ORIGINAL

No. 23-6028

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C.

Delroy T. Booth — PETITIONER
(Your Name)

vs.

State of Georgia — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Georgia Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Delroy T. Booth #1087139
(Your Name)

P.O. Box 344
(Address)

Wrightsville, Ga 31096
(City, State, Zip Code)

N/A
(Phone Number)

Question(s) Presented

1. Prosecutor's should Prosecute with earnestness and vigor, can a Prosecutor use improper Methods calculated to Produce a Wrongful Conviction in a court competency Trial?

2. Does Prosecutorial Misconduct Justify Reversing a conviction only where it so infected the trial with unfairness as to make the resulting conviction a denial of due Process?

3. To Reverse a conviction in a court competency trial, Does a claim of Prosecutorial Misconduct Require Proof of improper Conduct By the Prosecutor that, taken in the context of the trial as a Whole, violated the defendant's due Process rights?

4. Can a Prosecutor express personal opinions about the defendant's guilt or credibility in a court competency trial?

5. Does a Prosecutor have to avoid epithets or other remarks regarding the character of the Defendant in a court Competency trial?

6. Does a Prosecutor have to avoid epithets or other remarks regarding the character of the Defendant's counsel in a court competency trial?

7. Does a Prosecutor have to avoid epithets or other remarks regarding the character of a Defense Witness who is a certified Medical Doctor in adult and Forensic Psychiatry in a court competency trial?

8. Can a Prosecutor vouch for the credibility of Government Witnesses, vouching for Defense lawyers in a Famous Person High Profile Murder Trial in comparison with a Defendant in a court competency trial?

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9. Can a Prosecutor appeal to Jurors in a court competency trial to act as a conscience for the community or make other remarks likely to inflam the Passions of the Jurors if the remarks are intended to lead to conviction for an improper reason?

10. Can a Prosecutor Prosecute a defendant in a court competency trial For vindictive Reasons?

11. Can a Prosecutor make material Misstatements of law or fact in a court competency trial?

12. Does Prosecutor's have to similarly limit their trial statements and Closing Argument to evidence that has Been admitted into the record and Permissible inferences therefrom in a court competency trial?

13. Do Appellate courts such as the trial court, state highest court which is a supreme court of that State, have to conduct a two-part inquiry when Reviewing Prosecutorial conduct in a court competency trial?

14. If a timely objection is not made, can an appellate court Reverse the Decision of an court competency trial if the lower court's allowance of the Prosecutor's conduct constituted Plain error that Both impaired the Defendant's rights and harmed the integrity of the Proceedings?

15. Do Appellate courts consider a number of Factors in evaluating the seriousness of Misconduct, including whether the Prosecutor's Misconduct was deliberate or Accidental in a court competency trial?

16. Do Appellate Courts consider the degree to which the Prosecutor's conduct May have PreJudiced the Defendant in a Court Competency trial?

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17. Do Appellate courts consider the effect of curative instructions on the court competency Jurors in a court competency trial?

18. Accumulation of trial errors and court competency trial errors, are they Deemed harmless and Do they Require reversal Because of their Cumulative effect?

19. Does a Defendant's competence to stand trial defend on whether that Defendant has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and whether he has a rational as Well as a Factual understanding of the proceedings Against him?

20. Is the Conviction of a legally incompetent defendant, or the Failure of a trial court to provide an adequate competency determination a violation of the defendant's due process right to a fair court competency trial?

21. Can a determination of incompetence Be immediately Reviewable under the Collateral order doctrine?

22. Does the Failure of a trial court to conduct a competency hearing From an Motion For Extraordinary Motion For New Trial with one Newly Discovered Evidence Ground: Prosecutorial Misconduct, violate the due Process?

23. Do State courts have to place the Burden of Proving incompetence on the Defendant?

24. Is a state court's decision not to hold a competency hearing and a state court's determination after a competency hearing Reviewable in a federal habeas petition?

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25. Is relief generally available to a Petitioner who has exhausted the remedies available in state courts utilizing all procedures available under state law to raise the claim?

26. Does the exhaustion requirement consist of properly pursuing a claim through the entire Appellate Process of the State?

27. Does Fully Pursuing an appeal to Satisfy the exhaustion Requirement include Presenting a claim to the state supreme court, though it's Review may Be discretionary?

28. Can a Petitioner cite a specific Federal Constitutional or Statutory Provision in filings submitted to the highest State court to meet the exhaustion requirement?

29. Is the Failure of an State Appellate court or state Supreme Court to mention a Federal claim in an Written opinion Mean that the Federal claim was not Presented to it?

30. Can a state Supreme Court's refusal to rule for invalid Prudential or Procedural reasons on a Petitioner's claims Be construed By the Federal Habeas court as exhaustion of the claim?

List of Parties and Related Cases

* List of Parties: None, Because the Highest State Court, The Georgia Supreme Court, who Petitioner Booth is Requesting this court, The supreme court of The united states, To Review the highest state court which is the Georgia supreme court Abusing it's Discretion on the application for discretionary Appeal For not Addressing the Federal Constitutional violation claim in an Written opinion. The Georgia supreme court is not a Party. *

* Related Cases: *

1. Drope v. Mo., 420 U.S. 162, 178-83 (1975)

2. Pate v. Robinson, 383 U.S. 375, 378 (1966)

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 C 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 State Trial court appears at Appendix A to the petition and is

[ ] reported at Dekalb County Superior Court; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

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Opinions Below

Appendix A - * See Delroy T. Booth v. State of Georgia, In Dekalb County Superior Court, 11cr5140-5, not addressing the Federal Constitutional violation claim in an Written opinion in: Defendant's Motion For Extraordinary Motion For New Trial With one Newly Discovered Evidence Ground: Prosecutorial Misconduct During the court Competency Trial, And Defendant's Request For Ruling on Defendant's Motion For Extraordinary Motion For New Trial with one Newly Discovered Evidence Ground: Prosecutorial Misconduct During the Court Competency Trial. *

* Also the Trial court/Superior court erred By sending The court order to the wrong Prison Address *

Appendix C - * See Delroy T. Booth v. The State, Case No. - S24D0042, not addressing the Federal Constitutional violation Claim in [redacted] an Written opinion, and Denying the Application For Discretionary Appeal Review in an Written opinion. A violation of Petitioner Booth's rights For not Addressing the violation claim in the Application For Discretionary Appeal in an Written opinion By the Highest State Court *

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 8-23-2023. 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 ____________ (date) on ____________ (date) in Application No. __A____.

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

JURISDICTION

Highest State Court Denying Application For Discretionary Appeal Review Without an Written opinion Addressing the Federal Constitutional violation Claim: Newly Discovered Evidence Ground: Prosecutorial Misconduct During the Court Competency Trial.

(Georgia Supreme Court)

Constitutional and Statutory Provisions Involved

* See Ga. Constitution of 1983, Article VI, Section VI, Paragraph III (8) *

* Georgia Statutes *

O.C.G.A. 16-5-1 (d)

Legal Analysis -

Appellate Courts consider a number of Factors in evaluating the seriousness of misconduct, including whether the Prosecutor's misconduct was deliberate or accidental, the degree to which the Prosecutor's conduct may have PreJudiced the Defendant, the effect of curative instructions on the Jury, *see Shih Wei v. Filion, 335 F.3d 119, 129 (2d. cir. 2003) (conviction Reversed because Prosecutor Failed to correct government witness's False testimony and conviction substantially depended on that testimony) see also U.S. v. Perlaza, 439 F.3d 1149, 1172-73 (9th cir. 2006) (conviction reversed because of intentional and improper burden shifting comment). see U.S. v. Watson, 171 F.3d 695, 700 (D.C. Cir. 1999) (conviction reversed because Prosecutor's misstatements of defense witness's testimony substantially PreJudiced defendant Despite curative instructions). But see U.S. v. Richards, 719 F.3d 746, 766-67 (7th cir. 2013) (conviction vacated Because Prosecutor's improper Propensity argument called into question the Fairness of Defendant's trial and limiting instructions did little to mitigate the PreJudice). see U.S. v. Conrad, 320 F.3d 851, 856 (8th cir. 2003) (conviction reversed Because Prosecutor's improper remarks during trial had cumulative effect that substantially impaired the defendant's right to a fair trial, evidence against defendant was not overwhelming and curative Instructions were insufficent to Protect Defendant From substantial PreJudice).

Appellate Courts are more likely to Find Plain error if the error at trial affected the defendant's constitutional rights. Courts Frequently Find Plain error occurred through Prosecutorial Misconduct. see U.S. v. Carter, 236 F.3d 777, 785 (6th cir. 2001). (Plain error Because Prosecutor misstated evidence and made Personal Attacks on opposing counsel in closing statement)

see also U.S. v. Degeratto, 876 F.2d 576, 586 (7th Cir.-

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(1989). (Plain error Because government used inflammatory-
characterization of Defendant as "Loan shark" in closing
Argument). A court is unlikely to Find Plain error Where the
Defense counsel contributed to the error, where the error concerned
a fact admitted by the Defendant, where the Defendant Failed to
request Curative instructions at trial, See U.S. v. Sanchez, 659 F.3d
1252, 1260-61 (9th cir. 2011) (Plain error though Defendant Failed to object
to Prosecutor's statements because absence of Curative instruction
PreJudiced Jury Deliberation).

Conversely, Trial errors - errors that occur during the Presentation
of the case are subJect to harmless error review. Courts consider
Whether the error Was harmless Beyond a reasonable doubt and
did not contribute to the verdict. Trial errors include:
Prosecutorial Misconduct, see U.S. v. Ayala-Garcia, 574 F.3d 5,
19-22 (1st cir. 2009) (Prosecutor's improper remarks during closing
Argument not harmless Because insinuated that Defendant's
Were violent and that Jurors had responsibility to prevent gun
violence). See also Bates v. Bell, 402 F.3d 635, 649 (6th cir. 2005)
(Prosecutorial Misconduct that Deliberately Inflammed
Jury's Passions not harmless Because PreJudiced Defendant).
See also U.S. v. Simpson, 479 F.3d 492, 504 (7th cir. 2007) (Prosecutor's
error in introducing other offenses at trial not harmless
Because PreJudicial, no limiting instruction, and other evidence
Far From overwhelming). See also U.S. v. Miller, 621 F.3d 723,
732 (8th cir. 2010) (Prosecutor's improper comments not Harmless
Because comments related to central element of case and
PreJudiced defendant's right to Fair Trial). See also U.S. v.
Sandoval-Gonzalez, 642 F.3d 717, 725-26 (9th cir. -

(2011) (Prosecutor's improper suggestion there was presumption of "Guilt" not harmless because shifted burden of proof to defendant and court took no curative action). See also U.S. v. Earle, 375 F.3d 1159, 1165-66 (D.C. Cir. 2004) (Prosecutorial misconduct implying in closing that defendant lied in testimony not harmless because no curative action taken and likely that misconduct affected verdict).

Competency Hearings-

The trial court must grant either party's motion for a competency hearing or order the hearing sua sponte, if there is a reasonable cause to believe that the Defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the proceedings, to the extent that he is unable to understand the nature and consequences of the proceedings against him to assist properly in his Defense. Pursuant to 18 U.S.C. 4241-(a), circumstances such as defendant's irrational behavior, Defendant's demeanor at trial, prior medical opinions as to competence, and defense counsel's doubts as to competence may lead to reasonable cause. *See Drope v. Mo. 420 U.S. 162, 180-(1975). See also Pate v. Robinson, 383 U.S. 375, 385-86 (1966)* see also U.S. v. Dreyer, 705 F.3d 951, 962-65 (9th Cir. 2013) (Reasonable cause to believe Defendant incompetent due to defense counsel's statements supported by expert opinions that defendant was unable to assist in his Defense due to his medical condition, which rendered him unable to regulate his speech or Behavior).

In Addition, Failure of the court to conduct a competency hearing where appropriate violates due process, see Pate, 383 U.S. at 385-86 (Trial court's failure to conduct competency hearing in light of Defendant's pronounced irrational Behavior

(violated due Process)
see Mata v. Johnson, 210 F.3d 324, 332-33 (5th cir. 2000) see also Burt v. uctman, 422 F.3d 557, 566 (7th cir. 2005) see Reynolds v. Norris, 86 F.3d 796, 802 (8th cir. 1996). see McMurtrey v. Ryan, 539 F.3d 1112, 1126-27 (9th cir. 2008). see Mc Gregor v. Gibson, 248 F.3d 946, 955 (10th cir. 2001) (due Process violated By Failure to conduct competency hearing Because of Defendant's history of mental illness, inconsistent evidence that Defendant Properly medicated through trial, and contentions By counsel that Defendant unable to assist in Defense.) see Tiller v. Esposito, 911 F.2d 575, 578 (11th cir. 1990)

In Addition, State courts may Place the Burden of Proving incompetence on the Defendant. see Medina v. cal, 505 u.s. 437 446-48 (1992). The Medina court held that once a state Provides a Defendant access to Procedures For making a Competency evaluation .... We Percieve no Basis For holding that due Process Further requires the State to assume the burden of vindicating the defendant's constitutional right By Persuading the trier of Fact that the Defendant is Competent to stand trial. Id at 449. Medina approved Placing a Preponderance of the evidence burden on the Defendant, It did not Foreclosure the Possibility that States may require a lesser Burden. Id. states may not, However, require a Defendant to Prove incompetence By the more stringent standard of clear and convincing evidence, see cooper v. Okla. 517 u.s. 348, 366-67 (1996).

Both a state court's decision not to hold a competency hearing and a state court's determination after a competency hearing that a Defendant is competent are Reviewable in a Federal

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Habeas Petition. A State Court's determination of competence
is a Finding of Fact, see Thompson v. Keohane, 516 U.S 99, 111-
(1995) (citing Maggio v. Fulford, 462 U.S. 111, 117 (1983) -
entitled to a presumption of correctness on Federal habeas review
and relief may not Be granted unless Defendant proves that
1, the decision is contary to or unreasonable applies clearly
established Federal law as articulated by the supreme court, or
2, the Finding is an unreasonable determination of the Facts in
light of the evidence. 28 U.S.C. 2254 (d) (e) (1).
In addition, a State Court's decision not to hold a competency
hearing may violate Due Process if Defendant can show there
was bona fide doubt as to Defendant's competence at the time
of trial. see Pate v. Robinson 383 U.S. 375, 385-86, see also
Drope v. Missouri, 420 U.S. 162, 173-75 (1975). see also
Johnson v. Norton, 249 F.3d 20, 25-29 (1st cir. 2001) (Decision
not to hold competency hearing violated Due Process Because
Defendant was assaulted and suffered concussion on Morning
of Jury selection, Passed out, and was vomiting During Break
From trial). see Silverstein v. Henderson, 706 F.2d 361, 369-
(2d cir. 1983) (Decision not to hold competency hearing
violated Due Process where trial court had reports of 3
Psychiatrists, 2 of whom Found Defendant incompetent, and
Defendant had long history of mental illness). see Maxwell v.
Roe, 606 F.3d 561, 576 (9th cir. 2010) (decision not to hold
competency hearing violated due Process in light of defendant's
history of mental illness, Refusal to take Antipsychotic
medications, And Bizarre Behavior in court room)
* Next, Petitioner Booth will Demonstrate to this Court
The supreme court of the united states, The Federal

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Constitutional Claim, Prosecutorial Misconduct During the Court Competency Trial, In DeKalb County Superior Court and Georgia Supreme Court*

Defendant's Motion For Extraordinary Motion For New Trial With one newly Discovered evidence ground: Prosecutorial Misconduct during the court competency Trial.

&

Defendant's Request For Ruling on Defendant's Motion For Extraordinary Motion for new trial With one newly Discovered evidence ground: Prosecutorial Misconduct during the Court Competency Trial.

*Petitioner Booth States:

It is Well Settled that the Sole Issue to Be Presented to the Jury is that of mental Competency and the Prosecutor at Defendant's Booth court Competency trial Showed improper conduct By expressing Personal opinions about Defendant Booth's guilt or credibility, the Prosecutor at Defendant Booth's Court Competency trial made Statements / Remarks Regarding the Character of Defendant Booth By Comparing Defendant Booth to "O.J. Simpson" Whose real name is Orenthal James Simpson, to the Defense Doctor Shan Agharkar, Who is a Certified Medical Doctor in Adult and Forensic Psychiatry, While he Was testifying about his Expertise. The Prosecutor also Showed improper Conduct During Closing Argument By Expressing Personal opinions, statements

Remarks About the High Profile "O.J. Simpson" murder trial to the
Court Competency Jury. Most importantly, The Prosecutor at Defendant
Booth's court competency trial Added Defendant Booth's Criminal
Allegations Charges, Defendant Booth's court Competency Trial Counsel
name, Mr. queen, and the Defense's Doctor name, Doctor shan-
Agharkar, in that Comparison of Murder cases Between O.J. Simpson
and Defendant Booth as the Prosecutor expressed his personal opinion,
Statement, Remarks to the court Competency Jury in the Closing
Argument. This improper conduct By the Prosecutor at Defendant Booth's
Court Competency trial violated the Due Process right to a fair court
competency trial. Most importantly, these statements/Remarks about
the comparison Between O.J. Simpson's High Profile murder trial and
Defendant Booth's criminal Allegation Charges the Prosecutor presented
to the court competency Jury During Closing Argument, was likely to
inflame the passions of the Jurors if the statement/Remarks, personal
opinions, and comparison of O.J. Simpson's High Profile murder trial and
Defendant Booth's criminal Allegation charges are intended to lead to
Conviction For an improper Reason.

Here, Defendant Booth's Motion For Extraordinary Motion For New Trial
Should Be granted and a Hearing on this issue is Requested at this
time Because the conviction of a Legally incompetent Defendant or
the Failure of a Trial court to provide an adequate competency
Determination, is a violation of the Defendant's Due Process right
to a Fair Trial. *see Drope v. Mo. 420 U.S. 162, 178-83 (1975). See
also Pate v. Robinson, 383 U.S. 375, 378 (1966).*

Here, a Prosecutor in a court Competency Trial may not

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Express Personal opinions about the Defendant's guilt or credibility and must avoid epithets or other remarks regarding the character of the Defendant, the Defendant's counsel, or a Defense Witness,

Here, Next Defendant Booth Will Demonstrate to this Court the Due Process right to a Fair Court competency trial violation By the Prosecutor at Defendant Booth's Court Competency trial. The improper conduct occurred when the Defense Witness, a certified medical Doctor in adult and Forensic Psychiatry, Was testifying on the Witness about his expertise on cross-examination By the Prosecutor Mr. Dunaway and During Closing Argument. * Partial copy of court competency Trial Transcript (Day 2) Page 356 *

Mr. Dunaway - Doctor, let me ask you. Have you ever heard of a case called the People of California versus Orenthal James Simpson?

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Dr. Agharkar - yes.

Mr. Dunaway - okay. And in that case, Doctor, you would Agree with me that the State, or the People of California, said that this was Orenthal James Simpson's DNA, correct?

Dr. Agharkar - yeah. I Don't Remember all the Specifics.

Mr. Dunaway - And you would Also agree with me that the Defense was it was a set up and someone planted that DNA, correct?

Dr. Agharkar - sure.

Mr. Dunaway - And you would Agree with me that they went to trial on that, correct?

Dr. Agharkar - yes.

Mr. Dunaway - And that the Jury said the Defense's version

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Was the truth?

Dr. Agharkar - Right.

Mr. Dunaway - All right. lets move on. you on the next section, awareness of possible consequences.....
* End of copy of court competency Trial Transcript*

Here, next Defendant Booth will cite cases in support of this Due Process violation By the prosecutor on cross-examination of the Defense Witness, see U.S. v. Modica, 663 F.2d 1173, 1179-80 (2d cir. 1981) (Prosecutor's statement characterizing witnesses as scared improper). see also U.S. v. Zehrbach, 47. F.3d 1252, 1264 (2d. cir. 1995) (prosecutor's statement that 2 witnesses guilty of same crime as Defendant improper) see also U.S. v. Crutchfeld, 26 F.3d 1098, 1111-12 (11th cir. 1994) (Prosecutor's irrelevant questions insinuating Defense Witness involved in Major Drug operations and other Misconduct improper).
* End of cases in support of the Due Process violation*

Prosecutor's must similarly limit their trial statements and closing Argument to evidence that has Been admitted into the record and permissible inferences therefrom,

Here, The evidence was the competency Trial and not the issues of comparing O.J. Simpson's High profile murder trial to Defendant Booth's criminal Allegation charges through a Defense Witness who is a certified medical Doctor in adult and Forensic psychiatry, when he was on the witness stand testifying about his expertise. The prosecutor continued doing the improper conduct violation of Due Process right to a Fair court competency Trial During

Closing Argument By using O.J. Simpson's High Profile Murder Trial evidence and comparing the evidence in O.J. Simpson's Trial to Defendant Booth's Criminal Allegation charges in a Court Competency Trial, to the Court Competency Jury. The Prosecutor Expressed his Personal opinion, Knowledge, etc., to a Court Competency Jury when he stated these words in his Closing Argument:

Partial copy of Court Competency Trial Transcript

Competency Trial Day 3:

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Mr. Dunaway - Dr. Agharkar will say that a Person would Be incompetent to go into court and say I didn't do it, the Police Planted evidence, the Police Planted my DNA, the Police work was sloppy, that somebody else must have killed her.

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cause they wanted the insurance Money, and only an incompetent Person would come into court and say that. Well, ladies and gentlemen, if the glove Don't Fit. Orenthal James Simpson. That was the defense. That was the defense. Simpson's Blood was Found at the crime scene of a Double Homicide. Victim's Blood Found in Simpson's car. There was a history of Domestic violence And Mr. Queen says well, the Difference is there was no one who said he couldn't -- that Simpson wouldn't Be able to talk with his Attorney's Because he wasn't having any mental Problems. It all started when there was a Phone call From a Bronco of Simpson riding Down the street in a slow-speed chase threatening to kill himself. Hmmm. There's some issues

There. very similar. very similar. All Right. So the Blood was Found in simpson's car, and the theory of that case was that simpson Did not do it, there was a police conspiracy Against him. And it Worked. It Worked. It took a lot of Work to put Forth that Defense. They had to get more than one expert, they had to get evidence, they had to challenge the evidence, they had to go Back ten years on a police officer. It took a lot of work, But Dr. Agharkar Would say that's incompetence. He Would say that legal dream team of Johnny Cochran, Attorney shapiro, Attorney Kardashian, that they Were all incompetent. F. Lee Bailey, They were all incompetent. That's not Just, that's not Based in reality. you got this man DNA here, you got this DNA here, The police wouldn't set him up. That's a question For the Jury. That's a question For the Jury. It's not incompetence. It's Just not. If-- If you Believe there's Superior Weight of evidence, you would have to Believe that the legal Dream team Was incompetent. And whether or not you Agree With that verdict, that team Went, so they were not lazy and they did it, They Believed that their client's not crazy and We're not going to Be lazy.

End of Partial copy of court competency Trial transcript

Here, It is well settled that the sole issue to Be Presented to the court competency Jury is that of Mental competency, Evidence as to guilt Would Be irrelevant By comparing a Famous Person's High Profile Murder trial to Defendant Booth's Criminal Allegation charges, Expressing opinions, Personal Knowledge, etc. During cross-examination of a Defense Witness Who is a certified medical Doctor in adult and Forensic Psychiatry, and During closing Argument the court competency Jury heard statements/Remarks about a high profile murder trial Graphic Details that were likely to inflame the Passions of the court competency Jurors. This strategy By the Prosecutor during the court competency trial violated the Due Process right to a fair court competency trial.

Next, Defendant Booth will cite law and cases in support on the Prosecutor's improper conduct During closing Argument.

Prosecutorial Misconduct Justifies Reversing a conviction only where it so infected the trial with unfairness as to make the resulting conviction a denial of Due Process. To Reverse a conviction, a claim of Prosecutorial Misconduct Requires Proof of improper conduct By the Prosecutor that, taken in context of the trial as a whole, violated the Defendant's Due Process rights. A Prosecutor may not express Personal opinions about the Defendant's guilt or credibility, see U.S. v. Auch, 187 F.3d 125, 131 (1st cir. 1999) see U.S. v. Warshak, 631 F.3d 266, 303 (6th cir.-2010). see U.S. v. Nunez, 532 F.3d 645, 653 (7th cir. 2008). see U.S. v.-Thomas, 664 F.3d 217, 224-25 (8th cir. 2011). see U.S. v. Wright, 625 F.3d 583, 611-12 (9th cir. 2010). see U.S. v. Lopez-Medina, 596 F.3d 716, 740-(10th cir. 2010). see U.S. v. Brown, 508 F.3d 1066, 1076 (D.C. Cir. 2007) (Prosecutor's expression of Personal Belief Regarding Defendant's guilt improper.)

Prosecutor's Must Avoid epithets or other Remarks Regarding the character of the Defendant. see U.S. v. Kinsella, 622 F.3d 75, 85,-86 (1st cir. 2010) (Prosecutor's reference to drug sales unsupported By evidence improper.) see U.S. v. Burden, 600 F.3d 204, 221-

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22 (2d. cir. 2010) (Prosecutor's Comparison Between Al-Qaeda and Defendant's narcotics organization improper). see U.S. v. Farmer, 583 F.3d 131, 146-47 (2d cir. 2009) see Steele v. U.S., 222 F.2d 628, 631 (5th cir. 1955) (Prosecutor's remarks referring to Defendant as "Dr. Jekll and Mr. Hyde" improper). see U.S. v. Wettstain, 618 F.3d 577, 589 (6th cir. 2010) see also Hodge v. Hurley, 426 F.3d 368, 384 (6th cir 2005) see U.S. v. Hale 448 F.3d 971, 986-88 (7th cir. 2006) see Hein v. Sullivan, 601 F.3d 897, 913 (9th cir. 2010) (Prosecutor's comparison of Defendant's to a "Pack of Wolves" and calling one Defendant a little Punk improper.) see Malicoat v. Mullin, 426 F.3d 1241, 1256 (10th cir. 2005) see also U.S. v. Wilson, 149 F.3d 1298, 1300-01 (11th cir. 1998).

The Prosecutor May not appeal to Jurors to Act As a Conscience For the community or make other remarks likely to inflame the Passions of the Jurors if the remarks are intended to lead to conviction For An improper Reason. see U.S. v. Santos-Rivera, 726 F.3d 1727 (1st cir. 2013). see U.S. v. Elias, 285 F.3d 183, 190-92 (2d. cir. 2002) see U.S. v. Berrios, 676 F.3d 118, 135 (3d. cir. 2012). see U.S. v. lighty, 616 F.3d 321, 360-61 (4th cir. 2010). see learmonth v. Sears, Roebuck & co., 631 F.3d 724, 732 (5th cir. 2011). see U.S. v. Mannava, 565 F.3d 412, 414 (7th cir. 2009).

Prosecutor's must similarly limit their trial statements And closing Argument to evidence that has Been Admitted into the record and Permissible Inferences there From, see U.S. v. Gentles, 619 F.3d 75, 82-83 (1st cir. 2010) (Prosecutor's references to studies done on Television show CSI improper Because

Not supported By evidence.) see U.S. v. Valdez, 723 F.3d 206, 208-09 (D.C. Cir. 2013) (Prosecutor's statements that conspirator called Defendant "Montanna" in referenced to the movie Scarface improper Because unsupported By the evidence).

Appellate courts typically conduct a two-part inquiry When Reviewing Prosecutorial conduct. They First Review the propriety of Prosecutorial conduct de novo. If misconduct occurred, courts then Will only reverse the conviction if the misconduct PreJudiced the trial Fairness, and usually Will defer to the trial Judge's conclusions on the matter. If a timely objection is not made, Appellate courts Will reverse the conviction only if the lower court's allowance of the prosecutor's conduct constituted plain error that Both impaired the defendant's rights and harmed the Integrity of the Proceedings. see U.S. v. Espinal-Almedia, 699 F.3d 588, 605 (1st cir. 2012) (Reviewing For plain error Because Defendant did not contemporaneously object to Misconduct.) see U.S. v. Turner, 720 F.3d 411, 425 (2d. cir. 2013) see U.S. v. Pawlowski, 682 F.3d 205, 210 (3d. cir. 2012) see U.S. v. Powell, 680 F.3d 350, 358 (4th cir. 2012) see U.S. v. McCallister, 693 F.3d 572, 584 (6th cir. 2012) see U.S. v. Tucker, 714 F.3d 1006, 1014 (7th cir. 2013) see U.S. v. Darden, 688 F.3d 382, 388 (8th cir. 2012). see U.S. v. Ruiz, 710 F.3d 1077, 1082 (9th cir. 2013). see U.S. v. Orr, 692 F.3d 1079, 1095 (10th cir. 2012). see U.S. v. House, 684 F.3d 1173, 1197 (11th cir. 2012) see U.S. v. Moore, 651 F.3d 30, 91 (D.C. cir. 2011).

Facts - Personal expressions of opinion are especially

improper if Phrased to leave the impression that the Prosecutor's
opinion is Based on matters in the investigative File and
not in the trial evidence.

Facts - A Prosecutor is Free to comment upon the evidence,
including Demeanor, But he may not use the Presence of an unknown
Individual, Concerning whom no evidence is introduced, as a vehicle
For suggesting that the Defendant is associated with threating
People.

Facts - The Prosecutor shall not use Arguments calculated to inflame
the Passions or PreJudices of the Jury. ABA standard For criminal
Justice 3-5, 8-C. No Trial, civil or criminal, should Be decided upon
the Basis of the Juror's emotions. But the stricture against PreJudical
appeals to the Jury is most compelling with respect to the Performance
of a Prosecutor.

Facts - The united States Attorney is the Representative not an ordinary
Party to a controversy, But of a sovereignty whose obligation to
govern impartially is as compelling as it's obligation to govern at all,
and whose interest, therefore, in a criminal Prosecution is not that
it shall win a case, But that Justice shall Be done. As such, He is
in a peculiar and very definite sense the servant of the law, the
two Fold aim of which is that guilt shall not escape or innocence
suffer. He may Prosecute with earnestness and vigor, indeed,
he should do so, But, while he may strike hard Blows, he is not at
liberty to strike Foul ones. It is as much his duty to refrain
From improper methods calculated to Produce a Wrongful
conviction as it is to use every legitimate means to Bring

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About a proper one.

Facts - A Prosecutor should exercise Restraint to avoid needless Personal references, without sacrificing the vigor or effectiveness of his Argument.

Facts - A Prosecutor's improper summation results in a denial of Due Process when the improper statements cause substantial PreJudice to the Defendant.

Facts - The First question is whether the improper comments are minor aberrations in a prolonged Trial or cumulative evidence of a Proceeding Dominated By Passion and PreJudice. Among the elements Weighed in this inquiry are the extent to which the misconduct is intentional and the extent to which the statements are made in response to defense contentions.

Facts - Reversal is an ill-suited Remedy For Prosecutorial Misconduct, It does not affect the Prosecutor Directly, But rather imposes upon society the cost of retrying an individual who was fairly convicted.

Facts - The court of Appeals also has Power to Fashion Remedies directly against an Attorney persistently engaging in improper courtroom conduct.

Facts - A seperate, Potential Basis For Appellate discipline of Attorney's is the court's duty to enforce ethical standards, improper statements By state Prosecutor's constitute unethical conduct, Regardless of whether they Justify Reversal in a particular case. Inflammatory remarks or Personal Attestations as to guilt or credibility violate the code of Professional Responsibility. In conclusion,

In conclusion, Defendant Booth Requests a new trial and a hearing
on this situation. It is well settled that the sole issue to be presented
to a court competency Jury is that of mental competency, evidence
as to guilt By comparison of a Famous Person's High Profile
murder trial is a violation of the Due Process right to a Fair
court competency Trial. The conviction of a legally incompetent
Defendant, or the Failure of a trial court to provide an adequate
competency Determination, is a violation of the Defendant's Due
Process right to a Fair Trial. Defendant Booth Requests a new court
competency Trial, a hearing on this Due Process violation, and a
new trial on the criminal Allegation charges.
* End of Motion For Extraordinary Motion For New Trial, etc., that was
Presented to the state court - Dekalb county superior court, and the
State's Highest court - The Georgia supreme court *

Here, next Petitioner Booth will Demonstrate to this court, The
supreme court of The united states what was stated By Petitioner
Booth in: Defendant's request for ruling on Defendant's Motion For
Extraordinary Motion For New Trial with one Newly Discovered
Evidence Ground: Prosecutorial Misconduct During the court
competency Trial.

* Petitioner Booth Stated: *
It is well settled that the sole issue to be presented to a competency
Jury is that of mental competency, Evidence as to guilt would Be
irrelevant. A Defendant's competence to stand trial depends on whether
that Defendant has sufficient present ability to consult with his

Lawyer with a reasonable degree of rational degree of rational understanding and whether he has a rational as well as a Factual understanding and of the proceeding against him. *See Dusky v. U.S., 362 U.S. 402, 402 - (1960). See also U.S. v. Mahoney, 717 F.3d 257, 265-66 (1st cir. 2013) (Defendant incompetent under Dusky Because court had opportunity to observe the defendant During trial and expert Reported Defendant Behaved hypomanically and expressed Delusional thoughts, despite contrary opinion of Another expert who had not observed the behavior). See Also U.S. v. Hemsi, 901 F.2d 293, 295-96 (2d. cir. 1990) (Defendant incompetent under Dusky Because Defendant's Behavior during competency hearing and expert's Testimony revealed inability to cooperate in own defense). See U.S. v. - Ghane, 490 F.3d 1036, 1040-41 (8th cir. 2007) (Defendant incompetent under Dusky Because Defendant suffered From Delusional Paranoia and Behavior Indicated distrusts of own lawyers). See U.S. v. Friedman, 366 F.3d 975, 980-81 (9th cir. 2004) (Defendant incompetent under Dusky Because Paranoid Schizophrenia directly prevented defendant from rationally assisting in defense). See U.S. v. Boigegrain, 155 F.3d 1181, 1189-90 (10th cir. 1998) (Defendant incompetent under Dusky Based on Psychologist's Belief that defendant suffered From Paranoid Ideation.)*

The issue of an accused's competency to stand trial is a totally Different inquiry as to mental state at the time of trial, guilt or innocence and Insanity at the time of the criminal act are irrelevant to a Determination of competency. *See Crawford v. State, 240 Ga. 321 (240 S.E.2d 824) - (1977)*

Here, The three Standard Prongs in a competency Trial consist of - Does Defendant Booth understand the nature of What he's accused of, Two, Does Defendant Booth understand his condition in relationship to that, Three, Is Defendant Booth able to assist counsel in Defending him. In their openning statements to the competency Jury

Defendant Booth's trial counsel and the Prosecutor Both agreed on
the two standard prongs in a competency trial and that was that
Defendant Booth understood the nature of what he's Accused of,
and two, Defendant Booth understands his condition to that, But what
Defendant Booth's trial counsel and the Prosecutor at the court-
competency trial Didn't agree to on the standard Prongs of Competency
was that Defendant Booth was not able to assist counsel in Defending him,
and also Defendant Booth's Diagnois as a mental Health Patient. Defendant
Booth had a total of seven public Defender lawyers. Duana Sanson, september
guy, Paula Torselli, Alice Snead, Corrine Mull, and Annie Deets, Darryl queen.

Improper conduct By the Prosecutor at the Court Competency Trial:
Again, a Prosecutor may not express Personal opinions about the Defendant's
guilt or credibility, and must avoid epithets or other remarks regarding
the character of the Defendant, the Defendant's counsel, or a Defense
Witness.

Here, Improper Conduct was shown again By the Prosecutor at Defendant's
Booth court competency trial During closing Argument when he stated
these words on page 559 of the court competency trial transcript - All
right. Mr. Booth doesn't trust Ms. Deets. We know that. Ms. Deets
wanted him to admit to an Act he says he did not do. Hard Work and I
didn't do it in this type of case. But Mr. Booth's not crazy, his lawyer's
Just lazy. * End of Partial copy of court Competency Trial Transcript *

Next, Defendant Booth will state some law, cases, etc.; in support
of this improper conduct shown By the prosecutor at Defendant Booth's
court competency Trial: see U.S. v. Boldt, 929 F.2d 35, 40 (1st cir. 1991)
(Prosecutor's remark that's it's a Favorite defense tactic to try to
get the Jury to focus on unnecessary Facts or to get the Jury emotionally
wrapped up with the Defendant was improper Because it casts
suspicion on the general rule of Defense counsel rather than a
theory of the case). see U.S. v. Friedman, 909 F.2d 705, 708 (2d. cir

(1990). (Prosecutor's statements that Defense counsel Would make any Argument he can to get that guy off and that while some people Prosecute Drug Dealers, there are others who try to get them off Perhaps even for high Fees improper).

Prosecutor's Must avoid Remarks/Statements of a Defense Witness - Here, the Prosecutor showed improper conduct During Defendant Booth's court competency trial By using the Defense's certified medical Doctor in adult and Forensic Psychiatry as a "set up" for the improper conduct While he was testifying about his Expertise. * see Trial Transcript of court competency Trial Pages 356-357, and pages 557-559 * see U.S. v. Crutchfield, 26 F.3d 1098, 1101-02 (11th cir. 1994) (Prosecutor's irrelevant questions insinuating Defense Witness involved in major drug operation and other misconduct improper).

If misconduct occurred, courts then will only reverse the conviction if the misconduct PreJudiced trial Fairness and usually will defer to the trial Judge's conclusions on the matter. When Assesing whether misconduct caused substantial PreJudice, most circuits look to three Factors: 1, the severity of the misconduct, 2, the effect of any curative instructions given, 3, the strength of the evidence supporting the Defendant's conviction.

* Here in the Instant case, there was no objections made During or after the misconduct, and most importantly there was no curative instructions given to the court competency Jury after or During the improper conduct By the Prosecutor During closing Argument or questioning of the Defense Witness who is a certified medical Doctor. *

If a timely objection is not made, an appellate court will Reverse the conviction only if the lower court's Allowance of

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The Prosecutor's conduct constituted Plain error that Both impaired
the Defendant's rights and harmed the integrity of the Proceedings,
See U.S.V. Espinal-Almedia, 699 F.3d 588, 605 (1st cir. 2012) (reviewing
For Plain error Because Defendant did not contemporaneously
object to misconduct). Appellate courts consider a number of
Factors in evaluating the seriousness of misconduct, including
whether the Prosecutor's misconduct was deliberate or Accidental,
The degree to which the Prosecutor's conduct may have PreJudiced
the Defendant, the effect of curative instructions on the Jury, and
Whether the Weight of the Evidence made conviction certain absent
the improper conduct. *See U.S. v. Watson, 171 F.3d 695, 700 (D.C. Cir.
1999) (conviction reversed Because Prosecutor's misstatements of
Defense Witness's Testimony substantially PreJudiced Defendant
despite curative instructions).*

Individual trial errors Deemed harmless may require reversal
Because of their cumulative effect, see taylor v. Ky. 436 U.S. 478, 488 n.15
(1978) (cumulative errors violate due process gurrantee of Fundamental
Fairness and necessitate new trial). See also Break Iron v. Horn, 642 F.3d
126, 131-32 n.5 (3d. Cir. 2011) (cumulative effect of 3 claims required Reversal
of conviction Because Individually Claims warranted relief.) See U.S. v.
Wallace, 848 F.2d 1464, 1475 (9th Cir. 1988) (erroneous admission of Prior
Conviction and Prosecutor improperly Vouching For Witness not
harmless Because Cumulatively PreJudicial). See U.S. v. Hands, 184 F.3d
1322, 1334 (11th cir. 1999) (Judge's evidentiary errors and Prosecutors
inappropriate statements not harmless Because Cumulatively
deprived Defendant of Fair Trial).

Here, there was Reversible error in the trial of the special Plea, court
Competency trial. The verdict in the Main case must also be set aside
or vacated. However, in the guilt / Innocence trial since there was
two errors in which the trial Court and the Georgia Supreme

Court Agreed, The violation of the Due Process right to a Fair Trial with Prosecutorial Misconduct Being the Main Topic at the Court Competency Trial. The Accumulation of errors was such that a new trial is Being requested at this time for the court Competency trial and the Main case itself. At Defendant Booth's Amended Motion For new trial and list of Defense Witnesses Hearing in the year 2015, Appellate counsel states on Ground Three: The Aggravated Assault Charge should Be vacated. The Aggravated Assault merge as a matter of Fact into the malice murder conviction should Mr. Booth was indicted For malice murder conviction. Here, Head and Body with Malice aforethought, and For Aggravated Assault By Making an Assault upon Ms. vason with his hands and unknown objects, Which when used offensively are likely to result in seriously Bodily Injury. He was sentenced to life For Malice Murder and a consecutive 20-year Sentence For Aggravated Assault. When the victim of Both the Aggravated Assault and the Malice Murder is the same Person, the Aggravated Assault generally is a crime included in the malice murder. see Wilson v. State, 285 Ga. 224, 226, 675 SE 2d 11 (2009). That is Because a Defendant may not recieve multiple convictions and punishments For the same conduct, Pursuant to O.C.G.A. 16-1-7 (a) (1). In this case, Mr. Booth's conduct - Assaulting Ms. vason about her head and Body with his hands and unknown objects - establishes proof of Both the Aggravated Assault and Malice Murder as indicted. Therefore, the Aggravated Assault Charge should Be vacated. see Bell v. State, 284 Ga. 790, 792, 671 SE 2d 815 (2009) (vacating the conviction and sentence for Aggravated Assault where the Defendant's conduct of striking the victim with a tree limb established both Malice Murder (with Malice aforethought caused the victim's Death by striking her about the head and Face with a Tree limb.) and Aggravated Assault (caused serious bodily Injury to

The victim by striking her about the head and face/Body with an Instrument that caused serious Bodily InJury - a tree limb).

Here, when the trial court came up with it's Decision on Defendant Booth's Amended Motion For new trial evidence grounds, It stated on the Third specific Ground: The Aggravated Assault Charge should Be vacated: Booth Argues that the Aggravated Assault conviction should merge into the malice murder conviction Because the victim of Both was the same Person, and a Defendant should not Recieve multiple convictions For the same Conduct. This court Agrees that the counts should be merged and resentenced Booth. * End of order *

Here, when the Georgia supreme court came up with their Decision on Defendant Booth in August 2017, the court stated: 5. Booth asserts that (4) the trial court erred by merging the two Felony murder counts with the malice murder count and asks that we remand for resentencing. The state Agrees that the trial court used the wrong nomenclature in Purporting to "Merge" the Felony murder counts into the malice murder count, see Favors v. state, 296 Ga. 842, 847-848 (5) (770 se 2d 855) (2015) (Felony murder counts Do not merge into malice murder verdict But are vacated By operation of Law.) But Argues that a remand is unnecessary Because there are no counts for which the trial court can enter a sentence on remand. We Agree.

The Predicate Felonies in the Felony murder counts were Aggravated Battery and abuse of a disabled adult. These predicate felonies were not seperately charged and no verdict was rendered on them. We vacate the merger of the Felony murder counts, But Because the trial court's sentence was proper in all other respects, we not remand For resentencing. see Atkinson v. state, 301 Ga. 518 (801 se 2d 833) (2017). Judgment affirmed in part and vacated

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In Part.
All the Justices concur. *End of written opinion*

Here, the court competency trial error of Prosecutorial Misconduct
with no curative instructions to the court competency
the resentencing of the Aggravated Assault charge Being vacated
By the trial court, Plus the Georgia supreme court Justices
vacating in part the Predicate Felonies in the Felony murder
counts adds up to an accumulation of errors From the court
competency Trial and the guilt/Innocence Trial was such that a
new trial is Being requested at this time on Both trial situations. The
Fact Finder to this Request for ruling on Defendant's Motion For
Extraordinary Motion For new trial with one newly Discovered Evidence
Ground: Prosecutorial Misconduct During the court competency trial,
is that the conviction of a legally incompetent Defendant, or the
Failure of a trial court to provide an adequate competency
Determination is a violation of the defendant's due Process right to
a Fair Trial, see Drope v. Mo., 420 U.S. 162, 178-83 (1975).
see also Pate v. Robinson, 383 U.S. 375, 378 (1966).
In conclusion, Defendant Booth Requests a ruling on Defendant's
Motion For Extraordinary Motion For new trial with one Newly
Discovered Evidence Ground: Prosecutorial Misconduct During the
Court competency Trial. At this time, Defendant Booth Also Request
a Post-conviction Hearing on this issue so it can Be resolved
in Favor of Defendant Booth recieving a new court competency
Trial and a new guilt/innocence trial.
End of Request For Ruling Motion

Next, Petitioner Booth will Demonstrate to this court, the
Supreme court of The united States, The Exhaustion
Requirement.
Legal Analysis - Habeas relief generally is not Available

Unless the Petitioner has Exhausted the remedies available in state courts, which means utilizing all procedures available under state law to raise the claim.. See 28 U.S.C. 2254 (c), see also - 2254 (b)(1) (exhaustion not required if there is an absence of Available state corrective processes or certain circumstances render such process ineffective to protect the Petitioner's rights. The exhaustion requirement also consist of properly pursing a claim through the entire Appellate process of the state, *see Justices of Bos. Mun. Court v. Lydon, 466 U.S. 294, 302-03 (1984)* (exhaustion requirement satisfied By presentation of claim on appeal to state supreme court From Denial of motion to Dismiss). see also - Rolan v. Coleman, 680 F.3d 311, 319, 325-26 (3d. cir. 2012) (exhaustion - requirement satisfied Because no procedural Default and prosecutorial Misconduct claim sufficiently Identified.) see Satterlee v. Wolfenbagger 453 F.3d 362, 365-66 (6th cir. 2006) (exhaustion requirement satisfied though all relevant Facts not yet Determined Because legal issue and relevant Facts were properly presented to court) see Sturgeon v. Chandler, 552 F.3d 604, 610-11 (7th cir. 2009) (exhaustion requirement satisfied Because petitioner referenced state standard identical to constitutional standard For right to competency hearing and relevant case law in Appellate Brief.) see Grass v. Reitz, 643 F.3d 579, 586 (8th cir. 2011) (exhaustion requirement satisfied Because Defendant pursued due process challenge through one complete round of the state's established appellate Review process.) see also Cooper v. Neven, 641 F.3d, 322, 331 (9th cir. 2011) (exhaustion requirement satisfied Because claims of prosecutorial Misconduct raised in Brief and Discussed By and Denied on merits By state supreme court.) see Hawkins v. Mullin, 291 F.3d 658, 663-64 (10th cir. 2002) (exhaustion requirement satisfied Becaused Applicant Addressed claims of due process and Freedom From cruel and unusual Punishment in state court pleadings).

The Ninth circuit Also has held that a Petitioner might not

To show exhaustion of administrative Remedies if not statutorily
Required to do so. see Santiago v. RumsFeld, 425 F.3d 549, 554
(9th cir. 2005) (exhaustion requirement satisfied Because circuit
court assumed For purposes of decision that petitioner sufficiently
exhausted administrative remedies.) Fully pursing appeal to satisfy
the exhaustion requirement includes presenting claims to the state
supreme court, though its Review may Be discretionary. see also
O'Sullivan v. Boerckel, 526 U.S., 838, 845 (1999) The exhaustion
Doctrine requires that the petitioner present the substance of
his claim to the state courts to give those courts a fair opportunity
to apply controlling legal principles to the Facts Bearing upon the
Petitioner's constitutional claim. see Picard v. Connor, 404 U.S. 270
276 (1971) (State prisoner must present the state courts With the
same claim he urges upon the Federal courts). see also Fortini v.
Murphy, 259 F.3d 39, 45 (1st cir. 2001) (exhaustion requirement
satisfied Because due process violation claim Fairly presented
to State Appellate courts.) see Haney v. Adams, 641 F.3d 1168, 1170, n.3
(9th cir. 2011) (exhaustion requirement satisfied Because Denial
of habeas petition without opinion By state supreme court was
Decision on merits and therefore Federal claim was Fairly presented
to the highest state court.) To meet the exhaustion requirement, a
habeas petitioner must have cited a specific Federal constitutional
or statutory provision in Filings submitted to the highest state
court, the petitioner may Be able to satisfy this Requirement even
if the state court has not addressed the claim in an Written
opinion. *see Dye v. Hofbauer, 546 U.S. 1, 3 (2005) (Failure of an
state Appellate court to mention a Federal claim Does not mean
the claim was not presented to it.) In Dye, the petitioner's
Brief Filed in state court clearly outlined specific Allegations
of prosecutorial Misconduct and cited to Federal constitutional

Provisions and supporting case law. The court held that the Petitioner's claims were properly presented Before the state court and directed the state court of Appeals to address the claim on remand. Id. see Smith v. Digmon, 434 U.S. 332, 333-34 (1978) see Fahy v. Horn, 516 F.3d 169, 188 (3d. cir. 2008) (exhaustion requirement satisfied because state procedural rule not firmly established at time of procedural Default). see Clinkscale v. Carter, 375 F.3d 430, 438 (6th cir. 2004) (see also Sandgathe v. Maass, 314 F.3d 371, 378 (9th cir. 2002) (exhaustion requirement satisfied though claim not previously addressed By state court Because issue addressed in Brief and ruled on By trial court though Appellate court did not address it in opinion.) see also Ogle v. Johnson, 488 F.3d 1364, 1369 (11th cir. 2007) (exhaustion requirement satisfied though claim not previously addressed By state court Because petitioner properly raised claim).

Here, In the instant case, Petitioner Booth Filed an Motion to Vacate, set aside or correct sentence with Newly Available Evidence Grounds in Dekalb county superior court on 1/5/2022 and that motion was Dismissed in Exactly 23 Days later By the trial court. Then petitioner Booth appealed From the motion to dismiss to the Georgia Supreme Court in February 2022. The Georgia Supreme Court Denied the Application For discretionary Appeal in Exactly 15 Days. Then Petitioner Booth Went Back to Dekalb county superior on a Different Motion to vacate, set aside, etc., with one Newly Available Evidence Ground. That motion was Also Dismissed By the

Trial Court. Then Petitioner Booth Went Back to the State's Highest Court Which is the Georgia Supreme Court For the Second time on a Different New alvailable Evidence ground. Again the Application For discretionary appeal Was Dismissed For the Second time. Now, A couple Months later Petitioner Booth Filed a Motion For Extraordinary Motion For New trial with one Newly Discovered Evidence Ground: Prosecutorial Misconduct During the Court Competency Trial., Petitioner Filed Motions in Trial Court and the Georgia Supreme Court raising the Federal Constitutional violation claim and these Courts Do not Want to Respond By My motions to the Due Process violation of Right to a Fair Court Competency Trial. This is petitioner's third time Back in the State Court's. Petitioner Booth has exhausted his Remedies By "Alerting" the State Courts of the Due process Violation, The law States: In Some Instances, a State Supreme Court's refusal to rule For invalid Prudential or procedural reasons on a Petitioner's claims Will Be Construed By the Federal Habeas Court as exhaustion of the Claim. See Franklin v. Johnson, 290 F.3d 1223, 1231-32 (9th Cir. 2002) (exhaustion Requirement Satisfied Because State Supreme Court refused to allow exhaustion of Claim Based on State Procedural rules.

Fully Pursuing Appeal to Satisfy the exhaustion Requirement includes Presenting claims to the State Supreme Court, though it's Review may Be discretionary. *See O'Sullivan v. Boerckel, 526 U.S., 838, 845 (1999). The exhaustion Doctrine requires that the Petitioner

Present the substance of his claim to the state courts to give those courts a fair opportunity to apply controlling legal principles to the facts bearing upon the petitioner's constitutional claim. Picard v. Connor, 404 U.S. 270, 275 (1971) (State prisoner must present the State courts with the same claim he urges upon the federal courts)*. See also

Here, Petitioner Booth is 1000% sure the Honorable Georgia Supreme Court Justices was gonna state these exact words if Petitioner's Appeal would have gotten answered: And, to the exact, extent that Booth may be trying to obtain review of some unspecified oral order rendered on a later-filed Motion for Extraordinary Motion for New trial, etc., such an order also would not be appealable, but because orders are not appealable generally until there is a written order or judgment, signed by the judge, and entered by the clerk. See O.C.G.A. 5-6-31 (providing that the filing with the clerk of a judgment, signed by the judge, constitutes the entry of a judgment within the meaning of this article) Titelman v. Stedman, 277 Ga. 460 (591 SE2d 774) (2003). For all of these reasons, this Application for discretionary appeal is dismissed. All the Justices concur.

Here, Petitioner Booth at this time would like to challenge that statement by stating: In Dye v. Hofbauer, 546 U.S. 1, 3, (2005) (Failure of an State Appellate court to mention a Federal claim does not mean the claim was not presented to it. In Dye, the Petitioner

REASONS FOR GRANTING THE PETITION

The Best reason Petitioner Booth's Petition For a Writ of certiorari should Be granted is Because Petitioner Booth has Been incarcerated For almost 17 years now under an illegal conviction Because of the Prosecutorial Misconduct During the court competency Trial. Again, The law states: The conviction of a legally incompetent Defendant or the Failure of a Trial court to Provide an adequate competency Determination, is a violation of the Defendant's Due Process right to a Fair Trial. see Drope v. Mo. 420 u.s. 162, 178-83 (1975). see also Pate v. Robinson, 383 u.s. 375, 378 (1966). In Addition, there was Reversible error in the trial of the special plea, court competency trial. The verdict in the Main case must also Be set aside or vacated. However, in the guilt/innocence trial since there was two errors in which the trial court and the Georgia supreme court Both Agreed to, the Accumulation of errors was such that a new trial is Being Requested at this time for the court competency trial and a new trial in the Main case itself. * End of Reasons For Granting the Petition *

In conclusion, Petitioner Booth Requests that the Petition For a Writ of Certiorari Be granted, oral Argument is Warranted in this Situation, and a new court Competency trial and Guilt/Innocence trial is also Being requested Because of the Accumulation of Errors Between the court competency trial and the Actual Guilt/Innocence Trial.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Date: 9-20-2023