

IN THE SUPREME COURT
OF THE UNITED STATES

CHRISTOPHER SECKINGTON,
Petitioner,

v.

CASE No. 21-5513

MARK INCH, Secretary FL
Dept. of Corrections, et. al.,
Respondents. /

PETITION FOR REHEARING

Come now, Christopher Seckington, prose, pursuant to Rule 44 of the Supreme Court of the United States and Haines v. Kerner, 92 S. Ct. 594 (1972), which held, "Pro se complaints are held to "less stringent standards than formal pleadings drafted by lawyers and can only be dismissed for failure to state a claim if it appears 'beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'""

Petitioner respectfully moves for rehearing on the ground that the courts overlooked controlling points of law, fact and intervening circumstances of a substantial effect not previously presented and in support thereof: does state:

DEC 3 - 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION 1

IS MY SENTENCE CRUEL AND UNUSUAL?

Over 3,000 days ago I was arrested, tried and convicted for possessing over $\frac{1}{2}$ a fluid ounce of urine or liquid waste that tested positive for a trace amount of amphetamine.

The D.E.A. Chemist testified the unknown liquid weighed over a $\frac{1}{2}$ ounce and "I test for controlled substances." Defense Counsel wanted to know what the unknown liquid was and asked her "But if it was a common substance... you wouldn't be able to tell us that that's part of the mixture; is that right?" Her answer was "We don't test for it." (See Appendix H, or TT p. 158). So, there is no scientific proof of what the unknown liquid was only that it contained a trace amount of amphetamine. I was informed it was urine from a child on amphetamine based behavioral medication mixed with household cleaning supplies. The D.E.A. Agent that collected it said it looked like toxic chemical but has no scientific proof of that.

I was convicted of Florida Statute 893.135(1)(f), trafficking in amphetamine, which allows "ANY MIXTURE" containing the "dangerous illegal drug" to be used to establish the threshold weight for trafficking. That means that urine, dog crap, liquid waste, pool water, toilet water, the soil from a cannabis farm, a drug user's body, the air from a crack pipe smoker's home, the urine of a probationer's drug test, a coke whore's soda pop when she throws her powdered cocaine into it when she is pulled over for DWLS and the list goes on, can all be used to convict and receive up to mandatory life and if someone dies, sentenced to death.

The 11th Circuit held in *U.S. v. Rolande-Gabriel*, 938 F.2d 1231 (11th Cir. 1991) that using the weight of an "unusable mixture" to severely punish is "absurd and illogical" and they based their opinion on *Chapman v. U.S.*, 111 S.Ct. 1919 (1991) which held punishment is to be based only on what is "distributable/usable."

QUESTION 2

ARE UNUSABLE MIXTURES ILLEGAL DRUGS?

Florida Statute 893.135 (7) states that "State v. Hayes, 720 So.2d 1095 (Fla. 4th DCA 1998) is legislative intent." Hayes held that "usable mixtures" should be used to establish the threshold weight for trafficking and based their opinion on Chapman and Rolonde-Gabriel which held that "unusable mixtures" are not to be counted for sentencing purposes.

Urine or toxic liquid waste are unusable/unmarketable mixtures and should not have been counted in my case.

The Federal courts think that sentencing the accused to extremely long life or death ^{sentences} for trafficking in "unusable/unmarketable" mixtures is "Cruel and Unusual Punishment," See Chapman; Rolonde-Gabriel; Griffith v. U.S., 871 F.3d 1321 (11th Cir. 2017); U.S. Newsome, 998 F.2d 157 (11th Cir 1993); U.S. v. Long, 958 F. Supp. 2d 1334 (M.D. Fla. 2013); U.S. v. Bristol, 964 F.2d 1108 (11th Cir. 1992); U.S. v. Stewart, 361 F.3d 373 (7th Cir. 2004); U.S. v. Ochoa-Heredia, 125 F. Supp. 2d 892 (8th Cir. 2001); U.S. v. Sprague, 135 F.3d 1301 (9th Cir. 1998); U.S. v. Acosta, 963 F.2d 551 (2nd Cir. 1992); U.S. v. Touby, 909 F.2d 759 (3rd Cir. 1990); U.S. v. Rodriguez, 975 F.2d 999 (3rd Cir. 1992); U.S. v. Jennings, 945 F.2d 129 (6th Cir. 1991) and forbidden by U.S.S.G. 2D1.1

The Florida State and Federal Uniform Drug Trafficking Statutes of 1978 have a legislative intent to "Severely punish those who deal in large quantities of dangerous illegal drugs." Urine or toxic liquid waste as in my case are not large quantities of dangerous illegal drugs as the cases quoted above hold.

The Sentence I received for possessing something that will never find its way into the hands of amphetamine users is "grossly disproportionate" to the crime. I was 55 when I was sentenced to prison for much longer than normal life expectancy,

QUESTION 3

WAS I DENIED COUNSEL?

without the required assistance of "conflict-free counsel" to protect me from the "Cruel and Unusual Punishment" that the Florida trafficking statute, which is unconstitutional because of the words "ANY MIXTURE," which allowed URINE and or TOXIC WASTE to be used to improperly impose in essence a life sentence.

I filed 3 motions for a "Nelson Hearing" complaining that Defense Counsel refuses to prepare for trial starting 86 days before trial, which the trial judge ignored. (See App. E, Ex. A, B, E). Ignoring a demand for a "Nelson Hearing" prior to trial requires "automatic reversal." Nelson v. State, 274 So.2d 256 (Fla. 4th DCA 1073); Holloway v. Arkansas, 435 U.S. 475 (1978).

Defense Counsel filed a Motion to Withdraw due to "ethical conflict" claiming "the Attorney/Client Relationship is irrevocably broken" 61 days before trial which was granted by the Trial Judge. (See App. E, Ex. C, D). Defense Counsel was reappointed 19 hours before trial absent the required "on the record" waiver of my right to "conflict-free" counsel ignoring my repeated objections to "conflicted counsel." This fact was hidden from the record on appeal.

By the Trial Judge knowingly appointing "conflicted counsel" after multiple pre-trial written and verbal notifications of an "actual conflict" that was adversely affecting the accused's counsel's representation is a violation of the Holloway Rule that requires "automatic reversal" when the trial court is notified prior to trial that a serious "serious conflict of interest" is occurring and refuses to appoint "conflict-free counsel." A 6th Amend. violation occurred.

I was denied counsel before and during trial because I quote "the conflict itself demonstrated a denial of right to counsel." See Thomas v. State, 785 So.2d 626, 628 (Fla. 2nd DCA 2001); citing Lee v. State, 690 So.2d 664, 667 (Fla. 1st DCA 1997); Holloway v. Arkansas 98 S.Ct. 1173, 1181-82 (1978); Glasser v. U.S., 62 S.Ct. 457, 467-68 (1942). I also presented "specific facts" that entitle me to relief. See ROA

The lower courts have claimed that my Counsel's "ethical conflict" and "Irrevocably broken Attorney/Client Relationship" is harmless error and I am basically required to prove to the Appellant Courts that I am innocent of the alleged crime to be entitled to relief. Chapman v. California, 37 S.Ct. 824, 827-28 & n.8 (1967) held "The assistance of counsel is among those constitutional rights so basic to a fair trial that their infraction can never be treated as harmless error."

CONCLUSION

The trial transcripts prove that over 14 grams of liquid waste was hidden at my construction office that was jointly occupied. The unknown liquid waste ~~tested~~ positive for traces of amphetamine and was unusable/unmarketable proving that I did not possess or deal in large quantities of amphetamine, a requirement to convict for trafficking.

Appendix E proves I was denied "conflict-free" counsel during the pre-trial investigation phase and at trial.

RELIEF SOUGHT

I am respectfully ordering this U.S. Supreme Court to exercise its discretionary jurisdiction and make the following new opinions called: Seckington Rule #1 - When Defense Counsel timely notifies the trial court before trial by filing a Motion to Withdraw due to "ethical conflict" and claims "the Attorney/Client Relationship is Irrevocably Broken," and the trial judge ignores that Motion and refuses to appoint "conflict-free" counsel "reversal is automatic." Seckington Rule #2 - Unusable/Unmarketable mixtures cannot be used to establish the threshold weight for trafficking or any similarly named crime in any state or territory of the U.S. Violation of this rule creates an "illegal sentence" and is considered "Cruel and Unusual Punishment," subject to resentencing for the "usable" amount of drug in the mixture. Seckington Rule #3 - when a trial judge grants a Motion to Withdraw due to "ethical conflict" that Defense Counsel cannot be appointed as "stand-by

counsel" absent an "on the record" waiver of his or her right to "conflict-free" counsel. To do so is grounds for "Seckington's automatic reversal Rule" and a new trial shall be granted

Seckington's Promise to this Supreme Court and Staff

If you deny this Petition for Rehearing like you do 99.997 % of Motions for Rehearing. I will have 6,152 days to plan some "terrorist activity": In or about the year 2040 I will roll my broken body in my wheel chair and set up shop in Fallschurch because I suspect that the families of the Justices, Clerk and Cert Pool live there. I may manufacture 2 tons of meth, 2,000,000 hits of LSD and 6 tons of C-4. I will trade 3 grams of crystal meth for 3 gallons of pure sulfuric acid, I may trade 1 ounce of meth ^{Per week} for X navy seal mercenaries that like to boil your infants in our used turkey fryer oil and boil the skin off the Cert pool's families and dismember the Cert Pool as well as boil their eyes out. Don't worry what is left of the justices families may get equal and fair treatment just as I have.

Starting with the Clerk has been considered then the Cert Pool and then the justices. That new 54 year old Justice should still be alive. She may get special treatment because of her "legaleaze" such as if State law allows "any mixture" ie, dog shit and urine to be used to sentence someone to life the Supreme Court's hands are tied. We can't require State Statutes to abide by the 8th Amend or the Constitution because your a bunch of "Pissies."

If you set me free all is forgotten. If not I have 6,152 days to plan on what to do when I get out.

Respectfully submitted

Christopher Seckington DC#081034