IN THE
SUPREME COURT OF THE UNITED STATES

No. 18-7199

ADELMO A. FAUNTLEROY
(PETITIONER)

V.

COMMONWEALTH OF VIRGINIA
(RESPONDENT)

PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF THE UNITED STATES

ADELMO A. FAUNTLEROY #1141800
DILLWYN CORRECTIONAL CENTER
1522 PRISON ROAD (6-A-12-T)
P.O. BOX 670
DILLWYN, VIRGINIA 23936
(PROSE LITIGANT)

QUESTION(S) PRESENTED

1). Did the Court have sufficient evidence beyond a reasonable doubt to convict the petitioner under the Sixth Amendment by the U.S.A.

2).Was the lower court's Conviction insufficient as a matter of Law by the standarts of Due Process of Law.

3). Wheather one has been currently incarcerated for long or short term. Are his right's Constitutionally protected.

4). Was Counsel for the petitioner Affective under the Sixth Amendment right to Counsel.

LIST OF PARTIES

[✓] All parties appear in the caption of the case on the cover page.

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES CITED

Strickland V. Washinton, 466 U.S. 668 (1984)

McNamara V. United States, 867 F. Supp 369, 373-374 (E.D. Va. 1994)

Weekly V. Jones, 56 F. 3d 899 8Th Cir. (1995)

STATUTES AND RULES

18.2-32

8.01-654

Due Process

Ineffective Assistance Of Counsel

IN THE

SUPREMEM COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari iss to review the judgment below.

OPINIONS BELOW

[ ] For cases from Federal Courts:

The opinion of the United States court of appeals appear at Appendix _____ to the petition and is

[ ] reported at _____; or,

[ ] has been designated for publication but not yet reported; or,

[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petitin and id

[ ] reported at _____; or,

[ ] has been designated for pulication but is not yet reported;

[ ] is unpublished.

[✓] For cases from State Courts:

The opinion of the highest state court to review the merits appears at Appendix B to the petition and is

[ ] reported at _____-; or,

[ ] has been designated for publication but is not yet reported;

[✓] is unpublished.

The opinion of the Appeals cort appears at Appendix A to the petition and is

[ ] reported at Va Court Of appeals ; or,

[ ] has been designated for publication but is not yet reported;

[✓] is unpublished.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 folling date: _____, and a copy of the order denying rehearing appearing at Appendix _____.

[ ] An extension of time to file the petition for writ of certiorari was granted toand 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 ccase was March. 28, 2018. A copy of that decision appears at Appendix C

[ ]A timely petition for rehearing was thereafter denied on the following date: _____, and a copy ofthe order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of ceriorari was granted to and including _____ (date) on _____ (date) in Application No. _____ A _____.

The jurisdiction of this court in invoked under 28 U.S.C 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1). Right to confront under 6th amendment, decided by case John Doe, V. Mike , established presendiatial value causing Virginia statutes 19.2-8-99 to be declared UNCONSITUTIONAL.

NATURE OF THE CASE AND MATERIAL PROCEEDINGS BELOW

Comes now the petitioner Adelmo A. Fauntleroy, as a Prose litigant to petition the court for a Writ of Habeas Corpus in relation to the case listed in the above styled motion. Petitioner stood charged in The Circuit Court of Goochland on March.25,2002, with Aiding and Abeting Murder, Robbery, Aiding and Abeting the use of a firearm in the commission of murder, Aiding and Abeting the use of a firearm in the commission of robbery, and Possession of a firearm by convicted felon. See transcript of arraignment of Adelmo A. Fauntleroy taken on February.27,2002. Fauntleroy requested and received a bench trial. (Tr.5)

A the conclusion of The Commonwealth's evidence, petitioner made a motion to strike the evidence as insufficient. (Tr. 199-201). The Commonwealth moved to amend petitioner's indictments " to add the words after-on the second line of count 2, unlawfully and feloniously Aid and Abet- insert the words Aid and Abet and to change Rob to agree, Aid and Abet the Robbery of, rather than feloniously Rob." (Tr.201). The court denied the motion to strike with regard to the counts of Aiding and Abeting Murder and Robbery, as well as the use of a firearm during the commission of those alleged crimes. (Tr.206,216). The Commonwealth moved to dismiss the charge of possessing a firearm after conviction of a felony, and the court granted that motion. (Tr.204).

At close of evidence, petitoner argued that the evidence was insufficient to convict. (Tr.282-89). The transcript suggests that the Commonwealth proposed to amend, without objection from petitoners counsel, the charge of Aiding and Abeting the use of a firearm while committing robbery, to the use of a firearm while attempting to commit robbery. See (Tr.201-05, 289-90). Petitioner was convicted of the four remaining counts as amended. (Tr.290).

On June.18, 2002, petitioner again appeared before the Circuit Court for Goochland for sentencing proceedings. (4Tr.3). The Commonwealth moved to "nol pros (sic) all but the Murder charge...to basically eliminate those, the robbery and the firearms charges from that consideration." (4Tr.18).

The court granted the motion and "previously I found that the defendant was guilty; and I find that he's not guilty. Id. Petitioner was sentenced on the charge of Aiding and Abeting Anderson's Murder to Sevnty-Five years in the Department of Corrections, with Thirty-Five years of those years suspended for life. (4Tr.74).

Before closing the proceedings the court granted a joint motion to suspend indefinitely the execution of sentenceing, tolling the Twenty-one day period after the final sentencing order and retaining jurisdiction over petitioner's case, "reserving the right for the Commonwealth to advise the court as to such time as we believe that defendant should be remanded to the custody of The Department of Corrections. (4Tr.75-76). By order dated July.27,2004 petitioners active sentence was reduced to Twenty-Five years in The Department of Corrections. Petitioner timely noted his appeal to the Judgement of the court. By opinion dated March.10,2005, the Court of Appeals of Virginia affirmed his conviction.

STATEMENT OF FACTS

On July.29,2001, at approximately 11:10 p.m., Bryan Daquan "Kiss" Anderson (Hereinafter Anderson or Kiss) died as a result of gunshot wounds suffered at the hands of Andrae White (Hereinafter White or Drae). See stipulation of evidence, a copy of which is attached here to as Exhibit#1 (Tr.39). Calvin Mickey (Mickey), a resident on Mickeytown Road where the shooting occured, peeped out of his door upon awakening to the sound of gunshot's and saw the driver of a car running back down his road towards the car, and also "it looked like I seen another shadow that went on the passenger side, but I couldn't see by the way I peeping out there I could not see nobody getting in thereon the other side or nothing like that, but it look like it was another shadow came, you know, back on the opposite side of the car it looked like but I couldn't-I couldn't make out what is (sic) was another person or somebody got in the car or what, you know. (2Tr.3-17).

On the same date at 11:49 p.m., investigator Raymond Charles Henley of the Goochland County Sheriff's Office (Henley) repsonded to the scene and as a result of his investigation eventully arrested White. (Tr.44-47).

Henley and Special Agent Tom Kazcheck of The Virginia State Police (Kazcheck) also arrested petitioner on September.4,2001. (Tr.47-48) The officers advised petitioner of his rights pursuant to Miranda v. Arizona, which petitioner waved, and gave a detailed statement regarding his knowledge of deceased, petitioner's "association" with the Bloods (Alleged to be a Gang), and his witnessing of Anderson's death. (Tr.48,49,-60).

On October.31,2001, petitioner gave a second statement to Law Enforcement officials. (Tr.60). Henley and Kazcheck were present again, as were Stanley Mayo of The Goochland County Sheriff's office and The Honorable Edward K. Carpenter, Commonwealth's Attorney for the County of Goochland; Fauntleroy was accompanied by his counsel at the time, D.Michael Caudill, Esq. Id.

In relevant part, petitioner revealed that his Uncle, Exondus " Doc" Barnes (Hereinafter) Barnes or Doc) had brought Anderson to Virginia because in Rhode Island, "Doc" shot some people up," apparently with Anderson's assistance; Doc " stated that Kiss, was a witness supposedly going to testify on him to put him at the place of the shooting." (Tr.60-75).

Doc "stated that Kiss was snitching on him, that's the reason he brung (sic) him to Richmond, because he had to get him out of the reach of the police so that Kiss wouldn't tell the police nothing, but he was already talking and snitching." (Tr.76).

Petitioner stated that Barnes " had Two Gs on Kiss' head, meaning that Barnes would pay Two Thousdand Dollars for someone to kill Anderson. (Tr.77).

Petitioner ran into White, Anderson, and another individual the following day and group went together to a friend's house. (Tr.79-80). Petitioner stated to one Mike Caldwell, in front of White and possibly other's but definitely to Anderson's exclusion that Barnes " got Two Gs on kiss' head," to which White responded "yeah I'll do it" or "I'll do it, I want it," and petitioner said "do what you got to do." (Tr.81). White told petitioner he wanted the Two Thousand dollars, but petitioner told White, he "wanted nothing to do with it;" White apparently then responded that he was "going to do that shit tomorrow night" (Tr.84). According to petitioner, White then invited him to come to Goochland with White and Anderson to "see some broads." (Tr.82).

The three men departed, but stopped at White's house so that White could "Change his clothes and call the whores and let them know that we was on the way." Id. White left petitioner and Anderson in the car, but eventually summoned petitioner into his home to assist in loaded a revolver. (Tr.82-83).

Petitioner did not assist with preparing the firearm, and the two men were quickly interrupted by Anderson's knock on the bedroom door. (Tr.83-97). At White's direction, Anderson and Fauntleroy returned to the car to wait for White. Id. Three men then drove to Goochland County where White shot and killed Anderson. (Tr.84-94).

Raymond Cruz (Cruz) and Gamin r. mack (Mack), both inmate's at the Pamunkey Regional Jail with Fauntleroy as he awaited trial, testified for the Commonwealth. (Tr.119-173,173-199). The inmate's testified that Fauntleroy had made certain statement's in the jail describing his involvement with Anderson's death. E.G. (Tr.124-127). In pertinent part the inmate's offered detail's corroborating petitioner's account of the murder, but also suggested that petitioner admitted to orchestrating Anderson's murder at Barnes's behest, and was White's superior officer in the Blood's. (Tr.130-132,137-139,170-180,182-185,187).

Cruz and Mack, also stated that petitioner joined White in pursuit of Anderson, as he fled after being shot but prior to dying. (Tr.133-184). Petitioner, according to Cruz, admitted saying "oh shit, get him", when Anderson fled White after being shot for the first time. (Tr.139).

Fauntleroy took the stand in his own defense. (3Tr.3-45).

The defense called Kazcheck, who testified with regard to statement's made by both Cruz and Mack. (Tr.217-28). The defense also called several other inmate's from the Pamunkey Regional Jail to rebut the assertions made by Cruz and Mack, and the defendant's mother took the stand briefly to deny that her son Fauntleroy was present in one of the photographs offered into evidence. (Tr.229-74).

LEGAL ARGUMENT AND AUTHORITY

The star witness for the Commonwealth both Gamin R. Mack, and Raymond Cruz, consistantly gave vague testimony to prove that the accused either knew, or had reason to know of principles criminal intention. And that the accused intended to encourage, incite, or Aid the principle's commission of the crime. Citing Mcgee V. Commonwealth, 221 Va. 422,425-26,270 S.E. 729,731 Id. at 427. Although the Commonwealth may meet it's burden of proof through circumstantial evidence, See Dickenson V. City of Richmond, 2 Va. App. 473, 477, 346 S.E. 2nd 335 (1986).

Under familar principle's, such proof is insufficient if it creates merely a suspicion of guilt. The evidence must be consistant with guilt, and exclude every reasonable hypothesis that the accused is innocent of the charge offense. See Monique LittleJohn V. Commonwealth of Va, 482, S.E. 2d 853 24 V.a. App. 401.

In the current motion before the court, the petitioner's court records will reflect the witness conflicting statement's, and therefore spoke falsely on more than occassion. The recantation is sufficient to justify "Post Conviction Relief", because it does not, standing alone establish that the testimony was false, and that the statement's in the susequent recantation were true. The truthfulness of a recantation is a question to be resolved by the tril court citing More V. Commonwealth, 671 S.E. 2d 429, 53, Va. App. (2009).

The petitioner concedes the ends of justice and ask the court to review the facts, and inferences in credibilty determinations. The petitioner supports his arguments from the case of Jackson V. Virginia, 99 S.Ct 2781 443, U.S. 307 (1997). Which proves the "No evidence" doctrine, which secures to an accused the most elemental of Due process right's, freedom from a whole arbitrary deprivation of liberty. The "No evidence doctrine apply's to the petitioner which his conviction were based upon the prosecution had no evidence to convict. The petitioner's conviction stripped him of his liberty as provided by the United States Consititution and thus this court has jurisdiction.

The petitioner ask the court's to conduct a " Evidentuary Hearing," or wahtever the court's deem appropriate in relation to the "entire case file of the record's". The trial transcript's reflect from the Commonwealth's star witness, that there was off the record interview's, and the arresting investigator's, nor the witness, made it clear the amount of time they excluded from the record, which amount's to gleam of Due process.

The jackson case cites from Winship, which the Winship court, held for the first time that the Due process clause of the (14th) amendment protets a defendant in a criminal case against conviction, except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime which he is charged. In the petitioner's case the prosecution did not prove one element of any crime he stood charged with.

The petitioner was stripped of his right to Due process as provided by the 14th amendment. The constitutional standard reognized in the Winship case, expressly phrased as one that protect's an accused against a conviction except proof beyond a reasonal doubt. Under Winship, 443, U.S. 318. Established proof beyond a reasonable doubt as a essential of 14th amendment Due process. It follows that when such a conviction in a state occurs in a "state trial", it can not constitutionally stand. The petitioner is aware the filing of a WRIT OF HABEAS CORPUS, is beyond the prescribe filing deadline. But shall be given consideration when it pertains to constitutional violations. The court's noted in Robinson V. California,370 At 677,82 S.Ct At 1420, A single day in prison may be unconstitutional in some circumstances, and in the petitioner's case, he has been incarcerated after being wrongfully convicted without any evidence. Therefore regardless of the passage of time, the court has the authrity and obligation to end a mis-carriage of Justice. The petitioner supports his arguement from Hawkins V Bennet, 423 F.2d. 948 (1970),in which the court held that "A passage of 44 years since state prisoner was allegedly denied his constitutional rights, did not bar him from proceeding with post conviction efforts. And concluded that the passage of time does not serve to cure the wrong. The petitioner has contiued to seek Justice and get legal representation, and his exzibits of record will show dilligence from a prose person unable to afford counsel, citing Mclaunghin V. Royster, 346 F. supp 297 (E.D.Va. 1972). Stating that "The Supreme Court, has recognized that even an intelligent, and educated layman has small and sometimes no skill in the science of law. Indeed he frequently lacks both the skill, and knowledge adequate to prepare a defense even though he may have a perfect one. He requires the guiding hand of counsel at every step of the proceeding against him. See Powell V. Alabama, 287, U.S. 45, 6953 S.ct. 55, 64, 77 L, E.D. 158 (1932).

The petitoner has sought counsel to reprsent him whom was his current counsel of record at the time of his convictions. The petitioners counsel of record, responded to him that he would place any information within his file after stating (the file) was destroyed. Petitioner sought out information and legal help from Jailhouse lawyers who have some understanding of the Judicial system as provide in Bounds V. Smith, 52,

L. E.D. 2d 72, 430 U.S. and Johnson V. Avery, 21 L E.D. 2d. 718, 398 U.S. 483, in order to grasp the Justice system. Yet none, nor the petitioner have been a practitioner of Law, and is one of limitted education citing priorly, Mclaughin V. Royster. The Supreme Court has recognized that even an intelligent, and educated layman has small, and even sometimes no skill, nor knowledge adequate to prepare a defense even though he may one.

The petitioners counsel of record received a "Sworn Affidavit" from one of the Commonwealth's "Star Witnessess". A Sworn Affidavit, of recantation to very the vague, and leading questions, that the court records reflect from Mr. Gamin R. Mack. Willingly admitting to falsely testifying against the petitioner, and doing so in aligned co-herence with the Commonwealth's Attorney for Goochland County, and the Arresting Officers in the case. The Affidavit also reflects the motive of a Sentence Reduction, from the Commonwealth's Attorney. The Affidavit also reflects that the Commonwealth's other star witness, Raymond Cruz IV, made the intial introduction to conspire with the Police, and the Commonwealth's Attorney, in hopes of a Sentence Reduction.(See Exzibit #1). The petitioner cites Monique LittleJohn, is a mirror reflection of his case. The police lies, deception, and no motive to prove the intent to murder. Calvin Mickey, testified as a star witness for the Commonwealth, but could only give what he thought, or had probability appeared to be, but not nothing iron clad to prove accessory, or that petitioner knew, or had reason to know of Principals Criminal intentions. Nor that petitioner Aided Principles commission of crime. The Affidavit also reflects Clandestine Meetings, with all three Arresting Officers, on and off record. With then Commonwealth's Attorney for Goochland County, Mr. Edward K. Carpenter.In whom was named the sole "Proprietor", for the false testimony after threating, and promising a deal of a Sentence Reduction. But when refferred to Trial Court Transcript Record: tried to Ommit himself from the record, and fraud committed. (TR.176-177).

Mr. Mack, made it known that it took him 10 years to be definitive about the inial act that stripped the petitioner of his Libery after being coached, what would be needed of them to obtain a illegal conviction. In Miller V. Pate, 386 U.S. 1, 87 S. ct. 785 17 L. E.D. 2d 690 (1967). It was held that

the Fourteenth Amendment, can not tolerate a state criminal conviction obtained by the knowing use of false evidence. Citing Pile V Kansas, 317 U.S. 213, 63 S. ct 177, 87 L. E.D. 214 (1942). In Miller, the court unanimously held that "Prosecution deliberately missrepresented the truth" and this act constitutionally invalidadated the conviction. In the case Harmic V. Bailey, 386 F. 2d 395 (1967), The Forth Circuit held evidence may be false either because it is perjured, or not itself factually inaccurate, because it creates a false impression of facts which are known not to be true. In Harmic, they agreed with the Supreme Court, and the position of the petitioner in that case to claim when it stated, We do not suggest that the testimony of the witness in the instant case was perjured. Their mistake may well have been due to their lack of perception, rather than to a lack of veracity. The court recognized that many of the cases which have found a violation of due process, where false eivdence has been knowingly used by the Prosecution involved perjured testimony. The supreme Court held that due process is violated not only where the prosecution used Perjured testimony to support it's case, but also where it used evidence which it knows creates a false impression of a material fact.

That mirrors Harmic, 386 F. 2d at 394. The prosecutorial misconduct violated the petitioner's due process rights as so in the defendants current petition before the court. The due process in Harmic, was equally violated by the use of perjured testimony. As it is by the use which the Goverment knows creates a false impression of material fact. It is enough that the Judge was likely to understand the witness to have said something that the prosecution knew was false, citing United States V. Boyd, 53 F. 3d 239, 243 (7th Cir 1995).

The record reflects fraud upon the court, and the Constitutional maginitude that substantially prejudical the Constitutionally guarantee to a fair trial that is reversable error.

The petitoner's looks to the courts decision citing Turner V. Commonwealth, 717, 111, 282, Va. 227, and Allison V. Blackledge, 533 F. 2d 894 (1976).

Turner, cites "there is no mandatory formula for a Circuit Court's Consideration of credibility for a witness. As the trier of fact, the Circuit Court is charged with the responsibility of considering various factors. Including the demeanor, his opportunity for knowing things about what he testified, his bias, and any prior inconsistant statement's relating to the subject of his present testimony. In addition, the circumstances of a particular case may raise other factor's that the Circuit Court deems relevant in assessing a witnesses credibility. In this case, the witness of the Commonwealth, has a track record of testimony to reduce his Legal out comes. And the petitioner point's out the trial court record's, will also reflect.

8.01-654 (C), In a Habeas Corpus in which the Supreme Court of Virginia has original Jurisdiction. Can refer factual issues to the Circuit Court for an Evidentary Hearing, citing from the Allison V. Blackledge, which provides where an indigent prisoner proceeding Prose, alleges a cause of action if proved, would entitle him to post conviction. It is improper to document that claim, or support it by Affidavit's of his witnessess before affording him the Evidentary Hearing. He is other wised entitled, and a Prose petitioner is not to be put to a greater burden to obtain an Evidentary Hearing. Any other type of cause if proved, would entitle him to relief in any other type of action.

The petitioner has a valid Sworn Affidavit of Recantation, and ask's the Court's to conduct a Evidentary Hearing, and to cure the wrong with supporting arguement from Hawkins V. Bennet. Weather one has been currently incarcerated for long term, his right's are constitutionally protected, and must be corrected. The prosecution was aware of their star witness having prior record's of material testimony, that could create a false impression, in regard's to reduce their sentences of Felony Prosecution they faced. The trial court transcript record's, would also mirror that a numerous of inmates from the Pamunkey Regional Jail came fourth, to testify for the defense's behalf to illistrate, or rebut the false testimony given by both Cruz, and Mack. Citing that it was an Continuous, and reputicious Scheme of the two inmate's. The petitioner ask's, that the Court's review the record's of all the fact's to be reviewed in light of the mis-carrage of Justice. The petitioner also ask's the Honorable Court to conjunct the Court record's, and will protect his Constitutionally

guaranteed right's by the state, and the U.S. Constitution. No matter the lapse of time as priorly cited in Hawkins, 423 F. 2d 948 (ca8 (Iwoa 1970). He just as the man convicted, must be afforded a meanful opportunity to prove his claims.

The petitioner has gleamed the fact's, and record's will reflect from every aspect procured within the current motion. The testimony. and false evidence given it has been well established by the United States Supreme Court, since the case of Money V. Holohan, 294 U.S. 103, 55 S. ct 340, 79 L. E.d. 791 (1935). That "it is a rquirement that can not be deemed to be satified by mere notice, and hearing, if a state has contrived a conviction through the pretense of a trial which in truth, is used as a means of depriving a defendant of Liberty, through a deliberate deception. Such as a contrivance by a state to procure the conviction, and imprisonment of a defendant. It is inconsistent with the rudimentary demands of Justice, as is obtaing a liked result, by intimidation. As Mr. Gamin R. Mack, one of the prosecution's star witnesses stated, he was given a threat to receive a harsher sentence, if he didn't cooperate. Willing solicitating false evidence. Citing Napue V. Illinios, 360 U.S. 264, 269, 79 S. ct, 1173 3 L. Ed 1217 (1959). The petitioner has painted all the recorded fact's, and ask's the Honorable Court to grant the motion, and appoint him counsel. According to the Surpreme Court in Mclaughin V. Royster, "even an intelligent and educated layman, has small skill, and lacks both the skill, and knowledge to prepare a defense though he may have a perfect one". "He requires the guiding hand of counsel every step of the way". 346 F. Supp. 297 (E. Dua 1972).

The petitioner has shown by exzibits, he has tried to obtain counsel dilligently, and ethicly. The intitutional attorney's duties are outside the litigation for post conviction remedies, to help seek Justice for a wrongful conviction. Petitioner cites ineffective assistance of counsel under the sixth Amendment. Under the first prong of Strickland, a petitioner must show that the trial counsel's performance was deficient, Strickland 466 U.S. At. 687, 104 S. ct 2052. The proper standard for attorney performance is that of reasonably effective assistance, as defined by prevailing professional norms" "I.d. at 687-88, 104 S. ct 2052. The defendant must establish that counsel's representation fell below an objective standard of reasonableness. The counsel's reasonableness must be assessed on the fact's of the particular case, viewed as of the time counsel's

conduct. I.d at 689, 104 S. ct. 2052. Strickland's, second prong requires a petitioner to show that "the deficient performance prejudiced the defense I.d at 687, 104 S. ct 2052. The prejudice cmpert requires the petitioner to demonstrate that there is a reasonable probability that, without his counsel's unprofessional error's, the result's of the proceeding's would have been different. The SUpreme Court has explained the difference owed to strategic decision's of counsel, by reference to the scope of the investigations supporting those decision's. Strategic choices made after, a thorough investigation of Law and fact's, relevant to plausable option's. Are virtually unchallengable, and strategic choices made after, less than a complete investigation, are precisely to the extent that reasonable professional judgement's support the limitations, or investigation. The counsel has a duty to make reasonable investigations, or to make a reasonable decision that make's particular investigations unnecessary.

In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness, in all the circumstances applying a heavy measure of deference to counsel's judgement. See Outten V Kearney, 464 F. 3d 401 (Ca. 3 Del 2006). and Rompilla V. Beard, 545 U.S. 374, 375, 125 S. Ct. 2456, 162. L. E.d. 2d 360 (2005). Explaining that the Court has long referred to ABA standards for criminal justice as guides to determine what is reasonable, stating in highlighting counsel's duty to investigate. Also citing Marshall V. Ccathel, 428 F. 3d 452 463 (3d Cir. 2005). " An attorney's duty to investigate, is itself judged under a reasonableness standard based on prevailing norm's, such as those found in the ABA standards for criminal justice. The petitioner was denied ineffective assistance of counsel. Petitioner's counsel's failure to investigate Forensics of Shooting, was ineffective assistance because it deprived defendant of substantial arguement. English V. Romanowski, 602 F. 3d 714, 728-31 (6th Cir. 2010). Petitioner's current case, his counsel failed to investigate any Forensics, and was deficient, and prejudiced as a result. The first Cort Appointed counsel, nor the last counsel, of record made any request to test evidence, nor investigated pertinent evidence to the criminal case. Petitioner cites Strickland V. Washington, 466 U.S. 668 (1984). and has met the first prong of deficient, and prejudiced as a result. The last counsel of record, and the first

counsel of record, merely focused on the credibility of Commonwealth's witnesses. The defendant was facing a Capital offense, and the attorney's deficient performance, prejurdiced the defendant, that counsel's error dprived him of a fair trial. The alleged victim's Clothing was not tested for any DNA, that would corroborate the Commonwealth's star witnesses testimony that the petitioner searched the victim's pant's pocket's. The Court Record's will reflect this testimony, after the alleged victim was shot. See (Tr. Transcript).

This type of investigation is pertinent to the trial, and reasonable investigation of applicable Law, and facts adequately to perform Legal research, Mcnamara V. United States, 867 F. Supp 369, 373-374 (E.d. Va. 1994). is ineffective assistance of Counsel. Petitioner also cites, Strickland, 466 U.S. At 694, 104 S. Ct 2068 " that the defendant must show that there is a reasonable probability that, but for counsel's unprofessional error's. The result of the proceeding would have been different. A reasonable probability, is a probability. Sufficient enough to undermine confidence in the outcome.

The defendant need not to establish that the attorney's deficient performance, more likely than not, altered the outcome in order to establish perjudice under Strickland. and the probability standard is not the sufficiency of the evidence test. Weekly V. Jones, 56 F. 3d 899 8th Cir. (1995). quoting Strickland, 104 S. ct, at 2068. The Court also held that the result of a proceeding can be rendered unreliable, and hence the proceeding itself unfair, even if the error's of counsel can not be shown by a preponderance of the evidence to have determined the outcome.

REASONS FOR GRANTING THE PETITION

The petitioner continues to support his argument based upon the citing of Hawkins V. Bennett, 423 F. 2d 948 (1970). The court held that the passage of 44 years since the state prisoner was allegedly denied his constitutional rights, did not bar him from proceeding with post conviction efforts, and concluded that the passage of time does not cure the wrong. The petitioner has presented a Affidavit to sustain his argument which the highest court in the state denied due to the passage of time.

Allison V. Blackledge, 533 F. 2d 894 (1976). whichpprovides, " where am indigent prisoner proceeding (prose), alleges a cause of action which if proved would entitle him to post conviction relief. It is improper to require him to document that claim, or support it by Affidavits of his witnesses before affording him the evidentiary he is other wise entitled and a prose petitioner is not to be put to a greater burden to obtain a evidentiary hearing when he has alleged a cause which if proved, would entitle him to relief then any other type of action.

The petitioner argues that the question of jurisdiction, and filing deadlines without question, and that due to multiple constitutional violations surrondimg his conviction, The court does have the authority, and jurisdiction to act upon this petition and grant the petitioners motion before the court. To infact cure the substantial constitutional error.

The supreme court in McLaughlin V. Royster, 346 F. Supp. 297 (E.D. Va 1972) recognized that even an intelligent, and educated laymean, has small and sometimes no skill in the science of the law. Indeed frequently lacks both the skill and knowledge to prepare a defense even though he may have a perfect one. The defendant requires the guiding hand of counsel at every step of the proceedings against him.

The defendant in this case has a perfect defense, and the record will reflect it. And this court should grant the petition premised upon all the petitioner has presented before the court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Adelmo A. Fauntleroy

ADELMO A. FAUNTLEROY # 1141800

Date: JUNE. 5, 2018