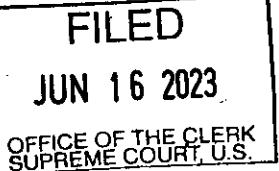


22 - 7888

No.



1
2 IN THE SUPREME COURT OF THE UNITED STATES

3 "Pharaoh El-Forever Left-i, Amen El",

4 Petitioner,

5 V.

6 State of Minnesota,

7 Respondent.

8 ON PETITION FOR A WRIT OF CERTIORARI TO

9 Minnesota's Court of Appeals

10 PETITION FOR WRIT OF CERTIORARI

11 PARTIES

12 Amen El, Pharaoh El-Forever Left-i

13 970 Pickett St. N.

14 Bayport, Minnesota U.S.A

15 Mailing Address:

16 c/o 228679

17 970 Pickett St. N

18 Bayport, Minnesota 55003

19 PETITIONER

20 Minnesota Attorney General

21 Keith M. Ellison

22 Minnesota Attorney General

23 445 Minnesota Street,

24 Suite 1800

St. Paul, Minnesota 55101

RESPONDENTS

QUESTION(S) PRESENTED

4 1.Q) If a state conditions satisfying Strickland's first prong, on the testimony of
5 two privately funded expert witnesses against a indigent pro se prisoner, whom
6 cant afford the experts opinion; has the state created a custom, statute, practice
7 or other form of economic discrimination...???

9 **3.Q) Does Minnesota common law which holds pro se litigants to the same**
10 **standard as lawyers, when accessing their courts (whether prosecuting a cause**
11 **or defending against another's cause) conflict with the due process principle of**
12 **liberally construing pro se maneuvers, specifically in matters associated w/**
13 **complaints regarding previous agents...???**

LIST OF PARTIES

15 All parties appear in the caption of the case on the cover page.

RELATED CASES

19 Minnesota Court of Appeals Case Number(s);

- A15-1542

21 United States District Court, District of Minnesota Case No. 17-cv-2790 (DWF)

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 state courts:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is unpublished.

JURISDICTION

For cases from state courts:

The date on which the highest state court decided my case was:

A copy of decision appears at Appendix

A timely petition for Review was thereafter denied on the following date:

January 17, 2023, and a copy of the order denying review appears at Appendix
~~see Thomas v. State, 2023 Minn. LEXIS 8 (Jan. 17, 2023)~~

22 The **JURISDICTION** of this Court is invoked under;

- **HAGUE v. COMMITTEE FOR INDUS. ORG.**, 307 U.S. 496 (decided; June 5th, 1939) (“Every question arising under the federal constitution may, if properly raised in a state court, come ultimately to the United States Supreme Court for decision.”

- 1
- 2 • 28 U.S.C. §1254(1)

3 **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

- 4 • 14TH Art. Of Amendment to the United States Constitution;
5 - Due Process (Substantial & Procedural) (Life, Liberty, Property Interests)
6 (Fundamental Fairness) (Sixth & First Art. Of Amendment to the United
7 States Constitution, applicable to the states byway of the 14th Amendments
8 Due Process Clause and Equal Protection Clauses prohibition against
9 Discrimination...

10 **STATEMENT OF THE CASE**

11 Following a jury trial, before a State District Court Judge, petitioner was convicted
12 under state law of second-degree intentional murder for the benefit of a gang, and
13 sentenced to approximately 451 months in prison. Petitioner filed a direct appeal
14 partially pro se and partially through counsel. Prior to the direct appeal being fully
15 briefed and taking under advisement petitioner through his counsel moved for
16 postconviction relief on account of the states star witness recanting his statement.

17 Ultimately the direct appeal and the first postconviction petition was denied, and
18 the conviction was affirmed. See State v. Thomas, A15-1542, 2017 WL 1375278
19 (Minn.App.Apr.17,2017). Petitioner proceeded pro se to the Minnesota Supreme
20 Court for Review of the affirmation of the conviction which was denied. After the
21 state round of appeals petitioners attempts to retrieve relief from the United States
22 District Court of Minnesota and the 8th Circuit were denied.¹

23 On the 13th of Jan. 2020, the state denied postconviction relief, but granted
24 petitioner the exclusive right to file a postconviction petition on facts arising
25 that supported a Ineffective Assistance of Trial & Appellate Counsel Claim
26 (IATC)(IAAC). The respondent (state) conceded to the hearing and a
27 postconviction evidentiary hearing was held the ~~27th of April, 2020~~ Sept. 30, 2020.

28 Petitioner proceeded pro se at the hearing and called the lawyers that
29 represented him at trial and on appeal to testify. The court accepted most of

30 Footnote

31 1.) Petitioner did not present the same claim here to the lower federal courts.

32 2.) See Postconviction Transcript @ Appendix D

(Next Page fr.)

1 petitioners exhibits at the hearing. The court sustained the state's objections
2 against petitioner's questions to the lawyers, regarding lawyers' customary
3 practices, as to presenting certain evidence to support certain defenses.²

4 Amen El requested Expert Witnesses & Stand-by Counsel funds, but the
5 state denied the request. In the State of Minnesota to establish the first
6 Strickland prong, a petitioner must prove by-way of (2) independent expert

7 affidavits that the complained of attorney conduct does not fall within
8 accepted norms. The state court at the same time found petitioner to be
9 indigent, but refused to provide the necessary funds. The states position was
10 that indigent litigants bringing forth IATC & or IAAC³ did not qualify for expert
11 funds; this was their position even though they also argued that to satisfy
12 Strickland's first prong expert witness affidavits are required.

13 The state court copy and pasted the respondents argument verbatim
14 when it filed its order denying the petition for relief & the court did not come
15 up with a independent finding of law or fact. The state consistently, implicitly
16 construed *Stricklands* 2nd prongs concept of more "more favorable result" to
17 mean a complete innocence, had the ineffective lawyer done his or her job
18 competently.

19 Amen El appealed the lower courts decision pro se arguing partially that
20 the state violated his federal due process & equal protection rights; state
21 ignored evidence presented by him; amongst other things. The court of
22 appeals denied petitioners appeal affirming the district courts decision. The
23 Minnesota Courts of Appeal and District Court held petitioner to the same
24 standard as a lawyer when taking the petition and appeal under advisement.

25 Petitioner appealed the court of appeals affirmation of the district
26 courts order to the Minnesota Supreme Court & was denied review.

27 Petitioner through his person submitted a Brief and Addendum to the
28 appellate court, see Appendix B, but the appellate court did not record the
29 addendum for consideration, nor did they copy the document fully; for instance

30 FOOTNOTE

31 (3) IATC & IAAC means ineffective assistance of trial and appeal counsel.

* see Appendix App. C
+ see Appendix App. E

1
2
3 the footnotes and the bottoms of the pages were not copied & recorded for
4 review.

5 **REASONS FOR GRANTING THE PETITION**

6
7 **PROPERTY PROTECTION**
8 *amen el's collateral attack on the state conviction is protected by the 14th Article of
9 Amendment to the United States Constitution, protection of property interests
10 amongst other 14th Amendment guarantees implicated in this cause. see Fuentes v.
11 Shevin, 407 U.S. 67 (1972) (Fourteenth Amendment's protection of property does not
12 safeguard only rights of undisputed ownership but extends to any significant
13 property interest including statutory entitlements.") see also Zinermon v. Burch, 494
14 U.S. 113, 110 S.Ct. 975 (1990) "The dichotomy between personal liberties & property
15 rights is a false one." "a person's liberty is equally protected. "The collateral
16 attack executed by the petitioner was a statutory entitlement created by the state
17 government.*

18 *In the state of Minnesota "causes of action", such as the postconviction statutory
19 entitlement executed by the petitioner to challenge the conviction in this matter,
20 under Minnesota law is personal property. see "Under Minnesota law, a cause of
21 action is personal property. " see Martin ex rel. Hoff. v. City of Rochester (March
22 21,2002) see also Carlton v. State, 816 N.W.2d 590 (July 18,2012) "Postconviction
23 remedy in Minnesota is personal property, as it is a cause of action."*

24 Petitioners federal and Equal Protection Rights, amongst other federal rights that
25 were implicated throughout this cause was enforceable in the state courts through a
26 statutory entitlement: Minn.Stat.590...

27
28 **1.A) RESPONDENTS "PRACTICE" OF CONDITIONING THE SATISFYING
29 STRICKLANDS FIRST PRONG, ON THE TESTIMONY OF TWO
30 PRIVATELY FUNDED EXPERT WITNESSES, AGAINST, A PRO SE
31 INDIGENT PRISONER, WHO CAN'T AFFORD EXPERT AFFIDAVITS**

1 **OPERATES TO EFFECT AN ARBITRARY ECONOMIC DISCRIMINATION**
2 **AGAINST PETITIONERS PERSON...**

3 **ARGUMENT**

4 Stricklands first prong reads “the defendants must prove that counsel’s
5 representation fell below an objective Standard of Reasonableness.” This courts historic
6 purpose or rather historic expectation, has not mandated complainants brings forth a
7 IATC & or IAAC (Ineffective Assistance of Trial Counsel & Appellate Counsel) claim to
8 satisfy this prog w/ expert testimony or affidavits, For a state to mandate this is
9 motivated by an undue preference.

10
11 Its an indisputable fact that this court has not mandated expert affidavits to satisfy
12 Stricklands first prong; on the flip side this court has required state action to operate
13 w/o unfair discrimination in criminal cases, see *Caldwell v. Texas*, 137 U.S. 692, 11
14 (1891) “ 14th Amendment forbids discrimination against persons or classes in criminal
15 cases” Economic Discrimination is outlawed by the 14th Art. Of Amendment to the U.S.
16 Consti..

17 The Minnesota practice common law, custom, or other action resulting in a
18 economic discrimination against petitioners person is; *Bruestle v. State* , 719 N.W.2d
19 698, 704 (Minn.2006)(Noting that a petitioner bears the burden of establishing that
20 counsels performance was deficient, that there is a strong presumption that counsels
21 performance fell within a wide range of reasonable assistance, and that the petitioner
22 provided no affidavits from unaffiliated defense experts suggesting that counsels
23 representation fell below an objective standard of reasonableness.), and the way the
24 common law was instrumentalized in this case, objectively and subjectively.

25 The common law operated to infringe upon petitioners protection against
26 economic discrimination because it made the pursuit of justice contingent on
27 what petitioner could afford. The practice, law, custom, or action was
28 discriminatory in its operation, because petitioners access to equal protection &
29 due process was contingent upon the affordability of the expert affidavits. Even if
30 the common law was/is “non-discriminatory” on its face, it was “grossly
31 discriminatory” in its operation” see *Griffin*, 351 U.S. at 17, n.11.

32 Petitioner complains about postconviction-appellate review being unfair. A
33 collateral attack upon a conviction is not guaranteed by the federal constitution
34 but this court has stated “ Although the federal constitution guarantees no right to

1 appellate review, *id.*, at 18, once a state affords that right, Griffin hold, the state
2 emay not "bolt the door to equal justice," *id.* At 24 see *Griffin v. Illinois*, 351 U.S.
3 12, 16 (1956) see also *Rinaldi v. Yeager*, 384 U.S. 305, 310 (1966) "This court has
4 never held that the states are required to establish avenues of appellate review,
5 but it is now fundamental that, once established, these avenues must be kept free
6 of unreasoned distinctions that can only impede open and equal access to the
7 courts."

8 To make justice contingent on economic status has been outlawed since days
9 of the Magna Carta "To no one will we sell, to no one will we refuse, or delay right
10 or justice..." Petitioner is similarly situated to the rich. An invidious discrimination
11 and or invidious classification between the rich and poor is not reasonable in the
12 instant case although it may or may not be in other situations.

13 There are Due Process & Equal Protection obligations on the states mandated
14 by the federal government when indigent criminal litigants seek postconviction
15 accommodations. See *Smith v. Robbins*, 528 U.S. 529 (Jan. 19, 2000) see also *Ake*
16 v. Oklahoma, 470 U.S. 68, *Griffin v. Illinois*, amongst other cases that specifically
17 recognizes a indigents constitutional rights to be accommodated w/ transcripts &
18 counsel to pursue relief as a matter of equal protection & or fundamental fairness.
19 See "Due Process" emphasizes fairness between the state & individual dealing w/
20 the state, regardless of how other individuals in the same situation may be treated.
21 "Equal Protection" on the other hand, emphasizes disparity in treatment by a state
22 between, classes of individuals whose situations are arguably indistinguishable."
23 Quoting *Ross v. Moffitt*, 417 U.S. 600 (1974).

24 The principle @ work in those cases are applicable here... see also *M.L.B v.*
25 *S.L.J*, 519 U.S. 102 (Dec. 16, 1996) (The principle of fair access by indigents to the
26 judicial process reflects both equal protection & due process concerns. Due
27 Process and Equal Protection principles converge. The Equal Protection concern
28 relates to the legitimacy of fencing out would-be appellants base solely on their
29 inability to pay core costs. The due process concern hones in on the essential
30 fairness of the state-ordered proceedings another to adverse action."

31 The petitioners principle cause is to protect his right to a fair trial, through
32 his persons right to effective assistance of counsel... The collateral attack on the
33 conviction was a procedure willingly provided by the state actor, as a statutory
34 entitlement, to assist petitioner in prosecuting his cause of action; to avail his
35 persons fundamental federal rights. Petitioner moved respondents to provide
36 resources so that petitioner could provide the affidavits and respondents denied

1 petitioner those resources on grounds that state law doesn't provide provisions to
2 accommodate petitioners request funds.

3 Even though the Respondent contended that petitioner does not deserve
4 relief under either prong of Strickland, it interprets the second prong of Strickland,
5 it interprets the second prong definition of "more favorable result" to mean, the/a
6 difference between innocent or guilty, which is clearly not the case.

7

8

9 **2.A) MINNESOTAS "COMMON LAW" OF HOLDING PRO SE**
10 **PRISONERS TO THE SAME STANDARD AS LAWYERS WHEN**
11 **ACCESSING THEIR COURT IN A MATTER WHICH CALLS INTO**
12 **QUESTION HIS AGENTS REPRESENTATION CONFLICTS W/ DUE**
13 **PROCESS PRINCIPLE OF LIBERALLY CONSTRUING PRO SE ACTIONS...**

14

15 The United States Supreme Court in *Haines v. Kerner*, 40 U.S. 519 (1972) and
16 succeeding cases involving pro se litigants like *Estelle v. Gamble*, and many others
17 held that pro se litigants are not to be held to the same standards as lawyers and
18 that pro se litigants' pleadings are to be construed liberally. Construed Liberally does
19 not translate to excuse litigants from following Court Rule and legislative
20 enactments, however it does excuse pro se litigants from performing artfully, citing
21 legal authorities, poor syntax & sentence construction, confusion of form and the
22 likes thereof.

23 *Contradistinguished* from federal authority respondent expressly hold pro se
24 litigants to the same standard as lawyers; this has translated to mean that pro se
25 litigants must cite caselaw to support their claims, amongst other things. See
26 *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn.App.Ct.2001). The practice has
27 operated to fail accommodating one that cant afford a lawyer, or one who decides
28 not to hire a lawyer, because like in the instant case there is a accommodation &
29 value impediment.

30 The "common law" (practice) fails to provide due accommodation because
31 fairness would require the state too, at minimum provide the pro se litigant w/
32 advisory counsel and expert funds to navigate through the state complex court
33 system. *Advisory counsel would be necessary to advise*

¹ petitioner on or rather, through the complexities of a
² substantial ineffective assistance of counsel claim. i.e.
³ "To present a claim of ineffective assistance of counsel
⁴ at trial in accordance with the state's procedures, then, a
⁵ prisoner likely needs an effective attorney." quoting
⁶ Martinez v. Ryan, 566 U.S. 1 (2012) "A pro se indigent
⁷ prisoner is even at a greater disadvantage than any
⁸ other individual proceeding pro se presenting a claim
⁹ of ineffective assistance. e.g. "A prisoner's inability to
¹⁰ present a claim of trial error is of particular concern
¹¹ when the claim is one of ineffective assistance of counsel."
¹² quoting Martinez v. Ryan... see also "While confined to prison,
¹³ the prisoner is in no position to develop the evidentiary basis
¹⁴ for a claim of ineffective assistance, which often turns on
¹⁵ evidence outside the trial record." "The prisoner, unlearned
¹⁶ in the law, may not comply with the state's procedural rules
¹⁷ or may misapprehend the substantive details of federal
¹⁸ constitutional law." Martinez v. Ryan...
¹⁹ The expert funds would be necessary to satisfy Strickland's
²⁰ first prong under Minnesota law...
²¹ The common law of practice is also unconstitutional because
²² it holds petitioner to the same standards as a lawyer yet the
²³ state did not give due consideration to petitioner's arguments
²⁴ like it had or would have a lawyer; i.e. the court held petitioner
²⁵ to a lawyer's standards but did not value petitioner's submissions
²⁶ like they had or would have valued a lawyer's. The valuing through

1 due consideration was lacking in the instant case because
2 the state did not file petitioners brief for full consideration,^(a)
3 court did not come w/ its own findings of fact & law,^(b)
4 court did not weigh all evidence in determining if petitioner
5 satisfied the burden of persuasion, amongst others.

6 The point is that the state holds, and held petitioner
7 a prisoner, indigent pro se litigant to the same standard
8 as a lawyer, but the state failed and refused to weigh
9 the value of petitioner's submissions to support his cause
10 w/ due consideration of what was presented.

11 "The fundamental requirement of due process is the opportunity
12 to be heard at a meaningful time in a meaningful manner."

13 see *Matthews v. Elchidge*, 424 U.S. 319 (1976)...

14 Without the benefit of having his pleadings liberally construed
15 and being held to the same standard as an attorney petitioner's
16 property interest in statutory entitlement Minn. Stat. § 590 will
17 be infringed. There is a real substantial risk that petitioners
18 right to having his IATC & IAAC claims reviewed properly
19 through Minn. Stat. § 590 will be erroneously denied because

20 FOOTNOTE

21 (a) The appellate court did not file the Addendum to petitioners
22 appellate brief & the court left out all footnotes & the bottom of
23 pages in the appellate brief affecting the judges ability to
24 review the entire appellate argument. see Appendix B

25 (b) The Dist. Ct. copy and pasted the states argument as
26 its order for denial. see Appendix E

1 of Respondents practice of holding pro se litigants to the
2 same standard as lawyers in IATC & IAAC claims, and
3 there is no probable value of substitute safeguard. The
4 government has no legitimate interest in holding pro se
5 prisoner litigants to same standard as lawyers.
6 Liberally construing and not holding pro se litigants
7 to same standards as lawyers is a principle or right
8 "implicit in the concept of ordered liberty," for purposes
9 of substantive due process. see *Palko v. Connecticut*, 302
10 U.S. 319, 325-326 (1937).

CONCLUSION

11 Undue Preference, Economic Discrimination, Due Process
12 infringement are so fundamentally inconsistent w/
13 the publics interest the court must accept the
14 case and grant the Writ in the interest of
15 substantial justice.

16 181

17 Amer 21, P. h. 15th of June 2023
18 1:33 AM CT
19

20 Signed under the Penalty of Perjury
21 pursuant to the laws of the
22 United States of America. 28 U.S.C.
23 § 1746.

24  Amer 21, P. h. - Forever

25 @ Bayport, Minnesota USA
26