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No. 20-16315

ORIGINAL

D.C. No. 3:18-cv-00447-MMD-WGC

FILED

FEB 18 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

ALDO MARONES

— PETITIONER

(Your Name)

VS.

ATTORNEY GENERAL FOR THE STATE
OF NEVADA; WILLIAM BITTERE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ALDO MARONES, #1038510

(Your Name)

Ely State Prison P.O. Box 1989

(Address)

Ely, NV 89301

(City, State, Zip Code)

(Phone Number)

RECEIVED

MAR - 3 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

How is it that in this day and age here in America, a man can be convicted and sentenced to 4-10 years for Robbery with the use of a Deadly Weapon, plus a consecutive sentence of 4-10 years for Weapon Enhancement (without) the existence of a weapon?

How is it that the only evidence in my case, the best surveillance system in any store chain in America with color video that looks like a Universal Studios production shot from different angles covering every foot of the store and microphones that can pick up a whisper with crisp clean sound is allowed to be edited and doctoried up in the Crime lab by Police, effectively destroying exculpatory evidence in Spite of pre-trial Motion to Dismiss due to Failure to Preserve Exculpatory Evidence and/or Request for Evidentiary Hearing which was drafted by my original Attorney, public defender Kambiz Shaygan-Fatemi?

How can Federal Court Judges overlook such vital details in a case where a man is serving a 20 year prison sentence for stealing a pack of cigarettes?

At best, I'm guilty of a Simple Robbery. Nothing more.

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:

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Prou v. United States, 199 F.3d 37,48 (10th Cir. 1999)
Hoots v. Allsbrook, 785 F.2d 1214,1221 (4th Cir. 1986)
Nealy v. Cabana, 764 F.2d 1173,1177 (5th Cir. 1985)
Bryant v. Scott, 28 F.3d 1411,1419 (5th Cir. 1994)
Mitchell v. Mason, 325 F.3d 732 (CA6 2003)

STATUTES AND RULES

Due Process clauses of Federal Constitution's Fourteenth Amendment. and The Sixth Amendment

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 1 to the petition and is

reported at Nov. 23, 2020; 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 2 to the petition and is

reported at One 17, 2020; 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 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 _____ 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.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was OCT. 28, 2020.

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: NOV. 23, 2020, and a copy of the order denying rehearing appears at Appendix 1.

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 _____. A copy of that decision appears at Appendix _____.

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

Due Process clauses of Federal Constitution's Fourteenth Amendment held to require counsel to focus his defense to attack certain elements of the crime. In my case, the Element of Intent for Burglary and the Existence of a Weapon for each and every other charge could only be argued in theory with a doctored up video by the prosecution, but not actually proven.

In Prou v. United States, 199 F.3d 37, 48 (1st Cir. 1999) it states, "When an attorney fails to raise an important, obvious defense without any imaginable strategic or tactical reason for the omission, his performance falls below the standard of proficient representation that the Constitution demands." In my case, trial counsel failed to make an argument for the lack of Intent in the Burglary charge and the lack of a weapon for each and every other charge.

Hoots v. Allsbrook, 785 F.2d 1214, 1221 (4th Cir. 1986) states that, "Counsel must ordinarily investigate possible methods for impeaching prosecution witnesses."

In Nealy v. Cabana, 764 F.2d 1173, 1177 (5th Cir. 1985) it states that, "at a minimum, counsel has the duty to ~~investigate~~ interview potential witnesses and to make an independent investigation of the facts and circumstances of the case".

In my case, trial counsel interviewed no witnesses at all and made no investigation whatsoever.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Bryant v. Scott, 28 F.3d 1411, 1419 (5th Cir. 1994) states that, "duty to investigate includes obligation to investigate all witnesses who may have information concerning his or her client's guilt or innocence". In my case, trial counsel failed to interview the victim to assess his version of the facts, and also failed to interview the Crime Lab personnel who edited and doctored up the video, the only evidence that could have disproven the prosecution's theory of Intent for Burglary and the existence of a weapon for each and every other charge.

Mitchell v. Mason, 325 F.3d 732 (CA6 2003) states that, "The Supreme Court has recognized that without pre-trial consultation with the defendant, trial counsel cannot fulfill his or her duty to investigate. Because the Supreme Court has repeatedly made clear that there is a duty incumbent on trial counsel to conduct pre-trial investigation, it ~~not~~ necessarily follows that trial counsel cannot discharge this duty if he or she fails to consult with his or her client. The Sixth Amendment guarantees more than a pro forma encounter between the ~~as~~ accused and his counsel."

In my case, trial counsel failed to consult with me prior to trial in order to conduct a pre-trial investigation.

STATEMENT OF THE CASE

In my case, the element of Intent for Burglary and the existence of a Weapon for each and every other charge could only be argued in theory with a doctored up video by the prosecution, but not actually proven. Trial Counsel failed to make an argument for the lack of Intent in the Burglary charge and the lack of a weapon for each and every other charge. Trial Counsel failed to interview any witnesses. ~~at all~~ Trial Counsel failed to make ~~an~~ an investigation of the facts and circumstances of the case. Trial Counsel failed to ~~make~~ interview the victim to assess his version of the facts, and also failed to interview the Crime Lab ~~personnel~~ personnel who edited and doctored up the video, the only evidence that could have disproven the prosecution's theory of Intent for Burglary and the existence of a Weapon for each and every other charge. Trial Counsel failed to consult with me prior to trial in order to conduct a pre trial investigation.

These are very clear violations of Due Process Rights under the Fourteenth Amendment, And very clear violations of the Sixth Amendment.

STATEMENT OF THE CASE

In Spite of my pre-trial Motion to Dismiss Due to Failure to Preserve Exculpatory Evidence and/or Request for Evidentiary hearing the only evidence in my case, the video was allowed to be edited and doctored up in the Crime Lab by Police effectively destroying Exculpatory Evidence.

This is a violation of the Sixth Amendment which guarantees A Trial By An Impartial Jury.

REASONS FOR GRANTING THE PETITION

For all the constitutional and statutory provisions involved and all the Constitutional Rights mentioned in the Statement of the case this petition must be granted,

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Aldo Marques

Date: 2/18/21