NO. 17-8845

IN THE SUPREME COURT OF THE UNITED STATES

ANTHONY EASON,

PETITIONER

V.

HAROLD W. CLARKE,

RESPONDENT

FILED
OCT 25 2018
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR WRIT OF CERTIORARI TO THE FOURTH CIRCUIT COURT OF APPEALS

PETITION FOR REHEARING

ANTHONY J. EASON
AUGUSTA CORRECTIONAL CENTER
1821 ESTALINE VALLEY ROAD
CRAIGSVILLE, VIRGINIA 24430

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PETITION FOR REHEARING AND SUGGESTION IN SUPPORT

COMES NOW PETITIONER, ANTHONY EASON, PRO SE AND ASK THIS COURT TO GRANT REHEARING PURSUANT TO RULE 44 AND THEREAFTER, GRANT A WRIT OF CERTIORARI TO REVIEW THE OPINION OF THE FOURTH CIRCUIT COURT OF APPEALS. IN SUPPORT OF PETITION MR. EASON STATES THE FOLLOWING:

STATEMENT OF FACTS

"AFTER TRIAL" PRIOR TO PETITIONER SENTENCING IT WAS DISCOVERED THAT MITCHELL (CODEFENDANT) SUFFERS FROM A LIFELONG HISTORY OF SERIOUS MENTAL ILLNESS TO INCLUDE BUT NOT LIMITED TO PARANOID SCHIZOPHRENIA WITH HULLUCINATIONS. IT WAS ALSO DISCOVERED THAT MITCHELL WAS HAVING NUMEROUS COMPLICATION AND EXHIBITING UNUSUAL BEHAVIOR WHILE INCARCERATED (EXHIBIT #1) MOST IMPORTANTLY MITCHELL WAS "DECLARED INCOMPETENT", "AFTER TRIAL".

THE FACTFINDER AUTOMATICALLY ASSUMED AT A HEARING THAT MITCHELL WAS IN FACT

COMPETENT AT TRIAL AND HAD SINCE BECOME INCOMPETENT AS A 'DELAYING TACTIC'

THEIR HAS NEVER BEEN A HEARING TO DETERMINE MITCHELL'S INCOMPETENCE PRE TRIAL, OR TO DISCOVER WHEN HE BECAME INCOMPETENT. THE FACTFINDER DISREGARDED MITCHELL'S LIFELONG HISTORY OF MENTAL ILLNESS AND JAIL RECORDS THAT PRECEEDED TRIAL AND DETERMINED THIS TO BE A POST TRIAL ISSUE

GWENDOLYN PRIEST

AFTER TRIAL PRIOR TO SENTENCING PETITIONER FAMILY HIRED AN INVESTIGATOR IN NEW YORK TO SPEAK WITH PRIEST. PRIEST WAS COOPERATIVE AND WROTE AN AFFIDAVIT. (EXHIBIT # 2)

THE AFFIDAVIT CHANGES EVERYTHING...

REASONS MERITING REHEARING

1. GIVEN THE INCREASED AWARENESS ON MENTAL HEALTH DISEASE IN OUR NATION THIS IS AN ISSUE OF

NATIONAL IMPORTANCE

THE DISCOVERY OF MITCHELL "INCOMPETENCE" AND THESE STATEMENT CAME "AFTER" TRIAL BUT PRIOR TO SENTENCING. (EXHIBIT #1)

FIRST, THE FACTFINDER DISREGARDED THE LIFELONG HISTORY OF SERIOUS MENTAL ILLNESS PRESENTED TO THE COURT AND THE PSYCHIATRIC REPORT THAT DEEMED MITCHELL TO BE INCOMPETENT IN ORDER TO MAKE HIS OWN DETERMINATION THAT MITCHELL'S INCUMPETENCE WAS A "DELAYING TACTIC".

SECOND, THE FACTFINDER STATED:

I MAKE AN INTERESTING OBSERVATION, HE WAS COMPETENT ENOUGH TO SAY HE HAD AN ALIBI DEFENSE WHICH WAS DENIED. THIS CASE HAS BEEN PENDING FOR YEARS AND HE MADE NO EFFORT OR A LITTLE EFFORT TO COME UP WITH THE WITNESS.

THE FOURTH CIRCUIT IGNORES THE FACT THAT THIS IS A CLEAR INDICATION THAT MITCHELL

DID NOT HAVE THE "SUFFICIENT PRESENT ABILITY TO CONSULT WITH HIS LAWYER WITH A REASONABLE DEGREE OF RATIONAL UNDERSTANDING-- AND WHETHER HE HAS A RATIONAL AS WELL AS FACTUAL UNDERSTANDING OF THE PROCEEDINGS AGAINST HIM"

THE FACTFINDER FURTHER STATED:

I NEVER HAD ANY SUGGESTIONS DURING TRIAL THAT HE WAS NOT COMPETENT IN ANY WAY, MOST OF THE PEOPLE WHO ARE NOT COMPETENT ARE EASILY IDENTIFIED AROUND HERE, THEY CANT EVEN COME OUT OF THEIR CELLS, THEYRE DROOLING WHEN THERE IN COURTROOM"

(SENTENCING TRANSCRIPTS PG 66.22-25)

THE COURT FACT FINDING WAS LIMITED TO OBSERVING MITCHELLS DEMEANOR AND AS THE SUPREME COURT INDICATED IN PATE, DEMEANOR IS NOT DISPOSITIVE

PATE V. ROBINSON 383 US AT 386. 86 S.CT AT 842

"THE EXISTENCE OF EVEN A SEVERE PSYCHIATRIC DEFECT IS NOT ALWAYS APPARENT TO LAYMEN", PATE SUPRA 383 US AT 386, 86 S.CT AT 842" ONE NEED NOT BE CATATONIC, RAVING OR FROTHING, TO BE LEGALLY INCOMPETENT 'LOICOS, SUPRA 625 F2D AT 1267

THE FOURTH CIRCUIT ADOPTED A DECISION

BY THE DISTRICT COURT THAT INVOLVED AN UNREASONABLE APPLICATION OF SUPREME COURT LAW AND CLEARLY IN CONFLICT WITH STRICKLAND V. WASHINGTON 466 US 668 (1984) AND WIGGINS V. SMITH 539 U.S 510 (2003). IN STRICKLAND THE COURT AGREED THAT THE 6th AMENDMENT IMPOSES ON COUNSEL A DUTY TO INVESTIGATE, IN WIGGINS THE COURT HELD THAT THE DECISION OF COUNSEL NOT TO EXPAND THEIR INVESTIGATION FOR MITAGATING EVIDENCE BEYOND THE EVIDENCE AVAILABLE TO THEM FELL SHORT OF PROFFESIONAL STANDARDS, AND THE INADEQUATE INVESTIGATION BY COUNSEL PREJUDICED PETITIONER

PETITIONER ARGUES THAT TO BE ACCUSED AS A PARTICIPANT WITH A INDIVIDUAL WHO HAS A WITHDRAWAL FROM REALITY, TO BE PLACED ON TRIAL AND HAVE TO PREPARE A DEFENSE WITH A INDIVIDUAL WHO HAS A WITHDRAWAL FROM REALITY IS UNCONSTITUTIONAL. TO NOT HAVE BEEN DISCLOSED THIS INFORMATION PRE TRIAL DENIED PETITIONER OF HIS RIGHT TO A FAIR TRIAL AND TO PUT FORTH A COMPLETE DEFENSE. MITCHELL WAS TRIED AND CONVICTED WHILE INCOMPETENT. MITCHELL TRIAL AND CONVICTION WAS ILLEGAL. BEING THAT PETITIONER

WAS TRIED JOINTLY WITH MITCHELL, MITCHELLS INCOMPETENCE TAINTS PETITIONER TRIAL MAKING PETITIONERS TRIAL NULL & VOID.

TO VEHEMENTLY DENY THE RECORD IN ORDER TO UPHOLD A CONVICTION WOULD BE A EXTREME MALFUNCTION IN OUR CRIMINAL JUSTICE SYSTEM AND A COMPLETE MISCARRIAGE OF JUSTICE.

2. THE FACTFINDER STATED:
"IF THOMAS AND BENNETT HAD WEAPONS ONE OF THEM SHOULD STILL BE AT THE SCENE" (T.T. 566.1-5)
AND
"ONE OF THOSE GUNS SHOULD STILL BE AT THE SCENE; NOT THERE" (T.T. 566.13-14)

THE FACTFINDER USED THIS THEORY TO DISCREDIT PETITIONERS AND STACY CHAPMANS TESTIMONY.
UPON THAT REASONING THE FACTFINDER STATED:
"NOW THE POSSIBILITY OF THESE TWO GENTLEMEN HAVING WEAPONS SIMPLY DOESNT EXIST. I DONT FIND THAT CREDIBLE IN ANY WAY SHAPE OR FORM (T.T 566.22-24)

THE FOURTH CIRCUIT COMPLETELY IGNORED THE FACT THAT THE FACTFINDERS LENGTHY ANALYSIS WAS BASED UPON AN ERRONEOUS SUMMARY OF NOTES PRESENTED TO THE

COURT, A LIE.

PRIEST ACTUALLY REPORTED TWO INDIVIDUALS RUNNING FROM THE SCENE BOTH CARRYING FIREARMS (SEE EXHIBIT "1")
A SIGNIFICANT DIFFERENCE IN WHAT WAS PRESENTED TO THE COURT. THIS TESTIMONY FROM A INDEPENDENT WITNESS WOULD NEGATE THE LENGTHY ANALYSIS MADE BY THE FACTFINDER THAT WAS BASED UPON FALSE INFORMATION. THAT WAS USED TO DISCREDIT PETITIONER.

THE COURT DETERMINED THAT PRIEST WAS NOT A MATERIAL WITNESS

THE FOURTH CIRCUIT IGNORED THE FACT THAT THIS DETERMINATION WAS MADE DUE TO THE FACTFINDERS OPINION THAT PRIEST "MADE A MISTAKE" IN HER AFFIDAVIT.

THE FOURTH CIRCUIT IGNORED THE FACT THAT THE AFFIDAVIT PRESENTED BY PRIEST IS THE ONLY STATEMENT OR RECOLLECTION MADE BY PRIEST THAT PRIEST HAS ADOPTED AS HER OWN.

THE FOURTH CIRCUITS UNREASONABLE DETERMINATION OF

FACTS CAN ONLY BE DUE TO THE STATE AND FEDERAL COURTS FAILURE TO GRANT PETITIONER A HEARING TO DISCOVER THE FULL SCOPE OF WHAT SHE WITNESSED AND WHO SHE INFORMED.

#3 THE VICTIMS AND A EYEWITNESSES IDENTIFICATION OF "THE SHOOTER" IN A PHOTO LINEUP OTHER THAN DEFENDANTS UNDOUBTEDLY CONSTITUTES EXCULPATORY MATERIAL

THE COURT HAS MADE A UNREASONABLE DETERMINATION OF THE FACTS PRESENTED, THE RECORD CLEARLY SHOWS AND SUPPORTS PETITIONER CLAIM. THE COURTS DECISION THAT PETITIONER HAS MISREPRESENTED THE RECORD IS CLEARLY ERRONEOUS.

THOMAS TESTIFIED "HE IDENTIFIED 'RIO', THE INDIVIDUAL WHO SHOT HIM WITHIN WEEKS OF THE CRIME AFTER THE SHOOTING OCCURRED (T.T 180, 4-25) AND THEN A SECOND TIME WHEN THE DETECTIVE CAME TO HIS HOUSE WITH MORE PHOTOS (T.T. 180,5-181.16)

WILLIAMS THE GOVERNMENT WITNESS AND THOMAS'S BROTHER TESTIFIED THAT HE IDENTIFIED 'RIO' THE PERPATRATOR OF THIS CRIME WITHIN WEEKS

OF THE SHOOTING (T.T. 376.9-24) AND ALSO DESCRIBES TWO SEPERATE OCCASIONS IN WHICH HE IDENTIFIED 'RIO' IN A PHOTOSPREAD BROUGHT TO HIM BY DETECTIVE BEST WITHIN WEEKS OF THE SHOOTING (T.T. 376.9-379.2) DETECTIVE BEST TESTIFIED THAT SHE DID NOT HAVE A NAME OR A PICTURE OF MITCHELL AS A SUSPECT UNTIL 1 YEAR AND 3 MONTHS AFTER THE CRIME (T.T. 387.23-388.7) MAKING IT IMPOSSIBLE FOR MITCHELL TO HAVE BEEN IDENTIFIED AS 'RIO', THE SHOOTER.

THE FOURTH CIRCUIT HAS IGNORED THE FACT THAT THIS IS A THIRD PARTY IDENTIFICATION OF THE PERPATRATOR OF THE CRIME THAT WAS NEVER DISCLOSED AND WITHHELD BY THE PROSECUTION AND ONLY DISCOVERED THROUGH TESTIMONY AT TRIAL.

SUGGESTIONS IN SUPPORT OF REHEARING

#1 THE FOURTH CIRCUIT DECISION IS CLEARLY IN CONFLICT WITH STRICKLAND V. WASHINGTON 466 US 668 (1984) AND WIGGINS V. SMITH 539 US 510 (2003). IN STRICKLAND THE COURT AGREED THAT THE 6TH AMENDMENT IMPOSES ON COUNSEL A DUTY TO INVESTIGATE. IN WIGGINS THE COURT HELD THAT THE DECISION OF COUNSEL NOT TO EXPAND THEIR INVESTIGATION FOR MITIGATING EVIDENCE BEYOND THE EVIDENCE AVAILABLE TO THEM FELL SHORT OF PROFFESIONAL STANDARDS, AND THE INADEQUATE INVESTIGATION BY COUNSEL PREJUDICED THE PETITIONER.

COUNSEL NEVER MADE ANY ATTEMPT TO DISCOVER INFORMATION PERTAINING TO MITCHELL'S WHILE PREPARING A DEFENSE EVEN AFTER DISCOVERING MITCHELL WAS HAVING NUMEROUS COMPLICATIONS KEEPING A LAWYER AND HAD BEEN EXTRADITED TO VIRGINIA FROM MICHIGAN WHERE HE WAS BEING HELD ON A MURDER CHARGE PETITIONER POINTS OUT THAT MITCHELL'S LIFELONG HISTORY OF SERIOUS MENTAL ILLNESS WAS DISCOVERED DURING A PRESENTENCE REPORT, THIS MEANS THAT MITCHELL'S LIFELONG HISTORY OF SERIOUS MENTAL HEALTH DISEASES COULD HAVE BEEN DISCOVERED PRETRIAL WITH REASONABLE INVESTIGATION.

COUNSEL MADE AN UNTIMELY MOTION FOR NEW TRIAL TO HAVE MITCHELL'S SANITY AT THE TIME OF OFFENSE EVALUATED. THIS MOTION WAS DENIED DUE TO THE UNTIMELINESS, COUNSEL DID MAKE A LENGTHY ARGUMENT AS TO HOW MITCHELL'S MENTAL DISEASES AND INCOMPETENCE PREJUDICED PETITIONER. PETITIONER ARGUES THAT THIS PROVES THAT COUNSEL FELT THIS ISSUE IS MATERIAL AND SHOULD HAVE BEEN KNOWN PRETRIAL BY PETITIONER IN ORDER TO HAVE A FAIR TRIAL AND PUT FURTH A COMPLETE DEFENSE.

PETITIONER ARGUES THAT SINCE IT WAS DETERMINED THAT MITCHELL WAS WITH PETITIONER AND INVOLVED IN THE CRIME MITCHELL'S MENTAL STATE IS HIGHLY MATERIAL AND MUST BE DISCLOSED PRETRIAL. THE DISCOVERY OF MITCHELLS SERIOUS MENTAL HEALTH DISEASES PRETRIAL WOULD HAVE CHANGED THE LINE OF INVESTIGATION THE DEFENSES STRATEGY AND ALTERED THE EVIDENTIARY PICTURE.

SUCH MENTAL CONDITIONS WOULD REQUIRE AND DEMAND EXPERT TESTIMONY FROM A MEDICAL PHYSICIAN WHICH WOULD PROVE THAT AN INDIVIDUAL SUCH AS MITCHELL SUFFERING FROM PARANOID SCHIZOPHRENIA WITH HULLICINATIONS WOULD ACT OUT IMPULSIVELY IN A HOSTILE ENVIRONMENT SUCH AS THE TESTIMONY DESCRIBED. THESE ACTION WOULD BE OUT OF FEAR OR [redacted] THREAT OF HARM. THIS WOULD NEGATE THE CULPABILITY OF MITCHELL AND PETITIONER

THE FOURTH CIRCUIT FURTHER IGNORED THE FACT THAT MITCHELL WAS INCOMPETENT PRETRIAL AND STILL REMAINS INCOMPETENT AND COUNSEL NEVER MADE ANY ATTEMPT TO DISCOVER OR PUT FORTH EVIDENCE PERTAINING TO MITCHELLS MENTAL HEALTH THAT PRE DATED OUR JOINT TRIAL.
TO UPHOLD THIS CONVICTION IS A MISCARRIAGE OF JUSTICE.

#2. COUNSEL FAILURE TO INVESTIGATE PRIEST ACTUAL RECOLLECTION OF THE EVENTS IN WHICH SHE REPORTED WAS INADEQUATE ACCORDING TO STRICKLAND AND AS ENUNCIATED IN WIGGINS. COUNSEL DECISION TO ADOPT THE COMMONWEALTHS NOTES A WHOLLY TRUTH INSTEAD OF ACTUALLY SPEAKING WITH PRIEST AND INVESTIGATING THE MATERIALITY IN WHAT HER TESTIMONY WOULD BE DENIED PETITIONER THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL, IT ALSO DENIED PETITIONER THE RIGHT TO PRESENT WITNESSES IN HIS FAVOR THROUGH THE COMPULSORY PROCESS OF THE 6th AMENDMENT AND PETITIONER DUE PROCESS RIGHTS OF THE 14th AMENDMENT "THE RIGHT TO OFFER THE TESTIMONY OF WITNESSES

AND TO COMPELL THEIR ATTENDANCE, IF NECESSARY IS IN PLAIN TERMS THE RIGHT TO PRESENT A DEFENSE, THE RIGHT TO PRESENT THE DEFENDANTS VERSION OF THE FACTS AS WELL AS THE PROSECUTIONS TO THE JURY SO IT MAY DECIDE WHERE THE TRUTH LIES. JUST AS AN ACCUSED HAS THE RIGHT TO CONFRONT THE PROSECUTIONS WITNESSES FOR THE PURPOSE OF CHALLENGING THEIR TESTIMONY, HE HAS THE RIGHT TO PRESENT HIS OWN WITNESSES TO ESTABLISH A DEFENSE. THIS RIGHT IS A FUNDAMENTAL ELEMENT THROUGH DUE PROCESS OF LAW WASHINGTON V. TEXAS 388 U.S. 14,19, 87. S.CT 1920, 1923 18 LED 2D 1019 (1967)
THE FOURTH CIRCUIT MADE AN UNREASONABLE DETERMINATION OF FACTS IN LIGHT OF THE EVIDENCE PRESENTED WHICH HAS LED TO THE FOURTH CIRCUIT MAKING A DECISION CONTRARY TO U.S SUPREME COURT LAW.

#3. THE COURT MADE AN UNREASONABLE DETERMINATION OF THE FACTS IN LIGHT OF THE EVIDENCE PRESENTED WHICH HAS LED TO A DECISION IN CONFLICT WITH STRICKLAND AND WIGGINS

MITCHELL'S IDENTITY WAS IN QUESTION FROM DAY ONE. PETITIONER ACKNOWLEDGED BEING AT THE SCENE, BUT, DENIED PLANNING OR PARTICIPATING IN THE SHOOTING IN ANY WAY. PETITIONER ADVISED COUNSEL PRETRIAL THAT HE DID NOT KNOW THE SUSPECT 'RIO' AND DID NOT BELIEVE MITCHELL WAS 'RIO', THE INDIVIDUAL RESPONSIBLE FOR THE SHOOTING.
WITH THIS INFORMATION COUNSEL TOOK NO STEPS TO INVESTIGATE THE IDENTITY OF MITCHELL OR HOW HE BECAME CHARGED IN THIS CRIME. COUNSEL TOOK NO STEPS TO DISCOVER THE IDENTITY OF 'RIO'

A REASONABLE INVESTIGATION AS REQUIRED UNDER WIGGINS WOULD HAVE DISCOVERED THAT ANOTHER INDIVIDUAL WAS IDENTIFIED AS THE INITIAL SUSPECT AND PERPATRATOR OF THE CRIME. COUNSEL FAILURE TO INVESTIGATE THE IDENTITY OF 'RIO' AND THE POSSIBLE INVOLVEMENT OF ANOTHER INDIVIDUAL AS PETITIONER INFORMED HIM PROVES COUNSEL PERFORMANCE WAS DEFICIENT AND NOT FUNCTIONING AS COUNSEL GAURANTEED BY THE 6th AMENDMENT. THIS FAILURE TO INVESTIGATE AS REQUIRED UNDER WILGINS ESTABLISHES THAT COUNSEL'S PERFORMANCE WAS DEFICIENT.

THE DISCOVERY OF THE PHOTO IDENTIFICATION THAT WERE TESTIFIED TO BY THOMAS AND WILLIAMS WOULD HAVE ALTERED THE ENTIRE EVIDENTIARY PICTURE, THE LINE OF INVESTIGATION AND ALLOWED PETITIONER TO CONFRONT 'RIO' IN THE COURT OF LAW IN REGARDS TO HIS OWN ACTION IN ORDER TO CLEAR PETITIONER OF ANY ACCOUNTABILITY. BY NO MEANS CAN THE PROSECUTION WITHHOLD AN PHOTO IDENTIFICATION OF THE ALLEGED PERPATRATOR OF WHOM IS SOMEONE OTHER THAN THE DEFENDANTS AND NOT BE HELD ACCOUNTABLE FOR A BRADY VIOLATION. THE STATES FAILURE TO DISCLOSE EVIDENCE FAVORABLE TO AN ACCUSED VIOLATES DUE PROCESS WHERE THE EVIDENCE IS MATERIAL TO GUILT OR PUNISHMENT REGARDLESS OF GOOD FAITH OR BAD FAITH OF THE PROSECUTION BRADY V. MARYLAND 373 US AT 87, 83 SCT. 1194. THE PROSECUTION DUTY ENCOMPASSES BOTH IMPEACHMENT MATERIAL AND EXCULPATORY EVIDENCE AND IT INCLUDES MATERIAL THAT IS KNOWN TO POLICE INVESTIGATORS AND NOT TO THE PROSECUTORS KYLES V. WHITLEY 514 US AT 438 115, S.CT 1555

PETITIONER ARGUES THAT THIS IS BOTH IMPEACHMENT MATERIAL AND EXCULPATORY EVIDENCE.

COUNSEL INSUFFICIENT INVESTIGATION CLEARLY PREJUDICED PETITIONER AND THE FOURTH CIRCUIT DECISION IS IN CONFLICT WITH SUPREME COURT LAW.

CONCLUSION

FOR THE REASONS STATED THIS COURT MUST GRANT A REHEARING OF ITS JUDGEMENT ENTERED ON 10/1/18 AND ISSUE A WRIT OF CERTIORARI TO OVERTURN THIS EGREGIOUS MISCARRIAGE OF JUSTICE

ANTHONY EASON
AUGUSTA CORRECTIONAL CENTER
1821 ESTALINE VALLEY ROAD
CRAIGSVILLE, VIRGINIA 24430

NO. 17-8845

IN THE SUPREME COURT OF THE UNITED STATES

ANTHONY EASON,

PETITIONER

V.

HAROLD W. CLARKE,

RESPONDENT

CERTIFICATE IN GOOD FAITH

COMES NOW PETITIONER, ANTHONY EASON AND MAKES CERTIFICATION THAT HIS PETITION FOR REHEARING IS PRESENTED TO THIS COURT IN GOOD FAITH PURSUANT TO RULE 44. MR EASON FURTHER STATES: PETITIONER HAS NEVER RECIEVED A EVIDENTIARY HEARING ON ANY OF THE DISPUTED FACTS. BASED UPON THE LAW OF THIS COURT AND THE FACTS OF PETITIONER CASE PETITIONER IS ENTITLED TO RELIEF

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT

EXECUTED ON THIS 14th DAY OF NOVEMBER 2018.

ANTHONY EASON

AUGUSTA CORRECTIONAL CENTER

1821 ESTALINE VALLEY ROAD

CRAIGSVILLE, VIRGINIA 24430

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

October 1, 2018

Mr. Anthony James Eason
Prisoner ID # 1296053
Augusta Corr. Ctr.
1821 Estaline Valley Road
Craigsville, VA 24430

Re: Anthony James Eason
v. Harold W. Clarke, Director, Virginia Department of Corrections
No. 17-8845

Dear Mr. Eason:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

Scott S. Harris

Scott S. Harris, Clerk

APPENDIX "A"

FILED: September 26, 2017

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7554
(1:16-cv-00297-LO-IDD)

ANTHONY JAMES EASON

Petitioner - Appellant

v.

HAROLD W. CLARKE

Respondent - Appellee

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge Niemeyer, and Senior Judge Hamilton.

For the Court

/s/ Patricia S. Connor, Clerk

"APPENDIX B"

APPENDIX 'C'

EXHIBITS

APPENDIX 'C'

EXHIBIT # 1

COURTS

Doctor says defendant in shooting case incompetent

BY PETER DUJARDIN
pdujardin@dailypress.com |
757-247-4749

NEWPORT NEWS — A man who was convicted five months ago in a 2006 shooting that left one man paralyzed and another in a vegetative state has been declared incompetent by a court-appointed psychologist.

Julian Leon Mitchell, 23, who now awaits sentencing in the case, was recently ruled incompetent by a Richmond-area psychologist, said Mitchell's attorney, Steve Hudgins.

That means the psychologist, Evan Nelson, has determined that Mitchell either does not understand the nature of the proceedings against him or is unable to assist in his own defense.

A ruling of incompetence after a verdict is out of the ordinary, with such mental evaluations usually sought before trial.

Hudgins said he didn't perceive any issues with his client's mental health status before the trial. But after the trial, he said, a probation officer putting together Mitchell's pre-sentencing report found some indications of problems during his stay for the past several years at Hampton Roads Regional Jail.

"There was also some unusual behavior that he exhibited toward (the probation officer)," Hudgins said.

The Commonwealth's Attorney's Office can either accept Nelson's determination on Mitchell's incompetence or ask for a second evaluation. If Circuit Judge Timothy S. Fisher accepts that Mitchell is incompetent, he'll be sent for restoration at a state facility.

At a June trial, both Mitchell and another man, Anthony James Eason, 29, were convicted of two counts of aggravated malicious wounding and related gun charges. The shooting left one man, Davon Thomas, paralyzed and another, Jamel Bennett, then a 24-year-old soldier at Fort Eustis, in a vegetative state.

According to testimony at trial, the incident began in a dispute over Eason's child.

On Nov. 10, 2006, some of Eason's family members went to the apartment of the child's mother. She was at work, but they demanded her then-girlfriend — who was then watching the child — hand over the boy.

The girlfriend refused, leading to a confrontation in which a member of Eason's family grabbed the child from her hands, she said. Bennett and Thomas, both of whom were unarmed, were shot in a parking lot a short time later.

GLOUCEST

8AM-11PM TUESDAY & 7AM-11PM WE
VISIT MACYS.COM AND CLI

 ~~EXHIBIT #~~ 2

EXHIBIT # 2

VOLUNTARY AFFIDAVIT

STATE OF NEW YORK)
COUNTY OF) CAYUGA ss:
VILLAGE / ~~CITY OF~~) MORAVIA

CLAIM #_____

I, GWENDOLYN T. PRIEST, being duly sworn, state that am 25 years old and my date of birth is 11/10/85. My current legal address is 21 CHURCH ST, MORAVIA, NY. My occupation is ASST MANAGER - CONVENIENCE STORE and I have completed 11+ years of education.. I can be reached at the following telephone numbers, 607-591-9880

TO WIT:

On Sept 21 2011 I was at Fillmore Glen S.P. when I met Inv. Lewis Brunelle. He spoke to me regarding an incident that occured on Nov. 10 2006 while working/living at Colton Drive, Newport News, Virginia. At approx 3:00 - 4:00 PM I was in my 1st floor apartment when I heard 5 or 6 racks of gun shots outside. There was 10-20 shots. I opened the sliding door and observed a Black male running toward a Green Chevy Impala or Caprice with two red lights on the window. The lights were flashing out the window. I noticed the male carrying a chrome plated gun. He opened the vehicle door, took out a coat and wrapped the gun inside the coat. He then threw the coat / gun into the backseat. A Black male was put into the Green Chevy and he was carrying a gun

I have read this statement (~~or had it read to me~~) which consist of 2 page(s) and the facts contained therein are true and accurate to the best of my knowledge.

NOTE: FALSE STATEMENTS MADE HEREIN ARE PUNICHABLE AS A CLASS "A" MISDEMEANOR PURSUANT TO SECTION 210.45 PF THE NEW YORK STATE PENAL LAWS OF THE STATE OF NEW YORK.

AFFIRMED UNDER PENALTY OF PERJURY, this 21ST **day of** September 2011.

Signature: Gwendolyn Priest

Page 1 of 2 pages.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 21ST DAY OF September 20 11.

NYS. DRIVERS LIC. ID# 928-505-102

NOTARY PUBLIC:

Lewis J. Brunelle

LEWIS J. BRUNELLE
Notary Public, State of New York
No. 01BR6189373
Qualified in Cayuga County
Commission Expires June 23, 2012

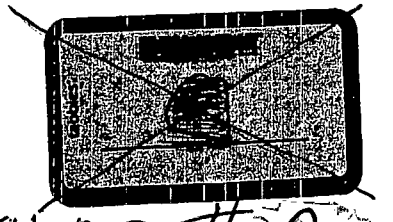

EXHIBIT # 2

VOLUNTARY STATEMENT
Continuation

Page 2 of 2 Name Gwendolyn Price

also. This male jumped into the passenger side of the vehicle. The vehicle then drove off. The Navy vehicle had something over the plate so I was unable to get a plate #.

I then went to another room looked outside and saw Black male on the ground. I could see blood on the left side of the male. I called 9-11 and informed them of the shooting. When the police arrived I told them above.

At a later date I was informed about the shooting from the Commonwealth Attorney.

I do not know anyone involved in this incident.

I have read this statement (~~had this statement read~~ to me) which consists of 2 page(s) and the facts contained therein are true and correct to the best of my knowledge.

NOTE: FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK.

Affirmed under the penalty of perjury, this 21 day of September, 2011

Witness

LEWIS J. BRUNELLE
Notary Public, State of New York
No. 01BR6189373
Qualified in Cayuga County
Commission Expires June 23, 2012