No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Curry S. Richardson - PETITONER

vs.

Lorie Davis - RESPONDENT(S)

MOTION FOR REHEARING ON PETITION

FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

MOTION FOR REHEARING

Curry S. Richardson T.D.C.J.# 713015

A.B. POLUNSKY UNIT 3872 FM 350 South

LIVINGSTON, TEXAS 77351

RECEIVED
FEB - 6 2018
OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Curry S. Richardson - PETITIONER

VS.

Lorie Davis - RESPONDENT(S)

MOTION FOR REHEARING

COMES NOW, Curry S. Richardson, petitioner pro se moves for this Court to grant rehearing of its order entered on January 8, 2018, and presents this Motion pursuant to Rule 44 of the Rules of the Supreme Court of the United States and in support would show the following:

1.

This Court entered its order denying petitioner's writ of certiorari, no written order was given in the Court's denial, although petitioner presented to the Court substantial violations of the Sixth Amendment of the United States Constitution.

2.

Petitioner appealed to this Court after the Court of Appeals for the Fifth Curcuit denied petitioner's Certificate of Appeal-ability and Motion for Rehearing. The Appellate Court concluded that petitioner claims could not have been debatable among reasonable jurist quoting Miller El v. Cockrell,537 U.S.322,327 (2003) which is clearly contrary to the general principles of this Court.

3.

Petitioner's claims centered primarily on being denied counsel of choice, effective assistance of counsel at trial, and effective assistance of counsel on (direct) appeal.

4.

The standard for securing a Certificate of Appealability requires only that appellant make a substantial showing of the denial of a Constitutional right. Slack v. McDaniel, 529 U.S. 473,483-85(2000).

5.

Petitioner relys solely on the ruling from this Court in Powell v. Alabama, 287 U.S. 45,53(1932) which held that " in all criminal prosecutions, the accused shall...have the assistance of counsel for his defense. Also, it is hardly necessary to say that, the right to counsel being conceded, the defendant should be afforded a fair opportunity to secure counsel of his choice". In moving to disqualify petitioner's chosen counsel, the state court bears the heavy burden of establishing that disqualification is justified.

6.

In the instant case, during pre-trial, Judge Rueben Guerrero sua sponte dismissed petitioner's retained counsel, John V. Tarleton, and appointed David Cunningham.

7.

A counsel of choice violation occurs whenever the defendant's choice is wrongfully denied, U.S. v. Gonzalez-Lopez, 126 S.Ct. 2557

at 2265. Where the right to be assisted by counsel of one's choice is wrongfully denied, therefore, it is unnecessary to conduct an ineffectiveness or prejudice inquiry to establish a Sixth Amendment violation.Id. at 2563. Such deprivation is a structural error that pervades the entire trial.Id.2565.

8.

Petitioner had the right to effective assistance of counsel at trial. Strickland v. Washington, 466 U.S. 692(1984) and within the Strickland standard, petitioner, through his Application for Certificate of Appealability and his Petition for Writ of Certiorari points precisely his trial counsel's deficient performance and how those deficiencies prejudiced and affected the outcome of his trial.

9.

Petitioner further brought substantial conflict of interest and ineffectiveness of his counsel on appeal claims which rests in this Court's holding in U.S. v. Cronic..." A trial court is responsible for existing conflict, the trial judge has an independent duty to ensure that a criminal defendant's appeals are fair and does not contravene the Sixth Amendment". U.S. v. Cronic, 466 U.S. 648,659(1984) and in Cuyler v. Sullivan, 466 U.S. 335, the Court held that prejudice is presumed when counsel is burdened by an actual conflict of interest.

CONCLUSION

Petitioner has presented Constitutional claims which is clearly established by Supreme Court precedent, to grant a rehearing would give petitioner his opportunity for judicial redress and prevent a miscarriage of justice.

PRAYER

Petitioner prays that this Court grant his Motion for Rehearing to examine the ruling of the Court of Appeals for Constitutionality.

Respectfully submitted,

Curry S. Richardson

Curry S. Richardson
T.D.C.J.-ID# 713015
A.B.Polunsky Unit
3872 FM 350 South
Livingston, Texas 77351