

23-7425 ORIGINAL

In The
Supreme Court of the United States

Supreme Court, U.S.
FILED

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ORLANDO BELL,
Petitioner, Movant

v.

UNITED STATES OF AMERICA
Respondent.

On Petition for Writ of Certiorari
to the United States Court of Appeals
for D.C Circuit

PETITION FOR WRIT OF CERTIORARI

Orlando Bell
Pro Se Petitioner

Reg No. 831-30-007
United States Penitentiary Thomson
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SUPREME COURT, U.S.

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Since at least 1975, this Court has recognized that a defendant is entitled to his Sixth Amendment rights, shall have compulsory process for obtaining witnesses in his favor, and shall have the assistance of counsel for his defense. *Farretta v. California*, 95 S. Ct. 2525, 45 L.Ed.2d 562, 422 U.S. 806 (1975). In 1984, this Court held that counsel who was not functioning as the counsel guaranteed by Sixth Amendment was not providing reasonable effective assistance, *Strickland v. Washington*, 466 U.S. 668, 80 L.Ed.2d 674, 104 S.Ct. 2052 (1984).

When Orlando Bell attended his trial, his counsel did refused to call witnesses in his favor. Despite the standard set by Farreta and Strickland in the Supreme Court of the United States. D.C Circuit held that Bell's counsel was not ineffective in-violation of movant's Six Amendment right to effective assistance of counsel, nor was he entitled to a conflict free counsel where an actual conflict of interest adversely affecting lawyer's performance renders assistance ineffective, Guyler v. Sullivan 446 US, at 344, 641 LED2D 333. 100 Sct 1708.

The questions presented:

1) Was counsel ineffective in not using compulsory process for obtaining witnesses, identified by the United States Park Police and the AUSA in the movant's favor?

2) was movant's trial counsel ineffective in appointing his wife to represent him on appeal ignoring conflict free duties?

1 LIST OF PARTIES

2 All parties appear
3 in the caption of the case on the cover page

4 DIRECTLY RELATED CASES

5 United States v. Bell

6 No. 22-3040, U.S Court of Appeals for D.C.
7 Circuit. Judgement entered April 25, 2023.
8 Opinion published at U.S v. Bell, U.S App,
9 Lexis 10074. Rehearing denied on November
10 15, 2023, U.S App Lexis 30536

11 No. 17-cr-234-7, U.S District Court for
12 D.C Circuit. Final Judgement in a Criminal
13 Case entered on May 26, 2020.
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1 PETITION FOR WRIT OF CERTIORARI

2 Petitioner Orlando Bell respectfully petitions this Court
3 for writ of certiorari to review the judgement of the United
4 States Court of Appeals for the District of Columbia Circuit
5 in this case.

6 DECISIONS BELOW

7 The District of Columbia Circuit's decision is published
8 at United States v. Bell, 2022 WL 21 91688 and is included as
9 Appendix A. The June 18, 2022, Opinion and Order of the
10 United States District Court for the District of Columbia
11 denying Petitioner's motion for 28 U.S.C § 2255 motion to
12 vacate his conviction, though COA is unpublished, is
13 included as Appendix B. D.C Circuit decision denying
14 Petitioner's request for rehearing is also unpublished, and
15 though available on Lexis 30536 (2023) and is included as
16 Appendix C.

17 D.C Circuit entered JURISDICTION

18 D.C Circuit entered judgement on November 15, 2023.
19 Certificate of Appealability application, Mr. Bell filed
20 a petition for rehearing en banc, which was denied on
21 November, 15 2023. COA application. This Petition is filed
22 within 90 days of the that order. S. Ct. R. 13. This Court
23 has jurisdiction under 28 U.S.C. § 1254(1).

24 STATUTORY PROVISIONS INVOLVED

25 Mr Bell was convicted after a jury trial of Unlawful
26 Possession with Intent to Distribute Cocaine Base in
27 Violation of 21 U.S.C. § 841(b)(1)(c) and of Using and

1 Carrying, and Possessing a Firearm During a Drug Trafficking
2 Offense, in Violation of 18 U.S.C. § 924(c), pertaining to
3 6.27 grams of crack cocaine allegedly found on the movant.

4 Title 18 U.S.C. § 924(c) provides:

5 Except as authorized by this subchapter, it
6 is required by statute to have a predicate
7 offense to apply a 924(c) infraction--
8 (1)require 18 U.S.C. § 922(g) felon in
9 possession of a firearm can not be determine
10 with intent to distribute 6.27 grams of
11 crack cocaine when the predicate offense
12 was stricken by a jury at movant's trial.

13 Movant's trial counsel failed to raise the vagueness of
14 the 924(c) when the jury at his trial acquitted him of;
15 Conspiracy to Distribute and Possess with Intent to distribute
16 Cocaine Base and Heroin, 21 U.S.C. § 846, yet counsel failed
17 to raise the predicate offense being the conspiracy at the
18 movant's sentencing in the district court. Trial counsel did
19 violate movant's Six Amendment right to competent and
20 effective counsel:

21 The right to competent counsel is essential
22 to all Americans and legal residents in
23 the United States, guaranteed by Amendment
24 clause, shall not be violated by counsel,
25 all counsel must respect a defendant's
26 constitutional right to confront witnesses
27 favorable to their defense afforded, by
Federal Constitutional right to confront
witness.

28 INTRODUCTION

29 This Court held that a defendant shall have compulsory
30 process for obtaining witnesses in his favor, and shall
31 have the assistance of counsel for his defense. Farretta v.
32 California, 95 S. Ct 2525, 45 LED2D 562 422 US 806 (1975).

1 This Court also acknowledged that counsel who was not
2 functioning as the counsel guaranteed by Sixth Amendment was
3 not providing "reasonable effective assistance", Strickland v.
4 Washington, 466 U.S. 668, 80 LEd2d 674, 104 S.Ct. 2052 (1984).
5 Counsel refused to call favorable witnesses throughout the
6 movant's pretrial and trial proceedings, despite the standard
7 set by Farreta and Strickland in this Court.¹

8 D.C. Circuit held, that Bell's counsel was not ineffective
9 in violation of the Strickland Prejudice Prongs; attorney
10 must avoid conflict of interest; defendant is afforded right
11 to confront favorable witnesses; counsel owes client a duty
12 of loyalty; and a duty to advance the defendant's cause.²
13 Movant's trial counsel violated his Sixth Amendment right,
14 when counsel placed his spouse on the movant's appellate
15 proceedings overlooking movant's right to conflict free
16 counsel under Strickland Prejudice Prong, with hindsight
17 that his spouse loyalty would be for him, not for movant, and
18 vice-versa for the movant's appellate counsel who's loyalty
19 is to movant's trial counsel and not for the movant.

20 ¹Witnesses identified by the United States Park Police and
21 AUSA who identified himself as a witness in a wiretap
22 suppression hearing (ECF 200 page 7), both, AUSA by the
23 Name of Nihar Mohanty and park police by the name of
24 Andrew Keness were favorable witnesses trial counsel failed
25 in compelling AUSA, who offered himself as a witness and
26 Mr. Keness testified about Ryan McDermott being the possible
27 transport officer, accommodating Mr. McDermott (ECF 202 page
80 line 13-14).² Trial counsel did not have to compel the
AUSA who was a favorable witness as well as Mr. McDermott
who was and still is a favorable witness, both appellate
and trial counsel failed in identifying witnesses favorable
to their client being the movant due, to their spousal
relation and their loyalty overshadowed the loyalty they
both owed to the movant.

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1 drove while the unknown officer placed his elbow on the
2 defendant's neck, while using his other hand to squeeze the
3 defendant's testicles with gloves on. While one elbow was
4 placed on the defendant's neck he also inserted his fingers
5 in the defendant's anus while squeezing on his testicles for
6 the duration of the ride. that the interviewing officer drove
7 after backing the Crown Victoria off of the 695 ramp on to
8 Anacostia park trail heading towards Anacostia substation.)"

9 See ECF 328 page 15 paragraph 3.

10 "(The defendant (movant) thought that the two officers
11 was going to kill him. While the interviewing officer was
12 yelling from the front of the Crown Victoria saying "you a
13 nigger who like to play with guns and you don't like to
14 answer fucking questions" while pointing his gun at the
15 defendant's head after a quick stop on the trail. From the
16 driver's seat of the car. While facing the defendant. When
17 the defendant arrived at the station the interviewing officer
18 strip-search defendant and presented contraband.)" See ECF
19 328 page 15 paragraph 4.

20 "(After five minutes interviewing officer say "it's
21 goto be more contraband on you", then he re-strip and
22 searched defendant (movant) presenting more contraband in
23 the presence of other officers while they all mocked the
24 defendant.)" See ECF 328 page 15 paragraph 5. Movant was
25 traumatized after the graphic experience Officer Andrew
26 Keness, Ryan McDermott who both transported the movant to
27 Anacostia sub-station to be earched by David Lagrossa.

1 **I. Counsel refused to call favorable witnesses**

2 After indictment on charges of possession with intent to
3 distribute cocaine base and of using and carrying, and
4 possessing a firearm during a drug trafficking offense with
5 conspiracy to distribute and possess with intent to distribute
6 cocaine base and heroin.³ Mr. Bell's counsel moved to suppress
7 the alleged evidence (6.27 grams) of crack cocaine resulting
8 from interviewing and unknown officers (Andrew Keness and
9 Ryan McDermott). See ECF 202 page 55 line 13-17.

10 After four day hearing the jury found Mr. Bell guilty on
11 a 924c charge after acquitting him of the conspiracy (ECF 204
12 page 7, 8 line 24-25, 1-2) however the judge's comment at
13 movant's sentencing (ECF 209 page 9 line 17-20), "so I don't
14 know why Mr. Bell should get a windfall simply because the
15 Grand Jury indicted him on this broader conduct [conspiracy
16 to distribute and possess with intent to distribute cocaine
17 base and heroin, 21 U.S.C. § 846], but the petit jury failed
18 to find him guilty beyond a reasonable doubt."

19 Had counsel had call favorable witnesses⁴;
20 AUSA (Nihar Mohanty) who became a witness through his ~~testimony~~
21 acknowledgement (ECF 200 page 7 line 11-12), "I think
22 technically I would be a witness to this proceeding [1:17-cr-
23 234-7]", being an unsigned wiretap (ECF 200 page 26 line 21-
24 25) when he, Mr. Mohanty said (ECF 200 page 19 line 9-10),
25 "I will let (counsel) Mr. Davis question me if he would like".
26

27 ³Counsel violated movant's 6 Amendment right, ⁴But for 6
Amendment violation question, is movant's indictment credible
Counsel erred by not raising predicate offense invalid § 846.

Furthermore, Chief Judge Howel (ECF 200 page 9 line 22-25), Judge Rosemary Collyer (ECF 200 page 9 line 6-12) and her Deputy Clerk Chashawn White (ECF 200 page 18 line 13-25) should have been called on by Bell's counsel as favorable witnesses afforded by Sixth Amendment right. "A defendant shall have compulsory process for obtaining witnesses in his favor, and (must) have the assistance of counsel for his defense". Farretta v. California, 95 S. Ct 2525, 45 LED2D 562 422 US 806 (1975).

II. Trial and Appellate Counsel's ineffectiveness was due to conflict of interest

The district "court agreed that Mary Davis had a conflict" (ECF 320 page 1).--The Strickland Prejudice Prongs was ignored by movant's trial and appellate counsels, they both knew, from the trial stage counsel handed the movant over to his wife after the jury convicted him on the 924c for representation in the appellate stage, fell below an objective standard under prevailing proffssional norm, in counsel effective reasonableness.

Both, appellate and trial counsel were deficient in their reasonableness, they both violated the movant's Six Amendment right "specifically, at the movant's indictment, had counsel had call favorable witnesses (above line 1-3, page 6 line 20 and page 3 line 24 all include, Chief Judge Howel, Judge Rosemary Collyer and her Deputy Clerk Chashawn White, AUSA Nihar Mohanty and Ryan McDermott) the outcome in hindsight would had been more favorable for the movant throughout his entire proceedings.

1 **III. Proceedings in the District Court**

2 Movant filed 28 U.S.C. § 2255 (ECF 283), granted 9/14/21
3 by the district court with Civil Case No. 1:21-cv-02425-TNM;
4 Government memorandum in opposition (ECF 289) [Entered:
5 10/29/21]; movant petition district court for bond hearing
6 transcript (ECF 290) granted on 11/9/21; "upon consideration
7 of the (ECF) 290 petition for bond hearing and (ECF) 283
8 motion to vacate, the court finds that petitioner's case
9 warrants the appointment of counsel (denying bond hearing
10 transcript without prejudice, due to the court's appointing
11 movant's counsel)"; 11/23/21 (ECF 291), Elizabeth Van Pelt
12 appearing for Orlando Bell; the court also denies without
13 prejudice petitioner's request for bond hearing".

14 Movant's § 2255 counsel refused to raised his trial and
15 appellate counsels' violation of his Sixth Amendment right,
16 at his request. Starting with (ECF 328 page 7) "**MOVANT'S**
17 **COUNSEL APPOINTED BY THE COURT TO ASSIST IN HIS 2255 IS**
18 **LACKING FORMAL COMMUNICATION**"(296)[Enterterd 1/27/22" after
19 it was mailed off from MI on January 14, 2022, seven days
20 before being time barred from filing his writ of certiorari
21 which was denied on January 21, 2021, by this Court.⁵

22 ~~5~~ Movant, ~~the~~ brought the abuse of discretion by the district
23 court (ECF 200 page 7 line 25 [" **Mr. Mohanty:** May I proceed
24 **THE COURT:** You may"]) to his § 2255 lawyer's attention,
25 involving AUSA Nihar Mohanty who asked the judge if he may
26 continue in the prosecution of the movant while being
27 a witness to the (ECF 200 page 7 line 11-12["technically I
would be a witness to this proceeding"]) illegal wiretap
(ECF 200 page 29 line 4-5 ["**THE COURT:** So you're saying this
is the affidavit that-- this is an unsigned copy"]), Exhibit
8 in docket 200 proceedings held on October 5, 2018.

1 Movant's § 2255 lawyer appointed by the district court did
2 not keep him informed of court proceedings (ECF 328 page 4
3 second paragraph [Attorney, filed COA Brief] "which I'm not
4 consenting with"). Prompting the movant to "ASKING THE COURT
5 TO APPOINT NEW COUNSEL TO ASSIST IN 28 U.S.C. § 2253(c)",
6 (ECF 328 page 5) which the movant practically did when he
7 mailed (ECF 296) on 1/14/22.⁶ On December 22, 2021 "follow up
8 phone call" (ECF 296 first paragraph) Bell informed counsel
9 to raise the Strickland Prejudice Prongs as stated on page 3
10 line 20-7 of this brief, she never did and her action also
11 put her in violation of movant's right to reasonable counsel
12 afforded under Strickland Six Amendment argument in this
13 Court.

14 REASONS FOR GRANTING THE PETITION

15 I. The right to competent counsel that is conflict
16 free is critical for the democracy in the United
17 States of America, to be perceived as a fair and
just society, not just in the United States but
in the eyes of the entire world

18 Citing (ECF 328 page 13 second paragraph), "Since
19 ...Sixth Amendment rights providing that an accused shall be
20 informed of the nature and cause of the accusation against
21 him, shall have compulsory process for obtaining witnesses in
22 his favor, and shall have the assistance of counsel for his

23 ⁶Movant notified district court (ECF 328 page 13 ["SUPPLE-
24 MENTAL MOTION TO AMEND 2253(c) CERTIFICATE OF APPEALABILITY])
25 of, "NOT REGIEIVING OR AGREEING TO MOTION FILED ON AUG 5, 2022
26 BY HIS COUNSEL FOR CERTIFICATE OF APPEALABILITY ON HIS...
27 BEHALF" (ECF 328 page 7) before amending 28 U.S.C. § 2253(c).
§ 2255 Lawyer appointed him by district court, filed (ECF 297)
movant's COA on 2/2/22 without the movant's consent, § 2255
lawyer ignored Strickland Prejudice Prong, "duty to advocate

1 defense, are basic to our adversary system of criminal justice,
2 they are part of the due process of law that is guaranteed by
3 (5th) Fourteenth Amendment to defendants in the criminal
4 courts of the states (United States)", Farreta v. California,
5 95 S .Ct 2525, 45 LED2D 562, 422 US 806 (1975).

6 The fact is, the movant's trial and appellate counsel both
7 violated is Sixth Amendment and Fifth Amendment right to:
8 competent counsel afforded to millions of Americans. Both
9 Fifth and Sixth Amendment are "part of the due process of law"
10 insuring that the American democracy guarantee the right to
11 competent counsel that is conflict free and is critical that
12 counsel, be obtainable for all citizen and legal resident
13 residing in the United States of America, to be percieved as
14 a fair and just society, not just in the united States but in
15 the eyes of the entire world.

16 **A. This Court has upheld that the Six**
17 **Amendment that attorney must avoid**
conflict of interest

18 Over the past forty eight years this Court has upheld the
19 standard for Pro Se litigant, is entitled to his Sixth
20 Amendment rights , shall have compulsory process for
21 obtaining witnesses favorable to the movant cause, and shall
22 have the assistance of counsel in doing so, under Farreta

23 the defendant cause (ECF 328 page 22 first paragraph)" in
24 violation of the movant's Sixth Amendment rights. Both
25 lawyers appointed by district court were incompetent in
26 their representation of the movant in not raising the
27 fact (ECF 200 page 7 line 11-12), AUSA who prosecuted the
movant testified to being a witness, to unofficially that he
was a credible witnesses in movant's case involving a wiretap
interception, due to conflict of interest Appellate counsel
failed to raise the issue as well.

1 the Pro Se litigant is guaranteed due process afforded by
2 Fifth Amendment in the criminal courts of the United States.
3 This Court also held that counsel who was not functioning as
4 the counsel guaranteed by Sixth Amendment was not providing
5 reasonable effective assistance, forty years ago according to
6 Strickland. All counsels appointed by the district court and
7 the appellate court for D.C circuit were all conflicted. See
8 footnote⁶ on page 9 and 10 of this brief⁷, Appellate counsel
9 was mute in pointing out her husband's (Bell's trial counsel)
10 deficiencies(compelling favorable witnesses), disregarding
11 Attorney's Duties under Strickland for the movant's defense.

12 § 2255 lawyer's actions conflicted with the movant's
13 interest (ECF 328 page 7); he did not agree to the COA filed
14 by his counsel (omitting the prosecutorial misconduct) nor
15 did he agree with the § 2255 filed by her (pointing out
16 none of the favorable witnesses) ignoring his request to
17 point out the mist opportunities the trial and the appellate
18 lawyers refused to argue; "The Six Amendment does not
19 provide merely that a defense shall be made for the accused,
20 but rather it grants to the accused personally the rights
21 to make his defense, it is the accused, not counsel, who must
22 be informed of the nature and cause of the accusation, who
23 must be confronted with witnesses against him, and who must
24 be accorded compulsory process for obtaining witnesses in his
25 favor" (under Farretta).⁸

26 ⁸Trial, Appellate and § 2255 lawyers all were in violation of
27 movant's 6th Amendment right, they all refused to call favor-
able witnesses and point them out, see page 7 line 23-24.

1 Freeman v. United States, 971 A.2d 188 (2009) "whenever
2 a constitutional right to counsel exist there is correlative
3 right to representation that is free from conflict of
4 counsel is the right to representation by counsel whose
5 loyalty is undiluted by conflict of interest. The danger of
6 a attorney is conflict of interest is that the attorney may
7 forego efforts he would ordinarily undertake on behalf of
8 one client, in order that other client may not here by be
9 harmed.

10 Lee-Thomas v. United States, 921 A.2d 773 (2007) "in
11 Guyler, the Supreme Court established the principal that
12 "(in order to established a violation of Sixth Amendment
13 [based on an attorney's conflict of interest], a defendant
14 who raised no objection at trial must demonstrate that an
15 actual conflict of interest adversely affected the lawyer's
16 performance)"".

17 Brenco Oil, Inc v. Blaney, (2017) Lexis 204775 "[a]t
18 common law, an attorney owes fiduciary duty to his client;
19 such duty commands undivided loyalty and prohibits the
20 attorney from engaging in conflict of interest". United
21 States v. Scurry, 992 F.3d 1060 (2021) "Initially, Mary
22 Davis was scurry's attorney for direct appeal (she was
23 also movant's attorney for direct appeal), but scurry soon
24 asked for Mary Davis to be removed as counsel. Scurry said
25 that Mary Davis had a conflict of interest (the movant also
26 informed D.c Circuit that Mrs. Davis had the same conflict)
27 because she coerced him into pleading guilty and because she

1 was married to trial counsel, Christopher Davis (Mr. Davis,
2 husband of Mary Davis coerced the movant from taking the
3 stand in his trial and threatened the movant with
4 psychological evaluation to prevent movant from challenging
5 Officer Andrew Keness' testimony of being one of the
6 transporting officer) against whom Scurry also planned to
7 file an ineffective assistance of counsel claim!¹⁰ A few days
8 later Mary Davis filed motion to withdraw as Scurry's counsel.
9 This court (D.C Circuit) subsequently reversed the district
10 court's denial of motion to suppress evidence from wiretap of
11 Hudson's and Johnson phones"¹¹ Id (citation omitted).

12 ⁹Mary Davis' husband, Mr. Christopher Davis stated, "(I'll
13 beat this case hands down because the indictment was amended
14 without a grand jury (ECF 106)". Citing ECF328 page 6 fourth
15 paragraph. "counsel said" "(the judge [district judge] denied
16 you (ECF 200 page 6, wiretap suppression) because he's a Trump
17 appointee", and "that one of the D.A (AUSA) quitted because
18 the (District) judge refused to take a 20 year plea from
19 Wayne Holdroy (Holroyd) a co-defendant, because he feel that
20 Holdroy could have gotten more time than what the D.A was
21 asking for!"¹⁰See ECF 328 page 7, "defendant (movant) ask his
22 trial counsel why don't you try to recuse the judge for been
23 bias". Counsel's response was, "I'll try". Then he said, "to
be honest with you this judge (district judge) will go
against you in every possible and impossible way, so your
best bet will be on appeal with my wife (Mary Davis)
representing you. She will get you acquitted on this case one
hundred percent and I never guarantee a hundred percent
before."¹¹Before the trial date was set trial counsel (Chris-
topher Davis) represented the defendant at his bond
hearing (ECF 14). Counsel told the defendant "(unlike the
black judge who released you on P.R at your bond hearing, the
trial judge was appointed by President Donald Trump who don't
like black and minority people of color.)"

1 Post conviction counsel was ineffective,
2 she did not identify witnesses
3 identified by the United States Park
4 Police and the AUSA in the movant's
5 favor.

6 "Appeal and errors § 1692.1; Criminal law recommended-issue
7 not decided by lower court- counsel's conflict of interest"
8 "the United States Supreme Court upon finding that the record
9 suggests that the probationer may be in their present
10 predicament because of their counsel's divided loyalties",
11 Wood v. Georgia, 101 Sct 1097, 67 LED2D 220, 450 US 261
12 (1980). "Counsel's conflict of interest" "whereupon his
13 attorney sought but was denied leave to be relieved (movant
14 was denied leave to fire his 2255 lawyer from the district
15 court)", Duke v. Warden, 92 Sct 1551, 32 LED2D 45 406 250
16 (1972).

17 "Conflict of interest in post conviction relief that
18 demonstrates the need for an evidentiary hearing (requested
19 in movant's 2255 ECF 283 page 7 first paragraph). Petitioner
20 argues that the court erred in denying his application
21 without evidentiary hearing (against movant's will ECF 328
22 page 5, 7, 8, and 11) to establish facts relevant to his
23 claim ", Wones v. Gain, (2009) Lexis 27663.

24 "In 2002, Jarrell Neal filed Pro Se application for post
25 conviction relief in Jefferson Parish District Court. In
26 2003 the Louisiana Supreme Court vacated the trial court's
27 order dismissing his application, held Neal was entitled
to post conviction counsel, and granted counsel reasonable
opportunity to prepare and litigate an application for post

conviction relief.", Neal v. Vannoy, (2023) Lexis 22365.

" Florida First District Court of Appeals reversed the state postconviction court's decision in part and remanded the case, finding that petitioner was entitled to post conviction counsel", Woodland v. Secy, Fla Dep of Corr (2016) Lexis 40195.

"Court found that petitioner was entitled to post conviction counsel and directed the trial court to give petitioner's counsel a reasonable opportunity to prepare litigate expeditiously an application for post conviction relief", Neal v. Vannon , Lexis 109112.

Citing ECF 328 page 11 paragraph 2, "defendant submitted a motion asking this court (district court) to replace currently appointed counsel with a new counsel on August 25, 2022 based on her unethical performance, reflected in this motion (to reconsider denial of COA in district court) of notification and previous motion for lacking of professionalism. The § 2255 lawyer's action in the movant's post conviction proceeding prejudice movant's post conviction severely in district court. The lawyer intentionally went against her client's interest when he had asked her to raise the district court's abuse of discretion. When district court allowed, AUSA Nihar Mohanty whom became a witness to movant's illegal wiretap by his own admission in the wiretap suppression hearing. The counsel ignore movant's request to do so and the district court ignored the movant's request to replace the lawyer.

1 B. Defendant is afforded Federal
2 Constitutional right to confront witness

3 D.C Circuit threatens every person in its circuit,
4 the right to effective assistance of counsel in the denial
5 of movant's 28 U.S.C. § 2253(c) when it was obvious that the
6 movant had met all of Strickland Prongs in his 28 U.S.C. §
7 2255; trial counsel did not call favorable witnesses; nor
8 was he loyal to the movant; appellate counsel advanced her
9 spouse's (trial counsel) interest; and her duty of loyalty
10 was to her husband's at the expense of the movant's interest;
11 the § 2255 counsel ineffectiveness raised by the movant
12 in district and D.C Circuit points out that counsel refused
13 to raised Strickland Prongs requested by the movant to raised,
14 question ineffectiveness of the movant's trial and appellate
15 counsel, who were all in violation of movant's right to
16 effective assistance of counsel under the Sixth Amendment
17 clause.

18 The right to witnesses demonstrated by the trial counsel
19 by his own action "I could have subpoenaed that informant as
20 easily as the government the one that you didn't hear from",
21 ECF 203 page 152 line 8, shows that counsel willfully
22 ignored all favorable witnesses throughout the movant's entire
23 proceedings including the witness presiding over ECF 203:152
24 (Nihar Mohanty); put the defense counsel in severe violation
25 of his Sixth Amendment right to effective assistance of
26 counsel under the Strickland Prejudice Prongs, by not calling
27 the favorable and significant witnesses.

1 II. In Bell, D.C Circuit ignored fact, counsel
2 owes client a duty of loyalty, a duty to avoid
3 conflict of interest and a duty to advocate
4 defendant's cause

5 In addition to trial and appellate lawyers ineffectiveness
6 The D.C circuit held that movant is not entitled to competent
7 counsel appointed to movant in his § 2255 proceedings, movant
8 "had no constitutional right to counsel" United States v.
9 Orlando Bell, (2023) Lexis 10074 in violation of his Sixth
10 Amendment right to effective assistance of counsel that the
11 district court practically forced on the movant in its denial
12 of ECF 328 page 7 and ECF 328 page 5 mentioned on page 8 line
13 16-18, as well as page 9 line 5-6 of this brief.

14 III. This is an important issue bearing on the
15 constitutional protection afforded to
16 millions of Americans

17 The Sixth Amendment right to reasonable and effective
18 assistance of counsel is afforded to all Americans, including
19 the minority of both black and hispanic who are the majority
20 of all minority combined in the United States⁹. Whats more
21 the per capita percentage of low income as of 2017 is at a
22 height not seen since 1965 can't afford paid lawyers and
23 is appointed counsel just like the movant was in the district
24 court. Has suffered from incompetent and ineffective counsel
25 that courts overlook throughout the United States even though
26 the lawyer may have violated rights afforded by the Sixth
27 Amendment.

⁹Black and hispanic are renters, they are not owners and are
more likely unable to obtain paid counsel, courts usually
appoints minority counsel. www.pewresearch.org/fact/2021/08/02/national-eviction-band-expires-a-look-at-who-rents-and-who-own

1 IV. This case presents a good opportunity for
2 this court to clarify many Sixth
3 Amendment's greatest ambiguities as it
4 relates to the rights to competent
counsel and to solidify effective counsel
rights of all American, regardless of their
personal economic situation

5 This case represented an ideal vehicle, for several
6 reasons. First the issue was fully presented and before the
7 D.C Circuit clearly held that the movant was not afforded
8 the same Sixth Amendment protection, right to competent and
9 a reasonable assistance of effective counsel. In doing so, the
10 court exposed multiple points of confusion on applying the
11 Strickland Prejudice Prongs that have arisen in courts around
12 the country. There are no alternative holdings or additional
13 explanation from D.C Circuit that would impede this Court's
14 ability to squarely address and answer the question presented.
15 The issue before this Court extend not only to the movant's
16 rights to effective assistance of reasonable counsel as a
17 pro se litigant under Farretta especailly in his 28 U.S.C. §
18 2255 stage, the basic right to effective assistance of counsel
19 under the Sixth Amendment clause applies in his trial and his
20 appellate stage.

21 Second, there no chance that the case will become moot.
22 this case has demonstrated that counsel representing movant
23 at his trial stage did not advocate the interest of their
24 client being the movant (trial and 28 U.S.C. § 2255 lawyer),
25 § 2255 counsel was forced on the movant by district court
26 and the appellate counsel was in conflict of her own interest
27 protecting her husband's (trial trial lawyer) interest at the

1 expense, of the movant's interest. Furthermore, trial counsel
2 didn't bother to raised the simple possession alleged "(Mr.
3 Rosenberg: [AUSA] I was wondering if possession of crack
4 cocaine-- I need to look at the code book. I didn't even know
5 if it was a federal offense to know if it possese without
6 intent to distribute its for personal use. Mr. Davis: It is.
7 The use to have a mandatory attached to it some time ago [ECF
8 202 page 211 line 6-13])" after "(the petit jury failed to find
9 him [movant] guilty beyond a reasonable doubt [ECF 209 page 9
10 line 19-20])" acquittal of the 21 U.S.C. § 846 at the movant's
11 sentencing.

12 Third, the issues here are purely legal questions related to
13 the scope of the Sixth Amendment protection afforded to Mr.
14 Bell who was charged with possession with intent to distribute
15 cocaine base (6.27 grams) that the trial attorney acknowledged
16 use to have a mandatory attached to it, AUSA infromed by the
17 movant's trial counsel, that allged possession of 6.27 grams
18 of drugs was for personal use. Trial counsel violated movant's
19 Sixth Amendment in not arguing that the 924c the movant was
20 charged with had no predicate to begin with and he never
21 pointed out that the 924c should had been questioned further,
22 without the 21 U.S.C. § 846 acquittal by a jury at movant's
23 sentencing, The Appellate and § 2255 lawyer both were also
24 ineffective in violation of the movant's Sixth Amendment rights
25 to effective assistance of counsel under Strickland Prejudice
26 Prongs, a § 2255 lawyer fell below the standard set by Farreta
27 for the pro se litigant before that lawyer was forced on the

1 movant's § 2255 he was moving Pro Se.

2 Fourth the district judge forced Elizabeth Van Pelt
3 (§ 2255 lawyer) on the movant against his will several times.
4 When the movant motioned district court to replace the lawyer
5 in his § 2255 proceedings, the court forced the appointed
6 counsel on the movant when it denied him without inquiry,
7 depriving movant the right to represent himself under Farreta.
8 In doing so, movant wasn't afforded the effective and
9 reasonable assistance of counsel afforded to him by the Sixth
10 Amendment.

11 This case is worthy of resolution, as courts across the
12 country are struggling to articulate a coherent rationale,
13 setting the standard to use compulsory process for obtaining
14 any and all favorable witnesses by the defense's attorney for
15 his defense in a criminal proceeding and conflict of
16 interest while representing the defendant, in a criminal
17 proceedings.

18 CONCLUSION

19 For the foregoing reasons, the Court should grant the
20 petition for writ of certiorari.

21 Respectfully Submitted,

22 Orlando Bell
23 Pro Se, Petitioner, Movant
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26 Thomson, IL 61285

27 February 13, 2024

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