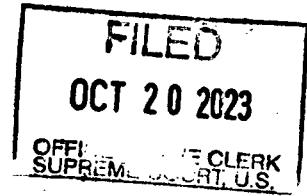


No. 23-5938

ORIGINAL

In The
Supreme Court of the United States



Loren J. Larson Jr.,

Petitioner,

v.

Alaska,

Respondent.

On Petition for a Writ of Certiorari
To the Alaska Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

Loren J. Larson Jr., #204981
Pro-se Petitioner
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QUESTIONS PRESENTED

In Alvarez-Perdomo v. State, 454 P.3d 998, 999 (Alaska 2019), the Alaska Supreme Court held that compelling a defendant to testify in violation of the Fifth Amendment privilege was structural error. The questions presented are:

1. Does the Sixth Amendment guarantee to a "fair trial" implicitly require that the trial be free of structural error? If so, to what extent can structural error be established through juror testimony?
2. Do the following juror statements qualify as statements that violate the plainest principles of justice in a criminal jury trial:

"we're supposed to look at everything, his wife not in the courtroom supporting him, shows he is guilty."

"she can't even support him in the court room, he must be guilty."

"she couldn't be in the courtroom because she could not look him in the eye, so he must be guilty."

"I don't care what they say if a man won'[t] testify for himself he is guilty."

"If he won't testify for himself he must be guilty."

"Anyone who won't testify for himself is guilty."

"Specifically I remember Joe Hayes announcing that if Larson did not take the stand in his own defense he was guilty and the other three jurors, the ballet dancer, the fireman from Easter and the tall light haired man all agreeing."

"I also heard several jurors comment that they wished Larson would get up and speak for himself and if not it proved his guilt."

"Mr. Larson's attorney said Mr. Larson was not going to testify for himself. That showed Mr. Larson was guilty of the crime."

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PETITION FOR WRIT OF CERTIORARI

Petitioner Loren J Larson Jr., respectfully petitions for a writ of certiorari to review the judgment of the Alaska Supreme Court.

OPINIONS BELOW

Petitioner was placed in prison for life by a criminal judgment entered on March 11, 1998. The trial court denied Petitioner's Motion for Relief from Judgment on August 18, 2020. (Appendix C). Petitioner then sought review by the Alaska Court of Appeals who denied relief on April 5, 2023. (Appendix A). Petitioner then filed a Petition for Rehearing which was denied on April 18, 2023. (Appendix B). Petitioner then sought review with the Alaska Supreme Court, but that court denied hearing his case on August 23, 2023 (Appendix D).

JURISDICTION

The order denying review by the Alaska Supreme Court was entered on August 23, 2023. This Court has jurisdiction pursuant to 28 U.S.C. § 1257(A).

RELEVANT CONSTITUTIONAL PROVISIONS

The Fifth Amendment States in relevant part:

No person ... shall be compelled in any criminal case to be a witness against himself.

The Sixth Amendment states:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

The Fourteenth Amendment states:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protections of the law.

STATEMENT OF THE CASE

In 2019 the Alaska Supreme Court held that "compelling" a defendant to testify in violation of the Fifth Amendment privilege was structural error. Alvarez-Perdomo, 454 P.3d 998, 999 (Alaska 2019). Because this Court does not distinguish physical compulsion from that of verbal compulsion, Salinas v. Texas, 570 U.S. 178, 192-93 (2013), the door was opened by Alaska for Larson's juror testimony to be received as evidence to show structural error where jurors "compelled" Larson to testify in violation of the Fifth Amendment privilege. Appendix E-N. Nevertheless, Alaska refused to acknowledge that this Court defines "compelled" to be constituted in the physical or the verbal without a distinction to how each create a violation of the Fifth Amendment. Compare Appendix A-D with Salinas, at 192-93.

REASONS FOR GRANTING THE WRIT

- 1) There is no holding from this Court that implicitly states the Sixth Amendment guarantee to a "fair trial" requires that the trial be free of structural error. Should the Court come to that implicit conclusion, however, it would therefore be necessary for the Court to establish the extent to which structural error can be established through juror testimony. This is because the Court in Warger v. Shauers intimates that post-verdict juror testimony cannot be used to identify structural error, Warger v. Shauers, 574 U.S. 40, 49 (2014), even though "it would be impossible to refuse [juror testimony that identifies structural error] without violating the plainest principles of justice." United States v. Reid, 53 U.S. 361, 366 (1852).

2) Alaska has never provided Larson with a judicial determination that declares whether the actual juror quotes violate the plainest principles of justice:

"we're supposed to look at everything, his wife not in the courtroom supporting him, shows he is guilty."

"she can't even support him in the court room, he must be guilty."

"she couldn't be in the courtroom because she could not look him in the eye, so he must be guilty."

"I don't care what they say if a man won'[t] testify for himself he is guilty."

"If he won't testify for himself he must be guilty."

"Anyone who won't testify for himself is guilty."

"Specifically I remember Joe Hayes announcing that if Larson did not take the stand in his own defense he was guilty and the other three jurors, the ballet dancer, the fireman from Easter and the tall light haired man all agreeing."

"I also heard several jurors comment that they wished Larson would get up and speak for himself and if not it proved his guilt."

"Mr. Larson's attorney said Mr. Larson was not going to testify for himself. That showed Mr. Larson was guilty of the crime."

Appendix E-N. For 23-years the Alaska Court System has refused to provide Larson with a remedy that determines whether the juror statements above violate the plainest principles of justice. This Court is now Larson's only remedy for that determination. Marbury v. Madison, 5 U.S. 137, 163 (1803)(it is a settled and invariable principle that every right, when withheld, must have a remedy, and every injury its proper redress.).

CONCLUSION

For the foregoing reasons, Larson respectfully requests this Court to grant Certiorari in this matter.

October 19, 2023

DATE

Loren J Larson Jr.

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