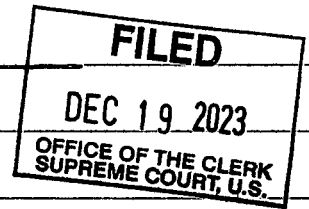


23-6417

ORIGINAL

No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

Ralph Hall, PRO-SE PETITIONER

-VS-

STATE OF NEW YORK, COURT OF APPEALS,
RESPONDENT.

ON PETITION FOR A WRIT OF CERTIORARI
TO: THE STATE OF NEW YORK COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

Ralph Hall #05A5367
GREEN HAVEN Correctional Facility
594 Route 216
Storreville, New York 12582

QUESTION(S) OF CONSTITUTIONAL DIMENSION

1. WHETHER DEFENSE ATTORNEY'S REPRESENTATION OF PRE-SENTENCING MOTION PURSUANT TO CPL 330.30 WAS MISREPRESENTED AS A POST-CONVICTION MOTION PURSUANT TO CPL 440.10?
2. WHETHER DEFENDANT WAS DEPRIVED OF HIS COMPULSORY RIGHT TO CALL WITNESSES IN HIS BEHALF AS "ALIBI" WITNESSES AS WELL AS DEPRIVED OF HIS RIGHT TO TIMELY CHALLENGE JURY VERDICT OF GUILT?
3. WHETHER DEFENSE ATTORNEY'S CONDUCT WAS CONFLICTING WITH DEFENDANT'S RIGHT TO BE ASSISTED IN HIS DEFENSE OF CPL 330.30 MOTION ALONG WITH PROCEEDINGS AT TRIAL?
4. WHETHER CPL 330.30 MOTION WAS TIMELY PRESENTED BUT DEPRIVED OF STENOGRAPHIC RECORDS FOR PURPOSES OF APPEAL?

LIST OF PARTIES:

THE PEOPLE OF THE STATE OF NEW YORK

THE STATE OF NEW YORK'S COURT OF APPEALS

RELATED CASES:

THE PEOPLE OF THE STATE OF NEW YORK v. RALPH
HALL, IND. NO. 3080-2004 (NEW YORK COUNTY COURT)

THE PEOPLE OF THE STATE OF NEW YORK v. RALPH
HALL, IND. NO. 3080-2004 (FIRST DEPT. APPELLATE DIV.)

THE PEOPLE OF THE STATE OF NEW YORK v. RALPH
HALL, IND. NO. 3080-2004 (NYS COURT OF APPEALS)
CLA-2023-00970, AND CLA-2023-00798

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Appendix	"B" - Court of Appeals
Appendix	"C" - First Dept. Appellate Division
Appendix	"D" - New York County Court

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Opinions Below:

N.Y.S. COURT OF APPEALS (RECONSIDERATION)	Appendix "A"
N.Y.S. COURT OF APPEALS	Appendix "B"
FIRST DEPARTMENT APPELLATE DIVISION	Appendix "C"
NEW YORK COUNTY, SUPREME COURT	Appendix "D"

JURISDICTION:

THE OPINION OF THE HIGHEST STATE COURT TO REVIEW THE MERITS APPEARS AT APPENDIX "A+B" TO THE PETITION IS UNPUBLISHED.

THE DATE ON WHICH THE HIGHEST STATE COURT DECIDED MY CASE WAS OCTOBER 31, 2023. A COPY OF THAT DECISION APPEARS AT APPENDIX "B"

A TIMELY PETITION FOR RECONSIDERATION WAS THEREAFTER DENIED ON _____, AND A COPY OF THE ORDER DENYING RECONSIDERATION APPEARS AT APPENDIX "A".

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C. SECTION 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE FIRST AMENDMENT RIGHT TO PETITION
THE GOVERNMENT FOR REDRESS OF
GRIEVANCES;

THE FIFTH AMENDMENT RIGHT TO BE SECURE
IN HIS PERSON, AND NOT BE DEPRIVED OF
PROCEDURAL DUE PROCESS OF LAW;

THE SIXTH AMENDMENT RIGHT TO HAVE
COMPULSORY PROCESS FOR OBTAINING WITNESSES
IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF
COUNSEL FOR THE DEFENSE.

THE FOURTEENTH AMENDMENT RIGHT TO THE
EQUAL APPLICATION OF ESTABLISHED DUE PROCESS
OF LAW

STATEMENT OF THE CASE:

DEFENDANT-PETITIONER WAS DEPRIVED OF EFFECTIVE ASSISTANCE OF ATTORNEY AT TRIAL AND APPEAL BECAUSE WITNESSES AS ALIBI WITNESSES WERE NOT CALLED TO GIVE THEIR TESTIMONY AS TO DEFENDANT'S WHEREABOUTS AT THE TIME OF THE CRIME OF MURDER AND POSSESSION OF FIRE-ARM. SUCH WITNESS WAS AVAILABLE AND MADE TO WAIT OUTSIDE THE COURTROOM THROUGHOUT THE TRIAL WITHOUT BEING CALLED. DEFENDANT-PETITIONER FILED A PRO SE MOTION PURSUANT TO C.P.L. 330.30(1)(2)(3) IN PROTEST OF ASSIGNED ATTORNEY'S REFUSAL TO CALL HIS ALIBI WITNESS, BUT MOTION WAS NOT REPRESENTED BY COUNSEL AND WAS NOT STATUTORILY RECORDED FOR PURPOSES OF APPEAL. COUNSEL'S CONDUCT DEPRIVED DEFENDANT OF HIS RIGHT TO CALL WITNESS AS A COMPULSORY RIGHT. (SEE MEANINGFUL REPRESENTATION AT: PEOPLE v. STUTZ, 2 NY 3d AT 284; PEOPLE v. BENEVENTO, 91 NY 2d AT 712; PEOPLE v. BORLISI, 54 NY 2d AT 147; STRICKLAND v. WASHINGTON, 466 U.S. 668, 694 (1984); PEOPLE v. JONES, 134 AD 3d 1588 (2015)) C.P.L. 330.30 MOTION WAS MISREPRESENTED AS A MOTION PURSUANT TO CPL 440.10 - AND NOT OBJECTED TO BY DEFENSE ATTORNEY.

CONCLUSION:

TRIAL AND APPEAL PROCESS HAVE BEEN SUBJECTED TO MANIFEST PREJUDICE BECAUSE PRE-SENTENCING MOTION WAS, "DEPRIVED OF RIGHT TO APPEAL," ALONG WITH PROCEEDINGS AT TRIAL. (COMPARE, People v. Mangano, (1883) 29 Hun 259, 1 NYCRR sec. 411; People v. Madugno, (1948) 191 Misc. 395, 80 NYS 2d 439, 481 NYS 2d 809 (3 Dept. 1948).)

SUCH MANIFEST PREJUDICE IS REPRESENTED BY DEFENSE ATTORNEY'S ACQUESCENCE TO THE COURT'S MISREPRESENTATION OF CPL 330.30 MOTION AS A POST-CONVICTION CPL 440.10. DEFENSE ATTORNEY'S FAILURE TO OBJECT TO THE COURT'S MISREPRESENTATION OF TIME SENSITIVE 330.30 (1)(2)(3) MOTION - SERVED TO DEPRIVE THE DEFENDANT OF A FAIR TRIAL. MOREOVER, THE FAILURE TO CALL DEFENDANT'S "ALIBI" WITNESS WHO WAS MADE TO WAIT IN THE COURT'S HALLWAY FOR DURATION OF TRIAL, CANNOT BE VIEWED AS A MEANINGFUL TRIAL STRATEGY BECAUSE SAID TESTIMONY WOULD NOT HAVE BEEN CUMULATIVE TO TESTIMONY ALREADY GIVEN. (SEE People v. Antommarchi, 80 NY 2d 247 (1992) RE: RIGHT TO PROTEST) CPL 330.30 CANNOT BE SUBSTITUTED WITH CPL 440.10.

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