

No.

IN THE
SUPREME COURT OF THE UNITED STATES
APRIL TERM, 2016

Leonel Marin Torres,

Petitioner,

V.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

Leonel Marin Torres
36048-086 C-4-402
U.S.P. U.S. PENITENTIARY POLLOCK
POLLOCK, LA 71467

QUESTIONS PRESENTED

1. Whether Mr Marvin Torres, Fifth, Sixth, and Fourteenth Amendment constitutional rights to be present in the courtroom and to represent himself was violated.

2. Whether Mr Marvin Torres, Under Sixth Amendment constitutional rights to represent himself have constitutional rights to access to the Discovery that was used to charges him.

3. Whether Mr Marvin Torres Sixth Amendment to represent himself was violated, when the court denied the access to the Discovery that was used to charges him.

4. Whether Mr Marvin Torres Under Sixth Amendment to represent himself supposed have rights, that the Discovery be put on CD Format REDACTED.

5. Whether After Protected Order was allow for Petitioner to don't access to the Discovery, his supposed review the Discovery in LAW Library.

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UNITED STATES CONSTITUTION

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Brady v. Maryland, 373 U.S. 83 (1963),
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Farett v. California, 422 U.S. 806 (1975)

McKaskle v. Wiggins, 465 U.S. 160 (1984)

CIRCUIT COURT CASES

United States v. Stever, 603 F.3d 747
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United States v. Montalvo, 331 F.3d 1052,
1057 9th Cir (2003)

United States v. Sarno, 73 F.3d 1470 9th
Cir (1995)

Milton v. Morris, 767 F.2d 1443, 1446
9th Cir (1985)

6. Whether Mr. Martin Torres supposed allow that when his don't use the CO's Formal REDACTED, the ed would be put in secure location, that would not allow access to copying of the Discovery.

7. Whether Mr. Martin Torres, Under Sixth Amendment to represent himself the Protected Order be nature that would not allow access to copying of the Discovery like state on the Protected Order, the way his requested in his motion to review the Discovery to prepare Defense.

8. Whether the Protected Order allow by the Court underly, an preferentially harms the Petitioner by hindering his access to the Discovery to prepared a Defense Under Sixth Amendment to represent himself.

9. Whether United States Court of Appeals have being used strong prejudices or bias against Petitioner. When including refuse to Appointed of counsel to Petitioner for to filed a BRIEF on his behalf.

10. Whether the Trial court used a standby an a investigator to through them violated Petitioner his Fifth, Sixth and Fourteenth Amendment constitutional rights to be present in the courtroom an to represent himself without know nothing about the defense Petitioner going to present on trial, and Petitioner refuse to engaged in anything with them because Petitioner know the Trial court plan.

11. Whether the Trial judge deceived, lies, exploit Petitioner with strong prejudices an bias an many way to violated Petitioner his Sixth Amendment constitutional rights to access to the discovery an to represent himself, because Petitioner has limit vocabulary of the English language Under Self representation.

12. Whether Mr Marvin Torres make a clear record that show prove and mentions the plan of the Trial judge to do 2 trial without his been present in the courtroom. Did a trial the standby. Under Sixth Amendment to self-representation without engage on any serious or any obstructive misconduct.

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Petitioner respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit affirming

the judgment against him.

PROCEEDINGS AND OPINION BELOW

The opinion of the court of Appeals for the Ninth Circuit for Petitioner handed down on JANUARY 3, 2018, when his Petitioner was working on sending PETITION FOR WRIT OF CERTIORARI. Petitioner don't filed for reconsideration basis on the strong prejudices and bias that U.S COURT OF APPEALS FOR THE NINTH CIRCUIT has being used against Petitioner, because Petitioner it is spanish speaking Pro se litigant, and Petitioner know that going to be denied, like has being denied everything tried in this court U.S COURT OF APPEALS FOR THE NINTH CIRCUIT where it is clear violation of Petitioner Sixth Amendment Constitutional rights to represent himself, was look like that U.S COURT OF APPEALS FOR THE NINTH CIRCUIT not even tried to considered Petitioner REPLY BRIEF to decide on this case, and simple tried to said that Petitioner don't filed one.

JURISDICTION GROUNDS

Petitioner requests review of the judgment by the Ninth Circuit. Su.

preme Court jurisdiction invoked under 28 U.S.C. § 1254(1)

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

1. THIS COURT SHOULD GRANTED CERTIORARI BECAUSE PETITIONER WAS VIOLATED HIS FIFTH, SIXTH, AND FOURTEENTH AMENDMENT CONSTITUTIONAL RIGHTS TO BE PRESENT IN THE COURTROOM AND TO REPRESENT HIMSELF THIS VIOLATION IS CONTRARY TO ESTABLISHED SUPREME COURT PRECEDENT, AND THAT VIOLATION IS STRUCTURAL AND THEREFORE HE NEED NOT SHOW PREJUDICE IN ORDER TO BE GRANTED see *McKaskle v. Wiggins* 465 U.S. 168 174 (1984), *Faretta v. California*, 422 U.S. 806 (1975) and *Brady v. Maryland*, 373 U.S. 83 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963).

STATEMENT OF THE CASE

Procedural Background

Leonel Marin Torres, was been indicted for one count of assaulting an Officer who was harassment Mr. Marin Torres an African desender inmate, was record of this racist officer, including complaint from Mr. Marin Torres who it is Africo.

Cuban. Mr Marin Torres represented himself already in trial before the Federal Judge Hernandez, who through standby an investigator violated Mr Marin Torres his Sixth Amendment Constitutional rights to Access to the DISCOVERY that was used to charges him, violated with that Mr Marin Torres Sixth Amendment constitutional rights to representing himself, see EXHIBIT A.1

MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR PRO SE REPRESENTATION PURSUANT TO EARETTA V. CALIFORNIA AND TO CONTINUE THE TRIAL. PAGE 2 IT IS MISSING BUT IT IS ON COURT RECORD.

The officer that allege Mr Marin Torres assault come to Mr Marin Torres to assault Mr Marin Torres after Mr Marin Torres told this officer more the sixth time not to come to him, that Mr Marin Torres don't needs his assistant, Mr Marin Torres was in position that can refuse assistant from any officer's on that moment, that was not against the POLICOS OR RUCOS of this jail.

Mr Marin Torres tried no to engaged with any standby counsel, because see what happened in the

first trial, see EXHIBIT A-2 MOTION TO INVOKING ALL RIGHTS TO SELF-REPRESENTATION WITHOUT STANDBY COUNSEL, Mr Marin Torres know that the Federal Judge tried to do the trial without Mr Marin Torres present in the Courtroom from the beginning, for that was the force of a standby with the excuse that was for to run the bill see EXHIBIT A-2 look with what kind of paper Petitioner has to filed a MOTIONS, that restriction was to force Mr Marin Torres to go through a standby counsel some his don't wants to do that because know the judge intention to use the standby to do the trial without Mr Marin Torres in the Courtroom.

Petitioner filed many motions MOTIONS, including objected the protected ORDER to not access to the DISCOVERY that was used to charges Petitioner, basis that on the first trial the Court already violated Petitioner his Sixth Amendment constitutional rights to represented himself, when denied Access to the DISCOVERY, but later after Petitioner was found guilty by a jury sending to Petitioner how the allege victim was cooperated with the government, and that was the

reasons for the Protected Order, Petitioner filed MOTION TO DISQUALIFY THE JUDGE AFFIDAVIT OF PREJUDICES AND BIAS, EXTRAJUDICIAL CONFLICT THAT WAS DENIED.

Petitioner don't filed CORRIORI in that case basis on that this place it always on LOCKDOWN, and not access to LAW LIBRARY an resources it is allow it is 24 hours LOCKDOWN.

To do a trial without Petitioner in the Courtroom was the plan of the Federal judge Hernandez, on MOTION TO WITHDRAW AS COUNSEL OF RECORD FOR PRO SE REPRESENTATION PURSUANT TO FARBITA V. CALIFORNIA AND TO CONTINUE A TRIAL.

this Court can see that Clear without a DOUBT, that was filed by a counsel who was release from the first trial 3 day before the trial finish and he don't even know that was in standby counsel, this standby counsel in Petitioner was in strong conflict in Court, Petitioner objected many list of this standby counsel on record was to many problem between this standby in Petitioner because the Court used this standby counsel as a investigator that for to through them violated Petitioner his Sixth Amendment Constitutional rights

to represented himself. that it is the reasons why the Court force a standby to any Pro se Defendants who wants to representing himself in Court. the standby as the investigator was have Access to the discovery that was used to charges him, but not Petitioner. Petitioner don't know how to call that. that not make sense to said that petitioner was allow to represented himself himself. that violated clear Fareta v. California, 422 U.S. 806 (1975)

Standby it is for to look for any excuses to removing any Pro se Defendants from the Courtroom, and to the Trial without Defendant in the Courtroom to the trial with the standby counsel and said that Defendants Pro se was was engages on any serious or any obstructive misconduct, in the real world in live if a Pro se Defendants know what his doing don't needs a standby counsel. the standby counsel it is turn turn against any Pro se constitutional rights to self-representation by the Court, and it is used the standby to represent the Defendants Pro se without know nothing about the Pro se Defendant Defense that the Defendants try to use in trial that clear it is violating of Defendants Sixth

Amendment Constitutional rights to representing themselves in courts on trial this it is a UNCONSTITUTIONAL BEHAVIOR by the trial court and of U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT that it is exactly what happened on Petitioner case on trial to take advantage of Petitioner English limitation.

2 - The argument in this case it is simple Mr Marin Torres, Fifth, Sixth and Fourteenth Amendment constitutional rights to be present in the courtroom and to represent himself was violated

The excuses that the U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT to said that Mr Marin Torres disruptive behavior justified court in revoking his self-representation and providing for representation by standby counsel, that make no sense on EXHIBIT A-1 the trial judge intention it is clear to violated Faretta and McKaskle rights to self-representation it is not excuses, U.S. COURT OF APPEALS never see EXHIBIT A-1, the U.S. was clear probe the level of the conspiracy, crimes, corruption of the Federal Court judge against any prose who tried to exercise they

Faretta rights, this court Supreme Court can see the strong prejudices and bias of U-S COURT OF APPEALS against Pro se Defendants. U-S COURT OF APPEALS don't like Pro se Defendant's that it is clear see EXHIBIT B-1 REPLY BRIEF of Petitioner to U-S COURT OF APPEALS all that was on record and Petitioner on Appellant Defendant sending to U-S COURT OF APPEALS FOR THE NINTH CIRCUIT.

Any Pro se Defendants it know what his doing don't needs a stand-by counsel, because Pro se Defendants alway tried to come with a NATURE TRUTH of what happened to him for to the jury to decide including when the judges alway blocked them of interpreting them see on EXHIBIT B.3 page 6, 7, 8, 9 how the trial court blocked Pro se Defendant's from make a clear violation to be put on the record in the first trial when Petitioner was violated his Sixth Amendment constitutional rights to represented himself the Access to the DISCOVERY that was used to charges him and page 17, 18, 19, 20, 21, 22, 23, more clear that this nothing

standby counsel it is to violating
guaranteed Pro se Defendant's their Consti-
tutional rights to representing them-
selves in Court. EXHIBIT B-3

Petitioner not even have access
to the transcript on this case, see
EXHIBIT B-2 GOVERNMENT'S FIRST MO-
TION IN LIMINE limiting the scope of
defendant cross-examination of govern-
ment's internal witnesses to existence
of pending internal investigation rela-
ting to false statements of this desho-
nesting racist officer, who was fire
for his racist behavior against Afri-
can defender person, who was allege
Petitioner assault.

Petitioner never engaged on any
serious or any obstructive misconduct
the Plan to do the trial without Petiti-
ner in the courtroom it is clear on the
records from the beginning that was
what the judge wants to do that.

Faretti v. California, 422 U.S.
806 (1975)

Criminal Law Presence of Accu-
sed has right to be present at all sta-
ges trial when his absence might

Frustrate fairness of the proceedings.

U.S. COURT OF APPEALS for the NINTH CIRCUIT treatment the violation like a harmless error standard to resolve the matter. As McKaskle make clear however deprivation of a Faretta right is ~~not~~ a STRUCTURAL violation not amenable to harmless or harmless error. U.S. COURT OF APPEALS decision is contrary to clearly established Supreme Court precedent because it contradicted the law set forth in McKaskle.

On Brady v. Maryland 373 U.S. 83 83 (1963) Access to discovery defense may used defense for impeachment purposes including material to assist in cross-examination pursuant to Rule 806 of Federal Rules of evidence) with notes and writing were made a part of investigation not withstanding that the contents of said notes or writings may be incorporated in official records or memoranda whether disclosure of the notes is required under Brady v. Maryland supra or Title 18 U.S.C.

The defense relies upon United States v. Harrison 524 F.2d. 421 (D.C. Cir. 1975) the determination as to what constituted a

produced statement "under Jencks Act is for the Court and not the agent to make, rough handwritten discoverable" under the Jencks Act. the destruction of said notes after preparation of witness interview reports was not justifiable either on the grounds that preservation of the notes would impose an intolerable burden on investigation agency, or that all of the information was preserved in the report see also United States v. Maryland 476 F. 2d 1170, 1176 78 (DC Cir 1973 and United States v. Bundy, 472 F. 2d 1266 (DC Cir 1972). see United States v. Terrell, 474 F. 2d 872, 877 2d. cir 1973.

U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT already denied affirm Petitioner conviction, where Petitioner Sixth Amendment Constitutional rights to Access to the DISCOVERY that was used to charges him was denied violated under Fare-
the v. California, 422 U.S. 806 (1975)

U.S. COURT OF APPEALS affirm a conviction basis on that the Trial judge who was speaking basis Spanish LIES to Petitioner and make Petitioner believe that the DISCOVERY going to be translated to a SPANISH and was a LIES, Petitioner

see the LIES in request for the DISCOVERY in English as was denied anyway. the way Petitioner asking don't violated the Protected Order that Petitioner objected this PROTECTING ORDER anyway. but to someone Defendant's who don't even representing himself in trial & while Defendant's was allow to see his DISCOVERY the way Petitioner requesting in the MOTION see EXHIBIT-B. 3 MOTION REQUESTING TO ACCESS TO THE DISCOVERY, later the U.S. COURT OF APPEALS used the standby as an investigator to through them excuse the violation of the Access to the DISCOVERY that was used to charges Petitioner that violated Petitioner his Sixth Amendment Constitutional rights to representing himself. Farett v. California, 422 U.S. 806 (1975)

On Brady v. Maryland no one in the world can said that allow to representing himself without access to the DISCOVERY that was used to charges him.

The rights to self representation it is give to the Defendant's personally no to a standby or a investigator RULE is designed for the specific purpose of

evaluating a myriad of factual situation may nonetheless be dictated by Supreme Court precedent specifically the U.S. COURT OF APPEALS refuse to recognize *Faretta v. California*, 422 U.S. 806 (1975)

The Supreme Court's silence on particular issues need not prevent U.S. SUPREME COURT from identifying and applying the general governing principles to the case at hand")

Therefore, Petitioner GRANTED on *Faretta*, *McKaskle*, and their progeny, satisfies the statute's requirement that this CERTIORARI be GRANTED based on clearly established law.

The Court of Appeals ignored that what U.S. SUPREME COURT elaborated on *Faretta v. California* 422 U.S. 806 (1975)

The Supreme Court elaborated on this right in *McKaskle* the Court firmly established the broad parameter of self-representation

A defendant's right to self-representation plainly encompasses certain specific rights to have his voice heard. the Pro se defendant must be allowed to control the organization and content of his own defense, to make motions to argue points of law, to participate in voir dire, to question witnesses, and

to address the Court and the jury at appropriate point in the trial.

The Court don't follow nothing of all that.

Further, the Court pointed out in McKaskle that in case where a defendant's right had been violated, it would make no sense to analyze the violation under a harmless error "standard. The court observed that self-representation usually increases the likelihood of trial outcome unfavorable to the defendant" 465 U.S. at 177, n. 8 (emphasis added). Therefore, the Court implied the denial of the right would almost always be deemed harmless, and the right rarely vindicated. Id. To avoid this situation, the court asserted that "[t]he right is either respected or denied; its deprivation cannot be harmless" Id.

Thus, the McKaskle Court placed a Faretta violation in category of constitutional error known as a STRUCTURAL error, which is not amenable to harmless error analysis Id. Since McKaskle was decided the Court repeatedly reaffirmed the principle that denial of a defendant's Faretta right is a STRUCTURAL error See Arizona v. Fulminante,

499 U.S. 279, 310 (1990), *Neder v. United States* 527 U.S. 1.8 (1999); *United States v. Gonzalez-Lopez* - U.S. - 126 S.Ct 2557 2564 (2006).

The U.S. COURT OF APPEALS OPINION it is clear contrary to U.S. SUPREME COURT, the Trial Court after Petitioner already represented himself in other trial on from of the same Judge, who Petitioner filed MOTION TO DISQUALIFY APPRAISOR OF PREJUDICES AND BIAS EXTRAJUDICIAL CONFLICT VIOLATED PETITIONER HIS FIFTH, SIXTH AND FOURTEENTH AMENDMENT CONSTITUTIONAL RIGHTS TO BE PRESENT IN THE COURTROOM AND TO REPRESENT HIMSELF, and violated the Access to the DISCOVERY THAT WAS USED TO CHARGE PETITIONER.

For all the reasons expressed above, and it is UNDISPUTED that the Trial Court, violated Petitioner his FIFTH, SIXTH AND FOURTEENTH AMENDMENT CONSTITUTIONAL RIGHTS TO BE PRESENT IN THE COURT, ACCESS TO THE DISCOVERY AND TO REPRESENT HIMSELF.

Respectfully Submitted by, Leonel
Marin Torres # 36048 086.

this 19 day of MARCH, 2018

Leonel Maxim Torres

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