

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DeCarlo J Worth — PETITIONER
(Your Name)

The people of the state of New York vs. "et al"
RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Appellate Division fourth Judicial Department KA17-01290
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

November 1, 2017

DeCarlo J Worth
(Your Name)

Wyoming Correctional Facility
(Address)

PO Box 501 Attica NY 14011
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Was the purported Appeal waiver ineffective to preclude Appellant's Challenge to His Sentence?

2. Was Appellant's Sentence and period of post-release supervision Harsh and excessive?

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at State of New York Court of Appeals; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the State of New York Court of Appeals court appears at Appendix A to the petition and is

- ☐ reported at N/A; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____
A copy of that decision appears at Appendix - A -

☒ A timely petition for rehearing was thereafter denied on the following date: November 1, 2017 and a copy of the order denying rehearing appears at Appendix C

☒ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

60 Days from JANUARY 23, 2018 to file my petition.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- [] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

DeCARLO J WORTH 14 B3347
Wyoming Correctional Facility
P.O. Box 501 Attica N.Y 14011

John J. Flynn
Erie County District Attorney
25 Delaware
Buffalo New York 14202

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

deprived of his State and federal constitutional rights to due process and meaningful and effective assistance of Counsel. See N.Y. Const, Art 1. § 6 U.S. ~~Const~~ Const, Amendments V, VI And XIV. See Also CPL 440.10(1)(h) See point II And III of Appellants CPL 440 motion. (

STATEMENT OF THE CASE

The one count Superior Court information, Waiver of indictment charged Appellant DeCarlo Worth with Attempted Burglary in the first degree (penal Law § 110/14030-2) the charge arose from Allegation that on or About June 10, 2014 Appellant knowingly entered unlawfully in the dwelling of Lalita Williams with intent to commit a crime therein and while in the dwelling he caused physical injury to Ms Williams.

REASONS FOR GRANTING THE PETITION

As stated in point II of the CPL 440 motion Appellant in his diminished mental capacity innocently and naively relied on the illusory representations of defense counsel that he would only be sentenced to the Willard Drug Treatment program (hereinafter WDTP). This false promise induced him to plead guilty.

Further the trial court's awareness during the sentencing hearing of Appellant learning disability and of his third grade reading and writing level was sufficient reasonable grounds to believe that because of mental disease or defect Appellant was incapable of understanding the proceedings against him. Defendant had sustained his burden of coming forward with allegations sufficient to create an issue of fact that his plea was rendered involuntary by his use of medication.

Wherefore Appellant DeCarlo Worth requests that this court reduce his sentence and period of post-release supervision as a matter of discretion in the interest of justice to lesser terms and grant such other relief as this court deems just and proper

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

DeCarlo Worth

Date: ~~Jan~~ February 1 2018