

No.

24-7156

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

FILED

DEC 23 2024

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Michael S. Main — PETITIONER  
(Your Name)

vs.

People of Illinois — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

2<sup>nd</sup> District Appellate Court of Illinois  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael S. Main 455067  
(Your Name)

600 S. Linwood Road  
(Address)

Galesburg, IL 61401  
(City, State, Zip Code)

                      
(Phone Number)

## QUESTIONS Presented

- 1) When a claim of ineffective assistance of counsel is raised to a court, what is the least that court may investigate into the claim prior to dismissal of the claim?
- 2) <sup>Is there some hard</sup> ~~What is the~~ limit as to how many legitimate claims of ineffective assistance of counsel may be raised before a court may dismiss the claim with no inquiry or investigation?
- 3) When a judge has "personal knowledge of disputed ~~facts~~ evidentiary facts [which are] concerning the proceedings, may that judge preside over a hearing on the disputed facts?
- 4) Whether a judge should have recused himself or not, if no petition for substitution is filed, is any appellate review of the decision available to challenge that decision?

- 5) If a defendant files non-frivolous claims of Ineffective Assistance of Counsel in a post-sentencing motion (i.e. a Kravetz motion), does the defendant have the right for an effective preliminary inquiry?
- 6) In situations like question #5, when the defendant has asserted the right to be present (in person or video), so that he may present the merits of said I.A.C. claims, does that defendant have some right to be present?
- 7) Is it allowable for a judge to perform an adequate inquiry - without reading the motion for I.A.C., and without some dialogue on the record with the attorney who is complained of, or the complainant (defendant)?

## 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:

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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 ~~FD~~ D to the petition and is People v. Mann,

☒ reported at 2024 IL App(2d) 230061-4; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the \_\_\_\_\_ 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.

## 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 9/25/24, or 10/30/24  
A copy of that decision appears at Appendix E.

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

## STATEMENT of the Case

Petitioner was charged with six counts 720 ILCS 5/11-1.40(a)(1) and eleven counts 720 ILCS 5/11-1.20(a)(3). The 19<sup>th</sup> Judicial Circuit tried him by jury which found him guilty and sentenced him to 120 years imprisonment.

Petitioner asserts here three main issues which the courts have entered rulings which conflict with federal constitutional rights. And he seeks this honorable courts rulings thereon.

### I

During a attorney <sup>(Jed Stone)</sup> withdrawal motion, <sup>on 10/16-17/2019</sup> which was opposed by both the State and the Petitioner, the attorney sought an off record ex parte discussion in camera to "explain in more detail" about what he calls an "inescapable and irreversible conflict". The court invited him to <sup>(Stone)</sup> take part in an ex parte, in camera discussion if it was "something embarrassing". The attorney responded "I don't think it's embarrassing, I think it involves a confidence given to me by my client that creates a conflict that I don't want to share with the people who are in the written pleading." The petitioner sought to be present at that event, but the court refused him.

This event and the proceedings around it are a recurrent issue herein because: a) the defendant prepaid in full attorney of nearly three years, abandoned his clients interests in the in camera, ex parte event, and instead only pursued his own interests,

## Statement of the Case

b) the meeting occurred over defendant's objection to be present, with only the court, the state (at least one A.S.A.) and defence counsel, c) no waiver (such as for a 402 plea conference) was sought or given, d) the discussion was not recorded in any way for the record, ~~and~~<sup>e)</sup> the contents have been represented very differently by each of the participants, f) in particular the judge has varied his testimony (from the bench) greatly, one time saying "Mr. Stone related to me, maybe not in great detail, the nature of the conflict and in view of the fact that there are ethical considerations here, and I do recognize them, and they are present, they are vivid so to speak, I have no other choice but to permit Mr. Stone to withdraw," (10/17/2019), and saying later g) on 10/11/2022, that he recalled that day "Absolutely positively one hundred percent, (pg 21 lines 19-22), and "Because it would have been embarrassing to you and everybody else if it were to be discussed in open court," (p22-lines 6-8), "It was discussed in confidence, okay? That's why I am not airing it. But there was a real conflict that your attorney had. You put him in that real conflict," (p22-lines 14-17), "Let's put it this way: I believed Mr. Stone" (p22-line 22-23), and "your attorney spared you the embarrassment, okay?" (p23-line 11), and "I cannot make somebody represent somebody when they have a conflict, okay?" (p23-lines 16-17), on this day (on 10/11/22) the judge clearly misrecalled every other fact that defendant asserted from the 10/16-17/2019 court event.

— note that on 7/18/22 pgs 11-14 the court also recalled very different

facts from the real facts that are on the record on 10/16-17/2019

my transcript is  
not located yet  
from my transfer

h) ~~At~~ ON 10/11/22, in the afternoon session, the hearing continued with the court stating: ~~that~~ "But since he was your attorney he chose not to put it on the record. And I'm telling you at this point it could have been detrimental to your case and/or embarrassing to you." (p 7-lines 7-10), then "Sir, whatever Mr. Stone requested to tell the court in confidence [...] even though I haven't said to you what Mr. Stone told me, [...]" (p 7-lines 14-18), i) then on page 9, lines 5-13, the court misrecalls that ~~the~~ <sup>the defendant</sup> did seek to be part of the in camera event, then insists that "Mr. Stone, who was your attorney, didn't want you there because he would have embarrassed you." j) the court went on with what was being called a Krankel hearing, well beyond the Krankel preliminary inquiry guidelines where after the defendant presents the 'gist' of a valid ineffective assistance claim, conflict counsel is to be appointed, but the court refuses to follow that rule, forcing the defendant to prove (too high of a burden) his claims outright, pro se, and refuses to allow the defendant to respond to counsel's claims, which do include incorrect facts and laws, even asserting an opinion of fact prior to her appearance as counsel for defendant at a hearing that she was neither part of, nor present for (10-17-19) re: Stone withdrawal

It is unconstitutional for the State of IL to have the established Common Law Krankel procedure for all defendants, and then to exercise its function so arbitrarily to this defendant, by this judge, in these particular circumstances.

On 10/26/2022, after refusing to took at, or let me speak to, or file any further Krawkel issues, ~~at~~ The public defender wrote a fast ineffective assistance of counsel motion that was aimed at Stone re: his withdrawal. This was loosely based upon one of the issues in the Krawkel #4, and #5 that I was trying to file where I said it was ineffective for my public defender to not raise this issue to the court.

But her motion, of course, did not address her ineffectiveness, only Stone's, and did not raise any of the other non-frivolous issues from defendants Krawkel motions which remain un-addressed in the court to this day. (See 10-26-22 transcripts for nearly the whole PM session) (and see Krawkel #4, #5, and Raich "Supplemental Motion Alleging Ineffective assistance of Counsel, filed in court at PM session of 10/26/22).

When a judge has testified from the bench about contested substantive facts, and after testimony from another person (Stone) is presented, said judge <sup>then</sup> changes his testimony substantially. a) is it judicially tolerable for that judge to rule over the same issues that he testified (both ways) to? b) Can any attorney (defendant's p.d.) who witnesses this, and raises no objection (over defendant's protests to her) and refuses to raise a substitution of judge petition be considered effective, when if she had, at least the appellate court would have considered the <sup>court's</sup> propriety, and really, the circuit court should have substituted him if she had. c) does such a judge have an obligation to recuse himself, and d) is the responsibility of a judge to recuse <sup>on his own</sup> exempt from any review?

While the appellate defender conceded that the judge was not made aware of a 'motion to recuse', or a 'petition for substitution', a) the defendant stated several times that the judge had been biased by the in camera ex parte meeting during his Krankel inquiries and in his Krankel motions, being as the goal of Krankel is to create a record does not the prose allegations count in this respect? b) In particular in Krankel #6 and #7 he specifically said his public defender had performed ineffectively due to not filing a petition for substitution for cause about this, c) Certainly that is not a below frivolous claim - if the court would have read those motions, no rational unbiased judge (or any reasonable person) could call that frivolous -

It is unreasonable for the 2<sup>nd</sup> District to rule that the circuit court performed a compliant Krankel inquiry without reviewing the facts de novo, if they had read the filed Krankels 6 & 7, they could not consider each and every issue raised as frivolous. As well, the trial counsel <sup>that was</sup> complained of was not available in the court to have any discourse with the court. And the new counsel did not raise the issues at all in any specificity, he only raised that the defendant must be available (in person, or video, both were requested) in order to present the defendants issues. The standard is de novo review, but de novo review was not performed, or was somehow performed wrongly.

Because it is clear that the Krankel motions were not heard, or read, they were not resolved on the merits and await a compliant hearing which divests the 2<sup>nd</sup> Dist. from ever acquiring jurisdiction to hear the matter since they are post-trial motions which await proper resolution in the trial court, thus no final motion has ever been entered in the matter.

## REASONS FOR GRANTING THE PETITION

- 1) The 2<sup>nd</sup> District set new <sup>poor</sup> precedent which is not compliant with the U.S. Constitution as it pertains to Ineffective assistance of counsel claims being able to be refused to be read, or considered in any way, or with any aspect of the claims being entered into the record for appeal. Doing so while the attorney being targeted is not available to the court and refusing to hear anything from the claimant (defendant) by refusing to even have him available by video. Allowing the I.A.C. claims to fall on deaf ears, and not be presented in the record for review.
- 2) The 2<sup>nd</sup> District set new poor precedent which is not compliant with federal minimums, by declaring that a judge who is not the target of a substitution petition or motion to recuse, cannot have their decision to remain on a case or rule over a hearing <sup>reviewed in any way.</sup> - Even when the judge testifies from the stand about disputed facts that he has improperly obtained.
  - Especially when his testimony changes after hearing other testimony (from same).

Stone was ineffective by advocating for himself, leaving me unprotected at a *ex parte* meeting with the judge and A.S.A. where defendant lost 6<sup>th</sup> Amendment right to counsel at a critical time where rights were lost and bias/prejudice was created and did affect the rest of the proceedings in an unlawful way. On 10/16-17/2019, Stone asks for *ex parte*, in chambers meeting - if the court needs him to

"explain in more detail" about what he calls an "inescapable and irreversible conflict" which he alleged had risen between Stone and defendant and that all efforts to resolve the conflict had failed. Stone explained that "I don't think it's embarrassing, I think it involves a confidence given to me by my client that creates a conflict that I don't want to share with the people who are in the written pleading."

- But who did this not get shared with? Only the defendant and the record. The judge, Stone, and at least one ASA were all in that clandestine meeting. Why was it even performed? ~~The defendant~~ <sup>he</sup> did not give any permission for it such as a settlement conference (401, or 402).

The defendant was kept out, after <sup>objecting to</sup> requesting to attend, obviously the only person "in the written pleading" with whom the conflict was not shared with on the record, or in chambers, is Stone's client - the defendant, who is supposed to be informed, but is not.

Assuming *arguendo* Stone's statements are valid (which defendant <sup>remains opposed to</sup> still does not do), his statement of "I've evaluated the case, evaluated the evidence, offered the defendant my advice. He has rejected that advice. I don't know what else to do."

- But the defendant only has the right to expressly reject certain advice, essentially - to accept a plea deal or go to trial, to have a bench or jury trial, and to testify or not to testify, the rest is Stone's domain.

- If any of those are the complained of "conflict" that had to be explained in more detail as the basis for his withdrawal, why wouldn't the defendant be allowed to know exactly what was said in chambers to the judge and at least one ASA, so that he could fairly confront whatever allegations are 'actually made'.

~~However~~, ~~As well~~ Based upon ~~the~~ defendant's statements at the time, the elements of a Krawinkel complaint were met, and the appointment of Krawinkel counsel at that time would have protected the defendant's Constitutional right to have counsel in the clandestine meeting which was relinquished by Stone, the Court, and the ASA, but, importantly was NOT relinquished by the defendant - even to the point of trying to go into the meeting on his own to defend that right himself. But, as will be shown later, the court did NOT know and apply proper Krawinkel law nearly anytime in this matter.

Stone asserts that his duty to the court and to his client "may come into conflict if there is a trial." And that Stone "cannot put him on if he says what 'I think' he is doing to say." and 'I don't want to be any part of it.'"  
~~These~~ <sup>unsubstantiated</sup> These self serving statements do certainly lead the court and the ASA to believe that Stone is asserting that the defendant will perjure himself on the stand. Clearly this 'on the record statement' is biasing to the defendant in itself, <sup>and may have been enough for the court to direct to a new trial with</sup> yet the court was not satisfied with that and <sup>ordered</sup> ~~wanted~~ the in camera meeting to take place prior to coming to any decision, so that Stone could "explain in more detail" without "sharing" with the people who are in the written pleading, i.e. his client and the record.  
- Certainly, allowing the heavily contested <sup>(by both defendant and the State)</sup> late withdrawal (34 day before trial) <sup>three years into the case</sup> did NOT change the only elements which the defendant could dictate how to proceed on, New counsel does not change that, it only <sup>creates</sup> delays, ~~while~~ denying defendant his paid in full counsel of choice, and forces him to accept the overworked public defenders appointment, the exact scenario he was most opposed to.

After the in camera meeting, Stone revealed that he had spent considerable thought about being able to withdraw, that he had consulted with two attorneys and "came to the conclusion that I had to ethically file this motion," - How can this statement even be true? Only if the defendant had lied on the stand, or something similar, which could not have already happened, and even if it was speculated, that is not enough to 'require' him to file the motion.

The truth is that defendant never asserted that he would lie, and certainly never insisted such. No, Stone wanted him to 'take the deal' or pay more money, that is the real 'conflict' because the defendant made it clear to Stone at engagement that a high-plea was not an option, and that he had no more money available, Stone agreed to take the case through trial, if need be, for the set sum of \$30,000. When it became clear that it was headed to trial (not a plea) he sought more money from defendant who did not have any more to give. The next <sup>few</sup> days defendant was served with the <sup>surprise</sup> withdrawal motion, and a court date was now set for the ~~next~~ day after that. Which <sup>led to</sup> ~~was~~ an illicit off-record meeting, where Stone ~~was~~ <sup>advocating</sup> for himself, not his client (a true <sup>but self-inflicted</sup> conflict...), the defendant was for all intents and purposes, unrepresented, <sup>and thus</sup> ~~he~~ he lost his pre-paid attorney of choice. ~~This~~ <sup>illicit</sup> meeting does ~~not~~ create bias to the defendant. ~~about~~ ~~about~~ He is unrepresented at it, lost counsel of his choosing due to it, was kept in the dark about its content, was prevented from participating in it and the judge and state were <sup>all</sup> ~~parties to it~~ <sup>Stone,</sup> willing ~~to~~ <sup>to</sup> participate in it, ~~and~~ the defendant's rights were not preserved and <sup>indeed</sup> were violated by all three (or four) participants.

After the illicit meeting, the court stated: "Mistone related, maybe not in great detail [<sup>maybe, possibly, but not certainly</sup> ~~what does that mean?~~], the nature of the conflict and in view of the fact that there are ethical considerations here [<sup>nearly always</sup>] and I do recognize them and they are present, they are vivid so to speak, [<sup>vivid: 2: BRILLIANT, INTENSE 3: producing a strong impression on the senses; esp: producing distinct mental pictures (Miriam Webster's Dictionary and Thesaurus @2020)</sup>], I have no other choice but to permit Mr. Stone to withdraw."

While the court may well have the discretion to permit Mr. Stone to withdraw, <sup>even without the illicit meeting,</sup> to assert that the court has "no other choice" is to assert that the court did not have any discretion in the matter. Yet, <sup>the</sup> ~~the~~ supreme court <sup>of Illinois</sup> ~~has~~ held: "There is error when a trial court refuses to exercise its discretion in the erroneous belief that it has no discretion as to the question presented." (People v. Queen, 56 Ill. 2d 560, 565, 310 N.E. 2d 166 (1974). See also People v. Partee, 268 Ill. App. 3d 857, 869, 645 N.E. 2d 414, 206 Ill. Dec. 409 (1994) ("Where a circuit court erroneously believes that it has no discretion in a matter, its ruling on a matter requiring the exercise of discretion must be reversed on appeal where it palpably fails to exercise that discretion") as cited in People v. Smith, 2019 IL App (2d) 160620-U @ P11)

Here, although a person who happens to be a lawyer is present at the meeting, who is supposedly ~~not~~ representing the interests of the defendant, it is clear from the record, that the defendant was not represented as he is entitled to be at this hearing and the ex parte meeting, to the point that it is difficult to distinguish <sup>Defendants</sup> ~~Defendants~~ <sup>Evits v. Lucy, 469 U.S. 387 (1984);</sup> ~~Defendants~~ <sup>Evits v. Lucy, 469 U.S. 387 (1984);</sup> from that of someone who had no counsel at all. Cf. Anders v. California, 386 U.S. 738 (1967); Entsminger v. Iowa, 386 U.S. 748 (1967).

Here, Stone's limited on-the-record testimony implied that the defendant would perjure himself if he testified, <sup>and</sup> ~~but~~ the defendant asserted a very different set of facts,

When the Court held the ex parte in camera meeting and it is obvious from the record that more was said by Stone 'against' the defendant, ~~But~~ the defendant was deprived of any <sup>meaningful</sup> opportunity to 'defend' against the statements made in that off-record ex parte meeting. Due process cannot be complete when the facts are kept from defendant, exposed to the court and the state, and the off-record statements are the basis for the court's ruling. The Court applied the rules ~~mechanistically~~ mechanistically to defeat ~~the~~ due process,

And yet, the state claims that no error occurred at all. The defendant asserted later that his appointed public defender told him several months later that the ASA had told her that Stone did break privilege in the meeting, but that she did not want to be part of it, that in order for her to tell ~~him~~ <sup>him</sup> any more that ~~he~~ would have to subpoena her for her testimony. In other words the ASA that was in that meeting was aware that improprieties occurred in that meeting, but because they were favorable to her ~~desired~~ <sup>desired</sup> outcome, she did not report it, and though she told <sup>defendants</sup> ~~of~~ P.D., she did not want to be part of it either.

Yet in 2006 the SCOTUS said ~~it~~ "We have little trouble concluding that erroneous deprivation of the right to counsel of choice," with consequences that are necessarily unquantifiable and indeterminate, unquestionably qualifies as 'structural error.' " (United States v. Gonzalez-Lopez 548 U.S. 140, 150).

'Deprivation of the right is "complete" when the defendant is erroneously prevented from being represented by the lawyer he wants, regardless of the quality of the representation he received.' Id., at 148

In other words, not only was there error, but that error is clearly structural error, and this is the point at which the trial court must be remanded to in order to provide any semblance of a fair and just tribunal in the circuit court.

- 1) Booras's announcement that he "had no choice" proves that he did not exercise his discretion, but somehow believed that he had no discretion to exercise. This is a "structural defect."
- \* See *United States v. Gonzalez-Lopez* 548 U.S. 140

2) Indeed, Booras may have had the 'discretion' to allow my choice of counsel to withdraw, yet he performed improperly because:

- a) any reason for <sup>allowing the</sup> withdrawal should have been presented to me, and here it was NOT, and
- b) No back room meeting was required for his discretion to be used, and
- c) if the back room meeting was to take place, defendant, or some counsel who was representing the defendant, should be able to attend, and
- d) Stone entered that ex parte meeting while abandoning his client, and
- e) Stone only represented his own interests at it, and
- f) defendant was unrepresented at a critical time - where he did lose constitutional rights (to counsel, counsel of choice, and to be present) and,
- g) bias and/or prejudice did result from the meeting
- h) upon re-convening the next day Booras announced that he "had no choice" but to allow Stone to withdraw,
- i) but he did have a choice, he had the discretion to choose,

The 2<sup>nd</sup> District erred in ruling that this ~~Booras~~ <sup>Booras</sup> refusal to recuse himself is entirely unreviewable in any manner is untenable, in that it allows the judge to sit on a case even where his participation deprives the defendant of a fair trial. This result is impermissible under the due process clause of the US Const. See *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009) (reversing judgment of the Supreme Court of Appeals of West Virginia on federal due process grounds where one of the participating judges should have recused himself but did not), As discussed in re Marriage of O'Brien 2011 IL 109039 @ P122 (concur by Garmin; Karmeier)

"[T]he rest of the rules is intended to govern conduct of judges and to be binding on them." Ill. S.Ct. Rules Preamble, Code of Judicial Conduct (eff. Aug 6, 1993). ~~Not only does the code obligate judges to conform their own conduct~~ <sup>to the</sup> ~~they to "take or initiate standards set forth therein."~~ <sup>requirements</sup>

To bolster this argument, ~~the code was updated~~ <sup>an updated version of the code</sup> was adopted July 1, 2022, eff. Jan 1, 2023 (now Ill. S.Ct. R. 2.11.) 2.11 (A) "A judge shall be disqualified in any proceeding <sup>in which</sup> (1) the judge has [...] personal knowledge of facts that are in dispute in the proceeding." [...] Comments [1] Under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A)(1) through (6) apply. [...] [2] A judge's obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed." (underlines added).

While defendant does concede that his counsel did not ask Booras to disqualify himself or move for substitution for cause, in defendant's Krankel motions he did assert several times that his counsel was ineffective for that reason and did directly tell Booras that the <sup>Ill. S.Ct.</sup> Ex Parte in camera meeting did bias him (Booras), the ASA, and his p.d. Further still he raised the issue in at least one Krankel motion that the ASA may well of had a duty to report both Booras and/or Stone based on that meeting. <sup>I respectfully request</sup> - It is disingenuous for the state to claim defendant did not raise such claim, <sup>for Krankel</sup> when the

The updated Rules of professional conduct help clarify that the rules are binding and ~~which are not a basis for civil or criminal charges~~ are meant to be considered <sup>"whereas not"</sup> ~~where~~ a motion <sup>for review</sup> is ~~not~~ presented. If the words "must" or "shall" had only been in the comments, it would have been up to the judges discretion, but because they are in the rule itself - 2:11(A)(2) it is mandatory by IL Sup Ct Rule that the judge is disqualified when the following applies "or acts as a witness. -"

---

It is clear that my counsel's representation fell below in when asked how to move for his ~~suppression~~ for cause and she instead says that is not happening today.

Certainly it is not a frivolous action, but one with a clear legal basis - Kramel counsel should have been ~~apprehended~~ and an inquiry held.

---

This shows Board's lack of understanding the current Kramel considerations, precluding the appellate court from presuming he knew the law

The General Assembly has determined that in certain situations addressed by Supreme Court Rule 63 ~~(2.11)~~, now 2.11, the appearance of impropriety is so manifest and easily identifiable that a substitution of judge may be awarded ~~to~~ without the application of either party or to a different judge for consideration (735 ILCS 5/2-1001(a)(1) (West 2006)). These are situations in which the judge is a party or interested in the action, or his or her testimony is material to either parties to the action, ...  
(see O'Brien p 121)

Essent that this claim alone, (while not the only meritorious claim) proves one of two things, either he did not read the motions (as he stated) or he performed improperly to deny my right to effective counsel and an unbiased arbitrator. Either way, my constitutional right to a fair tribunal according to the laws was violated, and the result must not stand.

I even raised the issue of his errant rulings in my 16 motions because my counsel was ineffective for not correcting the record, and investigating into the issues that I presented.

While rule 63(a) is the self regulation of the judiciary, it ~~is~~ toothless if clear violations are subject to NO review whatsoever.

*was cited by the 1st Cir. in its refusal to comply with rule 63(c)(2)(a)*

The O'Brien ruling focused on one aspect, which is rarely, if ever, clear: 'personal bias or prejudice of a judge ~~to~~ concerning a party or a party's lawyer'. And I do <sup>while</sup> assert that bias has been shown in the course of <sup>my</sup> ~~dispute~~, it is important here to note that rule 63(c)(2)(a) has a second part which is subject to clear interpretation: "or personal knowledge of disputed evidentiary facts concerning the proceeding;"

Once Booras held the Stone hearing on <sup>quasi-knowledge</sup> ~~disputed~~ personal knowledge of disputed evidentiary facts concerning the [focus of] the proceeding. ~~The~~

The record shows that prior to the hearing (a quasi-knowledge hearing) the judge ~~esp~~ stated that he recalled very vividly that Stone told him why he wanted to withdraw, adding that it was embarrassing [to me] and may well have been (misconduct??) if Stone was NOT allowed to withdraw. *malpractice* *let Stone withdraw*

Then, after Stone testified, <sup>Booras</sup> ~~he~~ altered his "testimony" to fit the facts as Stone had just said, That no details were said (quote...) by Stone at the "in camera" meeting with the ASA(s), Stone, and Booras; where I was <sup>(altered to be)</sup> ~~not~~ present no record was ever made and Stone was clearly in conflict because he was not representing me, he was representing himself. ~~This left~~

This left me <sup>completely</sup> unrepresented at this meeting with no record, and very disputed facts as to what actually transpired at it, and it seems that Stone may very well have broken the attorney-client privilege along the way. Importantly, my p.d. was 'appointed' by Booras to <sup>have</sup> be my 'Krawinkel counsel' for the hearing, but she refused to assist me in any way due to her OWN conflict (she had been told by an ASA what had been said at the meeting, but did not wish to be involved with it all, and told me I would have to subpoena her to get a complete statement from her), this meant that as Krawinkel Counsel she completely abdicated her responsibility per Krawinkel.

Clearly, this hearing was a critical moment in my case and even though I had Stone and Raich in the courtroom, I was left without any counsel in it while the judge testified from the bench and then <sup>testified</sup> ~~altered~~ that

Changing his ~~story~~ testimony after hearing what Stone said happened.

Either, the 2<sup>nd</sup> district ruled incorrectly, or my appellate counsel was ineffective in his brief, or both.

Irregardless, when a judge testifies from the bench about a personal knowledge of disputed evidentiary facts concerning the proceeding, and then he alters his testimony of those same facts after someone else's testimony, is his disqualification as a judge over the contested hearing completely unreviewable?

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While my Appellate Counsel seems to stipulate that Booras was not asked to recuse, and that my trial pd. did not seek substitution, I did in my <sup>motion</sup> ~~heard~~ <sup>inquired</sup> state that Booras was biased by the <sup>inclusion</sup> ~~events~~, and asserted that the ASA had a duty to report him for it, and in my (5, 6 <sup>and 7</sup>) k, part of my claim was that my trial pd. was ineffective for not filing a motion seeking his substitution for cause. If, ~~as the 2<sup>nd</sup> district ruled~~, he really did read it, this claim clearly was frivolous, and should have been developed for the ~~record~~ <sup>record</sup> on Appeal.

The 2<sup>nd</sup> Dist. erred in its ruling when it presumed that the Ky. Board is presumed to know <sup>Krankel</sup> the law, <sup>because</sup> where the record clearly refutes that this knew the laws that pertain to the "~~Krankel~~" ~~process~~ common law practice in Illinois for a defendant to assert that his counsel has performed ineffectively, i.e. "Krankel".

The record shows that he repeatedly misstates the laws that pertain to "Krankel" and misrecalls facts in this case, and used the misstatements of law and misrecalling of facts as bases to rule <sup>errantly</sup> on meritorious issues.

Rulings which are based upon mistakes such as these, ~~clearly are~~ errors, Because these errors clearly caused my constitutional rights to be violated and caused "consequences that, are necessarily unquantifiable and indeterminate" they qualify not only as errors, but as 'structural error', <sup>see</sup> *U.S. v. Gonzalez-Lopez* 548 U.S. 140, 148-50 (2006)

Booras showed conclusively that he cannot be presumed to know the law as it pertains to "Krankel" and its progeny. He repeatedly refused to follow the laws established in the long line of "Krankel" - A.C. caselaw. <sup>The record displays</sup> ~~See~~ <sup>as a general circuit with many Krankel errors and blocks them from any action</sup> ~~See~~ TRANSCRIPTS of 10/19/22 - pgs 5-6, and 10/26/22 - pages 1-12 where he <sup>as a general circuit with many Krankel errors and blocks them from any action</sup> his (ignorance or willingness to ignore) Krankel precedents, <sup>Something more than</sup> ~~just~~ that, presuming ~~that~~ making any presumption of his competence,

It is clear that neither Booras, nor the 2nd District ~~did not~~ <sup>#4, #5</sup> read my submitted Krankel Motions #6 & #7, because if they had, and they took Krankel's mandates seriously, at least some of the listed items of ineffectiveness in my 9 page and 35 page motions are indeed new and NOT Frivolous. Further, to claim that any motion at the late stage is for dilatory purposes is ridiculous. To NOT address them in the trial court is the dilatory act, merely kicking the issues down the road to be litigated later and then ~~brought back~~ <sup>renewed</sup> back to the trial court years later <sup>with time decaying recollections and burdens being raised, while options for assistance are lesser.</sup>

I also take <sup>strong</sup> offense to the judge stating that I would take any opportunity "to orate so to speak". This shows that even in the context of (Krankel/IAC) claims, the judge believes that I (the defendant) has NO voice in his court. He says this in a way that orate is clearly a negative comment in his eyes, when it essentially means to speak on a topic.

How am I to otherwise bring my issues to the court when the judge refuses to accept or read my motions, I must speak!

An individual's right to procedural due process (6th and XIV, §1; K.L.M. 970 at 11) entitles him to the opportunity to be heard at a meaningful time and in a meaningful manner." In re Dub, 214 Ill. 2d 289, 316, 821 N.E.2d 466, 490, 98 Ill. 2d 937 (2005) 38  
See also People v. Stoecker 2020 IL 124 007, 121 N.E. 3d 231, 2020 IL 124 555; 450 Ill. 2d 20

~~As it pertains to~~ The <sup>5:00 PM</sup> "quasi-Krankel hearing" on 10/26/22  
starting in AM, but held in PM court

Was seriously flawed for the following reasons:

a) I had prepared a pro se Krankel Motion, ~~the~~ and informed my attorney about some "titles only" of the issues it raised, and

b) without any discussion, we spoke for about 1-2 minutes total here, she raised to the court that I had a motion (Krankel) which was alleging ineffective assistance of counsel, and

c) When she notified the court of my motion, Booras had only one question to her, "do you agree with... it?", to which she (Raisch) stated that I (the defendant) had NOT presented his issues to the court.

d) Booras clarified that he was only trying to determine that the motion was frivolous, so did she agree with the allegations in the motion (which she had not seen or discussed any merits with me), Booras also did not see the motion.

e) At this point she (Raisch) stated "I can only say that I do not believe I have been ineffective" (quote)

f) Booras then stated "that is the gist of Krankel isn't it" (quote), I find the motion to be beyond frivolous and will not allow him to file it, and moved on to other issues.

However, after we broke for lunch, Raisch came back with a motion based loosely on ~~my~~ <sup>the issues I had raised in</sup> one of my Krankel ~~in camera~~ motions. That I lost <sup>my right to</sup> counsel of choice in the meeting in camera with Stone, and the following occurred:

- a) after a brief colloquy with the court, Booras considered Raisch's motion to be a Krankel motion, and
  - b) that because it was not attacking Raisch, she would be my "Krankel counsel", and
  - c) while she did not refuse the position, she stated that she was in conflict (or?), and
  - d) she told me I had to argue it (her Krankel motion) on my own, and
  - e) she did not aid me in any way at all as I had to argue about ~~one issue, not all of my~~ these important issues of her motion, and
  - f) I again tried to assert my own Krankel motion, as it had enough merit that it prompted Raisch's very late raising of her "quasi-Krankel motion", but Booras would not allow me to do so at all.
- \* ~~Raisch~~ Raisch as Krankel counsel was entirely ineffective, so much so that it is as if I had no Krankel counsel in a hearing where I was essentially pitted against one of the best lawyers in Lake County, Jed Stone, and that my judge was a witness to ~~the (and the investigation of)~~ the "in camera" meeting ~~at in~~ question. <sup>(and willing participant of)</sup>
- a) She did write the motion that became a "quasi-Krankel motion", and
  - b) she was appointed as Krankel counsel, and did not refuse the appointment,
  - c) she then did not investigate anything else I had in my Krankel motion and effectively abandoned the rest of my non-frivolous issues.

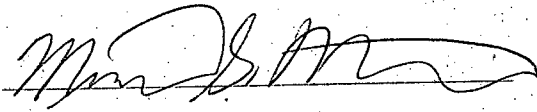
- d) most of the rest of my claims included her, so a conflict is implied, which is why she should not be my Krankel counsel, and
- e) she did not aide me one iota to prepare or argue or object or anything else, she sat <sup>next to me</sup> as a spectator only, and
- f) I was conflicted about how to deal with the info she had told me in the past, that the ASA that was in the "in camera" meeting told her that Stone had divulged confidential client communications to the participants of the contested meeting. Also telling me that to find out any more I would have to subpoena her (she told me this  $\pm$  2 years ago) as she did not want to get in the middle of it. Leaving me in the awkward position of subpoenaing her and alienating her even more than I already had, or ~~trying to keep her from~~ <sup>NOT, so as to keep her</sup> "alligience" going further, and
- g) I had nobody to consult with about any of these issues, because she would not, and yet she was both my appointed public defender and my appointed Krankel counsel, and

These issues congealed together to create a "quasi-Krankel" hearing against a top-tier attorney, in front of a judge who ~~was the~~ <sup>participa</sup> ~~person who orchestrated~~ <sup>IN</sup> the improper and unneeded "in camera" meeting, and who clearly had personal knowledge of ~~contested facts~~ disputed evidentiary facts concerning that proceeding. A judge whose testimony from the bench changed significantly after the testimony of Stone. All while I had Krankel Counsel that did not investigate my claims, and did not raise the rest of my claims, as they were against her. Nor did she ~~at~~ perform any Krankel counsel actions, instead requiring me to argue on my own without prep or assistance.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 4/14/25