

IN THE UNITED STATE SUPREME COURT

OCTOBER TERM 2021

MARK W. BLOND, JR.,

PETITIONER, PRO SE.,

VS.

#20-8134

THE PEOPLE OF THE STATE
OF NEW YORK,

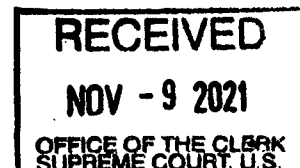
RESPONDENT.

REHEARING FOR WRIT OF
CERTIORARI FROM THE WRIT OF
ERROR OF CORAM NOBIS FROM
THE NEW YORK COURT OF APPEALS

RESPECTFULLY SUBMITTED

CC: ROBERT CARNEY
DISTRICT ATTORNEY
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SCHENECTADY NY 12305

MARK BLOND
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QUESTIONS PRESENTED

1. WHEATHER TRIAL AND APPELLANT COUNSEL PROVIDED INEFFECTIVE ASSISTANCE, WHEN THEY FAILED TO ARGUE A DEFENDANT'S RIGHT TO PRESENT A COMPLETE DEFENSE, AS PRESCRIBED BY THE COMPULSORY AND DUE PROCESS CLAUSES.

CONFIDENTIAL

EX-100

10/17/1980

LIST OF PARTIES

*ALL PARTIES TO THIS ACTION, ARE UPON
BELIEF, IN THE CAPTION ON THE COVER PAGE.*

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REHEARING PETITION FOR
WRIT OF CERTIORARI

MARK W. BLOND, JR., PRO SE., PETITIONER RESPECTFULLY
PETITIONS FOR REHEARING OF WRIT OF CERTIORARI FROM
WRIT OF ERROR CORAM NOBIS OF THE NEW YORK COURT
OF APPEALS.

OPINION BELOW

ON JULY 31, 2020, THE NEW YORK STATE APPELLATE
DIVISION, THIRD DEPARTMENT, DENIED A PRO SE WRIT
OF ERROR CORAM NOBIS, WITHOUT OPPOSITION, AND WITHOUT
ANY OPINION.

ON SEPTEMBER 30, 2020, THE NEW YORK STATE COURT
OF APPEALS DENIED LEAVE TO APPEAL, WITHOUT AN OPINION.

ON DECEMBER 29, 2020, THE NEW YORK STATE
COURT OF APPEALS DENIED A RECONSIDERATION FOR
LEAVE TO APPEAL, WITHOUT AN OPINION.

ON OCTOBER —, 2021 THIS COURT DENIED
CERTIORARI.

JURISDICTION

ON DECEMBER 28, 2020, THE HIGHEST STATE COURT
DENIED RECONSIDERATION FOR LEAVE. THIS COURT'S
JURISDICTION IS INVOKED BY ARTICLE ~~XXXXXXXXXX~~
III § 2 CLAUSE 2, AND BY 28 USC § 1257.

CONSTITUTION, STATUTORY PROVISIONS AND RULES INVOLVE

THE SIXTH AMENDMENT IN RELEVANT PARTS PROVIDE THAT: IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO ASSISTANCE OF COUNSEL... TO HAVE COMPLUSORY PROCESS FOR WITNESSES IN HIS FAVOR.

THE FOURTEENTH AMENDMENT PROVIDES DUE PROCESS
IN THE STATES.

FAMILY COURT ACT 10 ALLOWS CORROBORATION OF OUT OF COURT STATEMENTS BUT VALIDATION EVIDENCE, WHICH IS ALLOWED IN OTHER STATES TRIALS, WERE NOT ALLOWED IN NEW YORK, OR AT LEAST, IN THIS CASE.

STATEMENT OF THE CASE

THIS CASE ORIGINATED IN THE SCHENECTADY COUNTY
SUPREME COURT OF THE STATE OF NEW YORK, WHICH
ENTERED JUDGMENT ON JULY 31, 2009, CONVICTING
PETITIONER OF RAPE IN THE FIRST AND THIRD
DEGREES, CRIMINAL SEXUAL ACT IN THE THIRD DEGREE,

SEXUAL ABUSE IN THE THIRD DEGREE, ATTEMPTED ASSAULT IN THE SECOND DEGREE, CRIMINAL MISCHIEF IN THE THIRD AND FOURTH DEGREES, AND ENDANGERING THE WELFARE OF A CHILD, AND SENTENCING PETITIONER TO 22 2/3 YEARS FOLLOWING, 20 YEARS POST RELEASE SUPERVISION

PETITIONER APPEALED TO THE APPELLATE DIVISION THIRD DEPARTMENT ON JUNE 14, 2012, WHICH AFFIRMED HIS CONVICTION. [SEE, PEOPLE V. BLOND, 96 AD.3d ____ [3d DEPT 2012]. PETITIONER THEN REQUESTED LEAVE TO THE STATE'S HIGHEST COURT AND WAS DENIED LEAVE AND RECONSIDERATION [SEE, PEOPLE V. BLOND, 19 NY.3d 1101; 20 NY.3d 985 [2013]].

ON APRIL 22, 2020, PETITIONER FILED A PRO SE WRIT OF ERROR CORAM NOBIS, DATED DECEMBER 31, 2016, IN THE STATE APPELLATE DIVISION THIRD DEPARTMENT CLAIMING INEFFECTIVENESS OF TRIAL AND APPELLANT COUNSEL FOR FAILURE TO ARGUE A COMPULSORY PROCESS CLAIM IN THE TRIAL COURT, FOR 2 WITNESSES THAT WERE FAVORABLE TO PETITIONER. BY DECISION AN ORDER OF THE APPELLATE COURT ~~THE~~ THE PETITION FOR WRIT OF ERROR CORAM NOBIS WAS DENIED, WITHOUT OPPOSITION AND WITHOUT AN OPINION.

IN AUGUST OF 2020, PETITIONER REQUESTED LEAVE TO APPEAL IN THE STATE COURT OF APPEALS AND, ON SEPTEMBER 30, 2020 THE COURT DENIED LEAVE.

IN OCTOBER OF 2020, PETITIONER REQUESTED RECONSIDERATION FOR PERMISSION TO APPEAL TO THE HIGH STATE COURT AND, ON DECEMBER 31, 2020 LEAVE WAS DENIED.

IN OCTOBER OF 2021, THIS COURT DENIED CERTIORARI - PETITIONER NOW REQUESTS RECONSIDERATION.

REASON FOR GRANTING WRIT

1. THIS COURT MUST RESOLVE THE COMPLUSORY CLAIM, UNDER INEFFECTIVENESS OF TRIAL AND APPELLATE COUNSEL, SINCE THE NEW YORK STATE COURTS WOULD NOT UNDERSTAND A FUNDAMENTAL RIGHT IF IT BIT THEM ON THEIR RARES.

THIS COURT IN WASHINGTON V. TEXAS [388 U.S. 14 (1967)], DID AWAY WITH THE NARROW VIEW THAT THE COMPLUSORY PROCESS CLAUSE ONLY GUARTEES THE RIGHT TO SUMMON WITNESSES TO THE COURT, AND THE COURT INVALIDATED A STATE RULE OF EVIDENCE WHICH PRECLUDED THE DEFENDANT FROM PUTTING ON THE STAND MATERIAL EVIDENCE FAVORABLE TO THE ACCUSED.

IN THIS CASE, THE PETITIONER WAS PRECLUDED FROM CALLING TWO MATERIAL WITNESSES AT TRIAL BECAUSE THE EVIDENCE WAS SURMISED AS VALIDATION EVIDENCE THAT COULD ONLY BE USED IN THE FAMILY COURT. PETITIONER

WAS DENIED ANY AVENUE OF SHOWING THE JURY THAT HE DID NOT COMMIT THE SEX CRIMES.

HOWEVER, ANY SUCH RULE OF PRECLUDING EVIDENCE FAVORABLE TO THE LINE OF A DEFENSE, A SIXTH AMENDMENT QUESTION SHOULD HAVE BEEN RAISED BY TRIAL AND APPELLATE COUNSEL. HERE, TRIAL COUNSEL PREPARED NO LAW OR OTHER RELEVANT AUTHORITY TO PRESENT 2 WITNESS, ANGELA BARES AND NICOLE MUELLINS, WHO EVALUATED G.H. USING A PROTOCOL BY DOCTOR JOHN YULLE. THE WITNESSES TESTIMONY WAS SUPPOSE TO BE USED AS INDEPENDANT IMPEACHMENT OF G.H. SINCE SHE CLAIMED THE EVENT WAS "TRAMATIC"; SHOW HER DEMEANOR AT THE EVALUATION; SHOW SHE DID NOT MEET THE ELEMENTS OF CREDIBILITY AT THE INTERVIEW; AND SHOW G.H.'S BIAS IN FAVOR OF HER ALKIT, AND A MOTIVE TO FABRICATE THE ALLEGATIONS.

APPELLANT COUNSEL KNOWN THAT A STRONGER CONSTITUTIONAL CLAIM SHOULD HAVE BEEN PRESENTED THAT, TRIAL COUNSEL WAS INEFFECTIVE FOR NOT ARGUING, AT TRIAL THE DEFENDANT HAS A RIGHT TO A COMPLETE DEFENSE TO THE SEX CRIMES, WHICH WOULD HAVE REQUIRED A REVERSAL ON APPEAL. [SEE, TAYLOR V. ILLINOIS, 484 U.S. 400, 409 (1987); CHAMBERS V. MISSISSIPPI, 410 U.S. 284 (1973); HOLMS V. S.C., 547 U.S. 319, 324-25 (2006)]. MOREOVER, APPELLANT COUNSEL CONCEDED WITH THE STATE AND THE STATE CASE PEOPLE V.

ZURECK, [168 AD.2d 196], WHICH WAS AT ODDS OF THE DEFENSE.

FURTHERMORE, IF THE STATE FOUND THIS PROFFER OF EVIDENCE FAVORABLE TO ITS CASE, THE TRIAL COURT WOULD HAVE ADMITTED IT AGAINST THE PETITIONER: [SEE, PEOPLE V. TAYLOR, 75 NY.2d 277 HN.2 (1990); PEOPLE V. CINTRON, 75 NY.2d 249, 267 (1990); PEOPLE V. STORY, 176 AD.2d 1080 (3d DEPT 1991); PEOPLE V. SPICOLA, 16 NY.3d 441, 453-54 (2011); PEOPLE V. BENNET, 306 AD.2d 947, 948 (4th DEPT. 2003); PEOPLE V. RIVERS 18 NY.3d 222 (2011)]. THE DENIAL OF THE 2 MATERIAL WITNESSES SWAYED THE TRIAL IN THE STATE'S FAVOR SINCE IT LEFT THE JURY THINKING THE DEFENSE WAS WEAK, IN A HE - SAID SHE - SAID SEX CASE.

SINCE TRIAL AND APPELLANT COUNSEL WERE INEFFECTIVE FOR FAILURE TO ARGUE A COMPLUSORY PROCESS CLAIM AT TRIAL AND/OR ON APPEAL, PETITIONER REQUESTS RE-CONSIDERATION FOR WRIT OF CERTIORARI

CONCLUSION

PETITIONER PRAYS FOR CERTIORARI AND ASSIGNMENT OF COUNSEL TO FULLY BRIEF THIS ISSUE.

DATED: OCTOBER 31, 2021
DANNEBORO, NEW YORK

MOST RESPECTFULLY SUBMITTED,



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