Sargent K. Major

WDOC-22159-WMCI
7076 Road 55F
Torrington, WY 82240

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DEC 05 2017
OFFICE OF THE CLERK
SUPREME COURT, U.S.

Justice Sonya Sotomayor
US Supreme Court
One 1st Street, NE
Washington, D.C. 20543

November 29, 2017

Dear Justice Sotomayor:

In response to the Court's letter of November 21, 2017, Mr. Major provides the following:

Mr. Major provided the Court with the following Affirmation of good faith **on page 2** of his Petition to comply with Rule 44.

> Affirmation of Good Faith
> Mr. Major is filing this petition because he believes he is entitled to relief as a matter of law and that this filing is not submitted with any intent other than to gain the relief he believes he is entitled to and to correct inherent problems within the Wyoming Court System that resulted in his wrongfully being convicted and sentenced for a crime he is actually innocent of.

Mr. Major now further states that he **certifies** that the petition for rehearing is presented **in good faith and not for delay**. His only reason for filing this petition is because he believes he is entitled to relief.

Mr. Major also **certifies** that the grounds of his petition are limited to **other substantial grounds not previously presented** in compliance with Rule 44.

Finally, Mr. Major's new grounds are the **ex-post-facto violation** in his case and the fact that the State of Wyoming **conceded the arguments** Mr. Major presented by waiving their right to contest his claims, leaving the appropriate court action as a ruling in Mr. Major's favor.

Mr. Major believes this complies with the Clerk of Court, Lisa Nesbitt's letter of November 21, 2017 and provides all the information she indicated needed to be provided. This letter providing certifications is provided with the hopes the Court will examine what he has presented and provide him a just resolution to his case, which has been severely abused by the State of Wyoming.

Mr. Major also **certifies** that he mailed a true and correct copy of this document to the State of Wyoming at the Attorney General's address (2320 Capitol Ave, Cheyenne, WY 82002) in compliance with the Court's Rules and the Mailbox Rule under the penalty of perjury pursuant to W.S. 6-5-301; 28 USCS 1746; 18 USCS 1621.

Thank you in advance for your understanding.

Sincerely,

Sargent Major

Sargent K. Major
#22159 WDOC WMCI
7076 Road 55F
Torrington, WY 82240

CASE NUMBER: 17-5851

IN THE SUPREME COURT

OF THE UNITED STATES

SARGENT K. MAJOR
Petitioner,
v.
STATE OF WYOMING
Respondent

On Writ of Certiorari from the Wyoming Supreme Court

MOTION FOR REHEARING ON PETITION FOR WRIT OF CERTIORARI IN RELATION TO DENIAL OF MOTION TO CORRECT ILLEGAL SENTENCE AND ITS APPEAL

COMES NOW; Mr. Sargent K. Major (hereinafter Mr. Major), *Pro Se*, and moves this Court for a Rehearing on his Petition for Writ of Certiorari on his Motion to Correct Illegal Sentence.

Parties to Case

Mr. Major affirms under the penalty of perjury that all parties to this filing are contained within the caption.

Affirmation of Completing State Remedies

Mr. Major affirms under the penalty of perjury that he has appealed the case to the highest court in Wyoming. To further ensure his compliance with the requirement that he provided the Wyoming Courts the opportunity to correct their error, he filed a Motion to reconsider to the Wyoming Supreme Court. Mr. Major understands that the Wyoming Supreme Court is mandated to correct a manifest injustice when one is presented to the Court.

Affirmation of Good Faith

Mr. Major is filing this petition because he believes he is entitled to relief as a matter of law and that this filing is not submitted with any intent other than to gain the relief he believes he is entitled to and to correct inherent problems within the Wyoming Court System that resulted in his wrongfully being convicted and sentenced for a crime he is actually innocent of[1].

Compliance with Time Limit

Mr. Major has filed this Petition for Writ of Certiorari in a timely manner in that the initial decision denying Mr. Major Motion to Correct Illegal Sentence was dated January, 27th, 2016, the appeal was denied on April 11, 2017 and the Motion for Reconsideration was denied on May 9th, 2017, all of which violates previous Federal Court Rulings, as well as Federal and Constitutional Statutory Provisions; and is being contested within this document. The Wyoming Supreme Court's decision is well within the 90 days allotted for Mr. Major to file this Petition for Writ of Certiorari.

Jurisdictional Statement

This Court holds jurisdiction[2] over the immediate matter in that Mr. Major has presented his claims to the highest court in Wyoming, the Wyoming Supreme Court (the court of last resort), who chose to ignore Federal Court Rulings, including those from this Court, to rule against him. The State of Wyoming has misapplied law and even referenced State case law that has been overruled by the Federal Courts. Mr. Major has exhausted all the State remedies available to him that he is aware of; and he is in compliance with the time limit mandates. Therefore, this Court's jurisdiction over the immediate case is both proper and appropriate. Even if all of his claims were not properly presented to the state courts, this court still holds jurisdiction to hear Mr. Major claims[3].

Statement of Case

In support of this Motion, Mr. Major states as follows:

1) Mr. Major provided this Court with issues that have never been ruled upon;

2) Though not specifically stated, Mr. Major outlined an ***ex-post-facto* violation** in that the Wyoming Trial Court handed down the maximum sentence that could be given to a defendant who had release the victim and was given (20 years) and then the Court refused to give Mr. Major credit for pre-sentence time served, which is an enhancement of the sentence to yield more time that was statutorily allowed at the time of sentencing. Therefore, Mr. Major's sentence was actually over 20 years (20 year sentence + pre-sentence incarceration). See 6-2-201 (c).

> **6-2-201. Kidnapping; penalties; effect of release of victim. (c)** If the defendant voluntarily releases the victim substantially unharmed and in a safe place prior to trial, kidnapping is a felony punishable by imprisonment for not more than twenty (20) years.

3) Since the State of Wyoming admitted Mr. Major's innocence by **waiving** their right to contest his filing, the rules of Common Law (the right to innocent until proven guilty) indicate there is no *corpus delecti*, which requires the overturn of this case because Mr. Major's rights, the rights of an innocent man, must be protected. The State of Wyoming had the option of either contesting Mr. Major's claims or **waiving** their right to argue against them. There was no excusable neglect and Wyoming actively elected to concede the case by **waiving** their right to provide a defense against Mr. Major's accusations[4]. Therefore, the State, through their concession actively admitted that Mr. Major's claims were true; admitting guilt on their behalf.

4) F. R. C. P. Rule 55 indicates in part that:

> (a) *Entering a Default.* When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown

by affidavit or otherwise, the clerk must enter the party's default.
(b) *Entering a Default Judgment.*
By the Clerk. If the plaintiff's claim is for a sum certain or a sum that can be made certain by computation, the clerk - on the plaintiff's request, with an affidavit showing the amount due - must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.

5) AND F. R. Civ. P. Rule 8 indicates in part that:

(a) Claim for Relief. A pleading that states a claim for relief must contain:
(2) *Denials-Responding to the Substance.* A denial must fairly respond to the substance of the allegation.
(3) *General and Specific Denials.* A party that intends in good faith to deny all the allegations of a pleading-including the jurisdictional grounds-may do so by a general denial. A party that does not intend to deny all the allegations must either specifically deny designated allegations or generally deny all except those specifically admitted.
(6) *Effect of Failing to Deny.* An allegation-other than one relating to the amount of damages-is admitted if a responsive pleading is required and the allegation is not denied. If a responsive pleading is not required, an allegation is considered denied or avoided.

6) There was no logical reason for this Court to opt to deny Mr. Major's petition in light of the State of Wyoming admitting they had violated Mr. Major's rights as well as the law and admitting that they had incarcerated an innocent man. Allowing Mr. Major's conviction to stand in light of all that was presented and proven by concession, especially actual innocence, offends justice, the Constitution and devalues the spilt blood of all those patriots who gave their lives and limb to defend the Constitution in the past and in the present. If the Court chooses to view the case under the rules of Maritime Law (Admiralty Law), then the State of Wyoming must show the international contract Mr. Major signed and how he violated that contract for the trial court to have held jurisdiction to prosecute him. There was no contract; therefore, the trial court could not have had jurisdiction under Maritime Law. The Constitution makes no allowance for any other options and therefore, if another option is viewed, it is unconstitutional and the conviction must be overturned.

7) Some of the various arguments the State of Wyoming actively conceded as true by waiving their right to argue against are:

a) Mr. Major presented the Court with a claim of actual innocence and whenever the Courts of this Country become aware of a man who is actually innocent that is incarcerated, they are duty-bound to overturn that conviction; not just let it stand, regardless of whether political influences want that man released or not. Justice demands the Courts align their decisions to what is right. This violated Mr. Major's Constitutional Rights to:

i) life, in that his quality of life was taken from him;

ii) liberty, in that he was incarcerated for a crime that the evidence clearly shows he did not commit without due process;

iii) the pursuit of happiness, in that he was confined and not allowed to live the type of life he could work to afford or build relationships (familial, business, etc.); and

iv) property, in that as a prisoner, he is only allowed to possess certain pieces of property and the limited amount of income he is allowed to make deprives him of the ability to purchase property (textile & electronic possessions, real property, etc.).

b) Mr. Major presented this Court with the issue of a State Court transferring a defendant to prison prior to trial. This divested the trial court of jurisdiction before the trial began. Mr. Major has attempted to find previous court cases that address this issue, but cannot find even one; probably because the courts of this Country know better than to conduct an act that shows their overt bias against a litigant as egregious as this. This action violated Mr. Major's Constitutional Rights to:

i) being presumed innocent until proven guilty;

ii) an unbiased trial court; and

iii) due process.

c) Mr. Major presented this Court with the issue of constructive denial of counsel, which was deemed by a State Court as a non-jurisdictional issue despite federal court rulings specifically stating that it is a jurisdictional claim. This violated Mr. Major's Constitutional Rights to:

i) counsel with an undivided loyalty to the defendant;

ii) counsel who would marshal defenses;

iii) counsel who would call witnesses;

iv) counsel who would investigate defenses;

v) counsel who would obtain exculpatory evidence;

vi) counsel who would put the prosecution's case to the adversarial testing ground promised every criminal defendant; and

vii) ultimately due process

d) Mr. Major presented this Court with the issue of a State Court declaring a defendant as guilty prior to trial. This denied Mr. Major his Constitutional Rights to:

i) being innocent until proven guilty;

ii) an unbiased trail court; and

iii) due process.

8) Mr. Major provided this Court with claims of the Wyoming Supreme Court failing to comply with the U.S. Constitution and Federal Laws;

a) Federal Law indicates that a conflict of interest is a constructive denial of counsel that is

only cured by an overturn of the conviction. This denied Mr. Major his Constitutional Right to:

i) a defense;

ii) a complete trial court;

iii) equal and adequate court access under the A.D.A.;

iv) adversarial testing ground for the prosecution's claims;

v) life, liberty and the pursuit of happiness.

b) Federal Law mandates a conflict of interest be corrected once it has been brought to the Court's attention;

i) see item 6(a).

c) Mr. Major provided this Court with a letter from a Wyoming State Court Official (Court Officer) stating that the Courts in Wyoming are corrupt; that they are not a justice system but a punishment system (guilty until proven innocent); and that they refuse to overturn a conviction no matter how just that action would be. This denied Mr. Major his right to:

i) a fair and unbiased review of the trial court's actions; and

ii) due process;

9) Mr. Major provided this Court with evidence demonstrating that the Trial Court violated the law in his prosecution and sentencing.

a) Mr. Major was transferred to the custody of the Wyoming Department of Corrections prior to his trial;

b) defense counsel was personal friends with the alleged victim and refused to properly defend his client so that he could protect his friend;

c) the trial court declared Mr. Major was guilty before trial;

d) Mr. Major was coerced to accept a guilty plea he did not want;

e) the trial court stopped and restarted his sentence;

f) Mr. Major's right to a speedy trial was disregarded;

g) through the trial court's and the Wyoming Supreme Court's refusal to give Mr. Major credit for the time he had already served, those courts violated the US Constitution's ex-post facto prohibition;

h) Mr. Major was denied the right to confront his accusers; and

i) Mr. Major was denied his right to put the prosecution's case to the Constitutionally required adversarial testing ground.

10) Mr. Major provided this Court with evidence that the Trial Court as well as the Wyoming Supreme Court were in conflict with him but chose to do nothing to correct that conflict.

11) Mr. Major provided this Court with evidence of his actual innocence.

a) the evidence clearly showed that Mr. Major did not kidnap Ms. Whitely;

b) the evidence showed Ms. Whitley was able to come and go upon her own free will;

c) the evidence showed that the trial court, the prosecution and the defense counsel all stated that they believed Mr. Major's previous sentence for forgery had been discharged, eliminating the escape charge; and

d) The State of Wyoming admitted Mr. Major's claims of actual innocence are true when they waived their right to contest his arguments.

12) This Court had the option of either directly ruling on the case or remanding it back down to the Wyoming Supreme Court with instructions as to how the court had to handle the case in light of what federal law mandates. Pursuant to the Federal Court Rules, a default judgment against Wyoming was the only appropriate conclusion of the case; yet the Clerk

of Court chose to deny Mr. Major's Writ of Certiorari in an action that was contrary to the Court's Rules without judicial involvement (why?). There was no argument against; nor was there anyone in disagreement with the case, leaving the only just result the overturn of the illegal conviction and the elimination of any further waste of the taxpayer's money in a ruling that would have placed Wyoming on notice to stop arbitrarily incarcerating innocent people.

Relief Requested

WHEREFORE, Mr. Major moves this Court conduct a rehearing of his Petition for Writ of Certiorari that he believes was dismissed as it presents issues of great weight that will have bearing on a large number of people and put an end to the wanton violation of citizens' rights that is happening in Wyoming to ensure that the prisons are kept full; and provide whatever other relief the Court deems appropriate.

Declaration

I make this Motion while providing the enclosed information under the penalty of perjury and stating that the information contained herein is true and correct to the best of my knowledge on this **16th, day of November, 2017** pursuant to the Mailbox Rule and W.S. 6-5-301; 28 USCS 1746; 18 USCS 1621.

Sargent K. Major

CERTIFICATE OF SERVICE

I Mr. Major hereby certify that I have caused a true and correct copy of the above and forgoing document to be sent by First Class, postage prepaid, by placing same within the W.M.C.I. mail box on this **16th, day of November, 2017** pursuant to the Mailbox Rule and W.S. 6-5-301; 28 USCS 1746; 18 USCS 1621.

Attorney General
Kendrick Building
2320 Capitol Auenue
Cheyenne, WY 82002

United States Supreme court
Clerk of court
One 1st Street, NE
Washington, DC 20543

Sargent K. Major

Addressed to the following

Additional material from this filing is available in the Clerk's Office.