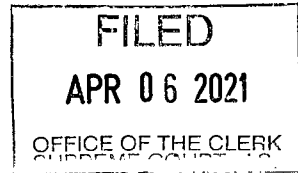


ORIGINAL

No. 20-7774



IN THE
SUPREME COURT OF THE UNITED STATES

Kevin Johnson — PETITIONER
(Your Name)

vs.

Special Prosecution Unit ~~et al~~ RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Fourth Court of Appeals, San Antonio TX 78205
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Kevin Johnson #6402792
(Your Name)

3600 S. Sunset Ave
(Address)

Littlefield TX 79339
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Did the trial ^{and/or} appeal court err by allowing the testifying "experts" to use statements of unadjudicated witnesses as basis for their opinion and present their findings, as fact, to the jury when such testimony is using hearsay evidence?
- 2) Did the trial court err by allowing the prosecution to use the testimony of "expert" in forensic psychiatry when such witness states, on record, that he is not board certified in ^{forensic} psychiatry?
- 3) Did the trial court err by allowing the non board certified "expert" to continue testifying and accept his testimony when he stated, on record, he keeps up with all studies, reports, etc. related to sex offenders when he adamantly refused to read a new report on sex offenders within State of Texas and stated the report would not alter his opinion?
- 4) Did the trial ^{and/or} appeal court err by allowing the prosecution's "experts" to use another psychiatrist's opinion to form basis for their own opinion when said psychiatrist was not present during trial, thereby not allowing the defense to cross-examine him?
- 5) Did the trial ^{and/or} appeal court err by allowing the defendant to be treated as a SVP prior to any treatment which addresses issues such as minimization, denial, etc. which both "experts" say is the norm and would be addressed in treatment and when such issues does not make one a SVP or make one more likely to re-offend?

Questions Presented

- 6) Did the trial court err by allowing the prosecution to use aspects of criminal law (cases, codes, etc.) in a civil trial but did not allow the defense to use aspects of criminal law, such as "confrontation clause" (see question #4), thereby creating a double standard in favor of the prosecution?
- 7) Did the trial court err by allowing the prosecution to present fraudulent and/or misleading information, maliciously, to the jury which is, in essence, prosecutorial misconduct?

LIST OF PARTIES

- [] All parties appear in the caption of the case on the cover page.
- [X] 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:

Special Prosecution Unit
PO Box 1744
~~Huntsville TX 773~~
Amarillo TX 79105

Bexar County Attorney General office
Bexar County Courthouse
San Antonio TX 78205

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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 C 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 4th Court of Appeals court appears at Appendix A 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 _____.

☐ 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 1/21/2021.
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

STATEMENT OF THE CASE

I signed a plea bargain agreement of 25 years for Aggravated Assault of a minor and 20 years for Indecency by Contact in April, 2000. I was granted parole in August 2018 on the condition I participate in and complete an 18 month sex offender treatment program. In January, 2019 I was sued for Civil Commitment and then tried and convicted as SVP in August, 2019. I had only been in the treatment program for 2 1/2 months at time of the trial, thereby not giving me the opportunity to try (and complete) traditional treatment methods, the methods the prosecutions "experts" were so adamant about working for me. I filed an appeal with the 4th Court of Appeals, San Antonio which upheld the trial courts decision and then filed Petition for Review with Texas Supreme Court, which denied my petition.

During the civil trial, the prosecutions "experts" used statements of 2 unadjudicated witnesses, counts 2 and 3 on indictment, as basis for their opinion to establish my deviancy. These 2 counts were dropped (and to be removed from but not the indictment) as part of the plea bargain. Since I was not charged with any crime, statements made by these 2 witnesses constitutes hearsay evidence and should not have been spoken to the jury about. These "experts" used their statements to establish my deviancy even though one of these witnesses said it was my victim of Agg Assault was the perpetrator.

One of the prosecutions "expert" witnesses was used as an expert in Forensic Psychiatry who states he is not "Board Certified" in forensic psychiatry, even though he does have a PhD in Psychiatry, which is different. How could his testimony be allowed as "fact" when he is not certified in such matters. Furthermore this "expert" stated on record he follows up on and reads, as part of his own continuing education, reports, studies, etc on sex offenders but refused to

Statements of the Case

— read a new report that my attorneys asked if he read concerning Texas sex offenders. He adamantly refused to read it after stating he was ~~not~~ aware of it but did not want to read it stating report was not relevant. How can one say the information within is not relevant (or important) if report was not read?

The prosecution's "experts" told the jury how each had used the report of another psychiatrist, who was not present, as basis for their own opinion basically stating he did the work. The subsequent reliance upon this report during the trial did not allow defense attorneys to request his presence during the trial, thereby not allowing cross-examination of this psychiatrist.

During the trial, the prosecution would object to the defense's use of criminal law in a civil trial, saying that criminal law aspects have no place in a civil trial. However the prosecution would bring up criminal law aspects to support their own statements. There should have been no flip and flop by the prosecution or the court.

The prosecution told the jury about my wanting pictures of "kids" without letting the jury know these "kids" were of a niece and nephew. This malicious misrepresenting my question in a psychoeducational class to the jury was prejudicial. Additionally, this information was obtained fraudulently for the reports I read, that the program director provided, did not state this. Either the report I read was not the one provided to prosecution (which I requested but not received) or it was obtained by a recording, which was done improperly for I was not to be recorded without my permission nor was it used for educational purposes.

REASONS FOR GRANTING THE PETITION

- 1) I was harmed by the use of the admission of the hearsay evidence of the unadjudicated witnesses. The judge instructed the jury to not consider the statements of the unadjudicated witnesses as evidence of truth but only as the basis for the "experts" opinion and testimony. I feel the mere mentioning of the 2 unadjudicated witnesses statements as fact to help establish my deviancy created animosity towards me by the jury. As one potential juror stated "once a bell is rung you can't unring it."
- 2) The prosecution harmed me by the maliciousness of presenting false and misleading information by stating that I wanted "pictures of kids" when it was merely my family and not strangers. This presentation created a negativity bias towards me by the jury and created the feeling I was a monster. Additionally this information was obtained fraudulently if it came from ~~an unauthorized~~ an unauthorized recording and it was presented as fact.
- 3) The "expert" witness they used for forensic psychiatry is not board certified so how does one know he is competent as a forensic psychiatrist and knows what he is saying is correct. Additionally, this "expert" witness did not want to review a new report he had not read after stating, on record, he reads all reports related to sex offenders. I believe his reluctance to read and review this report would make his findings irrelevant, thereby losing face in front of the court. His findings were based on sex offenders as a whole and not Texas based pool of sex offenders.

Reasons to Grant

- 4) By suing me for civil commitment prior to my completion of the treatment program I was enrolled in did not enable me to try the traditional treatment methods that the prosecutions "experts" were so adamant about not working for me. They spoke of my thinking errors such as denial and minimization being addressed in therapy but they, in turn, used one called Fortune Telling in predicting traditional treatment methods would not work before such methods were even tried. I was harmed by not even given the opportunity to try traditional methods before suing me for civil commitment. Additionally, there has been no proof to say that individuals who express denial or minimization are more likely to reoffend than those who do not express such characteristics.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ken: Johnson

Date: April 1, 2021