

STATE OF WISCONSIN

FILED

SUPREME COURT

OCT 31 2024

CLERK OF SUPREME COURT
OF WISCONSIN

State of Wisconsin, Respondent,

v

APPEAL NO: 2021 AP 1636

Richard Hoeft, Petitioner,

PETITION FOR REVIEW

Submitted by: Richard Hoeft
PO Box 462
Park Falls, Wis. 54552

STATEMENT OF THE ISSUES

- 1.) If a Petitioner wants to represent himself at the initial appearance, Do they automatically waive the right to counsel later in the proceedings. The Trial Court, and the Court of Appeals ruled against Petitioner on this Issue.
- 2.) The Petitioner was denied his right to a fair trial When the Respondent motioned to have Petitioner held in contempt 20 minutes before the trial. The Trial Court, and the Court of Appeals ruled against Petitioner on this Issue.
- 3.) The Petitioner was denied his Constitutionally right to a fair trial, when the Respondent failed to turn over to Petitioner evidence favorable to his defense. The trial court, and the Court of Appeals ruled against Petitioner on this issue.
- 4.) The Petitioner was denied his right to a fair trial, when the trial court denied Petitioner's motion for a continuance on the morning of the trial, based on the Respdent's failure to disclose evidence favorable to the defense. The Trial Court ruled against Petitioner on this case, BUT THE COURT OF APPEALS REFUSED TO RULE ON THIS ISSUE.

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<u>Strickler v Greene, 527 US 263, 281-82 (1999),</u>	3

STATEMENT OF CRITERIA

As for issue number 1, Petitioner asks the Court to take this issue on the grounds that more and more Pro se people are coming to court now, so this court is in the position to resolve the counsel or lack of counsel issue. As for number 2, Petitioner asks this court to take this issue to ensure that litigants all receive fair trials. As for issue number 3, Petitioner asks this court to resolve the "reasonable time before trial" issue for discovery. As for issue number 4, Petitioner asks this court to take this issue to ensure that Petitioner receive a fair trial. Which is constitutionally guaranteed.

STATEMENT OF THE CASE

During the fall/early winter of 2017, Petitioner was staying at the Timber Inn Motel, in Phillips, Wisconsin. Petitioner usually paid cash, but would sometime use his credit card. Petitioner noticed that when he would give the motel worker cash, at his room, that she would put it in her pocket. Petitioner assumed that she would later go inside the motel and put it in the register. A Jury Trial was held on October 9th, 2019. Rachel Livingston testified for the state. At the trial, on cross examination, Petitioner

asked if she put any money in her pocket. (Petitioner was referring to the witness stealing the money). Rachel Livingston said no.

On the evening before the trial, at about 5 pm, Petitioner received a packet from the State, containing 42 pages. Enclosed in those pages was a credit card receipt with Petitioner's name forged on it. It was forged, because the Forger misspelled Petitioner's name. Unfortunately for Petitioner, he already had a trial strategy, and didn't have time to read another 42 pages. And therefore, was unable to see the forged credit card receipt, (See Petitioner's Appellate brief, Appendix) until after the trial was over, and therefore, Rachel Livingston was allowed to perjure herself on the stand.

Had the Trial Court granted petitioner's motion for a continuance, Petitioner would have had time to see the Forged Credit Card receipt, and would have been able to impeach Rachel Livingston. Rachel Livingston misspelled Petitioner's name. (the name Hoeft doesn't end with an "L").

Petitioner filed a discovery motion, asking for days he stayed at motel, and forms of payment 6 months before the trial, or more. The State waited until the evening before .

ARGUMENT

Right to Counsel

In all criminal cases, the accused shall enjoy the right to counsel. US Constitution Amendment 6. The Court of Appeals judge believes that the 6th Amendment Right to Counsel is Lost, once a Defendant elects to proceed Pro se.

The Court of Appeals acknowledges that the Petitioner conveyed to the Trial Court early on that he would be talking to an attorney. (See Judge Hruz opinion). 3 weeks before the trial, the Petitioner did reach out to attorney Dan Snyder in Park Falls, Wisconsin about representation, but Attorney Snyder was unavailable the day of the trial.

Further, the Court of Appeals disregarded the fact that the Trial Court continued another case that the Petitioner had (Price County Case 18 CF 90), under the exact same Circumstances (Cited in Petitioner's brief), and the fact that the Trial Court stated that if Petitioner came in at the sentencing hearing, without an attorney, that the Trial Court would have granted a continuance, so Petitioner could get an attorney. (Again, cited in Petitioner's appellate brief).

Under those circumstances, Petitioner did NOT forgo his right to counsel.

Contempt Motion

20 minutes before the trial, the State filed a motion for contempt against Petitioner, wanting him jailed. No reviewing court can say that such Stunt by the State didn't frustrate Petitioner's defense. As did in State v Lettice, 205 Wis 2d 347 (Wis. App. 1996). The only reason the State did that stunt was to get inside Petitioner's head, and have an unfair advantage.

Failure to Disclose

The Prosecutor has a duty to disclose to the defense all evidence favorable to the defense.

Brady v Maryland, 373 US 83 (1963). This includes exculpatory, and Impeaching. And the evidence must be Material. Strickler v Greene, 527 US 263, 281-82 (1999). The materiality prong of Brady, is the same as the prejudice prong for ineffective counsel under Strickland v Washington, 466 US 668 (1984). However, once a Petitioner has shown Materiality, then a new trial must commence.

Petitioner was convicted of defrauding an innkeeper. The evidence in question was a forged credit card receipt, where the motel people were forging Petitioner's name on those credit card receipts. And getting Petitioner's name misspelled in the process. If that's not material, then Petitioner doesn't know what is.

Motion for Continuance

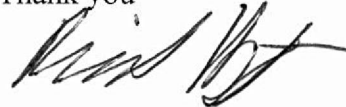
On the morning of the trial, Petitioner filed a motion for a continuance due to the fact that the State dumped 42 pages in his lap the evening before, and he didn't have time to go through it page by page. (at this time, Petitioner didn't know about the forged credit card receipts). As for Prejudice, (Assuming Petitioner has to show any), Petitioner argued that he could defend himself, with this other evidence out there, that Petitioner hasn't seen. The Trial Court Denied Petitioner's motion.

Had the Trial Court granted the motion for continuance, Petitioner would have been able to use the impeachment evidence at a subsequent trial, and been found not guilty.

Because the Court of Appeals never ruled on this issue, REMAND is Necessary to resolve this issue.

Dated this 26th Day of October 2024

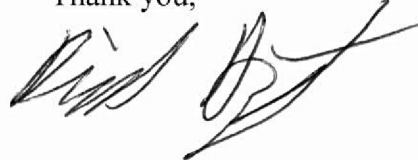
Thank you

A handwritten signature in black ink, appearing to be "David B. J.", written in a cursive style.

Form and length certification

I certify this petition using a proportional serif font. The length of this brief is 4 pages, and 1010 words.

Thank you,

A handwritten signature in black ink, appearing to be "David B. J.", written in a cursive style.

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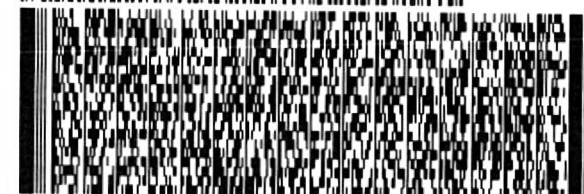
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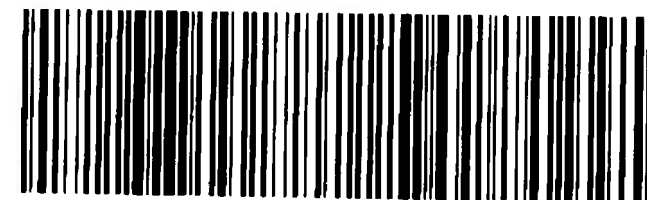
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