

JUN 21 2022

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No. \_\_\_\_\_

22-5613

IN THE  
SUPREME COURT OF THE UNITED STATES

Kennrith Foster — PETITIONER  
(Your Name)

vs.

State of Illinois — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

APPELLATE COURT OF ILLINOIS 2nd District  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Kennrith Foster #B36692  
(Your Name)

P.O. Box 1000  
(Address)

Menard, IL 62259  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

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QUESTION(S) PRESENTED

- ① Did trial court violate Kenneth Foster's constitutional rights to a jury trial and to due process of law when it accepted his jury waiver without providing adequate admonitions about the nature of the right he was waiving.

## 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:

Mr. Edward Randall Psenicka, Deputy Director, States Attorney  
Appellate Prosecutor, 2032 Larkin Ave, Elgin IL, 60123  
2nd district, eserve@ilsapp.org

Ms. Jamie Mosser, Kane County States Attorney, 37W 777 Rt 88,  
Suite 300, St. Charles IL 60175

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## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

- People v. Owens, 336 Ill. App. 3d 807 (1st Dist. 2002)
- People v Smith, 106 Ill. 2d 327 (1985)
- People v Sebag, 110 App 3d 821 (2nd Dist. 1982)
- People v. Surgeon, 15 Ill. 2d 236 (1958)
- People v Scott, 186 Ill. 2d 283 (1999)
- People v Ruiz, 367 Ill. App. 3d 236 (1st Dist. 2006)
- People v Tooles, 177 Ill 2d 462 (1997)
- People v Lake, 297 Ill App 3d 454 (1st Dist) 1998
- People v Bracey, 213 Ill. 2d 265 (2004)
- People v. Miller, 55 Ill App 3d 1047 (1977)

### STATUTES AND RULES

725 ILCS 5/103-6

Ill. Sup. Ct. R 615(a)

### OTHER

~~6<sup>th</sup> Amendment~~

~~14<sup>th</sup> Amendment~~

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 A to the petition and is

☒ reported at Appellate Court # 2-20-0098; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

The opinion of the Illinois State Court # 17 CF 2358 court appears at Appendix B to the petition and is

☒ reported at # 17 CF 2358; 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 \_\_\_\_\_

☐ 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 \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☒ A timely petition for rehearing was thereafter denied on the following date: 3-30-2022, and a copy of the order denying rehearing appears at Appendix B.

☐ 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**

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US Const amends. VI, XIV; Ill. Const. 1970, art. I, §§ 8, 13,



## STATEMENT OF THE CASE

Kennrith Foster was convicted of attempt murder, armed robbery, armed violence, and unlawful use of a weapon by a felon after a bench trial.

He was sentenced to 45 years for attempt murder to run consecutively to a 33-year sentence for armed robbery, a 35 years sentence for armed violence and a 5 year sentence for UUWF, which were to run concurrently. Mr. Foster was assumed to know the difference between a bench trial as opposed to a jury trial due to his limited experiences with the court system. Mr. Foster was never formally admonished by the court as to knowing what he was truly giving up in the form of a jury trial. Therefore Mr. Foster should be granted a new trial.

## REASONS FOR GRANTING THE PETITION

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Prior to trial, the court asked Kenneth Foster if he wished to waive his right to a jury trial, but failed to explain what a jury was and did not ask if Foster understood what a jury trial involved. (R 76) Foster also submitted a written jury waiver (C. 104) The court's limited, cursory, on-the-record admonitions did not ensure that Foster knowingly waived his Constitutional rights to a jury trial, and as such, this court should reverse Foster's convictions and remand for a new trial.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kenneth Foster

Date: 6-21-22