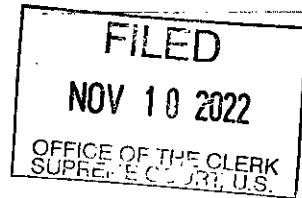


ORIGINAL.

22-6152

IN THE



SUPREME COURT OF THE UNITED STATES

CARLOS KENNEDY — PETITIONER  
(Your Name)

VS

DEBORAH TONEY — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

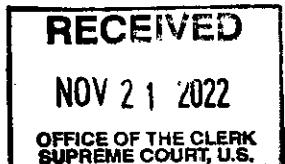
PETITION FOR WRIT OF CERTIORARI

CARLOS H. KENNEDY  
(Your Name)

28779 NICK DAVIS RD  
(Address)

HARVEST, AL 35749-0000  
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

I. Did the TRIAL COURT abuse it's DISCRETION in denying  
KENNEDY's motion for a CONTINUANCE when KENNEDY, while acting  
PRO SE, requested only an additional 3 months to have FORENSIC  
EVIDENCE tested

### **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:

## **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

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

FARETTA VS CALIFORNIA , 422 U.S 806 219753

STATUTES AND RULES

OTHER

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[ ] is unpublished.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 \_\_\_\_\_ 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 AUGUST 12, 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: \_\_\_\_\_, 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 JUNE 23, 2018. 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).

## STATEMENT of the CASE

PETITIONER was indicted by the MARCH 25, 2011 Session of the MOBILE COUNTY GRAND JURY and charged with CAPITAL MURDER for killing ZOA WHITE during the course of a first-degree burglary (§ 13A-5-40(a)(4), ALA. Code 1975. On December 22, 2011, PETITIONER was found competent to stand TRIAL. After a hearing on OCTOBER 26, 2012, the TRIAL COURT determined that PETITIONER could no longer represent himself even though said TRIAL COURT allowed PETITIONER to represent himself for a duration of 9 months previous to the OCTOBER 26, 2012<sup>th</sup> hearing. PETITIONER then went to TRIAL represented by counsel and was found GUILTY of CAPITAL MURDER on May 16, 2013. On SEPTEMBER 25, 2013, the TRIAL COURT sentenced PETITIONER to the death penalty.

On OCTOBER 16, 2013, PETITIONER filed a NOTICE of APPEAL. On July 10, 2015, the ALABAMA COURT of CRIMINAL APPEALS issued an opinion reversing the TRIAL COURT and remanding the case for a new TRIAL on the grounds that PETITIONER was deprived of my right to represent myself at TRIAL.

Following remand, on July 27, 2015, a status conference was held and PETITIONER notified the TRIAL COURT that I intended to represent myself at TRIAL. A TRIAL date of APRIL 18, 2016, was set. On August 25, 2015, another status conference was held and again the parties were notified that the TRIAL date was APRIL 18, 2016. On NOVEMBER 23, 2015, a hearing was set on the STATE'S motion to determine the admissibility of DNA evidence. Following a hearing, said motion was granted.

On JANUARY 12, 2016, a hearing was held on PETITIONER's motion for funds to hire an expert on DNA. Said motion was granted.

A PRE-TRIAL status conference was held MARCH 23, 2016. PETITIONER had filed a motion to continue the TRIAL on MARCH 21, 2016. Said motion to continue was denied.

PETITIONER filed a WRIT of MANDAMUS requesting the ALABAMA COURT of CRIMINAL APPEAL to ORDER the TRIAL COURT to grant my MOTION to CONTINUE the TRIAL. Said WRIT was denied.

On APRIL 18, 2016 jury selection began. The JURY was selected and seated APRIL 22, 2016. On APRIL 26, 2016, the JURY was sworn and the TRIAL began. PETITIONER did not put on any evidence. The PETITIONER did not make a closing argument.

The JURY returned a verdict of guilty on MAY 5, 2016. A sentencing hearing was held that same day. The JURY returned a verdict of 8 for LIFE WITHOUT THE POSSIBILITY OF PAROLE and 4 for the death penalty. The TRIAL COURT sentenced PETITIONER to LIFE WITHOUT THE POSSIBILITY OF PAROLE.

NOTICE of APPEAL was filed on JUNE 8, 2016. On APRIL 18, 2016, PETITIONER filed a second WRIT of MANDAMUS with the ALABAMA COURT of CRIMINAL APPEALS requesting that the COURT of CRIMINAL APPEALS order the TRIAL COURT to grant a CONTINUANCE of the TRIAL. Said WRIT was deemed MOOT in that the TRIAL had already been completed and verdict entered. On JUNE 9, 2017 The ALABAMA COURT of CRIMINAL APPEALS affirmed the conviction.

## REASONS FOR GRANTING THE PETITION

I. The TRIAL COURT erred when the COURT did not allow KENNEDY the additional 3 months that was needed to have important FORENSIC EVIDENCE examined. The TRIAL COURT's reason for the DENIAL was that it believed KENNEDY had 5 years to find a FORENSIC EXPERT { From KENNEDY's initial arrest up until KENNEDY's request for a CONTINUANCE } The mistake the TRIAL COURT made was that throughout the 5 years KENNEDY was severely hindered in terms of doing everything necessary to submit a proper defense because of his incarceration. KENNEDY was housed in a facility { THE MOBILE COUNTY METRO JAIL } where a dorm designed for 16 inmates housed 48. Only 1 phone was accessible. The TRIAL COURT was made aware of this by KENNEDY. KENNEDY even informed the TRIAL COURT that a FORENSIC EXPERT had been retained. KENNEDY then filed a MOTION for funds to be given to the FORENSIC EXPERT as a retainer fee. The TRIAL COURT granted the MOTION. Despite all of this, the TRIAL COURT still denied KENNEDY's motion for a CONTINUANCE and in turn denied him due process. The granting of this PETITION would bring more clarity to a DEFENDANT acting PRO SE { FARETTA VS CALIFORNIA, 422 U.S 806, 1975 }. The granting of this PETITION would allow incarcerated PRO SE defendants ample time to procure what is necessary to establish a proper defense and help assure that JUSTICE is accomplished.

---

---

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Colin Kelly

Date: 11-5-2022