

No. **21-5908**

**ORIGINAL**

IN THE

SUPREME COURT OF THE UNITED STATES

FILED  
AUG 09 2021  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

MIGUEL MARTINEZ — PETITIONER  
(Your Name)

vs.

PEOPLE — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF ILLINOIS  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

MIGUEL MARTINEZ 424068  
(Your Name)

WESTERN ILLINOIS CORRECTIONAL CENTER  
(Address)

2500 RT. 99 SOUTH MT. STERLING, IL 62353  
(City, State, Zip Code)

N/A  
(Phone Number)

### QUESTION(S) PRESENTED

1. MIGUEL MARTINEZ ARGUED HE SHOULD BE GRANTED A NEW TRIAL WHERE HIS RIGHT TO ~~BE PRESENT~~ HAS BEING VIOLATED - (MARTINEZ WAS DENIED HIS RIGHT TO BE PRESENT AT EVERY CRITICAL STAGE OF HIS TRIAL HE WAS REMOVED FROM THE COURTROOM DURING OPENING STATEMENTS, HIS RIGHTS TO A PUBLIC TRIAL WHEN THE JUDGE REMOVED MARTINEZ AND MEMBERS OF THE PUBLIC FROM THE COURTROOM.)
2. MARTINEZ WAS DENIED HIS RIGHT TO BE PRESENT WHICH TURN INFRINGED ON HIS UNDERLYING SUBSTANTIAL RIGHT TO CONFRONTATION AND ASSISTANCE OF COUNSEL.
3. CUMULATIVE ERROR, FORFEITURE, PLAIN ERROR.
4. CRIMINAL LAW (KEY) 662.1, ... CIVIL LAW MODE OF CRIMINAL PROCEDURE PARTICULARLY ITS USE OF EX PARTE EXAMINATION AS EVIDENCE AGAINST ACCUSED - U.S.C.A. CONST. AMEND. 6TH
5. CRIMINAL LAW (KEY) 662.8 U.S.C.A. CONST. AMEND. 6TH
6. THE PROTECTION AGAINST DOUBLE JEOPARDY AMEND. 5TH.
7. IT IS IN THIS LIGHT WE EXAMINE THE ILLEGALLY OBTAINED (EVIDENCE, EXHIBITS) WE INSERT THE DISCUSSION OF THE (PICTURES, PHOTOGRAPHS, PORNOGRAPHY, FLIP-PHONE, VSI VIDEO,
8. MARTINEZ ARREST: WARRANTLESS, SEARCH'S AND SEIZURE WARRANTLESS.
9. WHO MADE THE STATEMENT?: DETECTIVE DECIAUNI, ASSISTANT STATE'S ATTORNEY SARA KARR, HERE THE JUDGE ~~WARRANTLESS~~ FAILED TO WHO PRODUCE THE STATEMENT AGAINST MARTINEZ.
10. DETECTIVE JUAN SOTO RIGHT  
A: YES.  
Q: ~~NO~~ NOW YOU STATED THAT YOU TOOK THE STATEMENT, IT WAS A TYPED STATEMENT, IS THAT CORRECT?  
A: YES  
Q: YOU STATED THAT MARTINEZ TOOK PHOTOS?  
A: YES  
Q: YOU WERE ABLE TO GET HIS PHONE WARRANTLESS CORRECT?  
A: YES  
Q: DID YOU ELECTRONICALLY VOICE RECORDED, OR VIDEO RECORDED THE STATEMENT?  
A: NOT THAT I RECALL

# ASSISTANT STATE'S ATTORNEY'S SARA KARR

Q- AT THIS POINT IN THE STATEMENT, WHAT DID YOU DO?

Q- DID YOU MEMORALIZE THAT IN ANY WAY?

A- YES

Q- WHEN YOU TOOK THAT STATEMENT, DID YOU RECORD IT IN ANY WAY.

A- NO.

Q- THERE WERE ANY TAPE RECORDER AND VOICE RECORDER EQUIPMENT?

A- I'M SURE THERE WAS.

Q- BUT YOU DON'T CARE TO USE THIS EQUIPMENT?

A- NO.

11.- MARTINEZ ARISE THE DELAY OF SPEEDY TRIAL WHEN THE JUDGE HOLD MARTINEZ FOR 4 YRS. 9 MONTHS, AT COOK COUNTY JAIL, TO HELP THE JUDGE. - BERNARD J. SARLEY. 2023 TO TERMINATED MARTINEZ PARENTAL RIGHTS. WITHOUT REASON, WHY? AND NOT EXHIBITS OR EVIDENCE OF COOPERATION OF THIS (2) TWO COURTS.

JUVENIL COURT

CHILD PROTECTION DIVISION AT 2245 WEST OGDEN AVENUE CHICAGO, 60612

MARTINEZ TRIAL WAS  
2-25-2013 AT 10 AM

## FACTS

- 1.- INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
- 2.- PROSECUTION'S KNOWING USE OF PERJURED TESTIMONY
- 3.- WHEN THE JUDGE CLOSED THE COURTROOM  
MARTINEZ HAD A WITNESSES AND WAS RUN OUT!

4.- THE (VET) VIDEO NEVER WAS ASKING TO  
THE ASSISTANCE OF THE STATE ATTORNEY  
THE COURT HAVE IT ILLEGALLY FOR THIS NEVER  
SHOW IN PUBLIC, AND THE STATE'S ASSISTANCE  
ATTORNEY NEVER ASK OR SEE IT. !!

5. DOLLY'S MARTINEZ IS A PARTY  
SHE MAKE A DEAL OF 36 MONTHS FOR AN  
STATEMENT AGAINST MR MARTINEZ

6.- THE DNA OF MR. MARTINEZ NEVER SHOW  
OUT HIS DNA LETTERS OR NUMBERS !!  
(LIKE (G, A, P,))

7.- BRITNEY'S BLOOD (TYPE) NEVER COME OUT TO  
LIGHT EITHER.

MIGUEL MARTINEZ: CASE'S NUMBERS: 12CR 227491

NOTE: CIVIL COURT No. 12JA01166-71

- 1- MARTINEZ ARREST BY DETECTIVE JUAN SOTO AND DETECTIVE DECIANNI; WARRANTS?
- 2- SEARCH AND SEIZURE OF ELECTRONICS BY DETECTIVE JUAN SOTO, 1 DETECTIVE DECIANNI WARRANTS?
- 3- DOLLY'S MARTINEZ: STATEMENT AGAINST MARTINEZ IN THE POLICE STATION WITHOUT MR. MARTINEZ PRESENT AMEND 6, ?  
(CRIMINAL LAW (KEY) 662.1)
- 4- DETECTIVE JUAN SOTO ~~THE~~ STATED AND STATEMENT AGAINST, - MARTINEZ, ?
- 5- DETECTIVE DECIANNI STATED HE TAPED A STATEMENT AGAINST, - MARTINEZ?
- 6- ASSISTANT ATTORNEY MEAN STATE ASSISTANT ATTORNEY, SARA KARR SHE STATED SHE TAPED STATEMENT AGAINST, - MARTINEZ? THE COURT FAILS TO KNOW WHO DID IT.

### EVIDENCE & EXHIBITS

- 7- DOLLY MARTINEZ STATED A (FLIP-PHONE) AND SOME KIND OF (PICTURES?) WHERE THEY ARE?
- 8- BRITNEY'S MARTINEZ STATED (FLIP-PHONE, PORNOGRAPHY, PICTURES):
- 9- SAME RESULT WERE THIS EVIDENCE, EXHIBITS ARE?
- 9- MARTINEZ TESTIFIED WHERE IS THE PROTECTION OF AGAINST DOUBLE JEOPARDY? AMEND. VTH

10. - MARTINEZ ARISE THE (DELAY OF SPEEDY TRIAL) WHEN THE JUDGE HOLD MARTINEZ FOR 4 YEARS, 9 MONTHS IN COOK COUNTY JAIL.

TO HELP THE JUDGE: BERNARD J. SARLEY: No. 2023 TO, TERMINATED MARTINEZ PARENTAL RIGHTS.

WITHOUT REASON, AND NOT EXHIBITS, EVIDENCE OF COOPERATION OF THIS (2) TWO COURTS.?

### JUVENIL COURT

CHILD PROTECTION DIVISION AT 2245 WEST ORDEN AVENUE  
CHICAGO, ILLINOIS: 60612

MARTINEZ TRIAL WAS 2-25-2013 AT 10AM.  
NOTE: NOT EXHIBITS IN THIS TRIAL WAS PRESENT EITHER (VSI) VIDEO

MARTINEZ ~~ASKS~~ ASKS HOW OR WHO GIVE IT TO THE JUDGE.  
PAULA M. DALEO? (VSI) VIDEO?

THE ASSISTANT'S STATE'S ATTORNEY GENERAL  
MR. JAMES STEVENS; NEVER SEE THIS (VSI) VIDEO EITHER.  
MAKE ANY COMMENT OR PROVE, EVIDENCE, EXHIBIT.

HERE THE CIVIL COURT AND THE CRIMINAL COURT FAIL TO  
EXPLAIN TO ADMITTED ~~FOUR~~ GHOST EVIDENCE,  
GHOST EXHIBITS.

## 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:

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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 \_\_\_\_\_ to the petition and is

- ☒ reported at ILLINOIS SUPREME COURT; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the ILLINOIS SUPREME COURT 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.

## **NATURE OF THE CASE**

Miguel Martinez was convicted of predatory criminal sexual assault after a bench trial and was sentenced to 50 years in prison.

This is a direct appeal from the judgment of the court below. No issue is raised challenging the charging instrument.

## ISSUES PRESENTED FOR REVIEW

- I. Whether Miguel Martinez was denied his right to be present at every critical phase of his trial where he was excluded from the opening statements.
- II. Whether Martinez was denied his right to be present and his Sixth Amendment right to a public trial when both he and members of the public were excluded from the testimony of the complaining witness.
- III. Whether Martinez was denied his right to be present and his right to a public trial when the trial court viewed important video recorded evidence outside of his presence, his lawyer's presence, and the presence of the public.
- IV. Whether these errors are also reversible due to their cumulative impact, and whether forfeiture should prevent this Court from considering them.

## **JURISDICTION**

Miguel Martinez appeals from a final judgment of conviction in a criminal case. Appellant's motion to reconsider sentence was denied on August 25, 2017. (Sup3. R. 25) Notice of appeal was timely filed on August 25, 2017. (C. 120) Jurisdiction therefore lies in this Court pursuant to Article VI, Section 6, of the Illinois Constitution, and Supreme Court Rules 603 and 606.

## 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 3-16-2021.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☒ A timely petition for rehearing was thereafter denied on the following date: 5-26-2021, 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**

AMENDMENT'S IV

V

VI

[VIII]

[IX]

## STATEMENT OF THE CASE

MISSING, EXHIBITS, EVIDENCE WHICH ARE A-16-29  
B-19-29  
C-21-29

I:-

A.- MR. MARTINEZ WAS DENIED HIS RIGHTS TO BE PRESENT AT EVERY CRITICAL STAGE OF HIS CASE WHERE HE WAS REMOVED FROM THE COURT DURING OPENING STATEMENTS.

B.- BECAUSE OF SEVERAL ERRORS IN THE WAY IN WHICH THE COURT CARRE OUT THESE PROCEEDINGS IN MR. MARTINEZ ABSENCE, HE WAS NOT ABLE TO MEANINGFULLY ASSIST WITH HIS ATTORNEY IN THE PRESENTATION OF HIS DEFENSE, AND THE CONFRONTATION OF HIS WITNESSES AGAINST HIM.

C.- THE STATE FURTHER ARGUES INTER ALIA THAT MARTINEZ RIGHTS WERE NOT DENIED, BECAUSE OPENING STATEMENTS ARE NOT CRITICAL STAGE OF A DEFENDANT'S TRIAL, BECAUSE THIS COURT SHOULD PRESUME THAT ALL ERRORS - IN THE EXCLUSION OF THE PUBLIC FROM THE COURT WERE CURED DURING AN OFF-THE-RECORD CONVERSATION, AND BECAUSE THE COURT'S VIEWING OF EVIDENCE OUTSIDE OF THE, - COURTROOM.!

D.- THIS COURT SHOULD REVERSE HIS CONVICTIONS AND REMAND THIS CASE FOR A NEW TRIAL, THAT COMPLIES WITH BASIC CONSTITUTIONAL REQUIREMENTS.

II.- NEITHER MR. MARTINEZ OR HIS ATTORNEY REQUESTED THAT MARTINEZ BE REMOVED FROM THE COURTROOM, FOR THE OPENING STATEMENTS. THEY VERBALLY AGREE TO THAT DECISION.

1.- THE STATE DOES NOT CLAIM OTHERWISE WHERE A DEFENDANT HAS NEITHER OBJECTED NOR AGREE, FORFEITURE HAS OCCURRED.

2.- THE STATE CITES NO AUTHORITY FOR THIS CLAIM OTHER THAN THE GENERAL PREPOSITION THAT OPENING STATEMENTS ARE NOT CONSTITUTIONALLY REQUIRED.

HOWEVER, ILLINOIS LAW HAS LONG HELD THAT A DEFENDANT IN A CRIMINAL CASE HAS AN ABSOLUTE RIGHT TO BE PERSONALLY PRESENT AT ALL STAGES OF HIS TRIAL. SEE PEOPLE V. MALET, 30 ILL. 2D 136, 191, 42 (1964).

TURN

### REASONS FOR GRANTING THE PETITION

- 1.- ERROR'S FROM: THE LOWER COURT'S
- 2.- ERROR'S FROM: THE APPELLATE COURT
- 3.- ERROR'S FROM: SUPREME COURT OF ILLINOIS

VIOLATIONS OF STATE AND FEDERAL  
RIGHTS. (IV), (V) (VI) (VIII) (IX)

CONSTITUTIONAL RIGHTS VIOLATED

PROSECUTORIAL MISCONDUCT

**CONCLUSION**

The petition for a writ of certiorari should be granted.

FOR NEGLIGENCE TO APPLY THE LAW

Respectfully submitted, WITH DO ALL ~~IS~~ RESPECTFULLY

MIGUEL MARTINEZ 424068

Date: July 26 2021