USSC Case No: 17-6124
SCAZ Case No: CR17-0048-PR
CAAZ Case No: 1 CA-SA 17-0008
MCSC Case No: CR2013-003413

IN THE SUPREME COURT OF THE UNITED STATES

ALAN MICHAEL BARTLETT
Defendant-Petitioner
VS.
WENDY S. MORTON
Plaintiff-Respondent

DEFENDANT'S PETITION FOR REHEARING

APPEAL FROM THE UNITED STATES SUPREME COURT DENYING DEFENDANT'S PETITION FOR WRIT OF CERTIORARI

Alan M. Bartlett #T242560
3250 West Lower Buckeye Road
Phoenix, Arizona 85009
Petitioner - Pro Se

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DEFENDANT'S PETITION FOR REHEARING

Petitioner hereby applies to this Honorable Court for Rehearing under United States Supreme Court Rule 44.

I. INTRODUCTION

On December 4, 2017 this Honorable Court file a memorandum denying Bartlett's petition for writ of certiorari, holding that petitioner contends respondent, Wendy S. Morton, abused discretion admitting privledged and confidencial federal medical records absent defendant's authorization and over defense objection that are not a part of this "particular" competency proceeding.

Accordingly, Bartlett hereby applies to this Honorable Court for Rehearing, petitioning this panel to reconsider that decision for the following reasons;

A. the court failed to create adequate record to support the denial of his petition

B. the court failed to address and consider the trial court's decision to maintain uniformity of the courts precedents

II. STATEMENT OF THE CASE

A. This is a fraud prosecution where Bartlett is accused of diverting corporate proceeds / profits into personal accounts.

The indictment contains the following charges:

- Count 1, - Fraudulent Schemes and Artifices (ARS 13-2310)
- Count 2-20, Forgery (ARS 13-2002)
- Count 21-22, Taking Identity of Another (ARS 13-2008)

B. In 2008 and while attending Arizona State University, Bartlett operated United States Disabled Veterans, LLC., a nationally recognized company, and United States Handicapped-Disadvantaged Services, LLC., doing national business, registered and listed at the Arizona Corporation Commission, Arizona Department of Revenue, and United States Treasury. These call center companies were organized as "for-profit" businesses, not charities, to employ the disadvantaged and disabled. However, over time, the businesses

experienced complex frauds that he was unable to circumvent, and later disolved. After reporting those suffisticated bank teller "chargeback" frauds to State and federal lawenforcement, proceeds from business activities were turned over to Maricopa County Superior Court - collections unit, on advice of Maricopa County Sheriff - Lt. Chad Brockman, in exchange for twenty-five year old fines and restitution.

Bartlett argues he had implied authority to allocate these resources to third-party handling and Maricopa County Sheriff's Office has no apparent authority to arrest and/or charge anybody for those decisions. Bartlett broke no law and committed no crime doing this because the State of Arizona has no authority to charge and indict him when no crime committed. Bartlett was subsequently indicted by grand jury three years later.

II. LAW

The United States Supreme Court's determination to deny a defendant's motion

on finding of fact is reviewed for clear error. US v. Pineda-Doval, 692 F.3d 942 (2012). A finding of fact is clearly erroneous if it is; (1) illogical, (2) implausible, or (3) without support in inferences that may be drawn from the facts of record.

The United States Supreme Court's determination to grant a defendant's motion for rehearing is reviewed under Rule 35(b)(A)(B), Fed. R. App. P. when;

A. A panel decision conflicts with a decision of the United States Supreme Court or the court to which the petition is addressed and consideration by the full court is necessary to secure and maintain uniformity of the court's decisions; or

B. The proceeding involves one or more questions of exceptional importance, each of which may be concisely stated; for example, a petition may assert that a proceeding presents a question of exceptional importance if it involves an issue on which the panel decision conflicts with the authoritative decisions of other United States Courts

that have addressed this issue.

IV. DISCUSSION

Bartlett argues that the United States Supreme Court's December 4, 2017 decision to deny his petition for writ of certiorari deprives him of liberty intrests and violates his 6th USCA and 14th USCA Amendment rights under the United States Constutition.

Under Rule 35(b)(A), Fed. R. App. P., a panel decision conflicts with a decision of the United States Court, or the court which the petition was addressed and consideration is necessary to secure and maintain uniformity of the court's decisions. Bartlett argues that the United States Supreme Court;

1. failed to create an adequate record to support the denial of his petition for writ of certiorari
2. failed to address and consider the trial courts decision to secure and maintain uniformity of the courts precidents, and

3. provided improper reasons for denying the petition for writ of certiordri.

Here the court conducted no inquery into Bartlett's petition, nor make any consideration to secure and maintain uniformity of the courts decisions. The denial of Bartlett's petition for writ of certiordri deprives him of liberty intrests and violates his 6th USCA and 14th USCA Amendment rights under the United States Constutition.

Revocation of Waiver of Counsel
6th USCA Violation

A defendant in a state or federal proceeding has a constitutional right to proceed without counsel. Faretta v. California, 422 US 806 (1975). However, the crimind trial of an incompetent defendant violates due process. Westbrook v. Arizona, 384 US 150 (1966). In this case, Bartlett waived counsel under Faretta and two weeks later, Jason Holmes with the Maricopa County Attorney's Office filed a motion to involuntarily have Defendant's

mental health examined under Rule 11.2, Az. R. Cr. P., and Judge Margaret Mahoney granted this motion over defense objection.

Bartlett argues that under Godinez v. Moran, 509 US 389 (1993), the competency standard for pleading guilty or waiving counsel is the same as the competency standard for standing trial, and is not a higher standard. Finding that a defendant is competent to stand trial is not all that is necessary before he may be permitted to plead guilty or waive his right to counsel, as trial court must satisfy itself that the waiver of the constutitional rights is knowingly and voluntary; although that is a heightened standard for pleading guilty and waiving the right to counsel, it is not a heightened standard of competency. Id. The State's motion to have the defendant's mental health examined should have been denied.

Commissioner Wendy S. Morton's Order For Defendants Federal Medical Records Over Defense Objection And Absent Any Waiver - 14th USCA Violation

The admission of privledged and confidencial Alaska federal medical records to an Arizona state proceeding, absent authorization and/or consent of defendant and over defense objection is a due process violation. US v. Zolin, 491 US 554 (1989). In Zolin, the court concludes that the exclusionary rule applies and that the state may use any nonprivledged evidence in support of it's arguement, but allowing litigants to obtain such privledged and confidencial records would encourage an abuse of confidencial information from disaffected participants. Id. Although the court revoked Bartlett's waiver, appointed defense counsel, it has no authority to admit any records to the state proceeding. Upjohn Co. v. U.S., 449 US 383 (1981). It is recognized that the attorney-client privledge under federal law, is "the oldest of the privledges for confidencial communications known to common law. Id. Bartlett argues that the Supreme Court failed to address and consider the trial courts decision to secure and maintain uniformity of this courts precedents when it denied his petition for writ of certiorari.

Compulsory Process Violation

The 6th USCA Amendment of the United States Constitution protects the defendants right to confront witnesses against him. Crawford v. Washington, 541 US 36 (2004). Admitting privledged and confidencial medical records, like out-of-court statements are testimonial "barred" under the Confrontation Clause of the 6th USCA Amendment of the United States Constitution unless witness who authored record is availble to testify or present the record. Id. Records presented by anybody other than the original author is hearsay and not permitted under Rule 801, Fed. R. Evid. Idaho v. Wright, 497 US 805 (1990). Rule 703, Federal Rules of Evidence allows an expert witness to have an opinion on "facts or data" not admissable in evidence. State v. Lundstrom, 161 Ariz 141 (1989). The information need not be admissable if it is the type reasonably relied upon by experts in the particular field. Id. Bartlett argues that the state violated Rule 703 and 801, Fed. R. Evid. by using the facts and opinions contained in those reports substantively to influence State Chief Psychologist findings and impeach defense testimony at evidentiary

hearing.

V. CONCLUSION

Clearly the trial court recognizes Bartlett's concerns for privacy and due process rights. He is not under any circumstance required to self-incriminate, disclose, or authorize disclosure of privledged and confidencial medical records not relevant and/or part of this "particular" proceeding.

It is not possible post hoc to undo the damage done by the trial court and Respondent Judge Wendy S. Morton's orders for disclosure over defense objection.

Accordingly, Bartlett requests this Honorable court grant his motion for rehearing;

1. vacate respondent judge's orders for disclosure of privledged and confidencial federal medical records

2. remand with instructions consistant with this motion to secure and maintain

uniformity of the United States Supreme Court's precedents.

DATED this 3rd day of April, 2017.

Alan M. Bartlett
Petitioner - Pro Se

CERTIFICATE OF COMPLIANCE WITH RULE 33

Under Rule 33, Supreme Court Rules of the United States, petitioner hereby certifies that this motion is double spaced (except as otherwise permitted by Rule 33); that the motion is proportionally spaced, neatly handwritten, 14 point size; and that this motion contains 1280 words.

DATED this 3rd day of April, 2018.

Alan M. Bartlett

Petitioner - Pro se

CERTIFICATE OF COMPLIANCE WITH RULE 44

Under Rule 44, Supreme Court Rules of the United States, petitioner hereby certifies that this motion is presented in good faith and that the grounds are limited to intervening circumstances of substancial controling effect and/or other substancial grounds not previously presented.

DATED this 3rd day of April, 2018.

Adam M. Bartlett
petitioner - Pro Se

CERTIFICATE

I certify that this paper copy is identical in every way to the corresponding document that was submitted by U.S. Mail, accepted, and filed with the United States Supreme Court in this matter.

Dated this 3rd day of April, 2018.

John M. Bartlett

Petitioner - Pro Se

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