

No. 18-6586

IN THE
SUPREME COURT OF THE UNITED STATES

BRUCE WOOD,
PETITIONER

VS.

THE STATE OF DELAWARE,
RESPONDENT(S)

ORIGINAL

Supreme Court, U.S.
FILED

OCT 31 2018

OFFICE OF THE CLERK

ON PETITION FOR A WRIT OF CERTIORARI TO

THE DELAWARE SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

BRUCE WOOD (PRO SE)

1181 PADDOCK ROAD

SMYRNA, DE. 19977

JAMES T. VAUGHN CORRECTIONAL CENTER

QUESTIONS PRESENTED

1. Does Delaware's "Amended" Superior Court Criminal Rule 61 (post-conviction motion) and/or Delaware State Courts' decisions, make or enforce Laws/Rules that "abridge" their citizens privileges and immunities and violate Due Process Rights (14th Amendment), when they "conflict" and intentionally ignore "This Court's" decisions, US Court of Appeals decisions, Federal Rules/Laws and Delaware's own State Rule/Laws to retain a conviction, despite "New Evidence" contradicting guilt, constitutionality, and integrity of conviction?
2. Is it a violation of Due Process Rights (5th and 14th Amendment) and/or should exceptions apply when a citizen did not have counsel during his initial collateral proceedings and/or citizen was not lucid during initial collateral proceedings, when procedural bars preclude him from asserting his Constitutional Rights when he is legally knowledgeable and/or has become lucid?
3. If evidence is presented to the jury in trial by counsel for defense, but counsel did not explain the "exculpatory or impeaching value" of this evidence to the jury, would the evidence be considered "New" when the evidence is "Newly Obtained" (from the Court) and the "exculpatory value" reveals Constitutional Violations during trial that would have changed the outcome of the trial?
4. Did Delaware State Courts make decisions in "conflict" with The US Court of Appeals for the Third Circuit's "New Rule of Constitutional Law" supporting Petitioner's "New Evidence" stating "A conviction must be set aside even if this false testimony goes only to the witness's creditability rather than the Defendant's guilt?"
5. When there is no physical evidence of a crime, should a conviction be overturned and/or other legal remedies apply "Where a theory of guilt and an equal theory of innocence are supported by the evidence," when it is more likely than not that a crime did not occur, to "Protect the accused Due Process Rights" and to prevent a "Miscarriage of Justice" from the accused being wrongfully convicted due to false sexual allegations stemming from rebellious teens, politics, revenge, joining the Me Too Movement for attention, money, jealousy or other ulterior motives?

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:

Commissioner of Delaware Superior Court

The Delaware Superior Court (Judge Eric Davis)

Abby Adams, Delaware Department of Justice

The Delaware Supreme Court

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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-C 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 Delaware Superior Court court appears at Appendix-B 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 May 24, 2018. A copy of that decision appears at Appendix-C.

- A timely petition for rehearing was thereafter denied the following date: June 11, 2018, and a copy of the order denying rehearing appears at Appendix-D.
- An extension of time to file the petition for a writ of certiorari was granted to and including Nov. 8, 2018 (date) on July 9, 2018(date) in Application No. 18 A 28.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves numerous United States Constitutional violations and Delaware state constitutional violations. Petitioner's 6th Amendment Rights were violated when he was denied effective counsel and denied compulsory process for obtaining witnesses in his favor. Petitioner's Due Process and Due Process Right to a Fair Trial was violated under the 5th and 14th Amendment and also may be additional Due Process violations if This Court determines Petitioner's Questions Presented contain Due Process violations. Delaware's Constitution Article I§7 is almost the exact same as the United States Constitution (just worded different), which was also blatantly violated.

5th Amendment- No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

6th Amendment- In all criminal prosecutions, the accused shall enjoy a speedy and public trial, by an impartial jury or 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 assistance of counsel for his defense.

14th Amendment, Section 1- 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 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 any person within its jurisdiction the equal protection of the laws.

Delaware Constitution Article I§7- Section 7. In all criminal prosecutions, the accused hath a right to be heard by himself or herself and his or her counsel, to be plainly and fully informed of the nature and cause of the accusation against him or her, to meet the witnesses in their examination face to face, to have compulsory process in due time, on application by himself or herself, his or her friends or counsel, for obtaining witnesses in his favor, and a speedy and public trial by an impartial jury; he or she shall not be compelled to give evidence against himself, nor shall he or she be deprived of life, liberty or property unless by the judgment of his or her peers or by law of the land.

Federal Court Rules (and Delaware Court Rules of Evidence)

Rule 901. Authenticating or Identifying Evidence- Rule 901 (4) *Distinctive Characteristics and the Like.* The appearance, contents, substance, internal patterns, or other distinctive characteristics of the item, taken together with all the circumstances.

Federal Court (and Delaware Court Rules of Evidence) Rule 902.

Evidence that is Self-Authenticating. Rule 902 (7) *Trade Inscriptions and the Like.* An inscription, sign, tag, or label purporting to have been affixed kin the course of business and indicating origin, ownership, or control. **Rule 902 (8) *Acknowledged Documents.*** A document accompanied by a certificate, of acknowledgement that is lawfully executed by a notary public or another officer who is authorized to take acknowledgements. **Rule 902 (10) *Presumption Under a Federal Statute.*** A signature, document, or anything else that a federal statute declares to be presumptively or *prima facie* genuine or authentic.

STATEMENT OF THE CASE

The Delaware justice system is unjust and/or corrupt. Some of the judges in Delaware once were prosecutors, which would question their impartiality from the start. The State will use reprehensible methods to obtain a conviction (as proven in the evidence to This Court). The Delaware Courts go right along with the State and stomp all over The Constitution to retain a conviction, regardless of guilt or innocence to keep from overturning a conviction and to hide their reprehensible actions to obtain and retain a conviction. The Petitioner was wrongfully convicted of the continuous rape of 2 girls and sentenced to 290 years off false testimony that the State and the courts knew was false, but didn't care. The facts and evidence in this case are voluminous and are overwhelming. Detailed facts and evidence are included in the record/Appendix in accordance with US Supreme Court Rule 14 (g)(i).

The Petitioner is from a small suburban town outside of Philadelphia, PA. He was raised with morals, integrity, and with a strong work ethic. He graduated high school and went to college and learned the restaurant business. For years Petitioner was a supervisor for a couple upscale restaurants. While working full time in the restaurant, he worked full time with his uncle and learned how to install carpet and floors. Petitioner worked 2 full time jobs for 3 years. He started his own business installing and selling carpet. He had 2 to 4 employees at any given time. His business was on record with the IRS and stores he sub-contracted for under "Bruce Wood" or "Bruce's Carpet." Bruce Wood nor Bruce's Carpet "never" sub-contracted for Lowe's as "New Evidence" proves (ex. L-1,2) and (ex. G-1,2), but State told the jury in trial

that, "Bruce sometimes sub-contracted for Lowe's" (ex. L-G-F) (along with other false evidence) and allowed this false evidence go uncorrected through the entire trial in violation of his of his 5th and 14th Due Process Right to a Fair Trial. Without this constitutional violation along with other constitutional violations proved with the evidence, viewing evidence as a whole, no factfinder would have found the Petitioner guilty of the offense.

Petitioner moved to Delaware in 1994 and continued his business in Delaware. He met a women named Jessica and had a son named Dillon. They moved into Linden Green, which was a condo development in Pike Creek, Delaware. In his building he met Charlie and Darlene Tullock (complaining witness's parents), who both had children from a previous marriage. All 5 of the Tullock's children came down to Petitioner's condo to play with his son Dillon. Christine Geisler (complaining witness) used to follow Petitioner everywhere he went while he was conducting business in his condo. She later claimed she loved Petitioner like a father. Petitioner felt sorry for Christine and treated her with care and kindness, because of her traumatic experience she suffered in New Mexico before they moved to Delaware of being raped by her babysitter's son. Petitioner could never do anything inappropriate to Christine after what she's been through and his upbringing. Christine was definitely taught about good/touch bad/touch from her past experience and would have told her parents immediately if Petitioner did anything inappropriate to Christine. Years past and his girlfriend Jessica left. Petitioner and his son Dillon stayed in the condo. Petitioner met a women named Melissa Pensky (complaining

witness's mother) and they started dating. Melissa had a daughter named Sydney Pensky (complaining witness) to visit at his condo. While they at his condo Petitioner introduced Sydney (complaining witness) and Christine (complaining witness) to each other. Sydney and Christine became and "remained friends over the years." Petitioner, Dillon, Sydney, and Melissa got a house and lived together for 8 years as a family. "Over this 8 year period there was no kind of sexual implications from Christine Geisler (complaining witness) against Petitioner." Petitioner and Melissa had a good relationship for 5 years, but their relationship started having problems after that. One of the main problems was Sydney (complaining witness) habitual lying, sneaking around with boys, disrespect, and rebelling. Petitioner, Melissa, and Sydney went to family counseling at Jewish Family Services (JFS) (ex. L-G-V). These JFS counselors and/or their records were never brought to trial. The JFS counselors said to stop treating Sydney like a friend and start punishing her for her negative actions. Sydney was getting grounded and getting things taken away almost every week. At one point Sydney told Petitioner, "We used to be best friends, but now you're nothing but a dick. I don't want you here anymore." Shortly after this statement the police were at the door saying Sydney claimed Petitioner was physically abusing her for years, but this was the first time she reported it. during her interview about her alleged physical abuse Sydney was asked if Petitioner ever sexually abused her. she said, "NO" (ex. L-G-G) and (ex. L-G-H) (this was at the time she later claims she was sexually abused by Petitioner). Claiming physical abuse didn't work to get rid of Petitioner, so months later Sydney used sexual abuse to get rid of Petitioner. Sydney

told the police that she had “permanent” rips, tears, and bruising from alleged sexual abuse of Petitioner, but the SANE nurse found no “permanent” rips, tears, or bruising as Sydney claimed (ex. L-G-E). When Detective Greer asked Sydney why she lied she said, “They used to be there” (ex. L-G- D). Sydney knew the police were having a hard time believing her after she lied multiple times to them, so she contacted her friend Christine Geisler (complaining witness) to help make her story believable. This is why Christine reported her alleged sexual abuse only “2 days” after Sydney reported her sexual abuse to the police (ex. L-G-B, C) (this was never heard by the jury), despite claiming her alleged sexual abuse happened 8 years before Sydney’s allegations. This helps prove their collaboration. Both girls were around 16 at the time of their reports to the police and both were teenagers with emotional problems. The one reason Sydney had a description of Petitioner’s penis was she found an adult movie of Petitioner and his ex-girlfriend in his drawer when he wasn’t home and watched it (this was never heard by the jury) (ex. L-G-K). Sydney told Christine about the adult movie (ex. L-G-N). This is why Christine could not describe Petitioner’s penis, despite claiming to have seen it for 2 and a half years and allegedly seeing it in an adult movie. His penis has unusual characteristics and would have remembered it. She didn’t remember because she never seen it. Christine was also proven to have lied about Petitioner showing her the adult movie of him and his ex-girlfriend, because she claimed Petitioner’s girlfriend said in the adult movie, “It tastes like cookies,” which she testified that she never said and Christine only said this to make her story sound convincing (ex. L-G-K). Christine also lied about watching the adult movie with

Petitioner in his bedroom, because there was no TV or VCR in the bedroom to watch the adult movie (ex. L-G-P, Q). In addition, Christine was asked over the years before her sexual allegations against Petitioner if he did anything inappropriate to her when she was alone with him she said, "Nothing Happened" (ex. G-18).

G-18

In February 2006, Petitioner was arrested and charged with 8 counts of rape 1st < 12, 2 counts of continuous sexual abuse of a child and 10 counts of rape 1st trust. Petitioner had never been in prison before and was confused, hurt and felt betrayed by 2 girls he loved like his own daughters and betrayed by his girlfriend (Melissa) of 8 years. This situation was overwhelming for Petitioner, which caused him to have a mental breakdown. The prison psychiatrist put Petitioner on 6 different types of psychotropic medications through his trial (ex. L-P). When Petitioner went to trial the psychotropic medications prevented him from remembering important facts that would have changed the outcome of the trial. Because Petitioner testified on his own behalf at trial, the lower courts erroneously determined that Petitioner was competent to stand trial, despite Petitioner never having a competency hearing before trial in conflict with well-established U.S. Supreme Court decisions and U.S. Court of Appeals for the Third Circuit decisions. The Prosecutors allowed complaining witnesses and complaining witness's mother testify against Petitioner, despite knowing they lied and there was contradictions in their stories and allowed false testimony/evidence go uncorrected through the entire trial. The Prosecution then "vouched" for the complaining witness's lying (ex. L-G-Y) and withheld favorable evidence from the defense (Brady Violation). The Prosecution (The State) and the

Delaware Courts care nothing about the “credibility” of complaining witnesses and that they lied and there was no evidence, as long as they get a conviction no matter how they get it. This happens all the time in Delaware and something needs to be done to stop this “INJUSTICE.”

Petitioner’s trial lasted 8 days in Delaware Superior Court. The jury deliberated 3 full days arguing every day in the deliberation room. Apparently the jury had problems finding Petitioner guilty and if Petitioner had a fair trial he probably would have been found not guilty. On February 16, 2007 Petitioner was found guilty. On March 23, 2997 Petitioner was sentenced to 290 years, despite not having any pre-sentence investigation, never being incarcerated, not having any sexual propensity or history, or having no physical evidence that a crime has even occurred. Petitioner’s ineffective trial counsel filed Petitioner’s direct appeal in the Delaware Supreme Court which was denied on September 30, 2008. Over the 12 years Petitioner has been incarcerated for a crime he did not commit, he has filed 2 State post-conviction motions in the Delaware Superior Court (0512020169) which were denied. He appealed both post-conviction motions to the Delaware Supreme Court which were denied (ex. K- page 1). Petitioner filed a Federal Habeas Corpus Petition and an amended Federal Habeas Corpus Petition which were not granted. The District Court’s decisions were appealed and denied (ex. F- page 1).

The “Federal Questions Presented” in this petition were presented in the Delaware Superior Court in the form of a State post-conviction motion (ex. L-E).

memorandum (ex. L-F), appendix (ex. L-G), 2 motions to compel (ex. L-C, D), and motion for appointment of counsel (ex. L- B). The above motions were filed on May 4, 2017. Petitioner also filed supplement motions supporting his post-conviction motion (ex. L- H, I, M, P, O). The Petitioner presented “new evidence” from Lowe’s and IRS impeaching the “credibility” of the State’s witnesses (which was the only evidence against Petitioner), “new affidavits,” newly obtained records from the court (Question 3), “new rule of constitutional law” from The US Court of Appeals for the Third Circuit supporting new evidence (Question 4), never had counsel and was not lucid during his first collateral proceedings (Question 2), The theory of innocence and guilt (Question 5).

The “New Evidence,” other evidence and facts that were never heard by the jury, “would have changed the outcome of the trial.” The new evidence and facts prove False Evidence/Testimony was presented against Petitioner at trial and went uncorrected through the entire trial, countless trial errors by the State and defense counsel resulting in Cumulative Error, Ineffective Assistance of Counsel, Brady Violation, Prosecutorial Misconduct, and denied compulsory process for obtaining witnesses in his favor. These are violations of the United States Constitution 5th, 6th and 14th Amendments, in violation of Delaware’s Constitution Article I§7, in violation of Federal Rules/Laws and in violation of Delaware’s Rule/Laws. “In addition, The Delaware Court’s erroneously dismiss the fact that Sydney and Christine (complaining witnesses) reported their alleged sexual abuse against Petitioner “only 2 days apart” is some kind of strange coincidence.” If the Delaware Courts “properly”

assessed the evidence and the facts that Petitioner presented in his post-conviction motions, supplement motions and appeal that contradicted the State's witnesses testimony and theories of a crime and showed the State's witnesses lied before and during trial and both complaining witnesses were friends and bot had ulterior motives to claim false allegations against Petitioner. Both claim they did not talk in years and did not know about each other's alleged sexual abuse by Petitioner, but "just by coincidence" they reported to the police their sexual allegations that allegedly happened 8 years apart, only 2 days apart in reports to the police. The evidence and facts show this was "no coincidence" and the complaining witnesses definitely collaborated against against the Petitioner. This would have changed the outcome of the trial, infers his innocence, shows his conviction should have been overturned and shows he did not have a fair trial.

On June 27, 2017 (ex. A) and (ex. L-G-J) the Commissioner filed her report and recommendation that the Delaware Superior Court summarily dismiss Petitioner's (third) post-conviction motion as procedurally barred and should deny all his supplement motions based on erroneous facts, erroneous cited cases, outright lies, erroneous de minimus assessment of new evidence and ignoring other evidence. Petitioner filed a "timely" objection to the Commissioner's Report supported by evidence (ex. L-K). On October 27, 2017 (ex. B) and (ex. L-Q) the Delaware Superior Court adopted Commissioner's Report to summarily dismiss Petitioner's post-conviction motion and denying "all" supplement motions. The Superior Court erroneously claimed Petitioner's New Evidence did not infer innocence and "lied" and

“changed” the filing date of Commissioner’s Report, which precluded Petitioner’s response (objection) to Commissioner’s Report and precluded his supplement motions (Judicial Misconduct), which supported his post-conviction motion and inferred his innocence to excuse procedural bars (successive motion). This resulted in the an erroneous decision by the Delaware Superior Court, because they did not consider all the motions and evidence supporting his post-conviction motion and based their decision from the Commissioner’s Report that was clearly erroneous.

→ A “timely” appeal was filed to the Delaware Supreme Court appealing the decisions of the Delaware Superior Court and Commissioner’s Report and presented issues and errors in the lower courts in his Opening Brief and Appendix on February 1, 2018 (ex. K and L). Petitioner also “questioned the constitutionality of the amended Delaware Superior Court Rule 61 (post-conviction motion) in Argument 2 under Delaware’s Supreme Court Rule 8 “In the Interest of Justice” (ex. K) (Question 1). The State filed a motion to affirm (ex. H). The Petitioner was granted permission to file a reply to motion to affirm(ex. I). On May 24, 2018 (ex. C) the Delaware Supreme Court granted the State’s motion to affirm, erroneously claiming they found no error of the Delaware Superior Court’s decision adopting Commissioner’s Report. The Petitioner filed a motion for an en banc rehearing and letter in support of his arguments (ex. J). On June 11, 2018 (ex. D) The Delaware Supreme Court denied Petitioner’s motion and letter for an en banc rehearing. Petitioner filed for an extension of time to file his writ of certiorari with This Court (ex. E)on July 8, 2918 to file a second or successive writ of habeas corpus petition (2244 petition) with the

US Court of Appeals. This Court granted this extension of time until November 8, 2018 (ex. E) to file his writ of certiorari. The Petitioner is not appealing the grant or denial of his 2244 petition in accordance with 28 USCA section 2244 (b)(3)(E), but is presenting his 2244 memorandum (ex. F) and 2244 appendix (ex. G) as supporting arguments of the Federal Questions and Federal Violations of Federal Constitution/Laws/Rules and the Delaware “state courts.”

The Delaware “State Courts,” Commissioner, and Delaware Attorney General(s) intentionally ignored and made decisions in “conflict” with the US Constitution, Delaware Constitution, Federal Rules/Laws and Delaware’s own Rule/Laws and IGNORED “New Evidence” and other facts and evidence never heard by the jury that contradicts the State’s complaining witnesses testimony of a crime and contradicts that a crime has even occurred. This questions the Delaware “State Courts” and the State’s integrity and constitutionality of Petitioner’s conviction. Petitioner’s state post-conviction motion and appeal should have been granted, because there was “no physical evidence” of a crime and all the evidence presented to the “state courts” (old and new evidence and facts) that contradict the State’s witnesses testimony of a crime and contradicts that a crime has even occurred, **would not exist without Petitioner being Actually Innocent.** Due to the facts and evidence presented in “state court” the Delaware Superior Court and/or Delaware Supreme Court erred by not precluding procedural bars and overturning Petitioner’s conviction to prevent a “Miscarriage of Justice.”

REASONS FOR GRANTING PETITION

Question 1- The Delaware “State Courts” make decisions and rules that “abridge” the rights of their citizens to obtain and retain convictions regardless of well-established Federal and State Rules/Laws, New Evidence that shows citizen did not have a fair trial, no physical evidence of guilt and in “conflict” with the decisions of This Court and the US Court of Appeals for the Third Circuit. This Court’s judicial discretion, power and authority are respectfully requested to resolve issues in question that would greatly serve the “public’s interest” of the citizens of Delaware and other states that have reprehensible rules, practices and methods to obtain and/or retain convictions of their citizens. (The facts and evidence involved in this petition are voluminous and could not meet This Court’s page limitation. Please refer to specified exhibits for detailed facts and evidence in support Petitioner’s petition). It has been alleged that Delaware is a good ole boy state and makes money from the federal government by keeping their prisons full regardless of their citizens guilt or innocence. This probably could not be proven without a confession from someone in Delaware’s Judicial System, but it does leave one to speculate why Delaware decisions, rules and laws abridge the rights of their citizens.

Before This Court’s decisions in *Martinez v. Ryan*, 866, US 1 (2012) and *Trevino v. Thaler*, 133 SCT 1911 (2013) Delaware State Courts Rules/Laws precluded citizens from raising ineffective assistance of counsel claims on direct appeal and “did not “ provide counsel for first collateral proceedings knowing citizens could not effectively assert their rights effectively on post-conviction (Rule 61) without counsel.

In response to This Court's decisions in *Martinez* and *Trevino* the Delaware Superior Court "Amended" Superior Court Criminal Rule 61(e)(1), adding that citizens will be appointed counsel for their first post-conviction motion and will be appointed counsel for second or successive post-conviction motions if they show good cause (ex. M). "Some citizens are procedurally barred from filing post-conviction motions due to lack of legal knowledge, because they were never appointed counsel for their first collateral proceedings and/or other circumstances that have nothing to do with their constitutional claims having merit." Delaware Superior Court Criminal Rule 61 (i)(5) (before amendment) precluded all procedural bars to allow citizens to assert their constitutional violations/rights when they were discovered on their post-conviction motions. Delaware at the time did not provide counsel for first collateral proceedings so these concessions were "futile" its citizens (untrained in law) could not present or assert their rights/claims "effectively" without counsel and therefore their post-conviction motions were denied. Rule 61 (i)(5) (before amendment) stated, "The bars to relief in paragraph (1),(2) and (3) of this subdivision shall not apply to a claim that the court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of constitutional violation that undermined the legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction (ex. M).

"It is by no coincidence" that less than 4 months after the Delaware Superior Court "Amended" Rule 61 (e)(1) to provide counsel for first post-conviction motion (only begrudgingly added because of This Court's decision in *Martinez*), that on June 4, 2014 the Delaware Superior Court "Amended" Rule 61 again deleting Rule 61 (i)(5)

that allowed constitutional rights/violations to preclude procedural bars (ex. M). The Delaware Superior Court “Amended” Rule 61 (i)(5) with Rule 61 (d)(2)(i) and Rule 61 (d)(2)(ii) (ex. M). Rule 61 (d)(2)(i) and Rule 61 (d)(2)(ii) states, “(i) pleads with particularity that new evidence exists that creates a strong inference that movant is actually innocent of the acts underlying the charges of which he convicted; or (ii) pleads with particularity a claim that new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or Delaware Supreme Court , applies to movant’s case and renders the conviction or death sentence invalid (ex. M). “It can be surmised that the Delaware “State Courts” realized that providing citizens with counsel they can now present and assert their constitutional rights/violations a lot more “effectively” and convictions would be getting overturned; so the Delaware Superior Court made it almost impossible for citizens lawyers or pro se with procedural bars with their “Amendments” with Rule 61 (d)(2)(i) and the rare decisions that pertain to citizens cases in Rule 61 (d)(2)(ii) to adjudicate their claims fairly (ex. M).

The Petitioner appealed to the Delaware Supreme Court that the “Amended” Rule 61 was unconstitutional and Rule 61 (i)(5) “before” Rule 61 was amended should apply to Petitioner’s post-conviction motion (Rule 61), because his New Evidence, other evidence facts presented never heard by jury pertains to the overwhelming amount of constitutional violations during his “blatant unfair trial” in 2007, before Rule 61 was amended in 2014, so his New Evidence, other evidence and facts never heard by the jury along with constitutional violations could be fairly adjudicated “as

evidence as a whole" to show the obvious "Miscarriage of Justice" that Petitioner has endured at the State of Delaware's hands and his conviction should be overturned. Had it not been for the constitutional violations during his trial Petitioner would have been found not guilty and/or innocent. The Delaware Supreme Court rejected this argument in his appeal Argument 2 (ex. K).

The "Amended" Rule 61 is a violation of Due Process Rights (5th and 14th Amendments), because it requires "New Evidence" that infers actual innocence "before" a citizens constitutional rights are considered. The Delaware "State Courts" then "apply erroneous standards for actual innocence to unfairly assess the New Evidence that infers actual innocence." This burden "abridges" (14th Amendment) its citizens from asserting their constitutional rights and precludes "New Evidence" that infers actual innocence and/or the jury would have found him not guilty, that would have otherwise have merit using the "correct" standards to assess actual innocence. The 14th Amendment Section 1, which Delaware State Courts violates in their "Amended" Rule 61 and their decisions, which states, "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. The Delaware Supreme Court and the Delaware Superior Court (State Courts) based their decisions on Commissioner's Report and Recommendation (the report) to summarily dismiss Petitioner's post-conviction motion (Rule 61 motion) and deny all Petitioner's supplement motions (ex. A, L(J)) that was bases on erroneous facts, lies, erroneous actual innocence standards and cases, and "ignoring"

the US Constitution, Delaware Constitution, Federal Rules/Laws, Delaware Rules/Laws, decisions from The US Court of Appeals for the Third Circuit, and decisions from “This Court.”

The Report that “State Court” blindly and erroneously follow is filled with obvious lies, erroneous facts, and ignores State and Federal Rule/Laws as presented in detail in Defendant’s Response to Commissioner’s Report (ex. L(K)), Opening Brief (ex. K), and Reply to Motion to Affirm (ex. I). It is “impossible” to overlook the lies and erroneous facts in The Report (ex. L(J)). The State Courts had to “intentionally ignore” the following lies and erroneous facts on The Report (ex. L(J)). This questions the integrity of the “State Courts” decisions (Judicial Misconduct?). [PLEASE NOTE: facts and evidence are voluminous, Please refer to specified exhibits for detail facts in support of this petition?] “The State Courts’ decisions cannot stand,” because they base their decisions on blatant lies and erroneous facts in The Report, which Petitioner objected to in detail (ex. L(K)), but this motion was ignored by the State Courts. (1) The Report bases its assessment of Petitioner’s “New Evidence” on erroneous actual innocence standards, which the State also cites in her Motion to Affirm (ex. H). FIRST, The Report states that Petitioner’s New Evidence does not meet the requirements under Rule 61 (d)(2)(i) for actual innocence, because “evidence cannot be impeaching or cumulative.” The Report and the State’s Motion to Affirm both cite 2 cases that allegedly support their actual innocence standards. Both cite either *Downes v. State*, 771 A 2d 289 (Del. 2001) and/or *Hicks v. State*, 913 A 2d 1189, 1194 (Del. 2006). The problem with these 2 cases is “both cases have nothing to do

with actual innocence standards.” Both cases are based on decisions in accordance with Superior Court Criminal Rule 33, which is standards for new evidence for a new trial, not actual innocence standards for a Rule 61 motion as alleged by the Report. SECOND, Even “if” these actual innocence standards were applicable to Petitioner’s Rule 61 motion or appeal, both of these cases were decided “before” Rule 61 was “Amended” in 2014. The “Amended” version of Rule 61 incorporated an “inference of innocence,” which was not mentioned in the old version of Rule 61, so these 2 cases supporting these alleged actual innocence standards are inapplicable to the “Amended” Rule 61 and inapplicable to Petitioner’s appeal and Rule 61 motion. The Report nor the State cite any rules or laws in support of these erroneous actual innocence standards. THIRD, The Report’s erroneous actual innocence standards are also in “conflict” with “This Court’s” decisions, US Court of Appeal’s decisions, and in “conflict” with Federal and Delaware State Rules/Laws. The Report actual innocence standards state evidence cannot be “cumulative” or “impeaching,” which is in “conflict” with the following decisions and rules: *Giglio v. United States*, 92 Sct 763 (1972), supports impeaching evidence; *Haskell v. Superintendent Green SCI* (3rd Cir. August 1, 2017), supports impeaching evidence; *United States v. Colon-Munoz*, 192 F. 3d 210 (1st Cir. 1999), supports impeaching evidence and theory of innocence; *Taylor v. Kentucky*, 436 US 478, 488 n. 15 (1978), supports cumulative evidence; *Bagley*, 473, US at 682; *id* at 685, “When assessing evidence materiality, the “cumulative” effect of the suppressed evidence (new evidence from Lowe’s) in light of other evidence (see other evidence in all exhibits), not merely “the probative value of the suppressed

evidence standing alone;” Federal Court Rules of Evidence Rule 901 (4) and Delaware Rules of Evidence Rule 901 (4), both state, “ *Distinctive Characteristics and the Like.* The appearance, contents, internal patterns, other distinctive characteristics of the item, “taken together with all the circumstances;” 28 USCA § 2244 (B)(ii) (“when assessed correctly”), the facts of the underlying claims, if proven and “viewed in light of the evidence as a whole,” would be sufficient to establish by clear and convincing evidence that, for constitutional error, no factfinder would have found applicant guilty of the underlying offense. FOURTH, when alleged sexual crimes, especially alleged heinous sex crimes against children, are based on testimony without physical evidence, it is impossible to prove innocence or not guilty without cumulative or impeaching evidence, because this is the only evidence that exists in these type of cases. The citizens accused of these heinous sex crimes are under an unfair burden in front of the judge and jury, because the stigma of these charges/crimes, the false belief that no one makes these things up, and the 1% chance the judge or jury was wrong if they find citizen not guilty (fear of releasing a sex offender and fear of public reticule). Usually, these citizens are found guilty before the trial even starts. The Courts (state and federal) use this same mentality when deciding motions, petitions, and appeals. When the jury and the courts decide on alleged sex crimes for a conviction or to overturn a conviction the concept of “guilty beyond a reasonable doubt” and is replaced by the (“unspoken”) “innocent beyond a reasonable doubt” which is impossible to satisfy. There is almost always 1% “fear” of a chance that their not guilty decision or overturning a conviction was wrong. This 1% fear factor

prevents juries and judges from finding citizens not guilty or overturning convictions, which would have been otherwise found not guilty or conviction overturned had it been a non-sexual crime. This unspoken practice prejudices citizens and violates their Due Process Rights (5th and 14th Amendment), because guilt and innocence are not “fully” and “fairly” based on evidence and facts inferring innocence or not guilty, but “often based on human emotions, which is always flawed.” There are almost a dozen citizens in Delaware prisons that are wrongfully convicted (including Petitioner) off false sexual allegations. Delaware does not except recantations from citizens who admit to convicting someone off false sexual allegations, because they fear that 1 % who may have changed their claims of sexual allegations due to pressure from family and friends, not because it wasn’t true. The jury and courts fail to recognize “some” citizens do “lie” about sexual allegations (especially in Delaware) and is impossible to disprove from testimony alone and no physical evidence that a crime has even occurred. The mere implications of sexual improprieties true or false is enough to ruin a citizens life or put them in prison for the rest of their lives. **This Court’s judicial discretion, power and authority are respectfully requested to decide how Delaware Courts and/or other courts can make fair decisions and limit their citizens wrongful convictions and/or overturn convictions based on false sexual allegations with rules, regulations and/or laws implemented by This Court to limit flawed human emotions from being part of the decision making, such as in *US v. Colon-Munoz*, 192 F3d 210 (1st Cir. 1999), Where an equal**

theory of guilt and an equal theory of innocence are supported by the evidence the Court of Appeals must reverse a conviction.” The Delaware “state courts” made their decisions in “conflict” with the US Court of Appeals and the “state courts” applied their own erroneous standards for actual innocence, which led to a flawed decision. This Country’s public and Courts automatic delegation of good creditability to those citizens accusing other citizens of sexual misconduct “without any physical evidence,” regardless of the accuser’s creditability and/or ulterior motives is negligent and a recipe for wrongfully ruining citizens lives and/or wrongful convictions. “This Court” is respectfully requested to intervene on this National Problem (especially in Delaware) to install a safety valve for the Nations Courts to follow to “PROTECT” its citizens Constitutional Rights and prevent a “Miscarriage of Justice” from convictions from false sexual allegations. The aforementioned is in support of (“Question 5”). FIFTH, it shouldn’t matter if evidence is impeaching and/or cumulative if it infers innocence and/or not guilty. The chances that “all the evidence viewed as a whole” presented in the lower courts (ex. F, G, I, J, K, L) that contradicts that a crime could have even occurred, “would not exist without Petitioner being actually innocent and/or not guilty.” The “state courts” made their decisions in “conflict” with This Court’s decision in *McQuiggins v. Perkins, 133 Sct 1924 (2013)*. The Delaware “state court” erred by failing to consider evidence regardless of being old or new to determine innocence and/or not guilty. *Perkins* had his evidence in his possession for years and did not

meet the requirements for “due diligence,” but This Court accepted this evidence, because “by refusing to consider the petition for untimeliness, the court thereby endorses a “Fundamental Miscarriage of Justice,” because it would require that an individual who is actually innocent to remain imprisoned.” (2) The Report “outright lies” about the facts of the case and twists the facts about the evidence claiming his claims on his Rule 61 motion were formerly adjudicated, so they are procedurally barred. Most of the facts and evidence stem from new evidence, so it is impossible for these claims to be formerly adjudicated (see ex. L(K)). Even “if” this statement was true, the Report and “state courts” made decisions in “conflict” with the “Amended” Rule 61 (i)(5), which precludes procedural bars when Petitioner meets the requirements under Rule 61 (d)(2)(i), which includes former adjudication Rule 61 (i)(4) (ex. M), this also includes Petitioner’s Cumulative Error claim, which most of the 21 trial errors were never heard by any court and all 21 trial errors were never brought under as harmless error. All the evidence and facts were presented together in Cumulative Error claim in accordance with Federal and Delaware Rules of Evidence Rule 901 (4) “all evidence and facts taken together.” (3) The Report claims Lowe’s evidence was available for trial. Lowe’s facts weren’t in Petitioner’s Rule 16 discovery motion before trial and were not revealed by the State until trial. (4) The Report erroneously claims that the Lowe’s evidence is unauthenticated. The new evidence from Lowe’s and the IRS is “Evidence which is Self-Authenticating” in accordance with Federal and Delaware Rules of Evidence 902 (7) *Trade Inscription and a Like*. An inscription, sign, tag, or label purporting to have been affixed in the

course of business and indicating origin, ownership, or control. Also, Lowe's and the IRS letters (New Evidence) meet standards under the Rule 902 (8) and Rule 902 (10), which is supported in a affidavit and evidence in (ex. G-1, 2, 2A, 2B). (5) "MOST IMPORTANTLY," the Report and "state courts" erroneously claim, that Petitioner's New Evidence from Lowe's and the IRS (ex. L(1), L(2), L(G)-1, 2, 2A, 2B), "was at best impeachable evidence on a tangential (de minimis) related to Appellant's employment history." This Court states in *Buck v. Davis*, 580, US ____ 137 Sct 259 197 LED 2d1 (2017), "Some toxins are deadly in small doses." This is the case with Petitioner's New Evidence from Lowe's and the IRS that proves he was never employed by Lowe's. Since there was no physical evidence that a crime has even occurred and the only thing that convicted Petitioner was testimony of the State's main witnesses: Sydney Pensky (complaining witness), Christine Geisler (complaining witness), Melissa Pensky (complaining witness's mother) and Detective Greer. Showing the State's witnesses "lied" about the facts of the case that convicted Petitioner, renders the State's witnesses' testimony "not creditable" and "unreliable," so Petitioner's conviction should not stand, "because there is no reliable evidence that a crime had even occurred." The New Evidence also led to the discovery of numerous of other Constitutional Violations at trial, proving he did not have a fair trial as guaranteed by the 14th Amendment. The "state Courts" and the Report's de minimis assessment is "dead wrong," because his New Evidence does not only impeach the fact that Petitioner was never employed by Lowe's, but also impeaches the "credibility" of the State's main witnesses against Petitioner and contradicts and disproves the

testimony against him that wrongfully convicted him. The New Evidence from Lowe's led to the discovery of the following Constitutional Violations: **Ground 1- False Evidence Presented to the Jury in Trial**- Sydney Pensky (complaining witness) is a known habitual liar (ex. L(G)Z) and was caught lying to the police, but wanted to get rid of Petitioner and was not creditable, so she contacted her friend Christine Geisler (complaining witness) who reported her sexual allegations to the police only "2 days" after Sydney's sexual allegations against Petitioner to the police, despite alleging that both alleged sexual abuse happened "8 years apart" (see aforementioned pages 7-10). Christine helped Sydney because she was hurt and mad at the Petitioners, because she loved him as a father, but Petitioner moved away from her without saying goodbye or visiting her. There are over 30 facts and evidence that shows Sydney and Christine lied and the evidence contradicts their alleged facts of a crime that wrongfully convicted Petitioner. Most of the evidence that contradicts and shows complaining witnesses lied to convict Petitioner was never heard by the jury. Please see important evidence and facts in (ex. F-pages -5 to 10) and (ex. K-pages-9 to 17). One of the many lies Sydney told against Petitioner was she claimed that he had sex with her in 3 different motels. She gave the names of these 3 alleged motels to the police. Detective Greer (State's witness) testified in trial that he investigated all 3 motels she alleged, but none of the 3 motels had no record of Petitioner or his business (Bruce's Carpet) staying or registering at these 3 motels. The Parkway Motel (one of the 3 motels alleged by Sydney) stated they had carpet work done by Lowe's. The jury knew Petitioner's business sells and installs carpet and he sometimes sub-

contracts for different stores. Detective Greer (State's witness) then testified in trial that Melissa (complaining witness's mother and Petitioner's ex-girlfriend) told him that, "Bruce sometimes sub-contracts with Lowe's" (ex. L (G)F). This placed the Petitioner at the scene of the alleged crime and creates the only piece physical evidence that a crime may have occurred and confirms Sydney's creditability that would otherwise would have deemed "not creditable" and "unreliable." Then the Prosecutor "vouched" for Sydney's lying (ex. L(G)Y), which is Prosecutorial Misconduct and a violation of the 14th Amendment Due Process Right to a Fair Trial. Detective Greer knew Petitioner never sub-contracted for Lowe's (ex. L(1), (2)), because he told Petitioner's counsel he did investigate this fact (ex. L(G)F). This means that Detective Greer "intentionally" gave false evidence to the jury in trial, because he knew Melissa "lied" about Petitioner sub-contracting with Lowe's and allowed this false evidence go uncorrected through the entire trial to "intentionally" lead the jury to believe Petitioner was guilty of the alleged crimes. The New Evidence from Lowe's proves Melissa (complaining witness's mother) lied to help her daughter Sydney's sexual allegations against Petitioner, because she was mad at Petitioner for what she "thought" happened with Sydney under her nose and/or she was mad about their 8 year relationship ending and blamed Petitioner (a women's scorn). This shows Melissa's propensity to lie through her whole testimony at trial, which she did. Melissa's "false testimony" in trial was the main thing that convicted Petitioner, because the jury seen Sydney's and Christine's testimony was filled with lies which the jury doubted their creditability. This is the main reason the jury deliberated for

3 full days arguing in the deliberation room every day. The New Evidence from Lowe's takes away the only physical evidence showing Sydney may be telling the truth and proves she also lied about having sex with Petitioner in the 3 motels. This proves Sydney's testimony at trial was false and unreliable and unfairly influenced the jury to wrongfully convict Petitioner. This false evidence about Lowe's and other false evidence/testimony **prejudiced Petitioner and worked to his disadvantage, infecting the entire trial with error of constitutional dimensions.** The "state courts" and the Report made decisions in "conflict" with "This Court's" decision in *Giglio v. United States*, 405 US 156, 31 Led 2d 104, 92 Sct 763 (1972), under the Due Process Clause, a new trial is required in a criminal case if false testimony introduced by the State, and allowed to go uncorrected when it appeared, could in any reasonable likelihood have affected the judgment of the jury. When the reliability of a given witness may well be the determinative of guilt or innocence, the Prosecution's nondisclosure of the evidence of the credibility of a witness justifies a new trial under the Due Process Clause, irrespective of Prosecution's good or bad faith. **Question 4-** The "state courts" and the Report made decisions in "conflict" with US Court of Appeals for the Third Circuit's decision that supported Petitioner's New Evidence from Lowe's. This "New Rule of Constitutional Law" was decided 3 months after Petitioner filed his Rule 61 motion, but the "state courts" failed to apply this new decision to his Rule 61 or appeal. In Delaware's "Amended" Rule 61 (d)(2)(ii), procedural bars are precluded for "New Rule of Constitutional Law" if relates to applicant's case from the US Supreme Court or the Delaware Supreme Court (ex. M).

The US Court of Appeals for the Third Circuit should be included in Rule 61 (d)(2)(ii), because the Third Circuit is in Delaware's jurisdiction and presides over the Delaware Supreme Court. Regardless, both the Third Circuit's new decision and Petitioner's New Evidence were both under a year of each other and the "state courts" should have applied the Third Circuit's new decision to his Rule 61 motion and appeal. "This Court's" discretion, authority, and power are respectfully requested to intervene on the Delaware Courts' decisions and/or adopt the Third Circuit's new decision to help citizens with false testimony around the country in *Haskell v. Superintendent Green SCI* (3rd Cir. August 1, 2017), a state violates the 14th Amendment Due Process Guarantee when it knowingly presents or fails to correct false testimony in a criminal proceedings. Consequently, the US Supreme Court has held that a conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of jury. The same result obtained when the State, although not soliciting false evidence, allows it to go uncorrected when it appears. "A conviction must be set aside even if this false testimony goes only to the witness's creditability rather than Defendant's guilt." Petitioner's conviction was based on lies and false testimony/evidence and/or perjured testimony violated his 14th Amendment Due Process Right to Fair Trial and is in violation of Delaware's Constitution Article I§7, so his conviction must be overturned. The New Evidence from Lowe's led to the discovery of **Ground 2- Brady Violation-** The State suppressed favorable evidence from the defense. Sydney Pensky

(complaining witness) claimed she had sex with Petitioner in 3 motels. Detective Greer (State's witness) investigated all 3 motels and not any of the 3 motels had any record of Petitioner or his business (Bruce's Carpet) ever registering or staying with them. The Parkway Motel (one of the 3 motels alleged by Sydney) said they had carpet work done by Lowe's. Detective Greer (State's witness) testified in trial that Melissa Pensky (complaining witness's mother) told him that, "Bruce sometimes sub-contracts with Lowe's(ex. L(G)F). The jury knew Petitioner sometimes sub-contracted for different stores. This false evidence placed Petitioner at the scene of the alleged crime (Parkway motel) and confirmed complaining witnesses allegations against Petitioner. Detective Greer (State's witness) "suppressed" in trial and in Petitioner's Rule 16 Discovery before trial that Petitioner "never" sub-contracted for Lowe's (ex. L(1),(2)) and (ex. L(G) 1, 2, 2A, 2B). Detective Greer (State's witness) knew Petitioner never sub-contracted for Lowe's, but went out of his way in trial to "lead" the jury to believe that Petitioner did sub-contract with Lowe's, because Detective Greer clearly investigated if Petitioner was ever employed or sub-contracted for Lowe's, because he told Petitioner's counsel in trial that he did investigate this fact (ex. L(G)F). The State also allowed this false evidence to go uncorrected through the entire trial. This left the jury to believe that a crime may have happened, when no other physical evidence existed. Had the fact that Petitioner never sub-contracted for Lowe's been told to the jury, this would have changed the outcome of the trial. The "state courts" made decisions in "conflict" with :This Court's" decision in *Brady v. Maryland*, 373, US 83,

87 (1963), A Brady Violation occurs when: (1) Evidence is favorable to the accused because of its exculpatory or “impeaching” content. (2) Evidence was suppressed by the Prosecution, either knowingly or inadvertently, and (3) Prejudice ensued. Favorable evidence would have changed the outcome of the proceedings. A “reasonable probability” under *Bagley*, 4473 US at 682; *id* at 685, is “a probability sufficient to undermine the confidence of the outcome.” When assessing evidence materiality, the “cumulative effect” of the suppressed evidence in light of other evidence, not merely the probative value of the suppressed evidence standing alone (see all evidence and exhibits in (ex. F, K)). The Prosecution’s intent behind the suppression of evidence does not determine whether evidence is material or whether the proceedings outcome would have changed, *Kyles*, 514 US at 434-35, The question is not whether the Petitioner would have received a different verdict with the undisclosed evidence, but “whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence.” The Petitioner was denied his 14th Amendment Due Process Right to a Fair Trail and in violation of Delaware’s Constitution Article I§7, so his conviction must be overturned. The New Evidence about Lowe’s led to the discovery of **Ground 3- CUMULATIVE ERROR**- The Report erroneously claims ‘all’ Petitioner’s trial errors stated in his Cumulative Error claim have been formerly adjudicated and therefore procedurally barred (ex. L(J)). This is an outright lie as explained in detail in Petitioner’s Response to Report (ex. L(K)). In short, most of the trial errors were discovered through New Evidence, newly obtained evidence and recently recovered memories and could have never been brought as

grounds for relief in former proceedings. The Petitioner has presented all 21 trial errors together to show the extent of the injustice that occurred in accordance with Federal and Delaware Rules of Evidence Rule 901 (4), “all circumstances taken together.” The errors in trial made by the State and defense counsel, along with New Evidence and newly obtained evidence that the jury never heard would have changed the outcome of the trial and inferred his innocence and/or not guilty. Cumulative Error- The prejudicial effect of two or more errors in trial that may have been harmless individually, the cumulative effect amounts to reversible error. The Petitioner’s 21 trial errors are being brought as harmless errors and/or plain errors and their cumulative effect. The “state courts” decisions are in “conflict” with Federal and Delaware Rules of Evidence Rule 901 (4), by not deciding Petitioner’s New Evidence and cumulative error claims together. The “state courts” decisions are in “conflict” with “This Court’s” decision in *Taylor v. Kentucky*, 436, US 478, 488 n. (1978), Cumulative errors violate Due Process of Fundamental Fairness and necessitate a new trial. The “state courts” decisions are also in “conflict” with *Breakiron v. Horn*, 642 F. 3d 126, 131-32 n. 5 (3rd Cir. 2011), cumulative effect of 3 claims required reversal of conviction because individually claims warranted relief. The foregoing are only summaries (except for trial error 5, which supports Question 3) and only some of the 21 trial errors are list in this petition to meet This Court’s page limitation. Please refer to important supporting evidence and facts and remaining of the 21 trial errors in (ex. F pages 14-19), (ex. K pages 19-24), and (ex. L(F) pages 4-10).

1. The State erred by giving false evidence to the jury about Petitioner sub-contracting for Lowe's, that erroneously placed Petitioner at the scene of the alleged crime that was part of the jury's decision making ((ex. L(G)F).
2. Counsel erred by failing to tell the jury Petitioner never sub-contracted for Lowe's after Petitioner told counsel in trial he never sub-contracted for Lowe's.
3. Counsel erred by failing to pursue Detective Greer about his Lowe's investigation to rebut the claim Petitioner sub-contracted for Lowe's. Detective Greer would have not been able to produce any evidence supporting this claim and would have been favorable to Petitioner's defense (ex. L(G)F).
4. The State suppressed favorable evidence confirming Petitioner never sub-contracted for Lowe's and led the jury to believe that Petitioner did sub-contract for Lowe's placing him at one of the scenes of the alleged crime (Parkway Motel) and confirming the credibility of complaining witness that would have otherwise not creditable, which factored into the jury's decision to convict Petitioner (ex. L(G)F).
5. **QUESTION 3-** Counsel erred by failing to explain the "exculpatory and impeaching value" of the Internet Records of Sydney Pensky (complaining witness) to the jury after submitting these records as defense exhibits in trial. The jury was left to sift through these Internet Records without any explanation of the exculpatory or impeaching value of these records from counsel (ex. L(G) 3-9) and (ex. G 9-15.). Petitioner could not obtain these records until recently, because he never had counsel to subpoena these records from the court and the court kept denying his requests for

these records. It was only because of Petitioner's persistence and due diligence that the court finally gave in and recently gave him these Internet Records from his trial. "This Court's" discretion, power and authority are respectfully requested to intervene and determine if recently obtained evidence from the court (Delaware Superior Court) that was submitted by counsel as evidence for the defense should be considered "New Evidence" and/or preclude procedural bars in collateral proceedings in the state and/or federal courts when counsel fails to explain the exculpatory or impeaching value of evidence submitted as defense evidence to the jury that would have changed the outcome of the trial. "This Court's" decision in this matter would "serve the public interest" in cases with similar circumstances.

The Internet Records prove Sydney Pensky (complaining witness) was a virgin at the time she claims to have been having sex with Petitioner (ex. G-10) and states her dad (Petitioner) gave her a promise ring to stay a virgin until she was 17 (ex. G-11). The promise ring shows both Petitioner and Sydney acknowledged she was a virgin at the time she claims to be having sex with Petitioner (ex. G-9-15) and would not have made this promise if they both knew they were having sex. Sydney Pensky (complaining witness) was a proven habitual liar (ex. L(G)Z) and could tell a good convincing story. Sydney claimed Petitioner would film them having sex, but the police nor the Computer Specialist found any of these alleged sex movies in Petitioner's house, vehicles or on his computer. Where Sydney got this idea about allegedly filming them having sex was talking to boys about sex on the internet. She also used to "tease" boys on the internet about having sex and "tease" about wanting

to be a porn star and making movies (ex. G-9A). Sydney claimed Petitioner gave her a list of sexual things to do to him that the State named, “The Procedure.” The State paraded this alleged list (The Procedure) to the jury through the whole trial and inferred that this is where Sydney got her sexual knowledge from. Sydney got her ideas for the alleged list (The Procedure) from “teasing” a boy on the internet about fulfilling his sexual fantasies and she downloaded the website that he gave her on the internet showing her what he wanted her to do to him sexual on this website he gave her on <http://http/datingfun/sex/techniques.com> (ex. G-9A). This website shows the “exact same sexual positions” Sydney describes on her alleged list that Petitioner allegedly gave her. The police never found this list (The Procedure) or remnants of this list on his computer, because this alleged list was made up along with her sexual allegations against Petitioner. Though Sydney was a virgin she liked to “tease” and talk about sexual things to get attention from boys. Counsel’s error by failing to explain the exculpatory and impeaching value of Sydney’s Internet Records also resulted in Ineffective Assistance of Counsel which meets the “This Court’s” 2 prong standards in *Strickland v. Washington*, 466, US 668, 688 (1984) as presented in (ex. L(F)page 3), which violated Petitioner’s 6th Amendment Right to effective counsel and his 14th Due Process Right to a fair Trial.

6. Counsel erred by stating in trial about Petitioner, “Yeah, He did run” (ex. LG)W). This statement supported the State’s argument that Petitioner ran because he was guilty. Petitioner told counsel he didn’t run. He went to Florida on business “before” the charges came out. Petitioner believed no charges would come out, because

he believed that these obvious false allegations would be discovered and resolved on their own before his scheduled return from Florida within 2 weeks.

7. Counsel erred by failing to object to the Prosecutor's "vouching" for complaining witness habitual lying. Counsel's error to object to Prosecutor's "vouching" unfairly influenced the jury against him (ex. L(G)Y). Prosecutorial Misconduct was brought also as a separate claim (see ex. L(F) page 12).

8. Counsel erred by failing to tell the jury that Petitioner told him Sydney (complaining witness) found the adult movie of him and his ex-girlfriend having sex in his drawer when he wasn't home and watched it (ex. L(G)K). This is the "only reason" Sydney had a description of Petitioner's penis. Counsel's error let the jury to infer that the sexual allegations were true, despite evidence to the contrary. This also shows where Christine (complaining witness) got her information about the adult movie and falsely claimed she watched this adult movie as proven in trial. The adult movie and Christine and Sydney reporting their alleged sexual allegations against Petitioner to the police only "2 days apart," proves that "it is more likely than not, that Christine and Sydney collaborated to frame Petitioner." This is explained in detail on aforementioned pages 7-10 with other impeaching/exculpatory evidence.

9. Counsel erred by failing to tell the jury that Sydney's (complaining witness) statement to the police about Petitioner showed her anger towards him for being too strict and punishing her all the time and wanted to get rid of him and wanted revenge. This is her motivation for her false sexual allegations against Petitioner and

proven when she stated to the police, "Bruce loves his children and family, I'm going to make sure he doesn't have that anymore" (ex. L(G) I+J).

10. Counsel and the State erred by making Petitioner testify about Jewish Family Services (JFS) counselors and their records ((ex. L(G) R, S, T, U). These counselors and their records (ex. L(G)V) should have been in trial, because the JFS counselors would have been believed over Petitioner about their statements and showed Petitioner and complaining witness's mother Melissa sought help with Sydney (complaining witness) "before" her sexual allegations against Petitioner and the likelihood that she would rebel against Petitioner or her mother and Sydney's propensity to make up these sexual allegations against Petitioner and Sydney's habitual lying and the volatile atmosphere this rebellious teen caused in the family (ex. L(G)V). This impeaching/exculpatory evidence was never brought to trial. This also violated Petitioner's 6th Amendment Right to have compulsory process for obtaining witnesses in his favor presented in (ex. L(G)F).

Ex. L(G)

The Cumulative Errors of counsel and the State violated the Due Process Guarantee of Fundamental Fairness of the 14th Amendment and Delaware's Constitution Article I§7, which resulted in an unfair and prejudicial outcome of the trial. Without these trial errors the outcome of the trial would have been different, so Petitioner's conviction must be overturned.

QUESTION 2- Petitioner argued in his Rule 61 motion and appeal in the Delaware "state courts" that Petitioner had "never" had counsel for his first collateral

proceedings and was not lucid (ex. L(G)2D), which prevented him from remembering important facts and presenting his collateral proceedings “effectively” in state and federal courts, so Petitioner’s procedural bars should be precluded for his Rule 61 motion (and federal petitions), because Petitioner did not have a fair chance with Due Process when he did not have counsel for his first collateral proceedings. This request was ignored (ex. K, L(G)E+ F). *Martinez v. Ryan*, 566 US 1 (2012), Defendants “are generally ill-equipped to represent themselves.” This Court encouraged states like Delaware to provide counsel for first collateral proceedings, but did not make this decision retroactive or a constitutional right. This leaves Petitioner and others that never had counsel for their first collateral proceedings out in the cold. Petitioner wrote Lowe’s and the courts for evidence to support his constitutional claims, but these requests were denied and ignored for years. It was only because of Petitioner’s persistence and “due diligence” and becoming lucid because his psychotropic medications were reduced was he able to Lowe’s, Internet Records, and other evidence supporting his constitutional claims. Lawyers, Prosecutors and Judges study the law for countless years. It takes Petitioner and others years, sometimes decades with no legal training or law school to learn how to recognize and write a “semi-effective” motion to the courts. By this time, Petitioner and others are procedurally barred, which would have otherwise been granted or their conviction overturned if they had *AND SUBPOENA EVIDENCE* counsel during their first collateral proceedings to present claims “effectively.” This Court is respectfully requested to create a legal remedy for those who didn’t have counsel for first collateral proceedings and were precluded from the *Martinez* decision

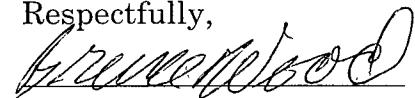
CONCLUSION

It is always a travesty when someone is sexually assaulted. These victims should be heard. Somewhere along the way the public and the courts forgot about the Due Process Rights of the accused and that some sexual allegations are fabricated due to rebellious teens, revenge, politics, money or other ulterior motives. We are in a time where alleged victims of sexual assault are believed without a doubt and the accused's Due Process Rights of being "presumed innocent until proven guilty" no longer exists. This has been replaced with the unwritten, "guilty until proven innocent," which is an impossible burden for the accused to overcome. Because of the stigma of sexual crimes the accused is still considered guilty in the public's eyes and sometimes the courts' eyes (as in Petitioner's case), despite evidence contradicting guilt. This is the reason why that "most" accused of false sexual allegations "without effective counsel" or "influence" are wrongfully convicted and/or their lives ruined, despite evidence that a crime did not occur. "This Court" is desperately needed to restore Due Process and balance in this country to prevent "Miscarriages of Justice."

WHEREFORE, Petitioner, Bruce Wood, for the aforementioned reasons presented in this petition respectfully requests This Honorable Court to GRANT his writ of certiorari "In the Interest of Justice."

Dated: October 19, 2018

Respectfully,



Bruce Wood #557815

Pro Se