

21-7631

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

FILED
APR 04 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

JOHNELL LEE CARTER — PETITIONER
(Your Name)

vs.

STATE OF CALIFORNIA — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Ninth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Johnnell Lee Carter CDCR #AZ-3587
(Your Name)

Sierra Conservation Center
(Address)
5150 Obyrnes Ferry Road

Jamestown, CA 95327
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Whether the trial court denied Petitioner's right to self-representation by concluding Mr. Carter's opting for pro per status was made too close to the onset of the trial, despite Petitioner voicing his request to represent himself WELL BEFORE the start of trial.

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:

RELATED CASES

Faretta vs. California (1975) 422 U.S. 806

McKaskle vs. Wiggins (1984) 465 U.S. 168

People vs. Windham (1977) 19 Cal. 3d 121

TABLE OF CONTENTS

| | |
|--|---|
| OPINIONS BELOW | 1 |
| JURISDICTION..... | |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED | |
| STATEMENT OF THE CASE | |
| REASONS FOR GRANTING THE WRIT | |
| CONCLUSION..... | |

INDEX TO APPENDICES

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

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 A 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[] is unpublished.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 B 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[] is unpublished.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**: N/A

The opinion of the highest state court to review the merits 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[] is unpublished.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 _____ 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 2-10-2022.

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: 2-10-2022, 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**: N/A

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Sixth Amendment of the United States Constitution

Fourteenth Amendment of the United States Constitution

STATEMENT OF THE CASE

Petitioner Carter initially sought replacement of his assigned trial attorney whom he felt was not adequately defending his cause. The trial Judge refused to re-appoint Mr. Carter substituted counsel. Then, days before trial was about to resume, Mr. Carter voiced his desire and request to represent himself in Court. The trial Judge in essence declined to act upon Petitioner Carter's request. Then, subsequently, again Mr. Carter re-requested to represent himself for trial. Relevant to this point is that this subsequent request was made well BEFORE the jury was even impaneled. The trial Judge declined to hear Mr. Carter's request, and also declined and denied to permit Mr. Carter to represent himself for the trial. Mr. Carter essentially was left with no other alternative, and became forced to proceed to trial with the counsel he was very displeased with. This dissatisfaction of counsel was well known by the trial Judge, who had earlier and at all times refused Mr. Carter substituted counsel. Mr. Carter became convicted of all charges brought against him, and was sentenced to state prison. Mr. Carter appealed his convictions throughout the state courts, receiving no relief upon being denied his right to self-representation. Mr. Carter then pursued a Federal writ of habeus corpus raising a claim of denial of his Constitutional right to represent himself for trial. The District Court denied the petition, reasoning that Mr. Carter's request to represent himself was made too late on the day of the trial. Mr. Carter then sought to appeal such denial in the U.S. Court of Appeals for the Ninth Circuit, citing to a Ninth Circuit authority which found that as long as a criminal defendant seeks self-representation BEFORE the jury is empaneled, such a request must be granted by the trial court. Mr. Carter did seek such request very timely, yet received no Circuit relief.

REASONS FOR GRANTING THE PETITION

This U.S. Supreme Court reiterated when deciding Faretta vs. California, that defendant there in that case made his request to represent himself weeks before trial was set to resume. However, this Court never has determined when a criminal defendant's right is dissolved due to too much time elapsing. However, the United States Court of Appeals for the Ninth Circuit decided that, so long as the jury is not yet impaneled, such a request for self-representation must be granted. That case, Avila vs. Roe, 298 F. 3d 750, 753 (2002) was cited by Petitioner Carter throughout the Federal proceedings, yet relief was denied regardless of the showing made by Mr. Carter.

The Circuits vary on when time has expired for a trial Judge to Constitutionally deny a defendant's right to represent himself. This Supreme Court has never decided the time when a criminal defendant's Sixth Amendment right expires, and this Court should grant a writ of certiorari to settle the dispersity amongst the Circuit Court of Appeals as to when time expires stopping the Constitutional clock pertaining to the Sixth Amendment of the Constitution. Simply put, a defendant within one circuit should not benefit constitutionally because of time being measured differently than another circuit in deciding the same issue. The day before, before the jury is impaneled, not heard well prior to a jury trial even resuming, are all factors hinging upon a defendant's Constitutional right, and should not be differently decided by the circuit courts of the nation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Julie L. Cox

Date: 4-4-2022