

SUPREME COURT OF THE
UNITED STATES

JASON I. BAXTER

22-6124

ORIGINAL
PETITIONER

-V-

Supreme Court, U.S.
FILED

AUG 12 2022

OFFICE OF THE CLERK

HAROLD D. GRAMM

RESPONDENT

PETITION FOR WRIT OF HABEAS CORPUS

JASON BAXTER

PRO-SE PETITIONER

FIVE-POINTS CORP. FAC.

STATE ROUTE 96, P.O. BOX

119

ROSELAND NY 14541

QUESTION PRESENTED

- ①- WHY WAS BAXTER DENIED THE DUE PROCESS OF LAWS? BY WAY OF BEING TRIED IN ABSENTIA AT TRIAL?
- ②- HOW DID THESE PREJUDICIAL SPILLOVER EFFECTS OF BAXTER BEING TRIED IN ABSENTIA "NOT VIOLATE THE UNITED STATES CONSTITUTION?"
- ③- WHY WAS BAXTER NOT PERSONALLY PRESENT AT FINAL VOIR DIRE?
- ④- WHY WAS BAXTER NOT ALLOWED TO RETAIN NEW COUNSEL OF CHOICE?
- ⑤- WHY WAS THE COURTROOM CLOSED?
- ⑥- WHY WAS BAXTER NOT ALLOWED TO BE PERSONALLY PRESENT FOR THE JURY VERDICT OR (4) FOUR JURY NOTES OR READ BACK?
- ⑦- WHY DID THE TRIAL JUDGE MAKE PERJURIOUS STATEMENTS ON THE RECORD? THEN DURING TRIAL BECAME AN UNSWORN WITNESS FROM THE BENCH?
- ⑧- WHY WAS BAXTER ANTI-MARCHET RIGHTS VIOLATED? AND THE JUDGE AND TRIAL DEFENSE COUNSEL BOTH KNEW BAXTER REFUSED TO WAIVE SUCH RIGHTS BUT STILL HELD MATERIAL SIDE BARS IN BAXTER ABSENCE?
- ⑨- WHY WAS THE TRIAL JUDGE ALLOWED TO PICK JUROR'S OVER BAXTER OBJECTION? AND DENIED FOR CAUSES IN AN INVIDIOUSLY DISCRIMINATIVE PERFUNCTORY MANNER?
- ⑩- WHY WAS THE STENOGRAPHER ALLOWED TO ALTER-DELETE-REARRANGE THE PRE-TRIAL AND TRIAL TRANSCRIPTS? TO TRY AND COVER-UP ALL THESE U.S. CONST. VIOLATIONS

QUESTION PRESENTED

- ①- WHY WAS THE A.D.A. ALLOWED TO WITHHOLD BRADY MATERIAL?
- ②- WHY WAS DEFENCE COUNSEL "FORCE" UPON DEFENDANT BAXTER AS WELL AS GROSSLY INEFFECTIVE? WHY DID THE DEFENCE COUNSEL NEVER MADE AN OBJECTION DURING A WEEK LONG TRIAL?
- ③- WHY WAS BAXTER DENIED PRO-SE STATUS OF SELF-REPRESENTATION?

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APPENDIX C - CASE LAW CITATION PERTAINING TO WRIT PETITION
IN WHOLE AND PART BY REFERENCE (EX. P.G. 10 - PARAGRAPH 9)

JURISDICTION

THE SECOND CIRCUIT APPEALS COURT ENTERED JUDGMENT ON

JUNE-16-2022; JURISDICTION IS PROPER UNDER 28 U.S.C. § 1254(1)

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

STATEMENT OF RELATED CASES

PRO-SE PETITIONER BAXTER IS AWARE OF NO DIRECTLY RELATED PROCEEDINGS ARISING FROM THE SAME COURT CASE AS THIS CASE

OTHER THAN THE PROCEEDING APPEAL TO THE U.S. SUPREME COURT

CONSTITUTIONAL PROVISIONS

1ST 5TH 6TH 7TH 14TH AMENDMENTS (U.S.C.)

1ST U.S. CONST. AMEND. PROVIDES IN PERTINENT PART: ACCESS TO THE COURTS

5TH + 14TH U.S. CONST. AMEND. PROVIDES IN PERTINENT PART: NO STATE "SHALL" MAKE ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGE-IMMUNITIES OF CITIZEN OF THE UNITED STATES; NOR "SHALL" ANY STATE DEPRIVE ANY PERSON OF LIFE

LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW(S)

6TH U.S. CONST. AMEND. PROVIDES IN PERTINENT PART: ALL CRIMINAL PROSECUTIONS; THE ACCUSED "SHALL" ENJOY THE RIGHT TO SPEEDY AND PUBLIC TRIAL; BY IMPARTIAL JURY; TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION; TO BE CONFRONTED WITH WITNESSES AGAINST HIM; TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR; AND THE "ASSISTANCE" OF COUNSEL FOR HIS DEFENCE

7TH U.S. CONST. AMEND.: THE RIGHT OF TRIAL BY JURY SHALL BE PRESERVED

STATEMENT OF THE CASE

MR. BAXTER WAS ACCUSED OF VIOLATING SEVERAL NEW YORK STATE PENAL LAW CODE'S; BAXTER RETAIN'S HIS INNOCENCE AND SOUGHT TO PROVE HIS INNOCENCE AT TRIAL IN NASSAU COUNTY; AS THE PROCEEDING'S TOOK PLACE; BAXTER WAS "WAKE" TO "SEVERAL CONSTITUTIONAL RIGHTS AND PROTECTIONS BEING INTENTIONALLY VIOLATED BY THE DEFENCE COUNSEL - A.D.A. - TRIAL JUDGE - AND THE STENOGRAPHER."

AFTER THE TRIAL COURT REFUSED TO ALLOW BAXTER TO RETAIN - HAVE A NEW COUNSEL; BAXTER PROCEEDED TO DEFEND PRO-SE IN SELF-REPRESENTATION; WHICH ONLY RESULTED IN THE TRIAL COURT DENYING BAXTER ACCESS TO THE COURT AND ALL PRO-SE MOTION'S BEING DENIED ON A WIMP WITH NO LAW APPLIED FOR THE DENIAL

REASONS FOR GRANTING THE WRIT

- (1) - THE U.S. CONSTITUTIONAL VIOLATIONS IN THIS CASE "SHOULD NOT" HAVE ACCURED; "ITS BEEN LONG AGO SETTLED AND CLEARLY ESTABLISH" UNDER U.S. SUPREME COURT PRECEDENT; AND NEVER IS THERE A JUSTIFICATION FOR INTENTIONAL VIOLATIONS OF THE U.S. CONSTITUTION OR THE DOCTRINE OF STARE DECISIS
- (2) - THIS IS A CASE THAT THE VERY SAFEGUARDS AND PROTECTIONS OF THE U.S. CONSTITUTION WAS CREATED TO STOP AND PREVENT FROM TAKING PLACE IN ANY COURTS OF LAWS; A CONTRARY CONCLUSION WOULD REQUIRE HOLDING THAT WHEN THE U.S. AMENDMENTS WAS RAFFIFIED IT INVALIDATED IMPORTANT STATUTES IN NEW YORK STATE JUDICIARY OFFICES
- (3) - "THIS UNLAWFULLY CONDUCT IS ON-GOING"; IT DID NOT BEGIN WITH BAXTER CASE; NOR DOES IT SEEM TO END WITH BAXTER CASE; THIS IS WHY THIS UNLAWFUL COURT CONDUCT "SHOULD NOT, MUST NOT" ESCAPE REVIEW "MR. BAXTER HAD ALL OF HIS RIGHTS INTENTIONALLY VIOLATED; BECAUSE HE WENT TO TRIAL"; ANY SENSIBLE APPLICATION OF "FAIR PLAY" OR "SUBSTANTIAL JUSTICE" MUST HOLD COURTS BELOW TO THE "U.S. SUPREME COURT CONSTITUTIONAL STANDARDS"
- (4) - THE TRIAL JUDGE WAS THE LEADING VIOLATOR OF THE U.S. CONSTITUTION SAFEGUARDS - PROTECTIONS - CLAUSES ETC...

(5)- BAXTER NEVER HAD HIS DAY IN COURT; RENDERING JUDGMENT OVER SUCH A DEFENDANT WOULD BE/IS AN "ILLEGITIMATE ASSUMPTION OF POWER"

(6)- THE DECISION(S) BELOW CANNOT BE RECONCILED WITH THE ORIGINAL PUBLIC MEANING OF THE U.S. CONSTITUTION OR CONTROLLING PRECEDENTS; A MOUNTAIN OF HISTORICAL EVIDENCE DEMONSTRATES THAT; THAT'S WHY THE COURTS BELOW DECISION CONFLICTS WITH CONTROLLING PRECEDENTS FROM THIS COURT; AND THERE'S "NO" GOOD OR LAWFUL REASONS OR ARGUMENTS FOR DISREGARDING THE DOCTRINE OF STARE DECISIS; A CONTRARY CONCLUSION WOULD RENDER THE AMERICAN JUSTICE SYSTEM FRAUDULENT

BAXTER CONVENED THAT HIS RIGHT TO BE PRESENT AT TRIAL UNDER 6TH AMEND. WAS VIOLATED WHEN HE WAS TRIED IN ABSENTIA? A DEFENDANT HAS A CONSTITUTIONAL RIGHT TO BE PRESENT AT TRIAL / THESE RIGHTS ARE GROUNDED IN: CONFRONTATION CLAUSE 6TH / DUE PROCESS CLAUSE 14TH (POINTER V. TEXAS 380 U.S. 400) DEFENDANT HAS THE RIGHT TO CONFRONT WITNESSES AGAINST HIM THIS RIGHT CAN ONLY BE SATISFIED BY DEFENDANT PRESENCE AT TRIAL (ILLINOIS V. ALLEN 397 U.S. 337) THE MOST BASIC RIGHT GUARANTEED BY THE CONFRONTATION CLAUSE IS THE ACCUSED RIGHT TO BE PRESENT IN THE COURTROOM AT EVERY STAGE OF HIS TRIAL; DUE PROCESS CLAUSE: A DEFENDANT PRESENCE IS TO ENSURE THAT THE PROCEEDINGS ARE FAIR.

② RESPONDENTS MAY CONTENT CONSTRUCTIVE WAIVER BY DISRUPTION; HOWEVER THE TRIAL TRANSCRIPT IS VOID OF ANY SUCH BEHAVIOR AND THE COURTS BELOW CONTINUE TO PROMOTE THIS PERJURIOUS CLAIM; LET THE RECORD REFLECT THE "LOUDER-RUDER-THREATEN" BEHAVIOR; TO THE CONTRARY BAXTER COMPLIED WITH THE TRIAL JUDGE ORDER NOT TO SPEAK IN HIS COURTROOM (T.T. P.G. 106 LINE 1-8) THE RECORD CANNOT REFLECT THE LOUDER-RUDER-THREATEN SPEECH-BEHAVIOR; THIS WAS AN "INTENTIONAL PERJURIOUS STATEMENT ON RECORD BY THE TRIAL JUDGE" MORE INTENTIONAL PERJURIOUS STATEMENTS MADE BY TRIAL JUDGE (T.T. MAR-23-10 P.G. 149 LINE 5-14 POINT 10-11: [BASED ON THE WARNING I GAVE BAXTER "TWO DAYS AGO"; TWO DAYS AGO WOULD BE MAR-21-10 THAT'S "SUNDAY"; HOW IS BAXTER IN COURT ON SUNDAY BEING GIVEN WARNING? (T.T. P.G. 151 LINE 11-24 POINT LINE 20: [AS I TOLD MR. BAXTER "YESTERDAY" (YESTERDAY WOULD BE MAR-21-10 (3-22-2010) THE "START OF YOUR DECE" ACCORDING TO THIS ALTERED - REARRANGED - PERJURIOUS - DELETED TOTAL TRANSCRIPT LET THE RECORD REFLECT WHAT TRIAL JUDGE TOLD BAXTER ABOUT GOING PRO-SE? WHERE IS THE VIOLATION'S OF COURT DECEDUM? WHICH WAS USED FOR THE EXCLUSION OF BAXTER FROM HIS TRIAL + COURTHOUSE (T.T. P.G. 150 LINE 15-21) TRIAL JUDGE MANIFEST TO MANY IMPROPERTIES: INTENTIONAL PERJURIOUS STATEMENT ON RECORD; ACTUAL BIAS MANUFACTURING A DISRUPTIVE DEFENDANT - ALTERING TRANSCRIPTS - CLOSING THE COURTROOM PREVENTED DEFENDANT FROM HAVING PARTICULAR CHOSEN COUNSEL (T.T. P.G. 299 LINE 16) TO BECOMING UNSWORN WITNESS FROM THE BENCH (T.T. P.G. 170 LINE 16) THE JURY WAS ADVISED BY THE JUDGE HIMSELF THAT BAXTER ENGAGED IN THIS CRIME; RATHER THAN BY THE A.D.A. OR ONE OF WITNESSES A COURT HAS "DUTY" TO GUARD AGAINST THE POSSIBILITY THAT THE STATED OPINION OR SUGGESTED OPINION OF THE TRIAL JUDGE MIGHT BE SEIZED UPON BY THE JURY AND PROVE DECISIVE "IT'S THE JUDGE DUTY TO PROTECT THE RECORD NOT MAKE IT"

(2-A) IN THIS CASE TRIAL JUDGE COURT ORDERS: INTERVENTION WAS UNNECESSARY + PREJUDICIAL IT PREJUDICE BAXTER: (1) PLACING BAXTER IN NASSAU COUNTY JAIL WITH NO COMMUNICATION WITH NO DEFENCE COUNSEL - DEPRIVE BAXTER (6TH AMEND.) OF CONFRONTATION CLAUSE + DUE PROCESS 14TH TO BE PRESENT AT MATERIAL STAGES OF TRIAL; TRIAL JUDGE EXASPERATED A MISARRANGE OF JUSTICE; THE EASTERN DISTRICT JUDGE [TALK CAN BE THREATEN] LET THE RECORD REFLECT THIS THREATEN TALK BY BAXTER? "MORE INTENTIONAL PERJURIOUS STATEMENTS BY COURT JUDGES"

(3) I.T. P.G. 152 / LINE 15-22: TRIAL JUDGE INFORMING THE JURY ABOUT DEFENDANT "SUDDEN ABSENCE" THERE IS REASONABLE POSSIBILITY JURORS SPECULATED ADVERSELY TO THE "SUDDEN ABSENCE OF BAXTER"; BAXTER WAS DENIED RIGHT TO CONFRONT ACCUSER'S PURSUANT TO CONFRONTATION CLAUSE 6TH AMEND N.Y.S. CONST.; A DEFENDANT WHO IS NOT PRESENT AT MATERIAL STAGES SUCH AS: YOUR DIRE INTRODUCTION OF EVIDENCE - JURY CHARGE - READ BACK - SUMMATION OF COUNSEL - RECEIVING VERDICT - POLLING JURY; AND HAS NOT VOLUNTARY OR CONSTRUCTIVELY WAIVED PRESENCE IS ENTITLED TO REVERSAL OF CONVICTION; THE PEOPLE CALL THERE FIRST WITNESS; JONATHAN NILES AND EVIDENCE WAS INTRODUCED WITHOUT BAXTER BEING PERSONALLY PRESENT (I.T. P.G. 153-182) DEFENDANT CHARGED WITH A FELONY IT IS "INDISPENSABLE" DEFENDANT BE PRESENT IN THE COURTROOM WHILE TESTIMONY IS BEING GIVEN; IT IS ACCUSED "NOT COUNSEL" WHO "MUST BE" CONFRONTED WITH WITNESSES AGAINST HIM + BE PERSONALLY PRESENT TO AID IN DEFENCE STRATEGY (U.S.C.A. 6TH) BAXTER WAS ABSENT FROM ALL MATERIAL STAGES OF HIS TRIAL HARMLESS ERROR ANALYSIS IS NOT APPROPRIATE (DAVIS V ALASKA 415 U.S. 308) (DOUGLAS V. ALABAMA 390 US 411)

(3-A) JURY CHARGE I.T. P.G. 280 LINE 1-6: FALSE PERJURIOUS CHARGE TO JURY; LINE 6: A.D.A. VERY HAPPY WITH THE MISLEADING LANGUAGE; TRIAL JUDGE RESPONDED TO FOUR JURY NOTES WHICH REQUESTED INSTRUCTIONS TO VARIOUS ELEMENTS OF THE CRIMES CHARGED AND ENGAGED IN COLLOQUY CONCERNING THEIR INQUIRIES; THIS WAS A "DELIBERATING JURY" C.P.L. 31D.30 WHEN A DELIBERATING JURY REQUEST ADDITIONAL INSTRUCTIONS; THE COURT MUST RETURN JURY TO COURTROOM AND AFTER PROPER NOTICE TO COUNSEL AND IN "DEFENDANT PRESENCE" GIVE SUCH INSTRUCTIONS - INFORMATION C.P.L. 31D.30 MAKE A DEFENDANT "RIGHT" TO BE PRESENT DURING INSTRUCTIONS TO JURY "ABSOLUTE UNEDQUIVOCAL" (PEOPLE V. MEHMEDE 69 NY2D 759)

(4) BAXTER WAS NOT PERSONALLY PRESENT FOR THE RECEIVING + RECORDING OF THE VERDICT; BAXTER
CONTENDS IF HE WAS PRESENT; WHY DID COUNSEL HARDY SEND THE JURY VERDICT BY MAIL ONE
WEEK AFTER THE VERDICT WAS ENTERED? (U.S. V. CANADY 126 F.3D 352 (2nd Cir.) BAXTER WAS NOT
PRESENT FOR THE POLLING OF THE JURY (T.T. P.G. 332 LINES 20-25 + P.G. 334 LINE 22-24)
C.R.L. 31D.4D + DUE PROCESS REQUIRES: DEFENDANT BE PRESENT AT MATERIAL PARTS OF TRIAL; BAXTER
IS LAWFULLY ENTITLED TO NEW TRIAL AND TO BE PERSONALLY PRESENT; TRIAL JUDGE DID ABUSE
ITS DISCRETION + AUTHORITY AND IMPROVIDENTLY REMOVE BAXTER FROM ALL MATERIAL STAGES OF
TRIAL; BASE ON PERJURIOUS STATEMENTS MADE BY THE TRIAL JUDGE ON BAXTER CONDUCT
WHICH NEVER WARRANTED REMOVAL AND BANMENT FROM TRIAL AND COURTHOUSE

(5) VOOR DIRE AMOUNTED TO A DUE PROCESS VIOLATION IN THIS CASE (U.S. CONST. 5TH 14TH / C.R.L. ART
26D + 27D) T.T. P.G. 22 LINE 10-14: TRIAL JUDGE ASK IF "ANYONE" KNOWS ANYONE INVOLVED
IN THE CASE; WHEN PROSPECTIVE JUROR T.T. P.G. 67: MS. TELEFORD "THINKS" SHE MAY KNOW BAXTER
FAMILY MEMBER "NOT BAXTER" THE JUDGE SENT HER BACK TO CENTRAL JURY POOL THEN + THERE "NO
INQUIRY OF HER ABILITY TO BE FAIR + IMPARTIAL; HOWEVER T.T. P.G. 28-30 PROSPECTIVE
JUROR "KNOWS A.D.A. MATTHEW CONNELLY PERSONALLY + PROFESSIONALLY"; THE JUDGE ALLOWED
MR. PENA TO REMAIN UNTIL "PEREMPTORY CHALLENGE - NOT FOR CAUSE"; TRIAL JUDGE
DISPLAYING IMPROPERTIES - BIASNESS - PICKING JURORS; T.T. P.G. 121-122: PROSPECTIVE
JUROR MS. SAFER OUTRIGHT TOLD THE JUDGE SHE CANNOT BE FAIR OR IMPARTIAL AND WAS
ALLOWED TO STAY UNTIL CHALLENGED; WHY IS THIS JUDGE TRYING TO PICK JURORS WHO
HAVE THE GREATEST POTENTIAL TO CONVICT?

(5-A) MOST PROSPECTIVE JURORS WAS NOT SURE OF THEIR ABILITY TO BE FAIR + IMPARTIAL; T.T. P.G. 35
DAILY; P.G. 42-43 NO JUROR ANSWERED THE QUESTION; P.G. 43-44 MS. REYNOLDS; P.G. 60 DENIED
CHALLENGE FOR CAUSE; P.G. 61 SAME UNLAWFUL DENIAL KNOWING JUROR CAN BE REMOVED FOR
CAUSE; P.G. 95 JUDGE DENIED FOR CAUSE UNLAWFULLY; P.G. 105-107.

"YOU DON'T WANT TO BE SEATED ON A PLANE AND THE PILOT STATES I THINK I CAN FLY + LAND THE PLANE
T.T. P.G. 138- DEFENCE COUNSEL CHOOSES NOT TO PROCEED AS BAXTER DIRECTED AND THESE SAME
PROSPECTIVE JURORS WAS SEATED AGAINST BAXTER WILL-CHOICE-VOICE; VIOLATING BAXTER RIGHT
TO USE PEREMPTORY CHALLENGE 28 U.S.C. § 187D

(6) TRIAL COURT HAS LIMITED AUTHORITY TO DISCHARGE SWORN JUROR: McKINNEY JUDICIARY 517 1517 (B)
McKINNEY STATUTES § 94: BAXTER WAS DEPRIVE OF HIS RIGHT TO PARTICULAR JURY CHOSEN "ACCORDING TO
LAW" TRIAL JUDGE DISCHARGED SWORN JUROR FROM CONTINUED SERVICE BASED ON A CHECK HE WANTED TO
PICK-UP; WHICH WAS NOT SHOWN TO AMOUNT TO INCAPACITY C.P.L. 27D.15 (B) TRIAL JUDGE AUTHORITY
TO DISCHARGE SWORN JUROR IS LIMITED TO ILLNESS OR OTHER INCAPACITY TO SERVE; BAXTER HAD
A RIGHT TO PARTICULAR JURY CHOSEN ACCORDING TO LAW IN WHICH SELECTION HE HAD A VOICE-CHOICE
(PEOPLE V. TERRY 96 AD2D 712) THE DISMISSAL OF SWORN JUROR #1 (COREMAN) + MR. ASHMA ALLOWED
JURORS WHO BAXTER STRONGLY OBJECTED TO AND PEREMPTORY CHALLENGED TO BECOME SEATED SWORN
JURORS; AND THIS TOOK PLACE AT SIDEBARS OF WHICH BAXTER WAS NOT PERSONALLY PRESENT
(PEOPLE V. ANTONMARCHI 80 NY2D 247) BAXTER NEVER WAIVED ANTONMARCHI RIGHTS OR ANY
RIGHTS AWARDED TO CRIMINAL DEFENDANT; HOWEVER SEVERAL SIDEBARS WERE CONDUCTED IN BAXTER
ABSENCE; (WELCH V. U.S. 466 AD2D 829, 838-39) DOES NOT APPLY; THE TRIAL JUDGE "THREATEN" BAXTER
WITH "REMOVAL FOR OBJECTING TO THE VIOLATIONS OF HIS RIGHTS AND SPEAKING IN HIS COURTROOM"
BAXTER DID NOT WANT TO BE REMOVED; BAXTER NEVER SIGNED THE ANTONMARCHI WAIVER; BAXTER DECLARED
"I WANT ALL MY RIGHTS AT TRIAL" WHEN BAXTER EXPRESS HIS DISSATISFACTION THE TRIAL JUDGE AND
DEFENCE COUNSEL TRAMMEL OVER BAXTER RIGHTS-VOICE-CHOICE (T.T.P.G. 138)

(6A) THERE IS NO RECORD OF THE SECOND VOIR DIRE AND BAXTER NEVER WAIVED HIS RIGHT TO
CHALLENGE PROSPECTIVE JURORS OR TO HAVE LESS THAN THE LEGAL AMOUNT OF JURORS DECIDE THE CASE
A HEARING IS INAPPROPRIATE IN THIS CASE BECAUSE OF THE ABSENCE OF A RECORD; THE
IMPOSSIBILITY OF SECURING ONE; YEARS HAVE ELAPSED SINCE BAXTER TRIAL; MEMORIES HAVE FADED
OF THE PARTICIPANTS OF THIS JURY SELECTION; RELIABLE FINDINGS BASE ON THE CONDUCT OF
VOIR DIRE IS VIRTUALLY IMPOSSIBLE (T.T.P.G. 149 LINE 2) (PEOPLE V. MCCRAY 57 NY2D 542)

(7) BAXTER WAS INSISTENT THIS COUNSEL GLENN HARDY BEING REMOVED; BEFORE PRE-TRIAL + TRIAL; BAXTER
SUBMITTED TWO MOTIONS FOR REASSIGNMENT OF COUNSEL AUGUST-2009 + SEPT-2009; HOWEVER TRIAL COURT
REFUSE TO MAKE EVEN MINIMAL INQUIRY TO BAXTER MOTION FOR REASSIGNMENT OR TO BE PRODUCE; VIOLATING
BAXTER RIGHT TO COUNSEL OF CHOICE + PRO-SE RIGHT; COUNSEL HARDY WAS ACTIVELY ON BAXTER RETAINER
THE LEGAL-AID STATED IN OPEN COURT [DEFENDANT] HAS COUNSEL ACTIVELY ON RETAINER AND LEGAL-AID
CANNOT REPRESENT MR. BAXTER; AFTER SEVERAL CONFLICT OF INTEREST: COUNSEL REFUSE TO ADPT C.P.L. 180.8
FELONY EXAM; FAILURE TO INFORM BAXTER OF GRAND JURY PROCEEDING-REFUSE TO PROVIDE DISCOVERY TO BAXTER
TOTAL LACK OF COMMUNICATION-ASSISTANCE-ADVICE; BAXTER SOUGHT TO REMOVE COUNSEL HARDY
BUT TRIAL COURT WOULD NOT ALLOW BAXTER TO FIRE COUNSEL HARDY WHOM BAXTER RETAINED

(1) BAXTER DID NOT LATER BECOME INDIGENT; BUT SOUGHT TO RETAIN NEW COUNSEL: LAURENCE L. ROTHSTEIN @
225-BROADWAY SUITE 3900 NY NY 10007 TEL: (212) 227-5400. WHEN A DEFENDANT APPEARS WITH RETAINED COUNSEL
AND THEN CHOOSES TO FORFEIT COUNSEL, TRIAL COURT CANNOT MAKE COUNSEL DEFENDANT. COUNSEL WHEN REMOVAL
OF COUNSEL WILL NOT INTERFERE WITH THE PROCEEDING A MINIMAL INQUIRY "MUST BE" MADE OR IN THE
ALTERNATE DEFENDANT PRO-SE RIGHT "MUST BE" NUNC PRO TUNC; ENCOMPASSING ALL U.S. CONSTITUTION; N.Y.S.
CONST. RIGHTS OF A DEFENDANT. WARRANTS REVERSAL OF CONVICTIONS; COURTS CANNOT ASSIGN PRIVATE
COUNSEL / RETAIN COUNSEL NUNC PRO TUNC; AUTHORITY IS NOT INVESTED IN THE COURT; COURT CANNOT FORCE
LAWYER ON A UNWILLING DEFENDANT. ITS CONTRARY TO HIS BASIC RIGHTS; TRIAL COURT DENIED TWO MOTIONS
WITHOUT ELICITING INFORMATION WHICH MIGHT HAVE WARRANTED DENIAL OF BOTH MOTIONS; TRIAL COURT REFUSAL
VIOLATED BAXTER U.S. CONST. 6TH 14TH AMEND. RIGHTS TO COUNSEL OF CHOICE + PRO-SE RIGHT; EVEN IF THE
ERRONEOUSLY APPOINTED COUNSEL EFFECTIVE; RIGHT TO CHOOSE + QUALITY REPRESENTATION ARE DISTINCT
RIGHTS; THE TWO MOTIONS WAS TIMELY ASSERTED TO TRIAL COURT WHICH COULD HAVE MADE INQUIRIES; THE
REASSIGNMENT WOULD NOT HAVE BEEN DELATORIAL OR PREJUDICIAL TO ANY PARTY INVOLVED- BOTH MOTIONS
WAS MADE AUGUST-SEPTEMBER 2009; PRETRIAL + TRIAL STARTED MARCH 2010; THE ONLY ONE HARMED AND
PREJUDICED BY THESE DENIAL WAS BAXTER.

THE QUALIFIED RIGHT TO CHOICE OF COUNSEL "APPLIES ONLY TO PERSONS WHO CAN AFFORD TO
RETAIN COUNSEL"

LAURENCE ROTHSTEIN NOTIFIED THE TRIAL COURT THAT HE WILL BE BAXTER COUNSEL; TRIAL JUDGE: [
YOU CANNOT BE BAXTER COUNSEL]; COUNSEL OF CHOICE UNLAWFULLY DENIED

(8) BAXTER PRO-SE RIGHT WAS TRAMMELED BY TRIAL JUDGE PRIOR TO SUPPRESSION HEARING BAXTER
REQUESTED TO ADDRESS THE COURT (SEE MOTIONS TO BE PRODUCE) BUT TRIAL COURT REFUSE TO PERMIT
BAXTER TO BE HEARD; THE COURT EVINDED ITS UNDERSTANDING BAXTER WAS ASKING FOR NEW COUNSEL
AND EXPRESSLY DENIED BOTH APPLICATIONS; REFUSE TO PERMIT BAXTER TO PROVIDE ANY DETAILS;
DEFENDANT RIGHT TO REPRESENT HIMSELF IS A FUNDAMENTAL RIGHT GUARANTEED BY FEDERAL + STATE
CONSTITUTIONS; FORCING A LAWYER ON UNWILLING DEFENDANT. IS CONTRARY TO HIS BASIC RIGHT TO
DEFEND HIMSELF IF HE TRULY WANTS TO DO SO; THE COURT ONLY FUNCTION IS TO ENSURE THAT THE
WAIVER WAS MADE INTELLIGENTLY-VOLUNTARY; BAXTER STATED ON HIS SECOND MOTION TO BE
PRODUCE THE REASONS: NEW COUNSEL + TO PROCEED PRO-SE; TRIAL COURT NEVER PRODUCE BAXTER
MADE NO INQUIRY OR HEARING WHATSOEVER; THESE ARE PER SE PREJUDICIAL LAWS BROKEN

U.S. SUPREME COURT PRECEDENTS TRIAL JUDGE HAD A "DUTY" TO INQUIRE INTO PROBLEMS
BETWEEN BAXTER AND HARDY WHEN THEY FIRST EVOLVED.

PROSECUTOR MISCONDUCT; WITHHELD BRADY MATERIAL WRITTEN STATEMENTS OF JOHATHAN NILES
(THERE'S TWO) 911 CALLER MARTA FISCHER 911 SPENT SHEET WAS ONLY NUMBERS NO TRANSCRIPTS
OF CALL; "ONLY REAL EVIDENCE" BUT HER TESTIMONY DESTROY'S THE D.A. CASE AND HER CALL

CONCLUSION

THE PETITION FOR WRIT OF HABEAS
CORPUS SHOULD BE GRANTED

Respectfully

JASON BAXTER

AUGUST-31-2022