
IN THE
SUPREME COURT OF THE UNITED STATES

ROBERT BREEST - PETITIONER

VS.

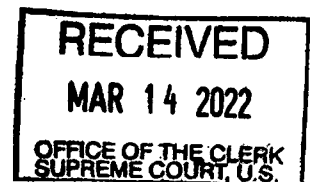
JOHN M. FORMELLA, ATTORNEY GENERAL
OF NEW HAMPSHIRE - RESPONDENT

MOTION FOR RECONSIDERATION OF FEBRUARY 22, 2022 ORDER

NOW COMES Robert Breest in the above captioned action and moves this Court to reconsider the February 22, 2022, Order on the following grounds and facts.

First, this Court, pursuant to Rule 39.8 denied the motion to proceed in former pauperis, and Rule 39.8 lists grounds for denial as the petition being frivolous or malicious. Robert Breest submits that the petition is predicated upon the fact that he was denied a constitutional instruction pertaining to reasonable doubt, and that fact was found by the First Circuit in Breest v. Perrin, 655 F.2d 1 (1981), however the First Circuit denied relief in 1981 because defense counsel failed to object to the reasonable doubt jury charge.

This unanimous Court in Sullivan v. Louisiana, 508 U.S. 275 (1993) held that an unconstitutional jury instruction is tantamount to no jury instruction at all, and as such, there is no jury verdict in a case where there was an



unconstitutional jury charge. However, the First Circuit ruled that because defense counsel failed to object, relief was denied. Subsequent to Sullivan, supra, this unanimous Court held in Massaro v. United States, 123 S.Ct. 1690 (2003), that in a case where defense counsel was ineffective, no objection at trial was required. Thus, where, as here, there was an unconstitutional jury charge describing the State of New Hampshire's obligation to correctly instruct the jury on reasonable doubt, Robert Breest is not bound to object where defense counsel was ineffective.

Second, this court noted that Robert Breest has repeatedly abused this Court's process. For this Robert Breest apologizes and asks this Court not to punish him by denying the current petition for writ of certiorari which is meritorious, for past indiscretions.

Third, this Court instructed the clerk not to accept any further pleadings in noncriminal matters unless Rules 38(a) and 33.1 are complied with. To this, Robert Breest submits that the current petition for writ of certiorari is a criminal matter dealing with an unconstitutional jury instruction pertaining to a first degree murder trial, and is not barred by this Court's most recent holding.

WHEREFORE, Robert Breest prays that this Court afford him the degree of lenity it extends in certain cases, because Robert Breest has always appeared pro se before this Court and is not schooled in law as attorneys.

Dated: March 1, 2022

Respectfully submitted,



Robert Breest, pro se
T-19048
MCI Shirley, Medium
1 Harvard Road
P.O. Box 1218
Shirley, MA 01464-1218

CERTIFICATE OF SERVICE

I, Robert Breest, hereby certify that I have served Elizabeth Woodcock, Esq., Assistant Attorney General for New Hampshire at her office, 33 Capital Street, Concord, New Hampshire 03301-6397, a copy of this pleading, this 4th day of March, 2022 by first class postage with adequate postage attached.



Robert Breest, pro se

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

February 22, 2022

Mr. Robert Breest
Prisoner ID T-19048
MCI Shirley, Medium1 Harvard Road
PO Box 1218
Shirley, MA 01464-1218


Re: Robert Breest
v. John M. Formella, Attorney General of New Hampshire
No. 21-6664

Dear Mr. Breest:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin v. District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Harris", written in a cursive style.

Scott S. Harris, Clerk