

IN THE UNITED STATES SUPREME COURT

SAMUEL L. AMBROSE,
Petitioner,

v

Case No. 17-8502

TONY TRIERWEILER, Warden,
Respondent.

PETITION FOR REHEARING OF ORDER DENYING CERTIORARI

Now Comes Petitioner Samuel Lee Ambrose pursuant to U.S. Supreme Court Rule 44.2 for rehearing of the above entitled cause and, in support of it, respectfully shows:

1. A rehearing of this Court's June 11, 2018, decision in this matter is in the interest of justice. *Wilson v Sellers*, 138 S. Ct. 1188, 1190 (2018).

2. In Petitioner's habeas proceedings, the United States Sixth Circuit Court of Appeals should have looked through the unexplained Michigan Supreme Court decision to the last related State-Court September 3, 1996 decision. (See, Attachment A).

3. It provided a relevant rationale and the lower federal Courts would have presumed that the later unexplained State Trial Court January 26, 2006, decision adopted the same reasoning. (See, Attachment B, 1/26/06 decision).

4. However, the Sixth Circuit Court of Appeals only looked through to the State-Trial Court's January 26, 2006 decision (Case No. 14-1545; Document 32-2; Filed 7/13/2015, Page 14). *Ambrose v Romanowski*, 621 Fed. Appx. 808 (CA 6, 2015).

5. In Petitioner's habeas proceedings, the U.S. District Court Magistrate noted that the State Trial Court imposed the procedural bar on September 3, 1996 (Magistrate Report, Doc #71, pg.

ID #2220). The State Trial Court concluded that Petitioner's federal claim **was not** newly discovered evidence or a retroactive change in the law. (See, Attachment A, Judge Morrow's letter and summary order). After, the January 26, 2006, State Trial Court's decision, the court mailed Attachments A and B to Petitioner.

6. *Wilson v Sellers*, 138 S. Ct. at 1190, now requires the U.S. Sixth Circuit Court of Appeals to look through to the September 3, 1996, reasoned State Trial Court decision and presume that later unexplained orders upholding that judgment or rejecting the same claim are presumed to rest on the same ground.

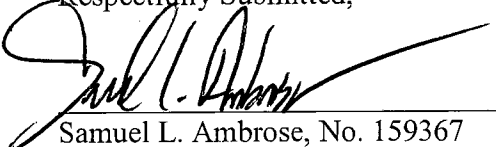
7. In Petitioner's habeas proceedings, the U.S. District Court Magistrate conducted an evidentiary hearing and he concluded that the State-Trial Court did not adjudicate on the merits Petitioner's *Strickland* claim. (See, Petition, Appendix F, Magistrate Report, Doc #71, pg. 2229-2230). *Ambrose v Romanowski*, 2013 U.S. Dist. Lexis 184960 (E.D. Mich., Dec. 23, 2013). As a result, the Magistrate considered the evidence from the evidentiary hearing and recommended habeas relief.

8. In light of the above facts and laws, Petitioner contends that he made a substantial showing of the denial of his Sixth Amendment right to effective assistance of counsel. 28 U.S.C. Section 2253(c)(2).

9. Petitioner was then only required to show a modicum of evidence for the fraud-on-the-court claim. *Johnson v Bell*, 605 F. 3d 333, 339 (CA 6, 2010). The Sixth Circuit also failed to address Petitioner's request for substitution of counsel regarding habeas counsel's fraud where counsel refused to file for leave to withdraw from Petitioner's case. (See, Petition, Appendix I). Altogether, this Court should require the Sixth Circuit to address these claims under the proper standard of review. U.S. Supreme Court Rule 44.2.

Wherefore, Petitioner requests for his Petition for Rehearing to be granted, vacate the order denying certiorari, grant the Petition for Writ of Certiorari, and reverse the judgment of the U.S. Sixth Circuit Court of Appeals.

Respectfully Submitted,



Samuel L. Ambrose, No. 159367
Ionia Bellamy Creek Correctional Facility
1727 West Bluewater Highway
Ionia, Michigan 48846

Dated: July 30, 2018

CERTIFICATE OF GOOD FAITH BY PRO SE PETITIONER

I, Samuel L. Ambrose, certify that this Petition for Rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in U.S. Supreme Court Rule

44.2.



Samuel L. Ambrose, Pro Se

Dated: July 30, 2018

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