introduced as Evidence, Exhibit #2. The Social Security Administration Staff member From Baltimore, Maryland Became a witness and Petitioner had the Right to confront. The Prosecution, However, Bears the Burden of Proof. The Confrontation Clause imposes a Burden on the Prosecution to Present it's witnesses, not on the Petitioner to Bring those Adverse witnesses into Court.

Fact Finder - The question that Remains opened And unanswered: Does the confrontation Clause Permit the Prosecution to Introduce a Social Security certification letter containing a testimonial Certification, made in order to prove a fact at a criminal trial, through the out-of-court testimony of an Social Security Administration Staff member who lives in Baltimore, Maryland who was not present at the Petitioner's Actual trial so she could Have Been cross-examined Because there were conflict issues through out the Actual trial About the Definition of Being Disabled?

* Petitioner Has that Answer For This Court *:

As a rule, If an out-of-court Statement is Testimonial, As

Statement of the case

Page 6

It is in this case, It may not Be Introduced Against An Accused At trial unless the witness who made the statement is unavailable And the Accused has had a Prior opportunity to Confront the witness. By the trial Court Admitting the out-of-court statement into evidence, clearly violated the Confrontation Clause, Also the Formality inherent in the Certification Further suggests it's evidentiary purpose. Although Formality is not the sole touchstone of a purpose inquiry, A statement's Formality or Informality can shed light on whether a Particular statement Has a Primary purpose of use at trial. The Certificate From the Social Security Administration Staff Member in Baltimore, Maryland at issue here is a Formal statement.

Facts - Had the Certifying Social Security Administration Staff Member From Baltimore, Maryland who Researched the victim's Disability File on Record, If that Staff member would have gotten on the stand to testify at Petitioner's trial, then Petitioner's trial counsel could have asked questions designed to reveal whether incompetence, evasiveness, or dishonesty, or any reasons for not wanting to show up at Petitioner's trial to testify about your certification letter that was Admitted into evidence as Exhibit #2. Without having the witness Available at trial for cross Examination, Petitioner was deprived of his Right to Confront this witness From the Social Security office in Baltimore, Maryland. Most importantly Petitioner was deprived of his Right to explore such matters on this Certified Social Security letter. Petitioner's trial counsel Requested a Motion For Directed verdict on question of Disabled Adult. *see Trial Transcript pages 915-918*. Petitioner's trial counsel seen How this Disabled issue Had a lot of loop Holes in it. The Jury Also seen How this question of Disabled Adult Had a lot of questions that needed to Be Answered. *Petitioner will now Demonstrate to make the Picture More

Statement of the Case
Page 7

Clearer to visualize *

Trial Transcript Page 1101 -

Mr. Queen - Giving the Continuing Witness Rule, I'm going to have to object.

The Court - All Right. I'm going to sustain the objection. I will not give them, All it says SSX Letter. I'm going to sustain the objection from the Defense.

Trial Transcript 1107 -

The Court - All Right. Lawyers, Received a communication from the Jury and it reads this time: We Recall Certain Documents Being Published During the Course of the trial. However, we are unable to find the following Documents and evidence we have been provided in the Jury room. May we have letter regarding Social Security eligibility benefits for Shantel Vason.

The Court - States Position?

Mr. Dunaway - your honor, states position is no, they may not have it, But they may - It may be read to them, if you bring them in, it may be read to them.

The Court - Defense?

Mr. Queen - We'd object

Trial Transcript Page 1109 -

The Court - Just trying to see are they close enough for me to, Kelly, the, were on the record But the Court Reporter, Do you have the, what Exhibit number is this Social Security letter?

Ms. Riley - Is it 2? I think it's 2, your Honor.

The Court Reporter - It is.

Mr. Queen - 2?

The Court - All Right. All Right, lawyers what I'm, strike

that, I know that, I understand the State's Position. I'm not going to Read Anything to them. What I will do, Because neither, Actually, let's See, the letter Actually will not Be able to go to the Jury Room Because that will go in and violate the Continuing testimony Rule.

Trial Transcript Page 1110 -

Mr. Dunaway - yes, your honor I would like For the Social Security letter to Be Read to the Jurors.

Trial Transcript Page 1112 -

Mr. Dunaway - your honor, After consulting with Ms. Riley, It's going to Be the State's opinion that State's Exhibit number 2, the Social Security Administration letter can Be, should Be read to the Jury. That State's Exhibit.

Trial Transcript Page 1113 -

The court - I'll do the Best I can. Anything else lawyers? And I know you object to everything, you just want no, no, no, no, no.

Mr. Queen - Right, And

The court - It's Been noted. It's just that I think it's a little, it still has to Be set up For some interpretation But it's, it's closer.

Trial Transcript Page 1114 -

The court - okay. yes Ma'am. you could, yes you can say, you can start and just Read it Social Security Administration, Baltimore, Maryland certificate of true copy and then.....

Trial Transcript Page 1115 -

The court - All Right, were on the Record. Communication From the Jury: We Recall, quote, unquote, quote, we Recall Certain Documents Being Published During the course of the trial. However, we are

unable to Find the Following Documents in Evidence we have Been Provided in the Jury Room. May we have letter Regarding Social Security Eligibility Benefits For Shantel Vason.

The Court - ladies and gentlemen, let me Respond this way. I cannot give you that Document to go into the Jury Room. Everything you Actually have Actually to, that your entitled to Actually is with you Right now. However, what I'm willing to do After Consulting with the lawyers, I'm going to Allow the Court Reporter to Read that Document to you as it was referred to here in open Court and at this -

Trial Transcript Page 111b -

Point in time, I'm going to Ask Ms. Carpenter to Read that Exhibit to them. Where upon the Document is Read in open Court By the Court Reporter, after which the Following Transpires.

The Court - All right. Were Back on, Were Back on the Record, that letter has Been read By the Court Reporter here in open Court in it's entirety.

* End of Transcript *

It's Admission During Petitioner's Actual trial as Exhibit #2, was Also inadmissible, all together it violated Petitioner's Right to Confront the witness Against him, Pursuant to the Confrontation clause. The Social Security Administration Staff Member From Baltimore, Maryland was not Called as a Witness to testify At Petitioner's Actual trial.

Ground Two - The trial Court erred By Admitting Evidence of A Prior simple Battery and a Battery to Prove intent to Commit Malice Murder, Felony Murder, and Aggravated Assault.

Supporting Facts - Before evidence of Prior Bad Acts Can Be Admitted, However, the intent Required By and For the Charged

Statement of the Case

Page 10

offenses must be the same intent required by the prior Bad Acts.

Ground Three - The trial court erred by failing to stop the state from making improper argument during closing argument.

Supporting Facts - Trial counsel objected two times because these facts were not in evidence, was never admitted as evidence at Petitioner's trial.

Ground Four - The trial court erred by informing the competency jury of not only the charges against Petitioner, but also the details of how each crime was allegedly committed.

Supporting Facts - At the beginning of Petitioner's competency trial, the trial court read aloud to the jury each of Petitioner's charges as well as the descriptions contained in the indictment as to how each crime was allegedly committed. comp. T. Page 203-207.

End of Statement of the Case

REASONS FOR GRANTING THE PETITION

1. Petitioner's Rights were violated pursuant to the Bill of Rights And Amendments to the U.S. Constitution, Amendment VI: The Confrontation Clause.
2. The Confrontation Clause violation occurred at Petitioner's Actual trial as Petitioner Demonstrated in the Statement of the Case section of this Petition.
3. Petitioner's Petition For a Writ of Certiorari should Be granted.

In conclusion, Petitioner's Rights were violated with the Confrontation Clause that took place during Petitioner's trial, And Petitioner should be granted a Petition For Writ of Certiorari and also should be granted a new trial.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Delroy T. Booth,


Date: _____

12-15-20