

18-7038

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

DEC 11 2018

OFFICE OF THE CLERK

William Owens — PETITIONER
(Your Name)

VS.

State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Texas Court of Criminal Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

William Owens#1757250

(Your Name)

12071 F.M. 3522

(Address)

Abilene, Texas 79601

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

1. Whether the State's Withholding of a police report that entailed a detective and a trial witness thought the victim was confused and getting sexual assault charges "mixed up" with another individual was material to his conviction?
2. Whether under Brady V. Maryland 373 U.S. 83 (1963) there is a reasonable likelihood a defendant would not have been found guilty if from the state's undisclosed police report he would have been able to put forth evidence the victim accused someone else with sexual assault during approximately the same time period and the other person's charges were dismissed?

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:

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A - Opinion Denying Relief on Habeas Corpus

APPENDIX B - 5th District Court's Findings of Fact and Conclusions
of Law

APPENDIX C - Trial attorney's Affidavit

APPENDIX D - Bowie County Sherriff's Police Report that
was Not Turned over to His Defense Team

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Brady V. Maryland 373 U.S. 83 (1963).....	5
Wearry V. Cain 136 S.ct. 1002 (2016).....	5

STATUTES AND RULES

OTHER

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☐ is unpublished.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 A 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 5th Judicial District 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**:

November 7th, 2018.

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.^{A.}

☐ A timely petition for rehearing was thereafter denied 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

.Amendment 5 of the U.S. Constitution

- No person shall....be Deprived of Life, Liberty, or property,
without Due Process of Law

.Amendment 14

- No person shall..... be Deprived of Life, Liberty, or property,
without Due Process of Law

STATEMENT OF THE CASE

On October 27th, 2011 a jury convicted petitioner of aggravated sexual assault of a child and sentenced him to life in prison. His conviction was affirmed on direct appeal on September 19, 2012. During petitioner's incarceration he came across newly discovered evidence of an undisclosed police report, the state failed to turn over to his trial counsel. The report indicated that the victim had accused another person, Billy Speights, of sexual assault during approximately the same time period that she accused petitioner of sexually assaulting her. The report further concluded that the charges against Billy Speights were dismissed as the detective and trial witness, Nōra Mitchell, thought the victim was confused and mixing things up on who sexually assaulted her. Petitioner filed a writ of habeas corpus attacking his conviction in state court on the ground that the state violated his rights under Brady V. Maryland 373 U.S. 83 (1963). The Texas Court of Criminal Appeals Denied his writ on the ground that the police report was not material to his conviction.

REASONS FOR GRANTING THE PETITION

- . A STATE COURT HAS SO FAR DEPARTED FROM THE MATERIALITY STANDARD APPLIED IN BRADY V. MARYLAND THAT THE SUPREME COURT NEEDS TO EXERCISE ITS JURISDICTION TO STRESS THE IMPORTANCE OF WHAT IS SUFFICIENT TO UNDERMINE THE CONFIDENCE IN A VERDICT

Petitioner asserts the State of Texas is doing a grave injustice in not properly considering the materiality prong in Brady V. Maryland 373 U.S. 83 (1963) in deciding if a defendant's 5th and 14th Amendments were violated. Like the summary reversal of the Supreme Court precedent in Wearry V. Cain 136 S.ct. 1002(2016), petitioner has unequivocally met the materiality prong of Brady in this case. There is a reasonable likelihood if the jury would have known the victim had specifically accused another person of sexually assaulting her during approximately the same time period as she accused petitioner of sexually assaulting her, and that the other person's charges were dismissed due to witnesses believed she was confused on who assaulted her, he would have not been found guilty. At petitioner's Trial, evidence was admitted that the victim had accused the person of assaulting her as having white hair. Petitioner does not have white hair.

Further the State Court Never Considered that with the Undisclosed police report, his trial counsel would have been able to cross examine the victim with a formidable motive to accuse petitioner so she could exonerate Billy Speights on the insistence of her mother who was the girlfriend of Speights. (See page 3 of Trial Attorneys Affidavit) (See page 9 of Trial Courts Findings) Finally, the fact that the victim made up the bathroom incident of accusing petitioner of sexual assault on the insistence of her mother (See page 14,15 of Trial Courts Findings) along with her pre-trial recantation, unquestionably undermines the confidence in the jury's verdict.

As petitioner's verdict is already of questionable validity, beyond a reasonable doubt the newly revealed evidence suffices to undermine confidence in petitioner's conviction. This Court should take his case up as it provides the perfect vehicle to strongly emphasize to the lower courts that they can not just side step the materiality issue of Brady, especially when the evidence reveals the victim was confused to who committed the crime.

Petitioner unequivocally attests his innocence and respectfully begs and cries to the Court for Justice. Texas is doing a Grave injustice in applying Brady and its Progeny. (Please read record of page 46 and 47 of the Undisclosed Police Report)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



William Owens

Date: 12-2-18

Appendix A

.Opinion Denying Relief on Habeas Corpus