

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Shaidon Blake — PETITIONER
(Your Name)

vs.

State of Maryland et.al RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

US District Court 4th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Shaidon Blake
(Your Name)

L.C.S. P. Box 2
(Address)

Lansing, KS. 66043
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Did the lower Court err in its denial of Petitioners Habeas Corpus amount to Manifest injustice?
2. Did the states Violation of Brady amount to Manifest injustice.
3. Did the lower Courts err in its denial based on Newly discovered evidence?
4. Did the courts err in its denial of Habeas Corpus Relief and request for New trial based on withheld exculpatory DNA & Lab evidence?
5. Did the courts err in its denial of relief due to ineffective assistance of counsel?
6. Did the Courts err in its denial of Petitioners U.S. 42 1983?

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:

State of Maryland

Brian Fish

Derrill Merrick

Anthony Fata

Baltimore City Police Dept.

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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 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 is unpublished.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 United States 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 is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix E 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[] is unpublished.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 Court of Appeals for MD. ^{special} court appears at Appendix E 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 is unpublished.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 May 21, 2018.

[] 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: JUNE 5, 2018, and a copy of the order denying rehearing appears at Appendix A.

[] 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 Dec. 19, 2012. A copy of that decision appears at Appendix E.

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

§ 2254

§ 2255

US. 42 1983

14th amend U.S. Constitution

MD. Rule 4-331

§ 8301

(SB) 423

MD. Rule 5-801

Manifest Injustice

In The Interest of Justice

STATEMENT OF THE CASE

See petition included

IN THE SUPREME COURT OF THE UNITED STATES OF AMERICA :

Shaidon Blake
petitioner

v

Brian Fish et al

Petition for Writ of Certiorari :

Petitioner comes pro se, asking this Honorable Court to review judgement and order of the lower courts and vacate conviction and sentence in the interest of justice. Petitioner's request is based on the following: Brady Violation-Dna & Lab Reports exculpatory to the defense and identifies an alternative suspect "Unknown Male 1" was withheld despite pretrial motion for Discovery by Petitioner. This is material because had the defense/petitioner been afforded a fair and impartial trial as granted by the U.S. Constitution, these exculpatory DNA & Lab reports would have been made available in order to prepare a proper defense. (Brady V. United States).

1. Did the courts err in its denial of Habeas Corpus relief and request for new trial based on withheld exculpatory DNA and lab evidence? Petitioner a search circuit courts reason for denial was a misinterpretation of Maryland rule 4-331 and Maryland code Ann. Crim. Proc. (section 8-301).

As stated in court order Maryland rule 4-331(a) State's motion for new trial has to be filed within 10 days of verdict. This is for claims of actual innocence, but without knowledge of the existence of this withheld exculpatory evidence, how can any action be taken. Petitioner requested a judicial review in the interests of Justice to vacate conviction and sentence to remedy the Violation of Due process and Equal Protection under the law due to newly discovered evidence. Under (section 8-301) (a) (1) the law states petitioner may at any time file a petition for writ of actual innocence if the person claims that there's newly discovered evidence that:(1) creates a substantial or significant possibility that the results may have been different and (2) could not have been discovered in time to move for a new trial under Maryland rule 4-331.

Petitioner satisfies both requirements. Exculpatory withheld DNA evidence would no doubt have been enough evidence to raise Reasonable Doubt to a jury. Petitioner proves through exhibits, trial and post-conviction transcripts that DNA reports were not made available and ex.#C shows petitioners due diligence in trying to obtain these reports.

Petitioner sought relief from U.S. District Court after a unreported denial of relief under application for leave to appeal. U.S. District Court opinion stated "petitioner has not made a substantial showing that his constitutional rights were violated".

Relief is due when Petitioner can show that (1) A factual or legal matter was overlooked material to Petitioners constitutional rights (2) The opinion conflicts with a decision of the U.S. Supreme Court, or another Court of Appeals; and the conflicts was not addressed,(3) The opinion

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SUPREME COURT, U.S.

conflicts set law, or a change in the law occurred after submission of the case and was overlooked or (4) The case involves one or more questions of exceptional importance. The Petitioner applies all of the reasons. The factual matter overlooked material to Petitioners Constitutional rights is that the state withheld exculpatory evidence (DNA & Lab reports). The decision not to grant relief conflicts with this court's ruling in Brady and has not been addressed. Senate Bill (SB) 423 on Post conviction-DNA testing and Petition for Writ of Actual Innocence had just been passed changing the time requirements for filing. This change of law makes the lower Court's ruling on a "Procedural default" due to violation of time restraint unlawful and reviewable by this Honorable Court.

Petitioner presented evidence of newly discovered evidence, the withheld DNA and lab reports, with evidence that shows Petitioner received these reports over 2 years after trial and pass the first year required under Maryland Rule 4-331, but lower Courts rejected claim as procedural default and agreed with Circuit court's ruling of time barred, even though Petitioner presented undisputable DNA & Lab Reports contradicting the State's claims. Petitioner also presented the lower Court's the provision of "in the interest of Justice" in order to remedy the time restraint because of the importance of the issues. The case involves one or more questions of exceptional importance. How can the state knowingly present false evidence and misinterpret vital DNA and lab evidence of blood, to the jury of a defendant and the courts responsible for review use technical defaults to deny the issues of Constitutional magnitude. The State presented evidence of blood to the jury and claimed it to be the victim's blood. This is material because this blood connects one crime scene to another. The victim was found in an alley but State said his blood was found on a washing machine in the basement of a home the petitioner frequented. This evidence was linkage but lab reports contradicts the states claims. Reports that was illegally withheld, in violation of this Court's ruling in Brady, states the blood found in the basement on the washing machine was of "non-human origin". Your Honors, the state intentionally misrepresented this vital evidence in violation of Petitioners Due Process and Equal Protection under the law. The Petitioner was denied the Constitutionally protected right to a fair and impartial trial and denied Petitioner access to effective assistance of counsel by the intentional Brady violation. Do Petitioners claims of err amount to Manifest Injustice ? Did the Courts err in its denial of relief of Petitioner's claims amount to Manifest Injustice ?

Transcripts of State witness Dennis Laye, at Post Conviction, Petitioner's trial attorney provides evidence that Petitioner never had these reports pretrial despite pretrial motion for discovery. These withheld exculpatory reports are also material because the DNA report excludes Petitioner as a contributor to any and all sources of DNA collected but also identifies "Unknown male 1" as the source of DNA. This report conclusions would have created Reasonable Doubt and given the jury an alternative suspect. By withholding this key exculpatory evidence the state illegally stacked the deck against the Petitioner denying him his guaranteed constitutionally-protected right to due process and equal protection under the law. And the right to be tried impartially by a jury of his peers.

Petitioner presented evidence, exhibits #C, Maryland Public Information act requests and response from the Police, to show Petitioners due diligence and seeking to obtain all withheld discovery but as Exhibit #C shows, the police/state made a decision on November 4th 2009, over 2 years after Petitioner's trial to release lab reports. The MPIA correspondence gave

several reasons that does not meet the standard to withhold evidence exculpatory to the defense. Petitioner presented this correspondence that states "The detectives in the Homicide Division have made a decision to release the following documents to you per your request". One of the releases were Lab Reports.

I ask this Honorable Court, when is it lawful for Homicide Detectives to decide what's able to be released to the defense? And why if this correspondence clearly shows the Brady because it made a decision to release in November 4th 2009, what should have been released in pre-trial Discovery, why did the lower Court's not rule in favor of the Petitioner due to the Brady violation? If Petitioner has presented lower courts with evidence of misconduct with the intentional misrepresentation of blood listed in withheld lab reports in violation of Brady and the 14th Amendment why has no action been taken?

Why haven't a hearing on the merits ever been considered when Petitioner has indisputable scientific DNA and lab evidence to support all claims and claims are also supported by trial and Post-conviction transcripts?

It is the Petitioners claim that had not been for illegal and unethical tactics of the State, Petitioner would not be serving a Life sentence in the State of Maryland. Petitioner has presented lower courts with evidence of police corruption and manipulation of crime scene. Lead Detective, former Detective Anthony Fata was fired, arrested, tried and convicted of perjury, misconduct in office by staging a crime scene and fraud, yet my issue was not under review considering the crime scene was tampered with. Lab Tech John French testified at Petitioner's trial that former Detective Fata told him not to print the murder scene. No suspects have been made official through evidence, yet this request was made. Also, the "linkage blood evidence" turned out to be of non-human origin, so this brings into question this Detectives credibility. Since there's no way to determine how the jury would have taken this revelation of his character, this Honorable Court can use its discretion to determine whether the petitioner's rights were violated. No review of this officer's conduct or cases was ever done except a decision was made by the Conviction Integrity Units' Laura Lipscomb, that this former Detective's lies and convictions has no bearing on his past cases. How can she determine what the court has the jurisdiction to rule on. She circumvented the established protocol of review of cases, by not allowing this case to receive the needed review due to the question of this convictions integrity.

Petitioner thought it odd that both his 1983 and (section 2254) petitions were answered in combined unpublished per curiam opinion dismissing in part an affirmed in part. This ruling is too ambiguous to be understood. Petitioner has no idea which part is not affirmed or not dismissed especially after reading "Petitioner has not made a substantial showing that his constitutional rights were violated". Substantial says some showing has been made so it's the Petitioners claim that any showing of a violation of the Constitutional magnitude warrants relief. The combining of these two separate petitions "muddies the waters" to what Petitioners intentions are. These separate yet distinct petitions were intended to receive its own audience and because the 1983 petition was coupled with the (section 2254) it was misconstrued as an illegal conviction suit which is not the case making the lower Court's ruling based on Heck V Humphrey abuse of discretion and a misinterpretation of the petition.

Petitioners case amounts to Manifest Injustice, which is described in Blacks Law Dictionary as an error in the trial court that is direct, obvious and observable. The court of appeals in Kansas, in Ludlow V State No. 96,319,37 Kan. app. 2D 676 (2007) argues that Manifest Injustice has been interpreted by the courts to mean "obviously unfair or shocking to the conscience" citing State V Cramer 17 Kan. app. 2D 623,635,841 P.2D 111 (1992).

Brady V MD 373 U.S. 83,87,10 L. Ed. 2D 215,83. States concerning discovery violations "The evidence must be favorable to the accused, either because it's exculpatory or because it's impeaching; that evidence must have been suppressed by the state, either willfully or inadvertently and prejudice must have ensued".

What petitioner suffered as a result of the Brady and many violations discussed amounts to Manifest Injustice where the law is not fully developed as to the definition of the term the Law Court will look to definitions of the term in different context. See e.g State V. Barahona 35 Kan. app. 2D 605 (Kan. app. 2006) Manifest injustice must be considered on a case by case basis. It requires a ruling or finding by the court that an action or occurrence in the case is obviously unfair or shocking to the conscience and should be found wherever unfairness and shocking conduct abides.

Petitioner presents the following:

1. Non-human blood presented to Jury as victim's blood
2. DNA report excluding Petitioner and identifying "Unknown male 1"
3. Both vital reports illegally withheld in Violation of Brady
4. Gross conduct by State in an unethical display of Misconduct
5. Ineffective trial counsel

These actions are both "obviously unfair and shocking to the conscience" so did the lower courts err in ignoring these proven claims due to technicalities and procedural defaults ? Can such defaults or technicalities outweigh the provision of "In the Interest of Justice" that Petitioner has presented to the lower Courts ? It is for these reasons stated to this Honorable Court that the Petitioner seeks some relief stated in exhibits supporting facts and arguments.

Abuse of discretion by Trial Judge:

(Taken from Sentencing Tr. State V. Johnson (Petitioners Co-defendant) pg.6 lines 1-25,pg 7 lines 1-25, pg 8 lines 1-25, pg 9 lines 1-25, pg 10 lines 1-25, pg 11 lines 1-8) Did Trial Judge abuse his discretion with an improper interpretation and application of Nance Hardy in violation of Crawford V. California and Davis V. Alaska ?

Trial Judge abused his discretion in ruling pretrial extrajudicial statement by state witness Wagner substantive evidence and not for impeachment purposes only. Once witness pled the 5th, the defense ability to properly cross-examine this witness was hindered, impairing our ability to exercise my right to face my accuser in a court of law. A right guaranteed and protected by the U.S. Constitution.

The Nance ruling by the trial judge was an incorrect interpretation and application of law due to the missing element of witness intimidation by the defense to cause the recanting of the state witness. The witness stated all the intimidation came from threats received from the state.(Trial TR. Vol II pg 225 lines 7-10 & 16-25, pg 226 lines 1-6, pg 233 lines 14-25, pg 234 lines 1-4, pg 241 lines 10-13, pg 244 lines 1-7, pg 245 lines 2-25, pg 246 line 1) Under MD Rule 5-801, witness Wagner's statement, because she didn't testify in the traditional way, giving the defense

the ability to cross-examine her for impeachment purposes, her extrajudicial unsworn statement could only be used to show inconsistency in what she said at trial. Even though the defense didn't get to question the witness properly, she said petitioner didn't kill her boyfriend and if she testified to what she said in the extrajudicial unsworn statement she would be perjuring herself then her deal for state and federal immunity would be void. (Trial TR. Vol III pg. 254 lines 3-25, pg 255 lines 4-11)

By Trial Judge introducing extrajudicial unsworn statement as substantive evidence and not impeachment evidence as the law prescribes, he abused his discretion and allowed inadmissible hearsay to taint the petitioners jury rendering the trial constitutionally unfair. Once the defense attorney brought up the fact that this witness could not be cross-examined for impeachment purposes, that means by allowing this the trial Judge made so the jury had to rely on unsworn hearsay as reliable evidence.

Defense stated a Curative instruction should have been given informing the Jury that this evidence is for impeachment only but trial Judge says "It was not. It was substantive evidence". Giving a clear insight of his State of Mind when he denied all motions, for instructions, exclusion of statement and mistrial. (New trial and sentencing TR. pg 9 lines 11-25).

The Courts response does not satisfy the rule of law, by just stating the Jury may believe all, part, or none of the testimony of a witness because this was no ordinary witness with an ordinary testimony. She was allowed to have her lawyer on the stand next to her to feed her answers to any questions she decided to answer and evade those she did not want to answer, to circumvent 5-801. The trial Judge admonished State for "not sanitizing the 5-801 statement", recognizing the hearsay upon hearsay in this inadmissible statement full of "word on the street was" and "I heard", second and third hand accounts of related and unrelated events. Other crimes evidence was throughout this extrajudicial statement, prejudicing Petitioner and a mistrial was the only remedy after the trial Judge acknowledged the error, yet he denied it and gave no instruction, not that one could have remedied this miscarriage of Justice.

Instead of being a neutral arbitrator and instructor of the law, trial Judge abused his discretion taking on the role of a prosecutor rendering Petitioner's trial constitutionally unfair (Trial TR. Vol II pg 86 lines 1-25, pgs 87-89)

Trial Judge acknowledges that the Supreme Court in Crawford V. Washington remedies this through cross-examination, so to ignore his own statement on record amounts to abuse.(Sentencing TR. pg 10 lines 8-25) What's odd is the trial Judge goes on to say "but you had the benefit of cross-examining her about the fact that she recanted, letting the Jury see her demeanor and the fact that certain benefits were conferred upon her. So you make it sound as though this tape recorded statement somehow went to the Jury unscathed as though an out of Court declarant were communicating to the Jury without any kind of cross-examination"

(Sentencing TR. pg 12 lines 1-10)

I present to this honorable court that this is exactly what happened and trial Judge acknowledges this through his admonishing the state for not cleansing this statement. Court and Defense acknowledges witness Wagner as being charged in Petitioner's case. During sentencing for Co-defendant Johnson, her attorney states "it would be our position that in this case there was no consequences for Ms. Wagner. In fact, the remaining charge of accessory after the statue was Nol Prossed against her about two weeks after our trial concluded on April

26. The misconduct came during closing once state says to Jury "Ms. Wagner who was never charged in this case "(Trial TR. Vol V pg 41 lines 7&8) and "counsel will again beat this to a bloody pulp that i gave her immunity for the other case, couldn't charge her in this case" (Trial TR. Vol V pg. 41 lines 16-18)

These are lies to the Jury misleading them in order to circumvent rulings in *Montgomery V. State* that says a co-defendant's testimony must be corroborated by independent evidence to convict and because all the State presented in a trial for murder was the uncorroborated testimony of one in Court testifying co-defendant with the unsworn extrajudicial statement of another co-defendant, there was insufficient evidence to convict making Petitioner's conviction and sentence invalid and illegal. State also again misrepresented evidence when stating witness and co-defendant Kelly was not an accomplice yet he was charged as one and was one during Petitioner's trial. (Trial TR. Vol V pg 47 line 24)

This conduct by the State grossly unbalanced the scales of Justice and rendered Petitioner's trial unconstitutionally unfair. To purposely misrepresent evidence when a person's life and liberties are on the line as presented here and throughout this petition should be considered a criminal act and prosecuted. But it's also evident during defense cross-examination of State witness Detective Merrick when trial Judge repeatedly interjects as if to clarify the statement made by state witness favoring the state, further abandoning his neutral position while also allowing hearsay from an out of court declarant to come in as testimony to Petitioners Jury in violation of Crawford. (See Trial TR. Vol II pg 92 lines 25, pg 95 & 100.

Witness Detective Merrick spoke about infamous Record Executive Marion 'Suge' Knight and a statement his alleged nephew gave detectives during a video interview while in custody for an unrelated crime. Trial Judge, even though this out of court declarant was not ever made available for cross-examination, continued to question witness Merrick about his out of court declarant and his extrajudicial video recorded statement that was never in discovery in violation of Brady and Crawford. This video recorded interview was of a suspect in custody is considered "work product" and subject to cross and should have been in discovery, but trial Judge knew this alleged witness was not in court or ever made available to the defense yet the following questions took place in the presence of Petitioner's Jury. Much power is given to prosecutors who is given authority by this Honorable Court as an officer of this Honorable Court, to arrest, detain and charge a man with a crime not proven until tried in front of a jury of his peers. So to use unethical and illegal means to convict, destroys any faith in Anglo American jurisprudence and as an African-American, who because of our imperfect American history, has reasons to fear this system who during its inception considered me 3/5 of a human, I am at the mercy of this Honorable Court as yourselves to keep Justice Just, and to correct this manifest Injustice.

Respectfully Submitted,
Shaidon Blake #96323
Lansing Correctional Facility
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REASONS FOR GRANTING THE PETITION

See Petition included

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Sharon Blalue

Date: Sept. 7, 2018