

U.S. S. Ct. case no. 17-8971
Az. C. D. A. case no. 1 CA-SA 17-0217

IN THE SUPREME COURT OF THE UNITED STATES

ALAN MICHAEL BARTLETT

Defendant - Petitioner

VS.

SUSANNA C. PINEDA

Plaintiff - Respondent

DEFENDANT'S PETITION FOR REHEARING
AND/OR REHEARING EN BANC

PETITION FOR REHEARING OF UNITED
STATES SUPREME COURT DECISION DENYING
DEFENDANT'S WRIT OF CERTIORARI

Alan M. Bartlett #T242560
3250 W. Lower Buckeye Rd.
Phoenix, Arizona 85009
Defendant/Petitioner - Pro Se

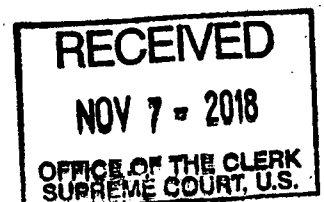


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(II)

DEFENDANT'S PETITION FOR REHEARING, AND / OR REHEARING EN BANC

Petitioner Bartlett petitions for rehearing, and/or rehearing en banc in light of landmark decision in U.S. vs. Nixon, 418 US 683 (1974), where the Court ruled that neither the separation of powers, nor the need to preserve confidentiality could alone justify an absolute executive privilege of immunity from judicial demands for evidence to be used at criminal trial, and under Rule 44, U.S. S. Ct.

I. INTRODUCTION

On October 1, 2018, this Court issued a memorandum affirming Respondent Susanna C. Pineda's, July 12, 2017 order quashing defense subpoena(s) for defense and prosecution witness interviews and requiring Court approval before any subpoena issue in this matter.

Accordingly, Bartlett hereby applies to this Court for rehearing and/or rehearing en banc, petitioning

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this panel to reconsider that decision for the following reasons:

a. no opposing brief was filed

b. the Court failed to create adequate record to support the decision denying the writ of certiorari

c. the trial court erred by disallowing Bartlett to conduct defense and prosecution witness interviews in violation of the 6th USCA, amendment of the United States Constitution, Compulsory Process.

d. the trial court erred by requiring approval before using subpoena power to obtain exculpatory and/or impeachment evidence in violation of the 6th USCA, amendment of the United States Constitution.

II. STATEMENT OF THE CASE

A. This is a fraud prosecution where Bartlett is accused of diverting corporate proceeds into personal accounts. The indictment contains the following charges:

- Count 1, Fraudulent Schemes and Artifacts (ARS 13-2310)
- Count 2-20, Forgery (ARS 13-2002)
- Count 21-22, Taking Identity of Another (ARS 13-2005)

B. In 2008 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 to employ the disadvantaged and disabled.

However, over time the business' experienced complex "charge back" frauds that he was unable to circumvent, and later dissolved. After reporting those sophisticated bank teller frauds to authorities, proceeds from business activities were turned over to Maricopa County on advice of Maricopa County Sheriff, Lt. Chad Brackman, in exchange for twenty-five year old restitution and fines.

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

III. LAW

Standard of Review

The United States Supreme Court's

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decision 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, Federal Rules of Appellate Procedure 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, October 1, 2018 decision to deny his petition for writ of certiorari deprives him of liberty interests and his 6th USCA and 14th USCA amendment rights under the United States Constitution. He contends that under Rule 35(b)(A), Federal Rules of Appellate Procedure, a panel decision conflicts with a decision of the United States Supreme 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

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address and consider the trial Court's decision to secure and maintain uniformity of the Court's precedents, and (3) provided inadequate reasons for denying his petition for writ of certiorari.

In this case, the Supreme Court conducted no inquiry into Bartlett's petition, nor make any consideration to secure and maintain uniformity of the Court's precedents. The denial of Bartlett's petition deprives him of liberty interests and violates his 6th USCA and 14th USCA amendment rights under the United States Constitution.

2. Brady vs. Maryland, 373 US 83 (1963)

In Brady, the Supreme Court held that suppression by prosecution of evidence favorable to an accused upon request violates due process where evidence is material either to guilt or punishment, irrespective of good faith or bad faith of prosecution. Bartlett argues that Respondent Judge Susanna C. Pineda violated Brady disallowing him to exercise subpoena power to obtain evidence and interviews that the state intentionally suppressed. Further,

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Respondent Judge Pineda issued orders on August 11, 2017, prohibiting Defendant from serving any further subpoenas without a Court order.

b. Giglio vs. U.S., 405 US 150 (1972)

In Giglio, the Supreme Court held that the prosecution's duty to present material evidence to the jury was not fulfilled in violation of the 14th USCA amendment of the United States Constitution when defense counsel uncovered new evidence the Government intentionally suppressed. Bartlett argues that the prosecution's efforts to restrict his defense by suppressing favorable exculpatory and impeachment evidence violates the Supreme Court's precedent Brady and Giglio.

c. Milke vs. Mroz, 236 Ariz 276 (2014)

In Milke, the Arizona Court of Appeals held that the prosecution's motion to quash Defendant's subpoena for exculpatory and impeachment evidence was a direct violation of Brady and Giglio. Bartlett argues that Respondent Judge Pineda and the Supreme Court's decision denying his petition for writ of

certiorari is implausible and conflicts, stare decisis, with the binding precedent of the Supreme Court and the Court to which the petition is addressed.

Bartlett contends he is being denied his 6th USCA amendment right under the United States Constitution to bring forth material evidence he considers appropriate to prepare an adequate defense and that the prosecution's intentional suppression of evidence necessary to present such a defense will no doubt result in a miscarriage of justice, convicting one who is more likely than not, innocent of any charges the prosecution filed against him.

II. CONCLUSION

The prosecution relies upon *Corpender vs. Maricopa County Superior Court*, 176 Ariz 486 (1993), where the Arizona Court of Appeals held that to obtain records from an investigating agency, the defendant was required to request

the prosecution disclose reports, or move for Court order directing investigating agency disclose reports, and thus could not subpoena without the state. Bartlett argues that those orders are unsupported by precedent - state decisis, and violate his 6th USCA and 14th USCA amendment rights under the United States Constitution because the Court denied his motions for production of relevant evidence, and when the prosecution was ordered to produce, the state refused to disclose certain exculpatory and impeachment records to him. If the prosecution will not allow Bartlett to bring forth evidence of innocence, then why would the state convict him.

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

1. vacate Respondent Judge Susanna C. Pineda's, July 12, 2017 and
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August 11, 2017 orders prohibiting Bartlett from serving subpoenas without a Court order.

2. remand to the Arizona Court of Appeals with instructions consistent with this petition to secure and maintain uniformity of United States Supreme Court precedents.

DATED this 31st day of October, 2018,

Alan M. Bartlett
Defendant / Petitioner Pro Se

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