

IN THE
SUPREME COURT OF THE UNITED STATES
JESSE BROWN
PETITIONER
v.
ERIC ARMEL, SUPERINTENDENT S.C.I. AT FAYETTE
LAWRENCE KRASNER, PHILADELPHIA D.A.
JOSH SHAPIRO, PENNSYLVANIA ATTORNEY GENERAL
RESPONDENT(S)

THE PETITION FOR REHEARING

Jesse Brown #HN1283
S.C.I. Albion
10745 Route 18
Albion, PA 16475-0001

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STATEMENT OF GROUNDS

Petitioner stating the grounds for Circumstances of a substantial or controlling effect Court-Appointed P.C.R.A. Counsel Richard T. Brown fail to give the Petitioner inadequate representation in P.C.R.A. proceeding, where Counsel fail to raise any of the Petitioner's Arguably meritorious claims. see. Com v. Albert, 561 A.2d 736 (PA. 1989). When considering The Pennsylvania Supreme Court's new rule announced in Com v. Grant, 813 A.2d 726 (2002). (claims grounding in trial Counsel's ineffectiveness should be deferred for review during P.C.R.A. proceedings) Creates even greater emphasis on protecting individual rights to a "fair and meaningful" review of [his] P.C.R.A. claims. This is especially true, consideration given meritorious P.C.R.A. claims may be forever lost should P.C.R.A. Counsel "drop the ball." see. Com v. Hampton, 718 A.2d 1250 (PA. Super. 1998). Post conviction counsel must raise all Arguably meritorious claims which might lead to the convict's securing of relief, by Mr. Brown not raising any of The Petitioner's meritorious claims in P.C.R.A. proceeding violated the Petitioner's Fourteenth Amendment, due-process, in P.C.R.A. proceedings see. Coleman v. Thompson, 501 U.S. 722 (1991). Also violated

The Petitioner's Sixth Amendment, right to counsel, in P.C.R.A. proceeding. See Workman v. Superintendent Albion, 908 F.3d 896; 2018. The Federal Court should consider the petition without first requiring resort to the state from, however, the Court rejected this contention, reasoning, in part, that where because of ineffective assistance a Petitioner has not been able to raise certain errors by way of a direct appeal, it (the federal court) felt certain that the state supreme court would recognize the inapplicability of the state's general policy (that post-conviction proceedings are not a substitute for direct appeals) which is aimed at preventing a petitioner from deliberately circumventing a direct appeal and relying instead on postconviction relief. The intricate, ambiguous, and unsettled question of the availability of federal relief where state remedies have been by passed or neglected is considered in depth in Rosenberg, "Jettisoning Fay v. Noia," Procedural Defaults by Reasonably Incompetent Counsel," in 62 Minn L Rev 341 (March, 1978). The Petitioner must be awarded a new trial as the result of ineffective of trial Counsel JAY S. Gottlieb

for not raising the claim in an direct appeal AND
P.C.R.A. Counsel Richard T. Brown for not raising
claims in P.C.R.A. proceedings See Com v. Townsell,
379 A.2d 98 (PA 1977). This is an Structural
Constitutional error as well as an Substantial
Claim this Claim has some merit.

PROCEDURAL HISTORY

1. On October 19, 2018 Petition for Writ of Habeas Corpus filed by Jesse Brown.
2. On December 17, 2018 Brief filed by Jesse Brown.
3. On MAY 4, 2021 The Petition for Writ of Habeas Corpus was Dismissed and Denied Order by Joseph F. Leeson, Jr. United State District Judge.
4. On June 1, 2021 Motion for Relief under 60(b)(6) filed by Jesse Brown.
5. On December 21, 2021 Motion for Relief under 60(b)(6) was Denied.
6. On MAY 17, 2022 Petition for Rehearing Order was denied.
7. On October 3, 2022 The petition for a Writ of Certiorari was denied.

IN THE
SUPREME COURT OF THE UNITED STATES

JESSE BROWN
PETITIONER

No. 22-5263

v.

ERIC ARMEL, SUPERINTENDENT SCI. AT FAYETTE
LAWRENCE KRASNER, PHILADELPHIA D.A.
JOSH SHAPIRO, PENNSYLVANIA ATTY GEN
RESPONDENT(S)

PETITION FOR REHEARING

COMES NOW Petitioner, Jesse Brown, And respectfully requests this Court to grant rehearing pursuant to Rule 44. Petitioner's writ of certiorari was denied on October 3, 2022 making this petition timely and file within the 25 days so there for in support of this petition, Mr. Brown states the following:

REASONS MERITING REHEARING

The panel's decision is in conflict with Strickland v. Washington, 466 U.S. 668 (1984). And Martinez v. Ryan, 132 S.Ct. 1309, 182 L.Ed. 2d 272 (2012); And Workman v. Superintendent Albion, 908 F.3d 896; 2018. Emphasizing that in determining Strickland prejudice, the court must examine both the trial testimony and the post-conviction evidence to determine whether, had the omitted evidence been presented, there is a reasonable probability of a different outcome, in that the panel merely examined the opinion of the Pennsylvania Court of Appeals which stated the facts in the light most favorable to the jury's verdict and all contrary evidence ignored. For example,

Jay S. Gottlieb was trial Counsel he stated to the jury in closing argument the transcript reflects the following:
"You notice I'm not saying anything about self-defense, because it isn't a self-defense issue. It's a killing. It's an illegal killing and I agree with that one hundred percent, but it is not first degree murder as the" (N.T. 4-18-08, Pg 13, 20-25). Mr. Gottlieb also stated: "No hoodwinking, no BS'ing no nothing. Straight out talking to you killing my client did it, but it is not first degree murder." (N.T. 4-18-08, Pg 14, 4-7). And Mr. Gottlieb stated to the jury:
"I would admit to you right off the bat that Jesse Brown shot Tariz Blackwell. I don't think on the basis of evidence that you heard there is any reasonable doubt about that." (N.T. 4-18-08 Pg 6, 21-25)
By trial/appeal Counsel Jay S. Gottlieb failure to litigate the lesser charge defense on a post-sentence motion and/or direct appeal where Mr. Gottlieb performance had fell below any objective standard of reasonableness whereas Mr. Gottlieb fail to appeal his main argument, Mr. Gottlieb's performance being deficient by an unprofessional standard... whereas Mr. Gottlieb's trial tactics and strategy had no rational basis in obtaining a favorable outcome in the Petitioner's behalf and whereas Mr. Gottlieb strategy was so insufficient whereas as it amounted to no defense at all but an open guilty plea to the jury and in open court against the Petitioner's wishes and against the weight of the evidence.
Trial Counsel Jay S. Gottlieb had no reasonable basis for presented a self incrimination defense, if you see preliminary hearing transcript from November 8, 2006 trial Counsel Jay S. Gottlieb asking Jerrica Fulton about the shooting the transcript reflects the following: Q. You didn't see my client fire the gun, did you? A. NO (N.T. 11-8-06, Pg. 24, 16-18). If you see the trial transcript from trial on April 17, 2008 the transcripts Ms. Pescatore asking Tishea Green about a gun the transcript reflects the following: Q. Did you ever see a gun? A. NO. Q. Never saw a gun? A. NO. (N.T. 4-17-08, Pg 67, 9-12).

The Statement made by Tishea Green made on 5-13-06 the same day of the incident Ms Green was ASK About who she recognize Any people that WAS Arguing? And she stated: "Yes, I SAW, Rig And I SAW two other guys, AND I SAW Rig's Girlfriend, Jerrica And Tariq Brother or Cousin, they All were on the sidewalk it sounded like Tariq was Arguing with one of the guys About his Girlfriend." Now The statement made by Jerrica Fulton on 5-13-06 the same day of the incident Ms. Fulton was ASK:

Q. WAS there Anyone else out there that you know of that SAW What happened? A. It was just me and Tariq were there that I SAW. That mean that it WAS A UNKNOWN person that WAS out there that could have been the shooter the record(s) support that the (2) two witnesses Jerrica Fulton And Tishea Green have not seen the shooting And An statement made by Tishea Green shows that there WAS A UNKNOWN person that WAS out there that could have been the shooter the evidence Are not overwhelming the evidence Are circumstancesul And there Are no Reasonable Basis for Mr. Gottlieb Action or inaction for presented A self incrimination defense. It is only in the most clear-cut of cases that the reason for the conduct of Mr. Gottlieb Are clear from the record thus only where the record clearly establishes that the Action or omission of Mr. Gottlieb was without A Reasonable Basis and the Court should resolve the Reasonable Basis prong in grant An Renuaring AS to the strategy of Mr. Gottlieb should be in order.

Trial Counsel Jay S. Gottlieb Prejudice the Petitioner when Counsel stated to the jury: "I don't think on the basis of the evidence that you heard there is Any reasonable doubt About that." (N.T. 4-18-08, Pg. 6, 23-25) If you see U.S. v. Swanson, 943 F.2d 1070. (Ninth Cir. 1991). This case states: 641.13 (2) Court Appointed defense Counsel's concession, during closing Argument, that no reasonable doubt exised regarding

Only factual issues in dispute, constituted deprivation of right to due-process and effective assistance of counsel that was Prejudicial ~~per se~~; Abandonment of defense was inherently Prejudicial, And thus no separate showing of Prejudice was necessary U.S.C.A. Amends 5,6.

Reversible error occurs only when the unavoidable effect of the challenged comments would Perjudice the jurors and form in their minds a fixed basis and hostility toward the Defendant such that the jurors could not weigh the evidence and render a true verdict. Cox, Supra at 687 (citation omitted); see also, Carson, 913 A.2d at 242.

The Petitioner was Prejudiced by the action or omission of Mr. Gottlieb, had Mr. Gottlieb want with a "not guilty plea," there is a reasonable probability that... the outcome of the trial proceeding would have been different.

The Strickland test, requiring a showing of prejudice caused by counsel's ineffectiveness, is applicable (1) in case where the record reflects that an attorney's errors or omissions occurred during an inept attempt to present a defense, or (2) that he or she engaged in an unsuccessful tactical maneuver that was intended to assist the defendant in obtaining a favorable ruling.

(1) The record reflects at trial Mr. Gottlieb stated to the jury: "You notice I'm not saying anything about self-defense, because it isn't a self-defense issue. It's a killing. It's an illegal killing, and I agree with that one hundred percent, but it is not first-degree murder as the." (N.T. 4-18-08, p. 13, 20-25). The is the error or omission that has occurred during an inept attempt to present a defense. (2) The unsuccessful and tactical maneuver that was intended to assist the petitioner in obtaining a favorable ruling, Mr. Gottlieb told the jury "it isn't a self-defense issue" and he said "It an illegal killing, and I agree with that hundred percent, but it is not first-degree murder." So what kind of murder is it? Mr. Gottlieb

had confused the jury this tactic/maneuver didn't
Obtaining a favorable ruling in the Petitioner's behalf because
he have life without parole, this making Mr. Jay S. Gottlieb
ineffectiveness under Strickland v. Washington, 466 U.S.
668, 686, 104 S.Ct. 2052 (1984). Mr. Gottlieb Prejudice the
Petitioner and violated the Petitioner's Sixth Amendment
right to Counsel and Fourteenth Amendment due-process.
This performance of defense counsel caused a breakdown in
the Adversarial System and relieved the government of proving
its case beyond a reasonable doubt, and The Petitioner had
received ineffective assistance of counsel at a critical stage
in the proceeding. See U.S. v. Swanson, 943 F.2d 1070, (Ninth Cir.
1991). Preventing a defendant from arguing a legitimate defense
theory constitutes structural error. See U.S. v. Miguel, 338
F.3d 995 (CA9 2003), and Conde v. Henry, 198 F.3d 734 (CA9 2000), and
Also see Glebe v. Frost, 574 U.S. — (2014).
Even when no theory of defense is available, if the
decision to stand trial has been made, Counsel must
hold the prosecution to its heavy burden of proof
beyond reasonable doubt. See Commonwealth v.
Myers, 897 A.2d 493 (PA. Super 2006). And Commonwealth
v. West, 883 A.2d 654 (PA. Super 2005). And also see.
Commonwealth v. Flores, 909 A.2d 387 (2006 PA. Super).

Jay S. Gottlieb was not functioning as the Counsel guaranteed
to the Petitioner by the Sixth Amendment. This claim have
some merit.

This is a substantial claim by the action or omission of
Jay S. Gottlieb has Mr. Gottlieb want with a "not guilty plea,"
where evidence shows that Terrica Fulton and Tishea
Green had not seen the shooting and evidence shows that
there was a unknown person out there at the time of the
shooting that could have been the shooter and Officer Cannon

testified that there were several different models of
Glocks And from the Photo it could not be determined. See
(N.T. 4-17-08, p 45-46). So there was not overwhelming evidence
the evidence was circumstancesul so if Mr. Gottlieb want with
A "not guilty plea" there is a reasonable probability that... the
outcome of the trial proceeding would have been different
this claim have some merit. See Miller-El v. Cockrell, 537 U.S.
322 On the underlying Claim must have some merit. Furthermore
with the weight of the evidence Mr. Gottlieb had no reasonable
basis for a guilty plea its for the jury to decide, the jury in
criminal case ~~conclusionis in most of the case presented to~~
~~them~~ concluded that juries do understand the evidence
And can come to sound Conclusionis in most of the case presented
to them. See Duncan v. Louisiana, 392 U.S. 947, 888. Ct. 2270 (1968).
Mr. Gottlieb was also Jeffrey Workman trial counsel, Mr. Gottlieb
fail on behalf of the Petitioner present a case to modify a
theory of the case to Account for not rebut with Commonw-
ealth evidence Petitioner's denial of his Sixth Amendment
rights, right to counsel, Mr. Gottlieb did not play the role of an
Advocate for the Petitioner he played A Advocate for his theory.
See Workman v. Superintendent Albion, 908 F.3d 896; 2018.
The Petitioner has showed that trial counsel Jay S. Gottlieb is
ineffective under Strickland v. Washington, 466 U.S. 668 (1984).
This make State-post conviction Counsel Richard T. Brown
ineffective for not raising this claim in the P.C.R.A. proceeding.
See Workman v. Superintendent Albion, 908 F.3d 896; 2018.
P.C.R.A. Counsel Richard T. Brown was ineffective in the
circumstances of the particular case was the P.C.R.A. proceeding
Mr. Brown fail to give the Petitioner effective Assistance by
Mr. Brown fail to make citations to the record And/or site
Any legal authority wheres you have (N.T. 4-18-08, p 6.21-25)
And (N.T. 4-18-08, p 14.5-7) And you have case Commonwealth
v. Wever, 457 A.2d 505 (PA. 1983) showing that Mr. Brown fail.

to inarticulately drafted the Petitioner's Brief, see Commonwealth v. Ollie, 450 A.2d 1026 (PA Super 1982) Mr Brown left the Petitioner's Brief Completely lacking in substance." See Commonwealth v. Albert, 561 A.2d 736 (PA. 1989), Mr. Brown fail to participate meaningfully and violated the representation requirement of the Act, 19 P.S. § 1180-12 (Repealed) and that did not give Appellate Court the opportunity to Assess legitimacy of underlying claims. 42 Pa. C.S.A. § 9541 et seq.; U.S.C.A. Const. Amend. 6. See Criminal Law 641.13(7) in Albert's Court, 561 A.2d 736 (PA. 1989). Mr. Brown violated the Petitioner's Fourteenth Amendment due-process in the P.C.R.A. proceeding. See Coleman v. Thompson, 501 U.S. 722 (1991). This will overcome procedurally defaulted. See Martinez v. Ryan, 132 S. Ct. 1309 (2012). And also see Workman v. Superintendent Albion, 908 F.3d 896; 2018. If Mr Brown had made citations to the record and site legal authority in the P.C.R.A. proceeding, Probability that... the outcome of the proceeding would have been different. The reliability of the Adjudication of guilt or innocence and the probability that Counsel's ineffectiveness caused a different outcome of the proceedings are concepts so closely intertwined and commonly-rooted in Strickland that the Pennsylvania Supreme Court has refused to separate them. See Strickland v. Washington, 466 U.S. 668 (1984). This issue have Arguable Merit. P.C.R.A. Counsel Richard T. Brown Prejudice the Petitioner when Mr. Brown failed to allege that trial/direct appeal Counsel Jay S. Gottlieb was ineffective for presented an self-incrimination defense without the Petitioner's consent and/or fail to challenge the issue on a post-sentence motion and/or an direct appeal See Douglas v. California, 372 U.S. 353 (1963). Where's record[s] testimony of Jerrica Fulton and Tishea Green shows

that they did not see the shooting And/or the statement made by Tishea Green shows that there was a unknown person that was out there at the time of the shooting And this unknown person could have been the shooter wheres trial testimony And an statement shows that Mr. Brown did not provide the Petitioner with Adequate representation. See. Commonwealth v. Albert, 561 A.2d 736 (Pa. 1989). And Mr. Brown violate P.A.R. Crim. P. 1504(d) that provides that the Appintment of counsel includes representation in Any Appeal Mr. Brown violated the Petitioner's Fourteenth Amendment due-process in the P.C.R.A. proceedings by not raising the Petitioner's claims See Colman v. Thompson, 501 U.S. 722 (1991). If Mr. Brown had raise the ineffective on trial / direct Appeal counsel Jay S. Gottlieb there is a reasonable probability that the outcome of the P.C.R.A. proceeding would have been different. This make state-post conviction counsel Richard T. Brown ineffective under Strickland v. Washington, 466 U.S. 668 (1984).

This is a Substantial Claim by the Action or Omission of Richard T. Brown, Mr. Brown did not file an P.A.R.A.P. 1925 (b) statement nunc pro tunc this got the Petitioner's Claim wave and without merit in state court and procedural default in the Federal Court, if Mr. Brown did file an P.A.R.A.P. 1925 (b) statement nunc pro tunc on behalf of the Petitioner there is a reasonable probability that... the outcome of the P.C.R.A. proceeding would have been different this Claim has some merit. See Miller-El v. Cockrell, 537 U.S. 322 (2003). The reasonable jurists could debate on the ineffective of trial Counsel And P.C.R.A. Counsel. This should excuse procedural default. See Workman v. Superintendent, 908 F.3d 896; 2018.

the layer of ineffective Are According to Commonwealth v. McGill, 832 A.2d 1014 (2003). Also see. Commonwealth v. Carson, 913 A.2d 220 (2006). Jurists of reason could debate Whether P.C.R.A. Counsel was ineffective for failing to raise this Claim on initial-Collateral review.

EXTRAORDINARY CIRCUMSTANCES

The Court found that pursuant to PCHA., 19 P.S. §1180-4 (Supp. 1979-80) issue that could have been raised earlier were finally litigated unless the petitioner could have shown extraordinary circumstances to justify his failure to raise the issue. The Court found that ineffective counsel was an extraordinary reason to justify defendant's failure to raise issue. See Commonwealth v. Watlington, 420 A.2d 431 (Pa. 1980). The Petitioner has shown an extraordinary Circumstances.

The United States District Court Eastern District of Pennsylvania, the Court denied Petitioner's 60(b) stated that Petitioner fail to show an extraordinary Circumstances, All the cases that is shown here has been use in the 60(b), so lower Court had the Change to review, this shows that by the Petitioner has shown and extraordinary Circumstances violated the Under the Antiterrorism And Effective Death Penalty Act (AEDPA) Which is codified at 28 U.S.C. §2254 (d), A habeas Corpus petitioner can only succeed if Petitioner can show that (i) the State Court's resolution of his claim was contrary to, or an objectively unreasonable Application of, clearly established federal law and (ii) his claims is exhausted. See 28 U.S.C. §2254 (d)(1); Woodford v. Visciotti, 537 U.S. 19, 24-25, 123 S.Ct. 357, 154 L.Ed.2d 279 (2002); Berryman v. Morton, 100 F.3d 1089, 1103 (3d Cir. 1996).

A state-court decision is contrary to clearly established Federal law if the state court (1) contradicts the governing law set forth in [the Supreme] Court's cases or (2) confronts a set of facts that are materially indistinguishable from a decision of [the Supreme] Court and nevertheless Arrives at a [different] result. Lambert v. Blackwell, 387 F.3d 210, 234 (quoting Williams v. Taylor),

529 U.S. At 362, 405-406 (2000). "A state-court decision involve[s] an unreasonable Application of clearly established federal law if the state Court (1) identifies the correct governing legal rule from [the Supreme] Court cases but unreasonably Applies it to the facts of the particular... case; or (2) Unreasonably extends a legal principle from [Supreme Court] precedent to a new context where it should Apply." Id. (quoting Williams, 529 U.S. At 407). An objectively unreasonable Application does not require merely that a state court's decision be erroneous or incorrect, but also that it be unreasonable. Williams, 529 U.S. At 407. Clearly established federal laws are the holdings, not the dicta of the Supreme Court, Id. At 390.

State court factual determinations are also given considerable deference under the ADEPA. Lambert, 387 F. #d 239. Petitioner must establish that the state court's Adjudication of his claim resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding. "28 U.S.C. § 2254(d)(3). 3. A Petitioner may only succeed in a habeas corpus petition if he has first exhausted all remedies available in the state courts 28 U.S.C. § 2254(b)(1)(A). To testify this requirement the petitioner must "fairly present" his claims to the state court allowing the state court a meaningful opportunity to correct alleged constitutional violations. Duncan v. Henry, 513 U.S. 364, 365, 115 S.Ct. 887, 130 L.Ed. 2d 865 (1995); O'Sullivan v. Boerckel, 526 U.S. 838, 845, 119 S.Ct. 1728, 144 L.Ed. 2d 1 (1999) (requiring "one complete round" of the states appellate procedures.) Petitioner bears the burden of proving the exhaustion of all available remedies for each claim. Toulson v. Beyer, 987 F.2d 984, 987 (3d Cir. 1993). Claims that are not exhausted will become procedurally defaulted and the petitioner is not entitled to a review on the merits O'Sullivan, 526 U.S. At 848. Review of a procedurally defaulted claim is permitted in extremely narrow circumstances, where the petitioner can show

either (1) CAUSE for the default AND Actual prejudice or (2) the failure to consider the claim will result in a fundamental miscarriage of justice. Coleman v. Thompson, 501 U.S. 722, 749, 111 S.Ct. 2546, 115 L.Ed. 2d 640 (1991).

Cause for procedural default is shown when the petitioner demonstrates some objective factor external to the defense impeded counsel's efforts to comply with the state procedural rule. MURRAY v. CARRIER, 477 U.S. 478, 488, 106 S.Ct. 2639, 91 L.Ed. 2d 397 (1986).

Actual prejudice occurs when the errors at trial worked to his actual and substantial disadvantage, infecting his entire trial with error of constitutional dimensions. Id. at 494 (quoting United States v. Frady, 456 U.S. 152, 179, 102 S.Ct. 1584, 71 L.Ed. 2d 816 (1982)). A fundamental miscarriage of justice occurs when

A petitioner presents new evidence of his actual innocence ~~such~~ such that it is [now] more likely than ~~not~~ that no reasonable juror would have convicted him. Schlup v. Delo, 513 U.S. 298, 327, 115 S.Ct. 851, 130 L.Ed. 2d 808 (1995).

In Martinez v. Ryan, 132 S.Ct. 1309, 182 L.Ed. 2d 272 (2012), the Supreme Court examined whether ineffective assistance at initial review of a collateral proceeding on claim of ineffective assistance at trial can provide cause for a procedural defect in federal habeas proceedings. Id. at 1315. This case recognized a narrow exception to the Coleman rule (that ineffective assistance of counsel at the state collateral review level could not establish cause to excuse procedural default), holding that "[i]nadequate assistance of counsel at initial-review collateral proceedings may establish cause for a prisoner's procedural default of a claim of ineffective assistance at trial."

Thus a P.C.R.A. claim for ineffective trial counsel during an initial state collateral review may qualify as "cause" to excuse the default if: (1) as a threshold matter, the state requires a prisoner to bring an ineffective counsel claim in a collateral proceeding; (2) the state courts did not appoint counsel /

At the initial review collateral proceeding for an ineffective-
Assistance-at-trial claim; (3) where Appointed counsel at
the initial-review collateral proceeding was ineffective under
Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.
2d 674 (1984) and the underlying ineffective-Assistance-at-
trial claim is substantial. Martinez, 132 S.Ct. at 1315-18.

Petitioner put an 60(b) in the United States District
Court Eastern District of Pennsylvania, the petition was
denied because fail to show an extraordinary Circumstances
Petitioner had lawyer the ineffective of PCRA Counsel for
not raising trial Counsel ineffective and had use case
law of Commonwealth v. Watlington, 420 A.2d 431 (Pa. 1980).
this case shows the ineffective of Counsel is an
extraordinary Circumstances so Petitioner has showed
an extraordinary Circumstances ~~that~~ was over look
and this violated (AEDPA) (2) resulted in a decision that was
based on an unreasonable determination of the facts in light
of the evidence presented in the State court proceeding
28 U.S.C. § 2254(d). Rehearing should be granted.
The D.A. Ms. Pescatore stated this to the jury in closing argument
the transcript reflects the following:

"Well, I have to tell you I've been doing -- I've been a D.A. now 19
years and there's not many cases I tried where defense counsel
actually stands up and admits that their person did it" (N.T. 4-18-08, p. 13, 20-25).
The Government did not prove its case beyond a reasonable doubt.
The Due Process Clause requires the prosecution in a criminal proceeding
to prove all elements of the crime beyond a reasonable doubt. The
standard provides concrete substance for the presumption of innocence
- that bedrock "axiomatic and elementary" principle whose enforcement
lies at the foundation of the administration of our criminal law. Thus,
due process requires that each element of a crime be proved to the jury

beyond a reasonable doubt. Simply put, the Constitution gives a criminal defendant the right to demand that a jury find him guilty of all the elements of the crime with which he is charged. See.

United States v. Swanson, 943 F.2d 1070 (1991) And see.

United States v. Miguel, 338 F.3d 995 (CA9 2003).

If the presumption of innocence is missing from a trial then there has been no jury verdict within the meaning of the Sixth Amendment.

Preclusion of closing argument in a criminal defense trial is structural constitutional error. See U.S. v. Miguel, 338 F.3d 995 (CA9 2003). This is call for a nature as to warrant the Supervisory Powers of this Court. Jurists of reason could also debate on the merit of this claim. Rehearing should be granted.

CONCLUSION

For the foregoing reasons, The Petitioner
Prays this Court grant Rehearing. He further
Prays for Any other And further relief
Which the Court may deem just And proper
under the Circumstances.

Date: 10-4-22

Respectfully submitted
x Jesse Brown
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IN THE

SUPREME COURT OF THE UNITED STATES

JESSE BROWN

✓ PETITIONER

No. 22-5263

ERIC ARMEL, SUPERINTENDENT S.C.I. ATTAYETTE
LAWRENCE KRASNER, PHILADELPHIA D.A.

JOSH SHAPIRO, PENNSYLVANIA ATTY GEN
RESPONDENT(S)

CERTIFICATE OF SERVICE

I, Jesse Brown, do swear or declare that on this date
October 31, 2022 AS required by Supreme Court Rule 44
that the grounds are limited to intervening circumstances
of substantial or controlling effect or to other substantial
grounds not previously presented. THE PETITION FOR
REHEARING is presented in good faith and not for delay
on each party to the above proceeding or that party's counsel,
And on every other person required to be served, by
depositing an envelope containing the above documents
in the United States mail properly addressed to each
of them and with first-class postage prepaid; or
delivery to a third-party commercial carrier for

delivery within 3 calendar days The names and
Addresses of those served are as follows:

Supreme Court of the United States
1 First Street N.E.

Washington, DC. 20543

I declare under penalty of perjury that the
foregoing is true and correct.

Executed on: October 31, 2022

x Jesse Brown
(Signature)

**Additional material
from this filing is
available in the
Clerk's Office.**