

Supreme Court of the United States
Washington, D. C.

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DEC 16 5 10 PM '47

December 16, 1947

CHAMBERS OF THE
CHIEF JUSTICE

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CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

Re: No. 93, Marino v. Ragen

Memorandum to the Chief Justice:

I send you herewith the full set of the per curiam in this case which you suggested I draft. If it looks all right to you, I suggest it be circulated from your office. If there is anything more you want me to do on it, please do not hesitate to let me know.


William O. Douglas.

Attachment

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner,

v.

Joseph E. Ragen, Warden,
Illinois State Peniten-
tiary, Joliet, Illinois.

On Writ of Certiorari to Illi-
nois Circuit Court, Winne-
bago County.

[December 1, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

The facts conceded by respondent are as follows:

The common-law record recites that petitioner was arraigned in open court and advised through interpreters of the meaning and effect of a plea of guilty and that petitioner signed a statement waiving jury trial and pleading guilty. He was sentenced to life imprisonment. It does not appear, however, that an attorney was appointed to represent him, ~~that the waiver was in fact signed by him, or that a plea of guilty was entered at the trial.~~ He was 18 years old at that time and had been in this country only two years. He did not understand the English language and it is doubtful that he understood American trial court procedure. The arresting officer served as an interpreter for petitioner at the original trial.

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The waiver was not

and no

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State MARINO v. RAGEN.

The Attorney General of Illinois admits the foregoing facts, confesses error, and consents to a reversal of the judgment below. He states that the writ of *habeas corpus* is a proper remedy in Illinois in this case because the facts, which he concedes to be a denial of due process of law under the decisions of this Court, were known to the court at the time of the original trial, though they were not a matter of record at the trial. Whether or not on this showing *habeas corpus* is an appropriate remedy in the court to correct a denial of due process is a question of state law as to which we accept the concession of the state's Attorney General.

speaking through the attorney General

In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is reversed.

~~Reversed.~~

so ordered

vacated and remanded to the Circuit Court

DEC 22 1947

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner, }
 v. } On Writ of Certiorari to the
Joseph E. Ragen, Warden, } Circuit Court of Winnebago
 Illinois State Peniten- } County, State of Illinois.
 tiary, Joliet, Illinois. }

[December 22, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

The facts conceded by respondent are as follows:

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The State of Illinois speaking through the Attorney General admits the foregoing facts, confesses error, and consents to a reversal of the judgment below. He states that the writ of *habeas corpus* is a proper remedy in Illinois in this case because the facts, which he concedes to be a denial of due process of law under the decisions of this Court, were known to the court at the time of the original trial, though they were not a matter of record at the trial. Whether or not on this showing *habeas corpus* is an appropriate remedy in the court to correct a denial of due process is a question of state law as to which we accept the concession of the state's Attorney General.

In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is vacated and remanded to the Circuit Court.

So ordered.

cf Baltzer v.
United States,
248 U.S. 593

DEC 22 1947

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner, }
 v. } On Writ of Certiorari to the
Joseph E. Ragen, Warden, } Circuit Court of Winnebago
 Illinois State Peniten- } County, State of Illinois.
 tiary, Joliet, Illinois. }

[December 22, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

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The State of Illinois speaking through the Attorney General admits the foregoing facts, confesses error, and consents to a reversal of the judgment below. He states that the writ of *habeas corpus* is a proper remedy in Illinois in this case because the facts, which he concedes to be a denial of due process of law under the decisions of this Court, were known to the court at the time of the original trial, though they were not a matter of record at the trial. Whether or not on this showing *habeas corpus* is an appropriate remedy in the court to correct a denial of due process is a question of state law as to which we accept the concession of the state's Attorney General.

In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is vacated and remanded to the Circuit Court.

So ordered.

J. Baltzer v
United States,
248 U.S. 593

DEC 22 1947

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner,	} On Writ of Certiorari to the Circuit Court of Winnebago County, State of Illinois.
v.	
Joseph E. Ragen, Warden, Illinois State Peniten- tiary, Joliet, Illinois.	

[December 22, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

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Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is vacated and remanded to the Circuit Court.

So ordered.

cf. Baltzer vs. U.S. ^{United States} 248 U.S. 593.)

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Tony Marino, Petitioner, }
 v. } On Writ of Certiorari to the
Joseph E. Ragen, Warden, } Circuit Court of Winnebago
 Illinois State Peniten- } County, State of Illinois.
 tiary, Joliet, Illinois. }

[December 22, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

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Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is vacated and remanded to the Circuit Court.

So ordered.

Mr. Justice Rutledge files —

DEC 22 1947

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner,	}	On Writ of Certiorari to the Circuit Court of Winnebago County, State of Illinois.
v.		
Joseph E. Ragen, Warden, Illinois State Peniten- tiary, Joliet, Illinois.		

[December 22, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

The facts conceded by respondent are as follows:

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Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is vacated and remanded to the Circuit Court.

So ordered.

*cf. Baltzer v.
United States,
248 U.S. 593*

DEC 22 1947

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No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner, }
 v. }
Joseph E. Ragen, Warden, }
Illinois State Peniten- }
tiary, Joliet, Illinois. }
 } On Writ of Certiorari to the
 } Circuit Court of Winnebago
 } County, State of Illinois.

[December 22, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

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In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is vacated and remanded to the Circuit Court.

So ordered.

G. Baltzer v.
United States,
248 U.S. 593

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner, }
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tiary, Joliet, Illinois. }

[December —, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

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In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is reversed.

Reversed.

To: *Mr Justice Black*

From: The Chief Justice

Circulated: *DEC 18 1947*

Recirculated:

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Dec. 18-47

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DEC 18 12 51 PM '47
CHAMBERS OF THE
CHIEF JUSTICE

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner,	} On Writ of Certiorari to Illinois Circuit Court, Winnebago County.
v.	
Joseph E. Ragen, Warden, Illinois State Penitentiary, Joliet, Illinois.	

[December —, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

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MARINO v. RAGEN.

The Attorney General of Illinois admits the foregoing facts, confesses error, and consents to a reversal of the judgment below. He states that the writ of *habeas corpus* is a proper remedy in Illinois in this case because the facts, which he concedes to be a denial of due process of law under the decisions of this Court, were known to the court at the time of the original trial, though they were not a matter of record at the trial. Whether or not on this showing *habeas corpus* is an appropriate remedy in the court to correct a denial of due process is a question of state law as to which we accept the concession of the state's Attorney General.

In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is reversed.

Reversed.

On behalf of Illinois, the
Attorney General of that State

To: *Mr. Justice Frankfurter*
From: The Chief Justice.....
Circulated: *DEC 18 1947*.....
Recirculated:

*Yes - with
a slight suggestion
on page 2*

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DEC 18 10 53 AM '47
CHAMBERS OF THE
CHIEF JUSTICE

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner, }
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[December —, 1947.]

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In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is reversed.

Reversed.

To: *Mr. Justice Burton*

From: The Chief Justice

Circulated: **DEC 18 1947**

Recirculated:

To the Chief Justice

1 copy

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12/18/47

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DEC 18 11 59 AM '47
CHAMBERS OF THE
CHIEF JUSTICE

SUPREME COURT OF THE UNITED STATES

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Joseph E. Ragen, Warden, } On Writ of Certiorari to Illi-
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[December —, 1947.]

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Reversed.

RECEIVED

To: *Mr. Justice Douglas*
From: The Chief Justice
Circulated: *DEC 18 1947*
Recirculated:

*Copy
we*

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[December —, 1947.]

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The common-law record recites that petitioner was arraigned in open court and advised through interpreters of the meaning and effect of a plea of guilty and that petitioner signed a statement waiving jury trial and pleading guilty. He was sentenced to life imprisonment. It does not appear, however, that an attorney was appointed to represent him, that the waiver was in fact signed by him, or that a plea of guilty was entered at the trial. He was 18 years old at that time and had been in this country only two years. He did not understand the English language and it is doubtful that he understood American trial court procedure. The arresting officer served as an interpreter for petitioner at the original trial.

The Attorney General of Illinois admits the foregoing facts, confesses error, and consents to a reversal of the judgment below. He states that the writ of *habeas corpus* is a proper remedy in Illinois in this case because the facts, which he concedes to be a denial of due process of law under the decisions of this Court, were known to the court at the time of the original trial, though they were not a matter of record at the trial. Whether or not on this showing *habeas corpus* is an appropriate remedy in the court to correct a denial of due process is a question of state law as to which we accept the concession of the state's Attorney General.

In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is reversed.

Reversed.

SUPREME COURT OF THE UNITED STATES

No. 93.—OCTOBER TERM, 1947.

Tony Marino, Petitioner, }
 v. } On Writ of Certiorari to Illi-
Joseph E. Ragen, Warden, } nois Circuit Court, Winne-
 Illinois State Peniten- } bago County.
 tiary, Joliet, Illinois. }

[December —, 1947.]

PER CURIAM:

Petitioner sought a writ of *habeas corpus* in the Circuit Court of Winnebago County, Illinois, alleging that his conviction in 1925 on a charge of murder was the result of a denial of his rights under the Federal Constitution. That court, after a hearing, quashed the writ; and as its order cannot be reviewed by any higher Illinois court under Illinois practice, this petition for a writ of certiorari is properly addressed to that court. See *Woods v. Nierstheimer*, 328 U. S. 211; 15 U. of Chic. L. Rev. 118, 122.

The facts conceded by respondent are as follows:

The common-law record recites that petitioner was arraigned in open court and advised through interpreters of the meaning and effect of a plea of guilty and that petitioner signed a statement waiving jury trial and pleading guilty. He was sentenced to life imprisonment. It does not appear, however, that an attorney was appointed to represent him, that the waiver was in fact signed by him, or that a plea of guilty was entered at the trial. He was 18 years old at that time and had been in this country only two years. He did not understand the English language and it is doubtful that he understood American trial court procedure. The arresting officer served as an interpreter for petitioner at the original trial.

The Attorney General of Illinois admits the foregoing facts, confesses error, and consents to a reversal of the judgment below. He states that the writ of *habeas corpus* is a proper remedy in Illinois in this case because the facts, which he concedes to be a denial of due process of law under the decisions of this Court, were known to the court at the time of the original trial, though they were not a matter of record at the trial. Whether or not on this showing *habeas corpus* is an appropriate remedy in the court to correct a denial of due process is a question of state law as to which we accept the concession of the state's Attorney General.

In light of the confession of error (see *Young v. United States*, 315 U. S. 257; *Bozza v. United States*, 330 U. S. 160) and the undisputed facts, we conclude that petitioner was denied the due process of law which the Fourteenth Amendment requires.

Permission to proceed in *forma pauperis* is granted. The petition for a writ of certiorari is granted and the judgment below is reversed.

Reversed.