

No. 24-5469

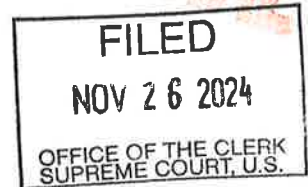
IN THE SUPREME COURT OF THE UNITED STATES

RKB
CARL MOTT,
Petitioner,

v.

PAUL SCHREIBER, Warden,
Respondent,

ORIGINAL



PETITION FOR REHEARING
U.S.C.S SUPREME Ct. R 44

Carl Mott #193734
Petitioner, In Pro Per
Woodland Center Corr. Fac.
9036 E-M36
Whitmore Lake, MI 48189

IN THE SUPREME COURT OF THE UNITED STATES
PETITION FOR REHEARING

Petitioner, Carl Mott, respectfully asks that a rehearing is granted for the denial of his Petition for writ of Certiorari.

Petitioner, Carl Mott, in proper timely petitioned this Court for writ of Certiorari on or around August 28, 2024, within his 90-day statute of limitation following the denial of Petitioner's request for a Certificate of appealability in the U.S. Sixth Circuit Court of Appeals Case No. 23-2012, June 01, 2024.

Petitioner's Petition for Rehearing, is presented in good faith and timely pursuant to USCS Supreme Ct. R44, and is filed within 25 days after the date of the order of denial and shall comply with all form and filing requirements of Paragraph 1 of this Rule, and the grounds are limited to intervening circumstances of a substantial and controlling effect or to other substantial grounds not previously presented.

Petitioner contends that, just as Petition for rehearing or denial of Petition for Certiorari was part of appellate procedure authorized by Rules of Supreme Court, subject to requirements of Predecessor to Rule 44 on rehearings; right to such consideration was not deemed an empty formality as though such Petitions would as matter of course be denied; denial of Petition of Certiorari should not be treated as definitive determination in Supreme Court, subject to all consequences of such an interpretation. Flynn v. United States, 75 S. Ct. 285; 99 L. Ed 1298, 1955 U.S. LEXIS 1593 (1955).

In the order denying Petition for Writ of Certiorari of Petitioner Carl Mott's Petition for certiorari, the Court only submitted two (2) lines stating the "Petition is denied." This Court failed to answer any of the questions Petitioner presented as to the violations of his Fifth, Sixth, and Fourteenth Amendments. This Court, also failed to consider a remand to the U.S. District Court for the Western District of Michigan for an evidentiary hearing.

1 see Appendix A, Order Denying Petition for Writ of Certiorari, Mott v. Schrober, Case No. 24-5469

Petitioner Mott, has shown that his conviction was based solely on the testimony and interpretation of interpreter Raymond Ugalde. If this Honorable Court were to truly review Petitioner's claims and record de novo, it will see that the interpreter had always been free to paraphrase his interpretation, that this particular interpreter was not certified and was not capable of doing word for word translation.

If this Court reviews Mott's trial and appellate record de novo, it will also see that a remand to the U.S. District Court for the Western District of Michigan is necessary, for the District Court to be ordered to hold an evidentiary hearing to expand the record to show this Honorable Court the violation of Petitioner's 5th and 6th Amendments. In this case, the Sixth Circuit erred in its ruling where the issue of ineffective assistance of both trial and appellate counsel's ineffective assistance was never adjudicated on the merits.

One of the big questions presented to this Court was that of, "Did the Sixth Circuit commit error in the denial of Petitioner's Petition for Certificate of Appealability when the

record was not fully developed due to the denial of the requested evidentiary hearing that was not addressed by Sixth Circuit despite Mott's raising it in his Petition?"

If this Court grants Petitioner Mott a rehearing, Mott asks this Court to answer his questions that he considers critical to his case. One (1) "is the Pre-trial stage of voir dire of interpreter a critical stage, and if so, does Petitioner have the right to the effective assistance of counsel at that stage?" Two (2) "once the Petitioner was convicted, was he denied the effective assistance of counsel in his appeal of right, when appellate counsel failed to proceed back to the trial court to expand the record before proceeding to the Court of Appeals, which is vital in any appeal?"

In this present case, the record shows that two critical stages in the initial criminal process were ignored, first by trial counsel at the pre-trial stages where counsel failed to hold the prosecution to adversarial process by not challenging the interpreter before proceeding to trial. And the record also shows that once Petitioner was convicted, appellate counsel showed deficient performance on direct review, which is considered a critical stage.

In order for this Honorable Court to understand how Petitioner Mott was prejudiced on direct review, the Court must look at the whole record. Appellate Counsel failed to raise ineffective assistance of trial counsel pursuant to MCR 7.208(B) to expand the record, which denied Petitioner the opportunity to have the trial court address the claim properly. The denial of the ability to conduct an evidentiary hearing, has denied Petitioner the ability to fully develop the record to show the 5th and 6th Amendment violations by having the audio of the translated testimony played in court to show that the interpreter was in fact giving his own views instead of conveying exactly what was being testified to by the States non-English speaking witnesses.

This Court, in Cone v. Bell, 535 U.S. 685 (2002), that a "Critical stage is one that holds significant consequences for the accused in a criminal proceeding."

Petitioner Mott, asks this Court to rehear his Petition, and to consider a remand to the District Court on an order to hold an evidentiary hearing to expand the record, which should have been done in Petitioner's direct appeal, where this record can be more fully developed and the effectiveness

of both trial, and appellate counsel and the interpreter, can be determined. This Court can also grant Petitioner Certiorari where the Sixth Circuit denied Petitioner a Certificate of appealability when the record was not fully developed due to the denial of the requested evidentiary hearing.

REQUESTED RELIEF

Wherefore, Petitioner request this Court grant a rehearing where the record will be fully explored and determined de novo, and or writ of certiorari be granted or in the alternative, remand to the lower court to conduct an evidentiary hearing. Petitioner also asks that this Honorable Court answer his questions with more than two lines.

Thank you for your time and consideration.

Date: November 25, 2024

Sincerely,
[S] Carl Mott
Carl Mott #193734
IN, Pro Per
Woodland Center Coll. Fac.
9036 E-M 36
Whitmore Lake, MI 48189

Carl Mott NO. 193734
Woodland Center Corr. Fac.
9036 E-M36
Whitmore Lake, MI 48189

Office of the Clerk
Supreme Court of the United States
Washington, D.C. 20543-0001

Re: Petition for Rehearing
CARL MOTT v. PAUL SCHREIBER, Warden;
U.S. District Court Case No. 1:22-cv-876
Sixth Circuit Court of Appeals Case No. 23-2012
Supreme Court Case No. 24-5469.

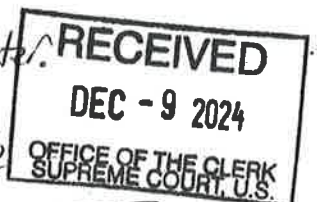
Dear Clerk;

Enclosed find one (1) original signed copy of Petitioner's Motion to Proceed In Forma Pauperis, Petition for Rehearing the denial of writ of Certiorari, and Proof of Service, w/Appendix A, in the above named case. Please take note that I am a prisoner confined in a correctional facility, and I am filing the documents in Pro Per. Please notify me if these documents are deficient in any way and I will make any necessary corrections as soon as possible.

Thank you for your time and assistance in this matter.
Date November 25, 2024

Sincerely,
[s] Carl Mott

Petitioner in Pro Per Carl MOTT #193734,



No. 24-5469

IN THE SUPREME COURT OF THE UNITED STATES

CARL MOTT,

Petitioner,

V.

PAUL SCHREIBER, Warden,

Respondent.

On Petition for Rehearing the denial of writ of
Certiorari in the Supreme Court of the United States

MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner, Carl Mott respectfully asks this Honorable Court, Pursuant to Supreme Court Rule 39 for leave to proceed in forma pauperis so that he may file the accompanying Petition for Rehearing with this Court. Petitioner was previously been granted leave to proceed in forma pauperis in this case in the U.S. District Court, the U.S. Sixth Circuit Court of Appeals, and this Court.

Respectfully Submitted,

Date: November 25, 2024

ssj Carl Mott

Carl Mott # 193734

in Pro Per

Woodland Center Cor. Fac.

9036 E. M36

Whitmore Lake, MI 48189

NO. 24-5469

IN THE SUPREME COURT OF THE UNITED STATES

CARL MOTT,
Petitioner,

V.

PAUL SCHREIBER, Warden,
Respondent.

PROOF OF SERVICE

I, Carl Mott, the undersigned Petitioner in the above-entitled Case, do hereby declare that on this 25 day of November 2024, I have served an original copy of the above Motion to Proceed In Forma Pauperis, and Petition for Rehearing w/accompanying Appendix and this Proof of Service upon the following Parties:

Office of the Clerk
Supreme Court of the United States
Washington, D.C. 20543-0001

by placing the same in sealed envelopes, properly addressed, and handing them to Prison officials at Woodland Center Correction Facility, to be placed in the Prison's outgoing mail with First-Class postage fully pre-paid and affixed.

I declare under Penalty of Perjury that the foregoing is true and correct.
executed on: 11/25/24

s/ Carl Mott
Carl Mott #193734
Woodland Center Corr. Fac.
9036 E-M36
Whitmore Lake, MI 48189

APPENDIX A

Order Denying Petition of Writ of Certiorari
Case No. 24-5469 November 04, 2024.

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

November 4, 2024

Mr. Carl Wesley Mott
Prisoner ID #193734
9036 E-M36
Whitmore Lake, MI 48189

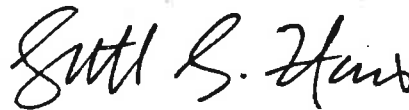
Re: Carl Mott
v. Paul Schreiber, Acting Warden
No. 24-5469

Dear Mr. Mott:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Harris", written in a cursive style.

Scott S. Harris, Clerk