

IN THE UNITED STATES SUPREME COURT

CASE NUMBER: 21-7424

From the Wyoming Supreme Court – Case No. S-21-0235

Ismael Ruiz
Petitioner

vs.

STATE OF WYOMING
Respondent

**MOTION FOR REHEARING ON
PETITION FOR WRIT OF CERTIORARI**

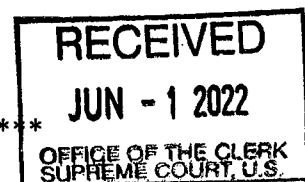
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*** All Parties to this case appear in the above caption ***



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MOTION FOR REHEARING EN BANC

Comes Now, Ismael Ruiz (Mr. Ruiz) and moves this Court for a Rehearing En Banc.

This Motion is timely in that this Court made its decision on April 25, 2022 and this filing is within the 25 day time limit established in Rule 44 to file for rehearing. Your Inmate Petitioner, Mr. Ruiz, is indigent and has already filed a Motion to proceed in forma pauperis with his Petition for Writ of Certiorari pursuant to Rule 39. Mr. Ruiz will endeavor to state his grounds briefly and distinctly as required under Rule 29.

This Motion for Rehearing is presented in good faith and not for delay as Mr. Ruiz fully believes the issues presented in his Petition for Writ of Certiorari are of importance enough for the U.S. Supreme Court to address the merits of his case. The claims contained within the Petition for Writ of Certiorari are of a nature in which they affect the populous of the entire country and world as anyone is free to travel to and through Wyoming on vacation and for business.

The claims presented within Mr. Ruiz's Petition for Writ of Certiorari affect everyone who passes through Wyoming and if this Court were to look into the case of Ohio resident Mr.

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Jack Rude (Mr. Rude), it would see that it has the potential of affecting people who do not pass through Wyoming, as the evidence of Mr. Rude's case shows he never actually entered the State of Wyoming at the time the crime he was unjustly convicted of had occurred. (See the criminal case leading to the appeal in *Rude v. Wyoming*, 851 P.2d 15; 1993 Wyo. Lexis 83). The evidence clearly shows someone else committed the crime Mr. Rude was convicted of and he was prosecuted because it was easier to prosecute someone who could not defend himself due to the side effects of a heart attack making it impossible for Mr. Rude to remember where he was at the time of the crime. The State of Wyoming possessed the evidence definitively confirming Mr. Rude's innocence and that he was somewhere else at the time of the event but chose to conceal that evidence until after he was convicted, at which point nobody wanted to help him because everyone looked at him as a murderer. Unfortunately the State of Wyoming only follows the rules when it is convenient and will ensure a conviction; but when a person appears to be able to be exonerated because they are actually innocent, the State of Wyoming, by and through the Wyoming Public Defender's Office, forces a conviction via an unwanted guilty plea.

In his Petition for Writ of Certiorari, Mr. Ruiz presented facially unconstitutional statutes as well as statutes that are facially constitutional but are unconstitutional by the way they are applied or ignored by the Wyoming Courts. When people like Mr. Ruiz try to hold the State of Wyoming, its subdivisions and employees accountable, the State misuses 11th Amendment Immunity to place the offenders above the law. This includes the actions of the Wyoming Public Defender's Office to block the defendant's access to the courts by deliberately handicapping their clients during the appellate procedures by refusing to present meritorious claims so that they will be procedurally barred after the appeal is completed. When the defendants attempt to

overcome that procedural bar the State Courts refuse to hear the arguments that will show the bar to be inappropriate. This solidifies the procedural bar so that the Federal Courts refuse to hear the claims thereafter. It is for this reason the Wyoming Inmates refer to the Wyoming Public Defender's Office as the "Wyoming Public Pretender's Office." The exception is when someone is politically connected, at which point they escape conviction even when they are guilty; for which reason the Justice System has begun to be called the "Just Us System."

In the immediate case, Mr. Ruiz filed a petition to the Wyoming Supreme Court to overcome the obstruction created by the false information provided by defense counsel and the Wyoming Public Defender's Office Appellate Division. The Wyoming Attorney General (AG) failed/refused to respond to Mr. Ruiz's filing; thereby conceding his claims as true and warranting a default decision in favor of Mr. Ruiz. Instead of following its own precedents and rules, the Wyoming Supreme Court arbitrarily ruled against Mr. Ruiz.

Mr. Ruiz was entitled to the affirmative defense of "Self Defense" as stated in Wyoming Statute §6-2-602 because he did nothing more than defend himself from a knife attack with a minimal amount of force. The injuries sustained by his attacker resulted when in her attempt to pursue Mr. Ruiz as he was fleeing; she fell down some concrete steps as confirmed by the medical reports. Pursuant to the aforementioned statute, Mr. Ruiz had no obligation to flee (see subsection (a)); but he did so anyway. Most importantly, subsection (f) states: "A person who uses reasonable defensive force as defined by subsection (a) of this section shall not be criminally prosecuted for that use of reasonable defensive force". Therefore, since Mr. Ruiz used only a minimal amount of force and since he was not the cause of the attacker's injuries, the

Wyoming Public Defender had a duty to provide Mr. Ruiz with a defense instead of coercing him to accept an unwanted guilty plea. Had it not been for counsel's refusal to defend Mr. Ruiz, he would have insisted on a trial, where he most likely would have been exonerated.

Mr. Ruiz and his appointed Public Defender had an irreconcilable conflict of interest which divested the trial court of jurisdiction to hear the case as Mr. Ruiz was constructively denied the assistance of counsel pursuant to *Johnson v. Zerbst*, 58 S. Ct. 1019 (1938); *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Cronic*, 466 US, at 654-655, 80 L Ed 2d 657, 104 S Ct 2039; and *Cuyler v. Sullivan*, 446 U.S. 335, 334, 100 S. Ct. 1708, 64 L. Ed. 2d 333, on remand 631 F.2d 14 (3rd Cir. 1980). The *Zerbst* court stated:

Conflicted counsel and counsel that conceal critical information about a conflict of interest are in essence, no counsel at all, depriving Petitioner of right to counsel. In *Johnson v. Zerbst*, 304 U.S. 458, the Court said that "a court can lose jurisdiction since the Sixth Amendment may stand as a jurisdictional bar to a valid conviction and sentence depriving one of his life or his liberty. A court's jurisdiction at the beginning of a trial may be lost in the course of the proceedings due to failure to complete the court, or, in other words, the jurisdiction of the court to proceed becomes void." In their decision, the *Zerbst* Court taught that, "since the Sixth Amendment constitutionally entitles one charged with a crime to the assistance of counsel, compliance with this constitutional mandate entitles is an essential jurisdictional prerequisite to a [] court's authority to deprive an accused of his life or liberty."

Furthermore when the attacker admitted that Mr. Ruiz had never laid a hand on her, but she had fallen on the stairs, instead of acknowledging Mr. Ruiz's innocence, the local police, the prosecution and the defense concealed this admission from Mr. Ruiz until after they had coerced a guilty plea. In the immediate case, like so many other cases in Wyoming, justice and due process were not merely violated; but were completely destroyed and ignored.

Mr. Ruiz finds it odd that the courts, Wyoming and Federal, refuse to hold the State of Wyoming accountable for the wrongs done by its officials. It does not seem to matter to anyone that the state officials, while they are violating the law, constitution and the rights of citizens, and while they are acting under the color of the law, keep saying: "I don't care what the law says" and "I don't want to hear what the law says." Those officials keep placing themselves above the law, the U.S. and Wyoming Constitutions and even this Court's mandates with impunity because the courts keep arbitrarily granting them 11th Amendment immunity despite their actions abrogating the qualified immunity they may have been entitled to if their actions had not been deliberate. When will someone hold these criminals accountable?

Mr. Ruiz realizes that a Motion for Rehearing en Banc is required to be heard by the entire panel of judges. He believes he is entitled to relief as a matter of law as well as a service to justice. Furthermore, Mr. Ruiz believes an affirmative decision by this Court will serve the United States as a whole and show that justice is not only for the elite members of society and those who are politically connected.

WHEREFORE, Mr. Ruiz prays this Court will grant him a rehearing en banc so that the meritorious arguments he has presented within his Petition for Writ of Certiorari will be given a fair and just resolution. Mr. Ruiz believes this will serve the entirety of the United States. Mr. Ruiz has forwarded a copy of this Motion for Rehearing en Banc to the Wyoming Attorney General at: 123 Capitol Building, 200 West 24th Street, Cheyenne, Wyoming 82002.

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury pursuant to W.S. §6-5-301; 28 USC §1746; and 18 USC §1621 that the above information contained within the foregoing filing is true and correct to the best of my knowledge. I therefore place my hand as seal upon this document on the date below.



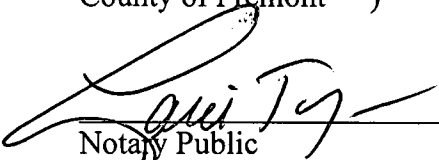
Ismael Ruiz

NOTARY

Subscribed and sworn as being true under the penalty of perjury pursuant to W.S. §6-5-301; 28 USC §1746; and 18 USC §1621 by Ismael Ruiz, before me this 3 day of May, 2022. Said individual solemnly affirmed that he has firsthand knowledge of the facts contained herein and that the facts are true, correct and complete to the best of his knowledge, understanding and belief.

State of Wyoming)
) s.s.
County of Fremont)

LAURIE A. TOYE
NOTARY PUBLIC
STATE OF WYOMING
COMMISSION ID: 165464
COMMISSION EXPIRES: 08/03/2027



Notary Public

8/3/2027

My commission expires