

In the Circuit Court of the Ninth Judicial
Circuit, in and for Orange County, Florida.

State of Florida
Plaintiff,

case no: 2020-CF-002603-AO
Division: 20

v.

Sarah Boone
Defendant.

REC'D FROM JUDGE

MOTION REQUESTING IMMEDIATE RELIEF TO THE
DEFENDANT BY APPOINTING EFFECTIVE STAND BY
COUNSEL TO AID AND SUPPORT IN PREPARATION OF
HER CRIMINAL CASE FOR TRIAL

Comes now, Sarah Boone, Pro se Indigent Defendant,
respectfully requests from the court immediate
relief by providing effective standby counsel with
all legal services allowed and included, to assist
and aid the Defendant as a whole, in the complex,
vital procedural preparation with professional
guidance during her forfeited Right to Counsel by
the court as Pro se Attorney, and in her proposed
lawful representation of self in her criminal case.

Defendant's justifiable reasons for requested
relief and assistance are as follows:

1) The Defendant's Sixth Constitutional Right to Counsel is being violated, unlawfully withheld, and forcibly removed from the indigent Defendant under false pretenses, speculation, libel and misconstruction.

By the Defendant's lawful practice of her entitled First Constitutional Right to Free Speech, and her God-given right to do so by writing her experience derived truth, and providing "red flag" exposure in her correspondence to the court requesting needed intervention to avoid present circumstances, she has lost completely her ability and advantage to properly, rightfully, successfully prepare her defense of innocence, progressively advance fairly and unrestricted, while having the ability to be leveled equally with the prosecution.

2) The Defendant is not an officer of this court or any court or legal system as a whole. She is not bound lawfully under oath or certified in any professional means to be or act as a legal agent or representative, lacking requisite professional competency, experience, expertise in the field of law presently and historically.

The Defendant is defective and ineffective counsel to self as a result, which therefore will detrimentally impact and impede favorable justice to the Defendant, and the opportunity of a fair trial based on equality with an unprejudiced conclusion of her case.

3) The Defendant is presently incarcerated which is causing and will cause unfair burdens, limitations, deprivations, inaccessibilities, and unequal opportunities in and to her ability to complete tasks and timely responsibilities suitable to the vital defense of the Defendant's life and livelihood futuristically.

By the Court rejecting professional, educated, experienced aid and assistance of effective standby counsel to and for the Defendant in preparation and production of her rightful defense, results may be adverse from the unfair, disadvantaged, oppressed circumstances to properly thrive in her forced position by the Court of Pro Se Attorney and representation of self.

Examples of said unfair burdens, limitations, deprivations, inaccessibilities and unequal

(4)

opportunities include:

a) The Defendant has not received from the Court to date of this Motion, any of her promised discovery or case related materials submitted by former attorney to the Court during the un-announced hearing on 6/28/24.

* With only 4 DAYS to submit my demands and Motions delegated by the Court on/before 7/22/24.

b) The Defendant has not received from the Court to date of this Motion, any of her promised discovery or case related materials submitted by former attorney to the Court during the un-announced hearing on 6/28/24.

* With only 4 DAYS to submit my demands and Motions delegated by the Court on/before 7/22/24.

c) The Defendant does not have access to a computer.

d) The Defendant does not have access to the Internet.

e) The Defendant has extremely limited, irregular access to basic tablets supplied by OCCD.

- f) Defendant has access to "pay phones" for collect calls only, limited to 15 minutes each call.
- g) Defendant does not have access to organizational supplies or production equipment (copier, printer, etc)
- h) Defendant does not have access to a meeting place for privacy in case review, preparation.
- i) Additional daily obstructions and undetermined hardships, disadvantages, difficulties will likely come about due to being incarcerated, and once my case materials are finally received.

Continued application in reasoning and further lawful support of Defendant's request for immediate relief with standby counsel to aid and assist in preparation of her criminal case:

- A) In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory

(6)

process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

- Amendment VI, United States Constitution

B) Right to counsel is assured by the Sixth Amendment, which has been incorporated into the Due Process Clause of the Fourteenth Amendment, as well as state constitutions. So that every criminal defendant who faces a potential loss of liberty has access to an attorney who provides effective assistance of counsel at each stage of the criminal proceedings and process. Right to counsel applies whether the defendant can afford to hire a lawyer or not, in which case the court will appoint without charge to defendant.

- Right to Counsel, Bouvier Law Dictionary (2012)

C) Waiver of counsel is a criminal defendant's refusal of counsel at any stage in the criminal process (I have never refused). It is made by a person with full capacity (unprepared), that is knowing and voluntary (FORCED), and that clearly and unequivocally rejects representation or assistance by an attorney at law during the pending proceedings.

- Waiver of Counsel, Bouvier Law Dictionary (2012)

A defendant's decision to waive their right to Counsel must not only be competent, but also knowing and voluntary.

- Maynard v. Boone, 468 F.3d 665, 680 (10th Cir. 2006)

"The Right to waive counsel (FORCED by the Court), is the right knowingly to proceed in ignorance. It is sufficient for purposes of both the state and federal constitutions that the record, taken in its entirety, shows that the defendant comprehends that a waiver of counsel means that they will proceed into the labyrinth of the law without the assistance of a trained guide."

"The Court must first make inquiry into his competence, and be reasonably satisfied of it, before accepting the accused's waiver of counsel (never gave). Competence means more than a minimum of mental awareness and capability, however, and involves, "an intelligent conception of the consequences of his act" (no one explained to me).

- People v. Holcomb, 47 Mich. App. 573, 584 (1973)

"The trial was a farce, or a mockery of justice, or was shocking to the conscience of the reviewing

court, or the purported representation was only perfunctory, in bad faith, a sham, a pretense, or without adequate opportunity for conference and preparation":

- People v. Degraffenreid, 19 Mich. App. 702, 173, N.W. 2d 317 (1969)

D) Ineffective counsel is both a standard of inadequate performance for a lawyer in a criminal representation and a failure of due process of law to the criminal defendant. A person who has suffered a punishment in a criminal proceeding (I was repeatedly lied about by former attorneys to the Judge who is unjustly believing all over me, falsely accusing me of an inappropriate and wrong "strategy" of removing attorneys who withdraw from my requests to the court for intervention, causing me to be FORCED into losing my right to counsel from their ineffective counsel), to which there is a right to counsel but who received ineffective assistance, is ordinarily entitled to a new proceeding with adequate representation, as long as there is a reasonable probability that the result might have been different if the person had received adequate legal assistance.

- Ineffective Assistance of Counsel, Bouvier Law (2012)

"Due to ineffective assistance of counsel, the federal courts in 1999 set this second sentencing aside."

- Smith v. Arizona, 128 S.Ct. 2997, 522 US 985 (2007)

E) Florida Constitution (2024 Edition) Article I, Declaration of Rights:

Section 2: Basic Rights: All natural persons, female and male alike, are equal before the law and have inalienable rights, among which are the right to enjoy and defend life and liberty, to pursue happiness...

Section 4: Freedom of Speech and Press:
Every person may speak, write and publish sentiments on all subjects but shall be responsible for the abuse of that right. No law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for defamation, the truth may be given in evidence. If the matter charged as defamatory is true and was published with good motives (the defendant writing truthful, lawful letters to the court requesting help with

dysfunctions of attorneys, then the Defendant is unlawfully FORCED to forfeit her Right to Counsel from lies, misinterpretations and ineffectiveness from those former attorneys, retaliation from the Court), the party (Defendant) shall be exonerated (given appointed counsel).

Section 5: Right to Assemble: The people shall have the right peaceably to assemble without harm, to instruct their representatives, and to petition for redress of any grievances.

Section 9: Due Process: No person shall be deprived of life, liberty or property without due process of law, or be twice put in jeopardy for the same offense, or be compelled in any criminal matter to be a witness against oneself.

Section 16: Rights of Accused: (a) In all criminal prosecutions the accused shall, upon demand, be informed of the nature and cause of the accusation, and shall be furnished a copy of the charges, and shall

have the right to have compulsory process for witnesses, to confront at trial adverse witnesses, to be heard in person, by counsel or both, and to have a speedy and public trial by impartial jury in the county where the crime was committed.

Section 21: Access to Courts: The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

F) The Fourteenth Amendment to the Federal Constitution declares: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

This provision has often been construed by

the United States Supreme Court, and it has been uniformly held that "due process of law" requires ample notice to the accused and sufficient time to secure counsel and prepare for trial... A like rule as to necessity for due notice and a reasonable opportunity to prepare for a defense is declared in Franklin v. State of South Carolina, 218 US 161; in Rogers v. Peck, 149 US 425; in Itooker v. Los Angeles, 188 US 314; in Louisville & Nashville Ry. v. Smith, 177 US 230, and in other cases.

"... such notice was not a reasonable one, was not 'due process of law' within the Fourteenth Amendment to the Constitution of the United States, and a judgement obtained upon such notice was not binding upon the defendant." 6 R.C.L. page 446, states that, the essential elements of due process of law are notice, and an opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case."

The term 'due process of law' when applied to judicial proceedings, means a course of legal proceedings according to those rules and principles which have been established by our

jurisprudence for the protection and enforcement of private rights: Pennover v. Neff, 95 US 714, 715.

... the accused cannot be deprived of his life, liberty or property, unless by the judgement (298 Pa. 173) of his peers or the law of the land." The "law of the land" like "due process of law" requires timely notice and an opportunity to defend.

It is vain to give the accused a day in court, with no opportunity to prepare for it, or to guarantee him counsel without giving the latter any opportunity to acquaint himself with the facts or law of the case.

Every man is presumed innocent and, when accused, entitled to a reasonable opportunity to prepare his defense.

- Commonwealth v. O'Keefe, 298 Pa. 169, 148 A. 73 (Pa. 1929)

G) "It is true that great and inexcusable delay in the enforcement of our criminal law is one of the grave evils of our time... the prompt disposition of criminal cases is to be commended and encouraged. But in reaching that result

a defendant, charged with a serious crime, must not be stripped of his right to have sufficient time to advise with counsel and prepare his defense. To do that is not to proceed promptly in the claim spirit of regulated justice but to go forward with the haste of the mob."

An affirmation of the right to the aid of counsel in petty offenses, and its denial in the case of crimes of the gravest character, where such aid is needed most, is so outrageous and so obviously a perversion of all sense of proportion...

...recognizing that the rule was settled at common law, denounced it as not in keeping with the rest of the humane treatment of prisoners... 'For upon what face of reason, can that assistance be denied to save the life of a man, which yet is allowed him in prosecutions for every petty trespass?... how can a judge, whose functions are purely judicial, effectively discharge the obligations of counsel for the accused? He can and should see to it that in the proceedings before the

court the accused shall be dealt with justly and fairly. He cannot investigate the facts, advise and direct the defense, or participate in those necessary conferences between counsel and accused which sometimes partake of the inviolable character of the confessional.'

... (article 5) declared that 'all Criminals shall have the same privileges of witnesses and counsel as their Prosecutors.'

... every person charged with treason, murder, felony, or other capital offense, should be admitted to make full defense by counsel learned in law.

... notice and hearing are preliminary steps essential to the passing of an enforceable judgement, and that they, together with a legally competent tribunal having jurisdiction of the case, constitute basic elements of the constitutional requirements of due process of law. The words of Webster, so often quoted, that by 'the law of the land' is intended 'a law which hears before it condemns.'

Judgement without such citation and opportunity wants all the attributes of a judicial determination; it is judicial usurpation and oppression, and never can be upheld where justice is justly administered.

Even the intelligent and educated layman has small and sometimes no skill in the science of law... he is unfamiliar with the rules of evidence. Left without the aid of counsel he may be put on trial... and convicted upon incompetent evidence, or evidence irrelevant to the issue or otherwise inadmissible. He lacks both the skill and knowledge adequately to prepare his defense, even though he have a perfect one. He requires the guiding hand of counsel at every step in the proceedings against him, without it, though he may not be guilty, he faces the danger of conviction because he does not know how to establish his innocence. If that be true of men of intelligence, how much more true is it of the ignorant... If in any case, civil or criminal, a state or federal court were arbitrarily to

refuse to hear a party by counsel... it reasonably may not be doubted that such a refusal would be a denial of a hearing (competency), and therefore, of due process in the Constitutional sense. The decisions all point to that conclusion.

Pointing to the fact that the Right to Counsel as secured by the Sixth Amendment relates only to criminal prosecutions, Judge said, 'but it is equally true that the provision was inserted in the Constitution because the assistance of counsel was recognized as essential to any fair trial of a case against a prisoner.' In *Ex Parte Riggins* (C.C.A.) 134 F. 404, 418, a case involving the due process clause of the Fourteenth Amendment, the court said, by way of illustration, that if the state should deprive a person of the benefit of counsel, it would not be due process of law. Judge Cooley refers to the right of a person accused of crime to have counsel as perhaps his most important privilege, and after discussing the development of the law upon that subject, says: 'With us it is a universal principle of constitutional law, that the prisoner shall be

allowed a defense by counsel.

... the necessity of counsel was so vital and imperative that the failure of the trial court to make an effective appointment of counsel was likewise a denial of due process within the meaning of the Fourteenth Amendment... All that is necessary now to decide, and we do decide, where the defendant is unable to employ counsel, and is incapable adequately of making his own defense because of ignorance (inexperience), or the like, it is the duty of the court, whether requested or not, to assign counsel for him as a necessary requisite of due process of law; and that duty is not discharged by an arrignment at such a time or under such circumstances as to preclude the giving of effective aid in the preparation and trial of the case. To hold otherwise would be to ignore the fundamental postulate, already adverted to, 'that there are certain immutable principles of justice which inhere in the very idea of free government which no member of the Union may disregard.' *Holden v. Hardy*, supra. In a case such as this, whatever may be the rule in other cases, the right to have counsel appointed, when necessary,

is a logical corollary from the constitutional right to be heard by counsel. Compare *Carpenter and Sprague v. Dane County*, 9 Wis. 274; *Dane County v. Smith*, 13 Wis. 585, 586, 80 Am. Dec. 754; *Hendryx v. State*, 130 Ind. 265, 268, 269, 29 N.E. 1131; *Cutts v. State*, 54 Fla. 21, 23, 45 So. 491; *People v. Goldenson*, 76 Cal. 328, 344, 19 P. 161; *Deik v. State*, 99 Ga. 667, 669, 670, 26 S.E. 752.

In *Hendryx v. State*, *supra*, there was no statute authorizing the assignment of an attorney to accomplish the ends of public justice, and that the court possessed the inherent power to make it. 'Where a prisoner,' the court said (page 269 of 130 Ind., 29 N.E. 1131, 1132), 'without legal knowledge, is confined in jail, absent from his friends, without the aid of legal advice or the means of investigating the charge against him, it is impossible to conceive of a fair trial where he is compelled to conduct his cause in court, without the aid of counsel. Such a trial is not far removed from an *ex parte* proceeding.'

Let us suppose the extreme case of a prisoner charged with a capital offense... unable to employ counsel, with the whole power of the State

arrayed against him, prosecuted by counsel for the state without assignment of counsel for his defense, tried, convicted, and sentenced to death (PBL). Such a result, which, if carried into execution, would be little short of judicial murder, it cannot be doubted would be a gross violation of the guarantees of due process of law; and we venture to think that no appellate court, state or federal, would hesitate so to decide. See *Stephenson v. State*, 4 Ohio App. 128; *Williams v. State*, 163 Ark. 623, 628, 260 S.W. 721; *Grogan v. Commonwealth*, 222 Ky. 484, 485, 1 S.W. (2d) 779; *Mullen v. State*, 28 Okl. Cr. 218, 230, P. 285; *Williams v. Commonwealth (Ky.)*, 110 S.W. 339, 340.

'The legislature has become so thoroughly convinced of the impropriety and injustice of shackling and restricting a prisoner with respect to his defense, that they have abolished all those odious laws, and every person when he is accused of a crime, is entitled to every possible privilege in making his defense, and manifesting his innocence, by the instrumentality of counsel, and the testimony of witnesses.' *Powell v. Alabama*, 287 U.S. 45, 53 S.Ct. 55, 77 LEd,

H) In a long line of cases that includes *Powell v. Alabama*, 287 US 45, 53 S Ct 55, 77 L Ed 158 (1932), *Johnson v. Zerbst*, 304 US 458, 58 S Ct 1019, 82 L Ed 1461 (1938), and *Gideon v. Wainwright*, 372 US 335, 83 S Ct 792, 9 L Ed 2d 799 (1963), this court has recognized that the Sixth Amendment right to counsel exists, and is needed, in order to protect the fundamental right to a fair trial. The Constitution guarantees a fair trial through the Due Process Clauses, but it defines the basic elements of a fair trial largely through the several provisions of the Sixth Amendment, including the Counsel Clause:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

Thus a fair trial is one in which evidence subject to adversarial testing is presented to an impartial tribunal for resolution of issues defined in advance of the proceeding. The right to counsel plays a crucial role in the adversarial system embodied in the Sixth Amendment, since access to counsel's skill and knowledge is necessary to accord defendants the 'ample opportunity to meet the case of the prosecution' to which they are entitled. *Adamo v. United States ex rel. McCann*, 317 US 269, 275, 276, 63 S Ct 236, 240, 87 L Ed. 268 (1942); see *Powell v. Alabama*, *supra*, 287 US at 68-69, 53 S Ct. 63-64.

Because of the vital importance of counsel's assistance, this Court has held that, with certain exceptions, a person accused of a federal or state crime has a right to have counsel appointed if retained counsel cannot be obtained. See *Argersinger v. Hamlin*, 407 US 25, 92 S Ct. 2006, 32 L Ed. 2d 530 (1972); *Gideon v. Wainwright*, *supra*; *Johnson v. Zerbst*, *supra*. That a person who happens to be a lawyer is present at trial alongside the accused, however, is not enough to satisfy

the constitutional command. The Sixth Amendment recognizes the right to the assistance of counsel because it envisions counsel's playing a role that is critical to the ability of the adversarial system to produce just results. An accused is entitled to be assisted by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair. For that reason, the Court has recognized that 'the right to counsel is the right to the effective assistance of counsel': *McMann v. Richardson*, 397 US 759, 771 n.14, 90 S.Ct. 1441, 1449, n. 14 25 LEd 2d 763 (1970). *Strickland v. Washington*, 466 US 668, 104 S.Ct. 2052, 80 LEd 2d 674 (1984).

I) Federal Rules of Criminal Procedure
United States Code, 2024 Edition

Section 44: Right to and Appointment of Counsel:
(a) RIGHT TO APPOINTED: A defendant who is unable to obtain counsel is entitled to have counsel appointed to represent the defendant at every stage of the proceeding from initial appearance through appeal, unless the defendant waives

this right (Defendant has been FORCED to forfeit her right to counsel from one-sided lies and unquestioned misinterpreted requests for understanding, intervention for remedy, not removal, from the defendant to the court in her criminal case).

(b) APPOINTMENT PROCEDURE: Federal law and local court rules govern the procedure for implementing the right to counsel.

NOTES OF ADVISORY COMMITTEE ON RULES-1944:

1. This rule is a restatement of existing law in regard to the defendant's constitutional right of counsel as defined in recent judicial decisions. The Sixth Amendment provides:

"In all criminal prosecutions, the accused shall enjoy the right... to have the Assistance of Counsel for his defense."

18 U.S.C. former § 563 (now § 3005) which is derived from the act of April 30, 1790 (1 Stat. 118), provides:

"Every person who is indicted of treason or other capital crime, shall be allowed to make his full

defense by counsel learned in law; and the court before which he is tried or some judge thereof, shall immediately, upon his request, assign to him such counsel... and they shall have free access to him at all reasonable hours."

The present extent of the right of counsel has been defined recently in *Johnston v. Zerbst*, 304 US 458; *Walker v. Johnston*, 312 US 275; and *Glaser v. United States*, 315 US 60. The rule is a restatement of the principles enunciated in these decisions. See also Holtzoff, 20 NYULQRI.

- J) "When society acts to deprive one of its members of his life, liberty or property, it takes its most awesome steps. No general respect for, nor adherence to, the law as a whole can well be expected without judicial recognition of the paramount need for prompt, eminently fair and sober criminal law procedures. The methods we employ in the enforcement of our criminal law have aptly been called the measures by which the quality of our civilization may be judged:"
- United States Supreme Court

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Wherefore, Sarah Boone, Pro Se Indigent Defendant, respectfully requests to the Honorable Court to provide immediate relief to Defendant by appointing effective standby counsel to aid and support in preparation of her criminal case for trial.

The Defendant is requesting collaboration, correct understanding, and overall perspective of and in her extraordinary circumstances by rendering her cognitive incapacities, procedural inabilities, and extremely limited capabilities altogether as fact, and concluding a remedy of assistance is rightfully needed to be provided to the Defendant by the Court.

Appointment of vital standby counsel will lessen greatly her probabilities of further loss, damage, spoilation, and oppression in her criminal case. Fair and equal position by fair and equal opportunity also will be greatly enhanced.

The Defendant's request(s) are in good faith and her merits are worthy in striving to

successfully, lawfully, and properly perform, act, thrive, and overcome her FORCED by the Court position of PRO SE Attorney and her representation of self.

CONCLUSION

This Motion For Immediate Relief to Defendant by Appointing Effective Standby Counsel to Aid and Support in preparation of Her Case For Trial should be granted.

OATH

Under the authority of Section §92525 Florida Statute, and State v. Shearer, 628 So 2d, 1102 (Fl. 1994), the Defendant makes the following oath under the penalties of perjury: "I declare under penalties of perjury, that I have read the foregoing document, and that the facts and matters stated are true."

Sarah Boone
Sarah Boone

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CERTIFICATE OF SERVICE

I hereby, certify that an original of this document has been filed via US Mail with the Clerk of Court of the Ninth Judicial Circuit on this 18th day, and before the delegated due date by the Judge and Court of July 22, 2024. I further certify that a copy of this original document can be e-served via Florida Courts E-Filing Portal System to all attorneys or other parties on court record.

Clerk of Courts / Judge Michael Kraynick
425 N. Orange Avenue
Orlando, FL 32801

State of Florida / State Attorney
415 N. Orange Avenue
Orlando, FL 32801

Sarah Boone
Sarah Boone

Completed and mailed: JULY 18, 2024

Sarah Boon 
Prose Indigent Defendant
#20005623/FDC-B4
P.O. Box 4970
Orlando, FL 32802-4970

Judge Michael S. Kraynick
Ninth Judicial Circuit
425 N. Orange Avenue
Orlando, FL 32801

28 pages enclosed (mailed 7/18/24)

