

NO. 21-5304

IN THE SUPREME COURT OF THE UNITED STATES

LONNY JOSEPH DITIRRO, JR.,

PETITIONER

VS.

THE UNITED STATES OF AMERICA,

RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR THE 9TH CIRCUIT

PETITION FOR REHEARING

LONNY JOSEPH DITIRRO, JR. #53326048

P.O. BOX 24550

TUCSON, AZ 85734

Appellant respectfully presents this petition for a rehearing of the above entitled cause, in accordance with Sup. Ct. R. 44.2, and in support of it, respectfully shows:

#### GROUND FOR REHEARING

A rehearing of the decision in this matter is in the interests of justice because of several structural errors occurring in the appeal and trial processes that have a substantial and controlling effect on the outcome of previous judgements and the conviction of petitioner. Petitioner was not afforded active counsel at several critical stages of the proceedings. Appellant counsel for the petitioner had limited contact with petitioner during the appeal, which unbeknownst to him, would become nonexistent after the notification of the affirmation of the judgement due to counsel not returning calls or messages to him, or his family, and counsel's secretary repeatedly hanging up on him when attempting to speak with him about the judgement and attempting to have him file a rehearing for his appeal regarding issues deep seeded in another structural error at trial. Trial counsel had refused to defend petitioner outright by refusing to object to court ordered suppressed evidence even after the District court had clarified at trial that evidence had been suppressed. Appellant counsel for the petitioner had abandoned him during the appeal process denying him counsel, and it was due to this, and an abundance of caution that petitioner had submitted a petition for rehearing pro se to the 9th Circuit. The 9th Circuit denied that structural error as reason for lacking of good cause to file the petition pro se. Likewise the District court was informed of trial counsel's refusal to defend petitioner, see sealed doc. 126, however nothing was done to correct the issues raised that resulted in an unfair trial. Had appellant counsel submitted the petition for rehearing to the 9th Circuit

instead of forcing petitioner to act pro se, there very well may have been no need for petitioner to request a writ of certiorari. Like wise had trial counsel not refused to defend petitioner outright by not objecting to court ordered suppressed evidence, there very well may have been no need for petitioner to appeal his conviction due to no evidence being able to be legally used. It is due to these structural errors that petitioner is currently here. A structural error is "an error entitling the defendant to automatic reversal without any inquiry into prejudice." Weaver v. Massachusetts 198 Led 2d 420, 427 (2017) Denial of counsel is one such error, see Sullivan v. Louisiana, 508 US 275, 283 (1993).

#### CONCLUSION

The petitioner humbly requests reversal of the conviction of the above entitled cause, and the granting of the writ of certiorari.

Signed



DATED 10-28-21