

No. 22-6084

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

JERRY BONTON,

PETITIONER,

- v. -

Supreme Court, U.S.
FILED

OCT 17 2022

OFFICE OF THE CLERK

UNITED STATES COURT OF APPEALS FOR SECOND CIRCUIT,
RESPONDENT.

ON PETITION FOR A WRIT OF
CERTIORARI TO THE UNITED STATES
SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Jerry BONTON #02A5418
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Supreme Court, U
FILED

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SUPREME COURT, U.S.

QUESTION PRESENTED

1. WHETHER DEFENDANT'S HISTORY OF MENTAL DISABILITY WARRANTED MENTAL COMPETENCY EVALUATION PURSUANT TO ESTABLISHED LAW UNDER, ARTICLE 736?
2. WHETHER DEFENSE AND APPELLATE ATTORNEY REPRESENTATION WAS DEFICIENT WHERE DEFENDANT'S MENTAL HISTORY WAS NOT DISCLOSED PRIOR TO AND DURING TRIAL?
3. WHETHER DEFENDANT'S TRIAL AND CONVICTION WAS IN VIOLATION OF ESTABLISHED LAW, BECAUSE DEFENDANT WAS MENTALLY UNFIT TO STAND TRIAL-RESULTING IN A TRIAL PROCEEDING WHERE HE WAS NEVER SUBJECTED TO A COMPETENCY EVALUATION?

LIST OF PARTIES

ALL PARTIES APPEAR IN THE CAPTION ON THE COVER PAGE.

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STATUTES AND RULES

UNITED STATES CONSTITUTION, 6TH AND 14TH AMENDS. -	
UNITED STATES SUPREME COURT RULE 10, 28 USC -	

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.

OPINIONS BELOW

FOR CASES FROM FEDERAL COURTS:

THE OPINION OF THE UNITED STATES COURT OF APPEALS APPEAR AT APPENDIX "A" TO THE PETITION AND IS UNPUBLISHED.

THE OPINION OF THE DISTRICT COURT APPEAR AT APPENDIX "B" TO THE PETITION AND IS UNPUBLISHED.

JURISDICTION

FOR CASES FROM FEDERAL COURTS:

THE DATE ON WHICH THE UNITED STATES COURT OF APPEALS DECIDED MY CASE WAS AUGUST 11, 2022. MANDATE FOLLOWED ON SEPTEMBER 23, 2022 - AFTER DENIAL OF MOTION TO INCLUDE EXHIBITS W/C.O.A.

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C. SECTION 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED:

UNITED STATES CONSTITUTIONAL AMENDMENTS SIXTH AND FOURTEENTH AMENDMENTS ARE RELIED UPON WHERE DEFENSE AND APPELLATE ATTORNEY REPRESENTATION FAILED TO DISCLOSE DEFENDANT'S MENTAL HEALTH HISTORY PRIOR TO, AND DURING TRIAL.

STATEMENT OF THE CASE

PRISON LAW LIBRARY WORKERS DISCOVERED DEFENSE ATTORNEY REPRESENTATION OF ALLEGED, MENTALLY IMPAIRED DEFENDANT, FAILED TO DISCLOSE DEFENDANT'S MENTAL HEALTH HISTORY PRIOR TO AND DURING TRIAL. SUCH INFORMATION, IF DISCLOSED TO THE COURT WOULD HAVE RESULTED IN A DIFFERENT OUTCOME FOR TRIAL. (CATE v. ROBINSON, 383 U.S. 375, 378 (1966))

REASON FOR GRANTING THE PETITION

THE NEW YORK STATE LEGISLATURE, AS EARLY AS 1828, CODIFIED (MENTALLY INCAPACITATED PERSONS MUST NOT BE TRIED FOR A CRIMINAL OFFENSE), THIS COMMON LAW PRESCRIPT INTO STATUTORY LAW, PROVIDING THAT "NO INSANE PERSON CAN BE TRIED, SENTENCED TO ANY PUNISHMENT, OR PUNISHED FOR ANY CRIME OR OFFENSE WHILE HE CONTINUES IN THAT STATE." (SEE BLACKSTONE'S COMMENTARIES, BOOK IV, CHAPTER II, 1 HALE, THE HISTORY OF THE PLEAS OF THE CROWN, 34-35, 2 REV. STAT, 697 (1828))

Conclusion:

NEWLY DISCOVERED EVIDENCE INCLUDES, MATERIAL EVIDENCE RELEASED FROM THE OFFICE OF ASSIGNED DEFENSE AND APPELLATE ATTORNEY WHICH CLEARLY INDICATED OR SUPPORTED, PREVIOUSLY UNDISCLOSED FACTS, SHOWING VERIFIABLE PROOF OF DEFENDANT'S MENTAL HEALTH HISTORY. UNDER ESTABLISHED LAW, COUNSELS FOR DEFENDANT COULD NOT LAWFULLY WITH-HOLD SUCH INFORMATION FROM THE COURT AS A TRIAL STRATEGY. (SEE ATE v. ROBINSON, 383 U.S. 375 (1966); JOHNSON v. KEANE, 974 F. Supp. 225 (SDNY-1997); ESTELLE v. SMITH, 451 U.S. 454 (1981); VARGAS v. MOTT, 2022 WL 3236744 (WDNY), (also, see, BISHOP v. UNITED STATES, 350 U.S. 961 (1956); BRUCE v. ESTELLE, 483 F.2d 1031, 1033 (1973); UNITED STATES ex REL ROTH v. ZELKER, 445 F.2d 1105, 1108 (2 Cir. 1972))

RECENT HOLDING FROM UNITED STATES SUPREME COURT AT, SHINN v. RAMIREZ; SHINN v. JONES, S.Ct. — (2022) CITING MARTINEZ v. RYAN, 566 U.S. 1 (2013) - CONCERN "CAUSE AND PREJUDICE", IDENTICAL TO THIS CASE, WHERE INEFFECTIVE ASSISTANCE OF DEFENSE AND APPELLATE ATTORNEY CLAIM ALLEGEDLY FAILS UNDER ERROR IMPUTED TO THE STATE.

THIS COURT IS ASKED TO LIBERALLY CONSTRUCT
PRO-SE PLEADINGS AND ISSUE OR GRANT
CERTIORARI RELIEF. (U.S. Sup. Ct. Rule 10, 28USCA)

Dated October 07, 2022

Respectfully Submitted

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TO:
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(ATTN, Clerk of the Court)

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