

22-7262

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

FEB 07 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Pro Se ALFRED COPPAGE — PETITIONER
(Your Name)

vs.

Appellate Court 1st District — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

People State of Illinois / Appellate Court of Appeal 1st District
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ALFRED COPPAGE
(Your Name)

9407 S CALUMET AVE
(Address)

Chicago IL 60619
(City, State, Zip Code)

312-545-3611
(Phone Number)

SUPREME COURT OF THE UNITED STATES

ALFRED COPPAGE

Petitioner

V.S.

State of Illinois

Respondent

PETITION FOR WRIT OF CERTIORARI

I Question Presented

Alfred Coppage would like to request this Honorable UNITED STATES SUPREME COURT for a review on the IV, V, VI and XIV Amendments of the United States Constitution. Ineffective assistance of Counsel Clause.

Whether trial Court abused discretion by hearing motion for substitution of Judge of Cause?

Whether Appellate Court overlook the correct standard under Harmless-beyond-a-reasonable-doubt analysis?

Did lower Court disregard the Supreme Court blatantly ignoring a previous Supreme Court ruling?

A. Cyl

II TABLE of Contents

I.	Question(s) Presented	i
II.	Table of Contents	ii
III.	Table of Authorities	iii
IV.	Petition for Writ of Certiorari	i
V.	Opinions Below	i
VI.	Jurisdiction	i
VII	Constitutional Provisions Involved	i
VIII	Statement of the Case	2 pages App E
	1. Full Trial Court transcripts	3
	2. Direct Appeal transcripts	3
IX	Reason For Granting The Writ	
X	Conclusion	
XI	Appendix	

III Table of Authorities

Cases

People v Coppage NO.18 CH 17747 - NO.1-19-1710

Georgia v. Randolph (2006)

People v. Marshall 165. 11 App 3d (1988)

People v. Damntz 269 11 App 3d (1994)

U.S v. Glasper 234 2d NE

Washington v. Revenco 548 U.S 212. 218 n 226 ct 2546, 2551 n 2, 165 L. Ed. 2d 466, 474 n. 2 (2006)

People v. Melchor (2007)

People v. Patterson (2005)

Katz v. United States 389 U.S 347 (1967)

United States v Jeffers 342 U.S 48 (1951)

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	Appellate Court, First District Copy of order attached.
APPENDIX B	Decision of State Trial Court (Cook County)
APPENDIX C	Decision of state court denying review
APPENDIX D	Copy of Extension of time to file petition for writ of Certiorari. (Granted)
APPENDIX E	Points relied upon 7 pages (Statement of Case)
APPENDIX F	Copy to proceed as a poor person

IV. Petition for Writ of Certiorari

Alfred Coppage Pro Se is Currently on parole in the State of Illinois (Cook). Served 4 years on a 9 years Sentence in I.D.O.C. Respectfully petition this higher Court for a Writ of Certiorari for review actions and Judgement of the Circuit Court and the Illinois Court of Appeals.

V. Opinions Below

The decision by Illinois Court of Appeals denying MR. Coppage direct appeal is reported as people v Coppage 2021 IL App (1st) 191710-U December 23, 2021. Attached Appendix

The Illinois Supreme Court denied MR. Coppage petition for hearing on September 28, 2022 Attached Appendix A

VI. MR. Coppage invokes this Court's Jurisdiction under 28 U.S.C. § 1257 Extension of time to file Attached Appendix C

VII. Constitutional Provisions Involved.

United State Constitution, Amendments;
IV, V, VI, XIV.,

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 _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the TRial Court Cook County court appears at Appendix B to the petition and is

- ☒ reported at Appellate Court First District; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

Statutes And Rules

28 U.S.C. § 1257 _____

Supreme Court Rule 14 _____

735 ILCS 5/2-1001-2-1001 (3) iii _____

725 ILCS 5/114 (d) _____

Constitutional Provisions

United States Constitution, Amendment IV

United States Constitution, Amendment V

United States Constitution, Amendment VI

United States Constitution, Amendment XIV

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 September 28, 2022.
A copy of that decision appears at Appendix C.

☐ 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 February 25, 2023 (date) on December 16, 2022 (date) in Application No. 22A 536.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

VIII.

STATEMENT OF the Case

WHETHER THE APPELLATE COURT OVERLOOKED COPPAGE'S PETITION/MOTION FOR SUBSTITUTION OF JUDGE OF CAUSE WAS CLAIM OVERLOOKED OR FORFEITED, SEEKING REVIEW FROM SUPREME COURT, for unpreserved claims of error, and ineffective assistance of counsel clause for not raising issues.

After the trial court denied Coppage Motion to Suppress and Motion to Quash Arrest. Both filed on February 4, 2019 See (A-2 SEC C 43-C 44); (R. 61-62); (R. 149-51). Out of fear of not getting a fair trial, Coppage filed a petition/motion for substitution of Judge for Cause, with supporting Affidavit; Exhibits Incorporated See (C-pg 37, 38); (SEC C 53-C 54); (SEC C 154)

The state or any defendant may move at anytime for substitution of Judge for Cause supported by affidavit. See 725 ILCS 5/114 (d).

On May 21, 2019 after making a comment about being substituted the judge named in motion, set aside or struck the motion (R 151-59). Then the trial court "Sua Sponte" reconsidering motion to Suppress based on Georgia v. Randolph (2006) See (R. 158-59); (R. 173)

The Court was not being fair, the hearing for motion should have been conducted as soon as possible by a judge not named in motion. See 725 ILCS 5/114 (d) See also (full transcript of motion to Suppress hearing). See people v. Marshall 165, 711 App 3d 968, 975 (1988); people v. Damntz 269 Ill App 3d. 57, 55 (1994).

Appellate lawyer performance was ineffective for not applying the above issues on direct appeal, that it deprived Coppage of the Assistance of Counsel clause of the Sixth Amendment of U.S Constitution.

Coppage prays that the Supreme Court review the (FAC) and unpreserved claims of error, and any other remedy this higher Court deems just.

Respectfully Submitted

A. C. E

VIII
Statement of the Case

WHETHER THE APPELLATE COURT OVERLOOKED THE BIASED COURT FOR DENYING ALL BUT ONE OF COPPAGE'S MOTION FOR A FAIR TRIAL, ALSO SEEKING SUPREME COURT REVIEW FOR UNPRESERVED CLAIMS OF ERROR.

After the Court granted motion to suppress, Coppage filed several motions, Motion to Dismiss for illegal Search & Lack of evidence (R.193-94). Trial Court denied motion, Out of fourteen motions Ten filed and four Oral only one was granted. All while knowing that the State evidence was insufficient to prove that Coppage was guilty of the offense. After the state's opening statements Coppage asked for a Oral motion for a Directed Verdict Motion denied (R.403-05). Everything Motion that Coppage filed has fallen on "Deaf Ears" Forcing Coppage to make open statements while Banking on him to fall into some type of trap due to the complexity of the suppressed evidence. The trial Court further stated that "Coppage should have retained Counsel because the issue presented a "TRAP" See (R.256-57).

The Supreme Court has recognized an error structural only in a very limited class of cases. See (Glasper 234 Ill.2d at 198, 334 Ill Dec 575, 917 N.E 2d 401). One out of those cases include, Trial before a Biased Judge see Washington v. Recuenco 548 U.S 212, 218 n 2, 126 Ct. 2546, 2551 n 2, 165 LEd 2d 466, 474 n 2 (2006). As Such the Case at bar the Court Conduct was at issue after Coppage filed motion for Substitution of Judge for Cause, making every motion and objecting fall on deaf ears, tilting the Scales in favor of the State.

Coppage prays for the above reasons that the higher Supreme Court review the unpreserved claim of error and modify the decision of the appellate Court from overlooking the above issue, or any other remedy this higher Court, deems just.

Respectfully Submitted

A. Cze

VIII
Statement of the Case

WHETHER THE APPELLATE COURT OVERLOOKED THAT THE OTHER EVIDENCE WAS FAR FROM OVERWHELMING.

Appellate Court Concluded that the admission of the gun as substantive evidence was harmless giving the overwhelming other evidence supporting Coppage's conviction see (A.C order).

The other evidence was far from overwhelming as it only consisted of the witness speculative testimony that the item in Coppage's hand was an actual firearm and a cell phone video of Coppage holding object for split second (people exhibits 1) which was not tendered to the jury once they was "tainted" with the real weapon that was suppressed.

In short, the illegal admission of the gun was the difference between a case where there was no physical evidence of a crime and a case where there was decisive physical evidence of a crime see people v. Melchor (2007), further, conflicting statements from the witness Soukema that they identified the gun as the same gun from the video see (A.C order pg. 3rd 5), On cross-examination stated "they did not show me the gun see (R. 430-31), (A.C order pg. 6, 7). Moreover, Sergeant Sikorski testified that at the time he viewed the video "if he had to guess, it look like a nine-millimeter" see (R. 567-72). Lastly, testimony from witness Dar stating "that I recognize a gun when I see a gun" (R. 485), the witness testimony should not only fail for conflicting statements and speculation, but neither witness with respect to Sergeant Sikorski has no expert experience and no special skill or knowledge with guns.

As such the other evidence that the appellate court based their decision on was far from overwhelming. Also the witness speculation about the item and video was far from conclusive see people v. Patterson (2005).

Coppage prays that the Supreme Court modify the decision of the appellate court that the evidence was overwhelming and admission of the gun tainting jury was not a harmless error, Coppage should be granted a new trial, and any other remedy this higher court deems just.

Respectfully Submitted

A. C. C

Statement of the Case

VIII Whether Appellate Court Overlooked the Correct Standard Under Harmless-Beyond-A-Reasonable-Doubt Analysis.

VIII Whether the Appellate Court Overlooked that the error could have tainted jury and may have contributed to the verdict denying Coppage of a fair trial.

The reviewing Court determined that the Court did abuse its discretion by admitting the gun as substantive evidence. But may have overlooked the fact that the trial Court did not instruct the jury on how the state can only use the evidence for impeachment purposes, Coppage did not testify, the Court and the State knew that "Welder" was erroneously applied to side bar leading to the illegal admission "Tainting jury" denying Coppage of a fair trial.

Appellate Court overlooked this issue when considering if the error was harmless and did it contribute to the verdict. This was not a bench trial how can this be reviewed as a harm-less error.

The Court reliance on (people v. R.F., 353 Ill. App 3d 492, 1001 (2003)). With respect to people v. R.F. this is misplaced. As discussed in argued. See (III) and above, this is not a reasonable doubt issue where the Court must determine whether the admissible evidence under the light most favorable to the state was sufficient to convict.

Rather, the Court may have overlooked that the state did not prove that the illegal admission of the gun "Tainting jury" did not contribute to the verdict See (Hogan 358 Ill App 3d at 893).

However, the state did not meet its burden because the admission of the gun did not only taint the jury, but completely changed the nature of the evidence against Coppage at the trial. As the trial Court remarked that the admission of the gun was akin to "Snatching Defeat from the Jaws of Victory" (R. 453).

Coppage prays this Supreme Court modify the decision of the appellate Court may have overlooked that this was a not a harmless error and any other remedy the higher Court deems just

Respectfully Submitted

Ch. G

Statement of the Court

VIII

Whether plain error review could be applied, when Copeage did not know Walder v. U.S. was erroneously held when the Trial Court applied it for the State in the State's Side bar. Copeage also forfeited Appellate review of the issues, see I, II of points relied upon.

When a defendant has forfeited appellate review of an issue, the reviewing Court will consider only plain error, see People v. Melanin, 235 Ill. 2d 478, 495, 337 Ill. Dec. 221, 922 N.E. 2d 344 (2009).

The plain error rule by pass normal forfeiture principles and allows a reviewing Court to consider unpreserved claims of error in specific circumstances. See People v. Averett, 237 Ill. 2d 1, 15, 340 Ill. Dec. 180, 927 N.E. 2d 1191 (2010).

Apply doctrine when: A clear or obvious error occurred and the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant, regardless of the seriousness of the error, or a clear or obvious error occurred and that the error is so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process regardless of the closeness of the evidence. See also People v. PigtkowSKI, 225 Ill. 2d 551, 565, 312 Ill. Dec. 338, 670 N.E. 2d 403 (2007).

First step of plain-error review is determining whether any error occurred. People v. Walker, 232 Ill. 2d 113, 124-25, 327 Ill. Dec. 570, 902 N.E. 2d 691 (2009). Clear error has occurred in argument I, II, III, IV, V and VI.

Copeage prays the reviewing Supreme Court consider his unpreserved claims of error, pursuant to the plain-error rule and doctrine above, for the arguments (I, II, III, IV, V, VI). Because the Appellate Court did not overlook these issues, they were never raised in the brief only in the records of appeal. Making them unpreserved claims of error for review by the Supreme Court is warranted for consideration and any other remedy this Court deems just.

Respectfully Submitted,

A. G.

VIII

Statement of the Case

The reviewing Court found *People v. Ware*, 407 Ill. App. 3d 315 (2011), to be informative, stating that the facts and law involved with charges were not complex; Ware was accused of stabbing the victim in the head with a knife, and claimed self-defense. *Id.* at 351. See (A.C. order pg. 15, ¶ 47). Further, stating in the present case, the charges were less grave than in Ware, as defendant was charged with UUW/F, resulting in a sentence of nine years. With respect to the factual and legal complexity of the proceedings, defendant did not dispute his status as a felon, making this a simple possession case involving no expert witnesses or any scientific evidence. Accordingly, we find no abuse of discretion in the trial court's decision to deny defendant's repeated requests for standby counsel. See (A.C. order pg. 16, ¶ 48).

The substantive admission of the gun was the result of the trial court's improper application of *Walder* and not the result of any error by defendant that could have been alleviated by standby counsel. Moreover, the overwhelming other evidence of defendant's guilt made the admission of the gun harmless as he likely would have been convicted anyway, further indicating that the presence of standby counsel would have made no difference in defendant's case. For all the foregoing reasons, we affirm the judgment of the circuit court. Affirmed. See (A.C. order pg. 16, 17 ¶ 49-¶ 52).

The reviewing Court found that the trial court did not abuse its discretion in declining to appoint standby counsel because the crime was less grave than in Ware. See (pg. 16 ¶ 48). But overlooked the fact that Coppage was facing a maximum sentence of 14 years and thus the potential consequences of an unfavorable verdict were grave. (R. 8). Reviewing Court stated "With respect to the factual and legal complexity of the proceedings, know that the case was complex due to the suppressed evidence. See A.C. order (pg. 16 ¶ 48).

Coppage failed to realize that the Court's finding was erroneous establishes that he needed assistance of Standby Counsel. In fact, the appointment of Standby Counsel is preferred action in matters where the defendant requests to proceed pro se. See *Mayberry v. Pennsylvania*, 400 U.S. 455, 467-68 (1971) (J. Burger, Concurring). In deciding whether to appoint Standby Counsel, the trial Court should consider the nature and gravity of the charges, the abilities, experience of the accused, and the expected factual and legal complexity of the proceedings see *People v. Gibson* 136 Ill.2d at 380 (1990).

Application of the Gibson factors demonstrates the reviewing Court overlooked that the trial Court abused its discretion in denying Coppage's repeated requests for the assistance of Standby Counsel. Even commenting on the legal complexity of the proceedings, see (A.C. Order pg. 16, ¶ 48). If Coppage would have had Standby Counsel to assist him with the legal complexity of the suppressed evidence it would have changed the outcome of the trial preventing the jury from being tainted denying Coppage of a fair trial. In the case that Coppage went pro se in Iowa he had the assistance of Standby Counsel. See *Iowa v. Alfred Coppage* (2005). The trial Court was aware

of the complexity danger and even admonished Coppage before proceeding pro se because he knew that Coppage could easily fall into this "trap" (R. 256-57). Yet, the Court rejected Coppage's request for Standby Counsel and allowed Coppage to—in the Court's own words—"Snatch defeat from the jaws of Victory" See (R. 453). Application of the "Gibson" factors demonstrates the Coppage lacked the knowledge and ability to litigate this case. The Court anticipated that Coppage would fall into the "trap" presented by the complex suppression issue. Coppage was essentially set up for failure from beginning to the end and

therefore prejudiced by the Court's refusal to appoint Standby Counsel. Coppage did not engage in such delay tactics as in *Ware*, 407 Ill. App. 3d at 348. He needed Counsel guidance to avoid any pitfalls when maneuvering around the complex suppression issue. Therefore, *Ware* is distinguishable from the instant case. As such, Coppage prays this Supreme Court grant him a new trial based on the Appellate Court overlooking the denial of Standby Counsel.

Respectfully Submitted

A. C. L.

ALFRED COPPAGE under the penalty
of Law, that the facts contained in the statement
are true to the best of my knowledge

A. Cze

312-545-3611

To avoid erroneous deprivations of the right to stand by counsel, this Court clarify why tainting a jury with illegal obtained evidence is harmless error and why the Court abuse its discretion by hearing motion for substitution of judge for cause when judge was named in petition and ineffective assistance of counsel for not providing a argument for the substitution of judge for cause when clearly seeing the Courts was not giving Mr. Coppage a fair trial.

Conclusion

For the foregoing reasons, Mr Coppage Respectfully request that this highest Court issue a writ of Certiorari to review the Constitutional Violations and ineffective assistance of Counsel and Judgment of the Illinois Court of Appeals, and any other remedy this higher Court deems just.

Respectfully Submitted,

Alfred Coppage

9407 S Calumet Ave
Chicago IL 60619

312-545-3611

A. G. 2