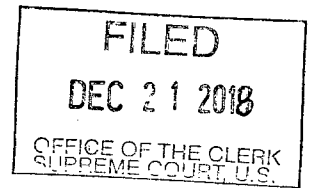


No. 18-7512

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Ronald Jackson — PETITIONER
(Your Name)

vs.

Appellate Court of Illinois — RESPONDENT(S)
First Judicial District et al

ON PETITION FOR A WRIT OF CERTIORARI TO

Appellate Court of Illinois First Judicial District
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

RONALD JACKSON
(Your Name)

10930 Lawrence Road
(Address)

Sumner, IL 62466
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

THIS ISSUE IS VERY IMPORTANT BEYOND PARTICULAR FACTS AND PARTIES INVOLVED. THIS IS THE IMPORTANCE TO THE PUBLIC OF THE ISSUE TO RESOLVE WHETHER COUNSEL WAS INEFFECTIVE AND TO RESOLVE DISAGREEMENTS ABOUT THE SPECIFIC LEGAL QUESTION

DO ATTEMPT MURDER ON A POLICE OFFICER CARRY A MANDATORY FIREARM ENHANCEMENT
WAS THE FIREARM ENHANCEMENT PROPERLY ADMITTED IN INDICTMENT AND DETERMINED BY JURY TO FIND DEFENDANT GUILTY?

WAS DEFENDANT DUE PROCESS VIOLATED?

IS THERE ANY KIND OF SOUND TRIAL STRATEGY THAT WOULD JUSTIFY SUCH DEFICIENCY AND TRIAL COUNSEL PREJUDICE BY MISSING CRITICAL OPPORTUNITY TO DAMAGE THE COMPLAINANT'S CREDIBILITY?

CAN COUNSEL MAKE A STRATEGIC DECISION WHEN HE HAS NOT YET OBTAINED THE FACTS ON WHICH A DECISION COULD BE MADE?

DID COUNSEL PERFORM DEFICIENTLY AND PREJUDICIAL WHEN HE FAILED TO PROVIDE TRIER OF FACTS WITH MOST COMPELLING EVIDENCE IN HIS POSSESSION, EVEN IF HE OFFERS SOME EVIDENCE AND ARGUMENT IN DEFENDANT'S FAVOR?

DID OFFICERS TESTIMONY ABOUT THEIR AWARDS INTEND TO INFLAME THE PASSIONS OF THE JURY, PREJUDICE OF THE JURY, OR DEVERT JURY FROM ITS DUTY TO DECIDE THE CASE BASED ON THE EVIDENCE AND CONTROLLING OF THE LAW?

DID COUNSEL FAILURE TO INTERVIEW KEY WITNESS BEFORE TRIAL ESTABLISH INEFFECTIVE ASSISTANCE OF COUNSEL?

DID PROSECUTOR COMMENT IN CLOSING ARGUMENT CONSTITUTE PROSECUTORIAL MISCONDUCT?

WOULD THE OUTCOME BE DIFFERENT IF OFFICERS DIDN'T TESTIFY ABOUT THEIR AWARDS?

WOULD THE OUTCOME BE DIFFERENT IF TRIAL COUNSEL ASK KEY WITNESS AND OTHER WITNESSES THE SAME QUESTIONS THAT CO-DEFENDANT COUNSEL ASKED?

WAS PROSECUTION COMMENT DURING REBUTTAL AN ACT OF PROSECUTION MISCONDUCT?

DID STATE COMMIT PROSECUTORIAL MISCONDUCT AND VIOLATE DEFENDANT DUE PROCESS AND RIGHT TO FAIR TRIAL BY NOT CORRECTING TESTIMONY THEY KNOWN TO BE FALSE?

WAS DEFENDANT CONVICTED DUE TO PROSECUTION MISSTATEMENT OF FACTS?

DID DEFENDANT DESERVE TO BE AWARDED A NEW TRIAL DUE TO HIS CONSTITUTIONAL RIGHTS BEING VIOLATED?

WAS OFFICERS TESTIMONY ABOUT THEIR REWARDS IRRELEVANT TESTIMONY THAT QUALIFY FOR REVERSAL REGARDLESS OF OUTCOME DUE TO SERIOUSNESS?

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:

Attorney General
State's Attorney

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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 D 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 First Judicial District Illinois Appellate court 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.

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 9-26-18.
A copy of that decision appears at Appendix D.

☐ 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

U.S. Constitution Amendment 6, U.S. Constitution Amendment 14

720 ILCS 5/8-4(A), 720 ILCS 5/9-1A, 720 ILCS 5/8-4(C)(1)(A)(B)

725 ILCS 5/111-3(c-5), 720 ILCS 5/9-1(b)(1)

STATEMENT OF THE CASE

At trial officer Victor Portis testified that on the evening of January 12, 2011 he and his partner, officer Andrew Dennis, were patrolling a four-block area in the Roseland neighborhood of Chicago as part of a "Violence Suppression mission". They patrolled in an unmarked police vehicle and their mission required that they be inconspicuous, they both were "civilian dressed". During the patrol officer Portis saw two people in an alley between 120th State Street and Lafayette Avenue. When he approached to conduct a field interview, one of the individuals fled west towards Lafayette Avenue, while the other person remained behind. Officer Portis gave chase. He ended up at 120th place on State Street where he lost sight of individual running toward Michigan. He looked to his left at 120th State Street, he saw two different people, whom he identified at trial as defendant and a co-defendant named Marvin Fields running east onto 120th Street of State. Fields was wearing a black jacket with a fur collar, and defendant a black jacket. When they were half a block apart, officer Portis yelled "stop" "get back police". Fields then raised a gun and fired at him. Jackson was one or two feet behind Fields. Officer Portis returned fire and dove behind a vehicle. Officers Portis radioed for assistance. Shortly thereafter, officer Dennis arrived in his police vehicle and suspects fled. On cross examination before defendant's jury only, officer Portis testified that he did not see two people firing at him but, saw defendant on scene. Fields attorney then cross-examined Portis in which he testified that he was wearing a grey hooded jacket and grey pants on date in question. He also testified to multiple awards and honors he got while on job. Officer Dennis testified that while officer Portis pursued the person who fled, he remained with person who didn't flee. Within 20 to 25 seconds he heard gun fire, ended interview and drove towards 120th State Street where he saw multiple muzzle flashes from gun fire and officer Portis crouching behind a car. Officer Dennis stated that the person he saw firing the gun was wearing black coat with fur hood. When shooting stopped, he drove to officer Portis and picked him up. Dennis also testified he identified defendant as person he saw firing towards officer Portis. On cross-examination before defendant jury only Dennis testified he only saw one shooter who was wearing black coat with fur hood who was not the defendant and he never saw defendant at any point and saw co-defendant Fields firing at Portis. On cross-examination before Fields jury only Dennis testified he and Portis were in civilian clothes and when he heard gun fire, he did not hear anyone saying anything also that he received multiple awards and commendations while on the job. Sergeant Eric Jackson testified that he was supervising the Violence Suppression mission. He was near 120th Lafayette Avenue when he heard officer Portis distress call. Sergeant was wearing civilian clothes and driving an unmarked police vehicle. After hearing call he exited vehicle, saw a man whom he later identified as defendant, exit from a gangway at 119th Lafayette on the east side of West Street and began walking north on Lafayette. He observed defendant discard black jacket and gloves and run into a gangway towards 119th Perry Street and hop fence. Defendant emerged near 1925 South Perry where he was detained. Sergeant went back to collect jacket and gloves. Sergeant later learned Fields was detained a few blocks away under porch of abandoned house and two firearms were discovered inside abandoned house. On cross examination in front of Fields jury only he testified that, other than what he heard on the radio that Portis was being shot at and returning fire. He never heard Portis announce his office or say anything during the shooting.

Officer Chris Skarupinski testified he and his fellow officers "were in plain clothes which would be jeans or sweaters." He saw defendant running through an alley on 119th street between Lafayette and Perry. Cornered defendant in yard on Perry. On cross-examination before defendant's jury only, officer Skarupinski testified he never saw defendant with weapon at any point and that police didn't recover a weapon from defendant. He noted defendant was released from custody and was not brought back into police custody until July 11, 2011. Also that he received awards while on job.

Nancy DeCook, A Forensic Investigator for the Chicago Police Department testified she recovered 15 40-caliber shell casing at 12010 South State. Less than a quarter block away at 12025 South State she recovered five 45-caliber shell casings. Then at 12011 South Lafayette where Fields was detained and recovered a Sig Sauer pistol and a 40-caliber Smith and Wesson pistol.

Marc Pomerance, Forensic Scientist with Illinois State Police testified as expert witness that 10 shells were fired from the Sig Sauer and 5 were fired from the Smith and Wesson.

ELLEN Chapman, A Forensic scientist with the Illinois state police, testified as an expert in the field of gunshot residue (GSR) she concluded that defendant Jackson "may not have discharged a Firearm". No GSR was on his hands but it's "quite possible" that if a shooter had on gloves, it would prevent GSR from contacting their skin. Also that one of defendant gloves contacted primer (GSR) item or was in the environment of a discharged firearm and defendant Jacket on the right cuff did also. On cross-examination, Chapman clarified that she did not conclude that defendant Jackson discharged a Firearm at all. She acknowledged that it was possible for a person's clothes to test positive for (GSR) if person was in area where gun was fired or next to person discharging a Firearm.

After State rested defendant presented his case-in-chief which consisted entirely of testimony from Chicago Police detective William Sullivan. Sullivan testified that he was assigned to investigate the shooting and interviewed Officer Portis and Portis told him he only saw one shooter and multiple muzzle flashes.

The State Closing Argument commented on defendant committing case while people cook dinner, watch TV, Defense attorney Logic is insane. Defendant or one for he's legally responsible committed Attempt murder on police officer and you can scratch out Jackson and put Fields. along with multiple other comments

At defendant's request, the court instructed Jury on lesser included offense of straight attempt murder and Aggravated discharge of a Firearm. Afterwards Jury found defendant guilty of Attempt murder of a peace officer and co-defendant guilty of lesser charge straight Attempt murder. Defendant was sentenced to 38 years' imprisonment, which consisted of 23 years for offense, plus a mandatory 15-year Firearm enhancement due to the personally discharging of Firearm during the offense. Defendant filed a timely Notice of Appeal which the Appellate court affirmed his conviction and sentence. Denied re hearing and Illinois Supreme Court denied discretionary review.

Appellate court opinion consist of Trial Counsel pursuing an all-or-nothing trial strategy so he was not ineffective for doing so and didn't use the Strickland vs Washington analysis.

Next they decided that testimony the state elicited from officer portis, Demps, and Skarupinski regarding their various commendations, medals, and awards was deficient but, didn't prejudice defendant Jackson because they don't believe

the outcome would be different. Next they decided trial counsel wasn't ineffective for failing to object to certain comments during state's closing argument.

Next they decide that attempt murder on a police officer carries a mandatory Fire arm enhancement because after the semi-colon in subsection (1) It's the word and,

And is a conjunction word so that means the mandatory enhancement does go with the conviction of Attempt murder of police officer. Lastly they rule that Even though a Firearm was not mentioned in defendant's

Indictment for Attempt murder of police officer Defendant still is eligible for enhancement due to Firearm

being mentioned in Aggravated discharge and possession of Fire arm count because it made defendant aware of Firearm and Indictments is read as a whole.

So if it's not mentioned in one count but, mentioned in Another then they can still give you the Fire arm enhancement.

REASONS FOR GRANTING THE PETITION

This Court Should Grant this Petition due to the National Importance of A Gun Enhancement being Added to the offense of Attempt Murder of A Police Officer. There is A Split decision Within The Appellate Court of Illinois (First Judicial District) ON whether the enhancement Apply to Attempt Murder ON A Police officer. People v. Douglas, 371 Ill. App. 3d 21 (1st Dist. 2007) ruled (Firearms Add-ons do not Apply to Attempt murder on A Police officer) due to it's Already Enhanced From A 6-30 to A 20-80 and their not going to rewrite or misstate the Law. In People v. Smith, 2012 IL App (1st) 102354 (Firearm Add-ons do Apply to Attempt murder on A Police officer.) However, that decision Conflicts With the Plain Language OF the Statute AND Fails to Account For the Fact that the Legislature Had The CHANCE to AMEND the Sentence For Attempt murder OF A PEACE OFFICER AFTER DOUGLAS, but FAILED to do so. See Williams v. Crickman 81 Ill. 2d 105, 111 (1980) (Quoting Cases to RE Affirm that "The Legislature is presumed to know the construction the Statute HAS BEEN GIVEN, AND BY RE-ENACTMENT, IS ASSUMED to HAVE INTENDED For THE NEW Statute to HAVE The SAME EFFECT.") Appellate Court has decided AN Important FEDERAL Question that HAS Not been, but should BE Settled By This Court. This case is Such imperative public importance As to Justify Deviation From Normal Appellate Practice AND require immediate Determination IN This Court. It NEED to BE A well ESTABLISHED LAW whether Attempt murder OF A PEACE OFFICER Carry A MANDATORY Firearm ENHANCEMENT or Not. Appellate Court CAN NOT TAKE it upon Themselves to Just give the Firearm enhancement to some Defendants AND Not to others Based on Their opinion OF what the LAW or Statute MEANS. It HAS to BE A well ESTABLISHED LAW. The Appellate Court erred by AFFIRMING A MANDATORY Firearm ENHANCEMENT THAT'S NOT STIPULATED IN Statute whether it APPLIES to the OFFENSE or Not. ^{see} U.S. v. 11,500.00 in U.S. Currency 710 F.3d 1006, 1011 (2013) Court Abuse it's discretion if it does Not Apply the Correct Legal STANDARD. Also see Winthrop - Redin v. U.S. 767 F.3d 1216, 1215 (2014)

The Statutory Citation for Attempt murder OF A PEACE OFFICER (720 ILCS 5/8-4(C)(1)(A)(B)) WAS Not Included in Petitioner indictment for Attempt murder of A PEACE OFFICER to Carry the Firearm enhancement neither was the word (Firearm). Petitioner indictment Statutory Citation is (720 ILCS 5/8-4(A), 720 ILCS 5/9-1(A)) AND reads (RONALD JACKSON AND MARVIN FIELDS. 1/12/11. With intent to kill, without lawful Justification, shot at Victor Portis, A person they Knew or reasonably Should HAVE KNOWN to be A PEACE OFFICER OF The Chicago Police Department, While Victor Portis was in the Course of Performing his OFFICIAL Duties, Which Constituted A Substantial Step TOWARD First Degree murder. 720 ILCS 5/8-4(a)/720 ILCS

5/9-(b)(1).) which only give defendant Notice of Attempt murder of a peace officer And Not state Seeking gun enhancement. The mandatory Firearm enhancement is in subsection(b) of 5/8-4 which is not included in Defendant Indictment, neither was the word Firearm. Defendant has the right to be notified of state seeking Gun enhancement before Trial. State was obligated to ① Include the enhancing Factor in the indictment, ② submit the enhancing Fact to the Jury, and ③ prove the enhancing Fact beyond A reasonable doubt. see 725 ILCS 5/11-3(c-5) without including the Statutory Citation in indictment that violates the U.S. Constitution Amendment 14 Due Process of Law. State Also Failed to include the word Firearm in petitioner's Indictment which denied his Due Process right as well. That error was not Harmless And refused to Notify defendant of Seeking gun enhancement, which ultimately Compromised defendant from seeking Plea Agreement by Not Knowing about State Seeking Firearm enhancement, see United States v. Arnold 485 F.3d 290, 291 (5th Cir. 2007) Inadequate Notice provided to defendant of intent to seek A mandatory Life sentence was not harmless error because it DENIED DEFENDANT Adequate information to decide to enter A plea or Trial. The Court Also Abused its discretion when it Acts in An unreasonable manner, when it misinterprets the Law see State v. Kunze, 2007 N.D. 143, 738 N.W. 2d 472 This Petitioner was sentenced to A greater punishment than Legislature intended And his Due process was violating by it see Rutledge v. U.S. 517 U.S. 292

There's no sound Trial strategy that would justify such deficiency that Trial Counsel missed critical opportunity to damage the Complainant's credibility. see Gersten v. Senkowski, 299 F. Supp. 2d 84 (2004) Trial Counsel had opportunity to damage Officer Portis Testimony After Fields Attorney cross-examined Portis AND Portis testified to how he was dressed. Also Dennis AND Skarupinski for testifying to not hearing Portis announce office on scene or over the radio AND Sergeant Jackson also. That was intrinsic evidence that gave Counsel A critical opportunity to damage the Complainant's credibility. Counsel failed to do so And that amounted to ineffective assistance of Counsel And violated U.S. Constitution Amendment 6th, Counsel Also failed to interview key witness before Trial And that also amounted to ineffective assistance of Counsel And violated U.S. Constitution Amendment 6. If Counsel had interviewed Officer Portis before Trial he would have known what exactly Portis had on the night in question and whether it was known he was a peace officer. He could have questioned him accordingly to those facts And petitioner would have got A Not guilty verdict or at very least a conviction of the lesser-included charge of straight Attempt Murder Just As Co-Defendant Fields did. see Reynoso v. Gurbino 462 F.3d 1099, 110 Counsel's failure to interview key witness before trial was ineffective because credibility of witness was 'determinative' AND failure to interview led to failure to 'elicit essential impeachment' evidence. Although Trial Counsel typically afforded leeway in making tactical decisions regarding Trial strategy, Counsel cannot be said to have made A tactical decision without 1st procuring the information necessary to make such decision. Also Rios v. Rocha 299 F.3d 796 (2002) Rompilla v. Beard 545 U.S. 374, 125 S.Ct. 2456, 162 L. Ed. 2d 366 AND Turner v. Duncan 158 F.3d 449

10.

Counsel CAN NOT make A Strategic Decision with the FACTS ON WHICH A Decision could be made ^{see} AVILA V. GALAZA 297 F.3D 911, 920 (2002) (Strategic decisions are those made before, NOT AFTER, TAKING the Challenged Actions.) Counsel CAN NOT be said to have made A Strategic choice When he has NOT yet obtained the FACTS on which A Decision could be made. Trial Counsel Couldn't Decide whether to go with AN All-or-Nothing Strategy Without obtaining the Facts of what Portis was wearing AND IF it was known he was A Peace Officer, which need to be proven for conviction. Trial Counsel Failed to investigate ANY witness before trial AND that was unreasonable because Counsel Had duty to Develop reasonable Trial Strategy. ^{see} English V. Romanowski, 602 F.3d 714, 728-29 (2010) Also Harris V. Wood 64 F.3d 1432, 1439 (multiple errors by Counsel can Amount to ineffective Assistance of Counsel. Fail to retain investigator AND interview MANY individuals Identified in Police reports was Deficient) Trial Counsel Never investigated ANY witness before trial AND made multiple errors, ^{see} Hooper V. Mullin 314 F.3d 1167, 1171 (Only investigate At trial is unreasonable) ^{also} Hart V. Gomez 174 F.3d 1067 Trial Counsel only investigated witnesses At trial and that was unreasonable. He Also didn't use The Testimonial Evidence he had in his possession to impeach or Challenge officer Portis Testimony. (Counsel performed deficiently AND preJudicially when He Failed to provide trier of FACTS with most compelling Evidence in His possession EVEN IF He offers some evidence AND Argument in Petitioner's Favor.) ^{see} Belmonts V. Ayers, 529 F.3d 834 (2008) Also EZEV. SENKOWSKI 321 F.3d 110, 112 (2003) (Ineffective Assistance of Counsel may still be demonstrated where Counsel Performs Competently in Some respects but, Not in others) OFFicer Portis, Dennis, AND Skarupinski testimony about their Awards intended to inflame the passions OF The Jury, PreJudice OF Jury, AND Divert Jury From it's duty to decide the case based on Evidence AND Controlling OF the Law. Trial Counsel didn't object to it AND He Fail to use the fact that OFFicer Portis was dressed to blend in, Had on Gray Hooded with Jeans, AND OFFicer Dennis or Sergeant Jackson never Heard OFFicer Portis Announce his OFFice either on scene or over the radio. ^{see} Old Chief V. U.S. 519 U.S. 172, 117 S.Ct. 644, 136 L.Ed. 2d 574. (Admitted Evidence or Testimony is unduly PreJudicial if it has A Tendency to suggest A Decision on An improper basis, Such As Emotion, Sympathy, or horror.) That's EXACTLY what those officers testimony About their Awards did At the Petitioner's Trial. Appellate Court ruled it was deficient toward the petitioner but, Not preJudicial which is incorrect. It's the Jury Emotions, Sympathy, AND horror to HAVE officers Testify Accordingly. ^{see} Bates V. Bell 402 F.3d 635, 649 (IF it deliberately inflame the Jury passion it's Not harmless) ^{also} Darchy V. Jones 398 F.3d 783, 791 (Improper Testimony is Not Harmless when it's prosecution evidence regarding Defendant's Guilt)

They used the Fact that Portis talked to petitioner 5 weeks prior to offense, two
They used the Testimony of Awards as Evidence to show that the officers are
Good in The Force And Experienced which is irrelevant and pre Judice. See
Redmond v. Kingston 240 F.3d 590 (7th Cir. 2001) (Relevancy, Can't produce Evidence Not relevant)
Stating Portis talked to petitioner 5 weeks prior to offense was not relevant, neither was
the officer's Testimonial Evidence about their Awards and it pre Judice the petitioner
And warrants him A New Trial. Appellate Court Already ruled Trial Counsel deficient
for not objecting to officers Testimony about Awards but, it's also pre Judice as well.
The outcome would have been different and that error was so serious that it requires new
Trial regardless of Evidence. See Dawson v. Delaware, 503 U.S. 159, 165, 112 S.Ct. 117 L.Ed.2d 309
(Constitutional error to Admit Evidence that is "Totally without relevance" to A Criminal
Proceeding) Also Michelson v. U.S., 335 U.S. 469, 69 S.Ct. 213, 93 L.Ed. 2d 168 (Character evidence
alone, in some circumstances may be sufficient to raise A reasonable doubt as to guilt. The
inquiry [into character] is not rejected because character is irrelevant; on the contrary, it
is said to weigh too much with the Jury and to so over persuade them as to pre Judice
one with A Bad general record And Deny him A Fair opportunity to defend Against
A Particular Charge) That's what Portis Testimony about talking to Petitioner did. Made
his character look bad, weighed too much with Jury And persuaded them that petitioner Had
A Bad general record. Also Portis, Dennis, And Skarupski Testimony about their Awards did the
Same And Denied Petitioner A Fair opportunity to defend Against The Particular Charge And
Violated U.S. Constitution Amendment 14 Due process of Law. Trial Counsel was Ineffective
for not objecting And allowing This Testimonial Evidence See Satterwhite v. Texas 486 U.S. 249,
156, 108 S.Ct. 1792, 100 L.Ed. 2d 284 (If 6th Amendment Violation pervades the entire proceeding
harmless error Analysis is Inapplicable And Violation is Enough to over Turn Conviction)
Counsel constantly let every witness Testify to Testimonial Evidence that Denied Petitioner A
Fair Trial And He refused to use their Testimonial Evidence Against them to show that
petitioner Did not know Officer was In Fact A police Officer At time of offense which is A Element
that has to be proven for Conviction. Then he let prosecutor make Pre Judice Comments
During Closing Argument. Trial Counsel Violated Petitioner 6th Amendment right of the
U.S. Constitution And let it pervade through the entire Trial proceeding (Counsel failed
to object to Jury instruction on grounds of fatal variance with indictments was serious to deprive
Defendant of Counsel) See Lucas v. O'Neal 179 F.3d 412 And Vigil v. Bretke 446 F.3d 598, 613-14
Counsel Defense Strategy was so ill-chosen that it render Counsel representation Defective
Constitutional see U.S. v. Tucker 716 F.2d 576 This Counsel committed several Cumulative Errors And
this petitioner was denied his 6th Amendment right due to it see MAK v. Blodgett 970 F.2d 614 (Petitioner
Conviction was A result of Cumulative errors of Counsel, i.e., errors that, Although Not
Prejudicial Individually, Are Cumulatively prejudicial.) With All the Errors Petitioner
Trial Counsel committed he has been pre Judiced And deserves A New Trial.

Prosecutor Comment in Closing Argument About people cooking Dinner, Watching TV
During Crime intended to inflame the passions of the Jury, Pre Judice Jury, And
Divert Jury from its duty to decide case based on Evidence And Controlling of
the Law, see Commonwealth v. Kozec, 399 Mass. 514, 516-517 (Closing statement of
Prosecutor may not "misstate the Evidence or refer to facts not in Evidence,
or] interject personal belief in A Defendant's Guilt")

That's what the prosecutor did with comment that people are out there in house cooking dinner, watching TV during offense.

That is a personal belief people could have been sleep or not even home but if it even was to be true it would be a fact not in

evidence and prosecutor can not comment on that. State also

made reasonable inferences to facts not in evidence by doing so.

See State v. Novotny, 297 Kan. 1174, 307 p. 3d 1278 (2013) (During closing

arguments prosecutor has wide latitude in crafting arguments and

drawing "reasonable inferences from the evidence, but may not

comment on facts outside the evidence.")⁴⁵⁰ U.S. v. Newman 490 F.2d 139

(Prosecutor facts in closing remarks or state facts outside the record

in such way as to prejudice defendant, new trial required where

prejudice is substantial, cautionary instructions will not preclude

reversal) Jury instruction on closing arguments not being evidence

can not preclude reversal when it comes to state making comments

on facts or reasonable inferences not in evidence and that comment

did exactly that.⁵⁰⁰ State v. Raskie 293 Kan. 906, 917, 269 p.3d 1268 (2012)

(Closing argument "must accurately reflect the evidence and state the law")

State comment⁵⁰⁰ (66152-153 in trial transcripts) "When you see that

language when you're reading the instruction in your mind

you can just replace that with or defendant fields, that

the defendant, or defendant fields performed an act.")

That comment is telling the jury that they can replace the instruction

with defendant or defendant fields instead of it being defendant

JACKSON Having Legally responsibility For Fields. Telling them they can find me guilty by believing co-defendant Fields did it is deficient and prejudicial and require reversal. The instruction is Defendant Having legal responsibility for Defendant Fields by Aiding, Abetting, Soliciting him or Defendant committing offense Himself. Prosecutor cannot misstate the Law or misguide Jury on Law by telling them to replace the Law with or Defendant Fields instead of Legal responsibility For Fields. See State v. Kunze, 2007 N.D. 143, 738 N.W.2d 472 (2007) (Court Abuse of discretion when it acts in an unreasonable manner, when it misinterprets the Law, or when its decision is not the product of a rational mental process leading to a reasoned determination) prosecutor misinterpreted the law with that comment and acted in an unreasonable manner and that decision was not the product of a rational mental process leading to a reasoned determination. ^{see} State v. Gallegos, 178 Ariz. 1, 10, 870 P.2d 1097, 1106 (Error in Jury instruction is not Harmless if instruction, taken as a whole, supports a reasonable presumption that jurors would be misled) The prosecutor Error in instructing the Jury in their closing Argument. Even Though Judge instructs Jury Prosecutor had already misled the Jury About the Law And Judge instructed Jury on the same instruction without Any extra input so Jury still have in their head that prosecutor instruction is also correct and was misled by it because it was not valid.

That allowed Petitioner to get convicted by a basis of an outrageous misconduct from the prosecution. ^{SEE} U.S. v. Russell 411 U.S. 423
Also YATES v. EVITT 500 U.S. 391 (Prosecution gave or explained instructions that lightened the prosecution's burden of proof) prosecutor comment lightened their burden of proof. By commenting that Jury can't replace Defendant Jackson or legally responsible for Defendant Fields with Defendant Jackson or Defendant Fields that lightened their burden of proof because Every witness saw Defendant Fields with gun, shooting, or both. That made prosecution conviction right and pre-judice defendant. ^{see} Darden v. Wainwright 477 U.S. 168 (Prosecutorial misconduct deprived petitioner of his Constitutional rights)
Also Berger v. U.S. 295 U.S. 78 (conviction obtained as a result of prosecutor's misstatements of fact) ^{see} GG 182 in trial transcripts state comments (And he sees his partner crouching behind a car taking shots, shots from this defendant, shots from Fields) Officer Dennis never testified to that, Officer Dennis testified that he saw one shooter which was Defendant Fields. State misstated facts and petitioner obtained being convicted as a result of it. Prosecutor knowingly used facts that was false. Prosecutor also misled the jury ^{see} GG 191-192 (Defendant is responsible for everything Fields did and vice versa. When Fields pulled out gun and fired at portis under law of accountability it is as if Defendant had his hand on the gun and fired. Under the law of accountability, it is as if

Defendant JACKSON Fired At OFFICER portis 15 separate times) ^{see} U.S. V. Sanchez 659 F.3d 1252, 1261 (Improper comment in closing rebuttal problematic because "it was the last Argument the Jury heard before going in to the Jury room to deliberate" And thus "Increasing the risk that the inflammatory statement would improperly influence the Jurors") That comment misstated the law due to the fact that you have to prove a Defendant Aided, Abetted, or solicited, Just being there do not make you accountable for someone when they commit an offense. State did not let Jury know that and misled Jury to believe if a defendant is there at scene when offense happen that they're accountable for person who commits offense. That also was the last Argument Jury heard before going to deliberate and it increased the risk that the inflammatory statement would improperly influence the Jurors. ^{Also} see GG 193 prosecutor tells Jury (Sign only verdict form that facts and evidence support and that's that Defendant JACKSON tried to murder OFFICER Portis that night. And we ASK you to find the Defendant guilty of Attempt murder of a police officer) ^{see} U.S. V. Salazar 485 F.2d 1272 (It's improper for a prosecutor to assert personal belief as to guilt of Defendant) Prosecutor personally believed that from the facts and evidence Defendant JACKSON was guilty of Attempt murder

on a peace officer and that was the only Verdict Form to sign. That's their belief that's improper to comment on, Especially during rebuttal when that's the last Argument Jury will hear before they deliberate. That prosecution misconduct warrants this Petitioner A new Trial. See State v. Byrd, 109 Ariz. 10, 11, 503 p.2d 958, 959 (It's improper and unethical to express opinion as to defendant's guilt or innocence in closing Argument) ^{Also} Wilson v. Bruce, 820 F. Supp. 585 (D.C. Kan. 1993) These comments contributed to the Petitioner's conviction AND you CAN NOT say that they did not. Also in Rebuttal Prosecutor state ("Counsel talked about the burden, beyond A Reasonable doubt. That is The Standard. We embrace this burden. This is what the Burden is, Beyond A reasonable doubt. It doesn't say No doubt. It says beyond A reasonable doubt. There is prisons Filled Throughout America with people that have BEEN Found guilty beyond A reasonable doubt. [Trial Counsel]; objection. [The Court]: objection sustained [Assistant State's Attorney]: It's Not An insurmountable Burden. It's A Burden that we Embrace") Through that whole Argument the prosecutor explained the Definition OF reasonable doubt. He said it doesn't say No doubt which is Telling the Jury that you CAN Have doubt AND still Find Defendant guilty. Trial Counsel objected

The court Sustained but, Prosecutor still went on
Explaining the definition by saying It is not an
Insurmountable Burden. It's A Burden we Embrace.
That whole Argument was Improper and Denied
this petitioner A Fair Trial. Even the Trial
Counsel invited the Argument by telling Jury that
Prosecutor have to find Defendant Jackson guilty
beyond A reasonable doubt Prosecutor still CAN NOT
exceed A reasonable response ^{see} U.S.V. Ramirez-Velasquez
322 F.3d 868, 873-75 (Prosecutor Closing remarks about
reliability of witness in response to defense's Attack Improper
because it exceeded A reasonable response.) ^{ALSO} see Cagle v. Mullin
317 F.3d 1196, 1218 (Prosecutor remark that state don't prosecute
Innocent people was improper.) Prosecutor stated in this petitioner
Closing Argument that There is prisons Filled Throughout
America with people that have been Found guilty beyond
A reasonable doubt which Tells Jury that they don't
prosecute Innocent people. Prosecutor made multiple improper
Comments that prejudice Defendant And if one do not constitute
Prosecution misconduct they do As A whole when you put
All the erroneous comments together. ^{see} GG 152 Prosecutor
Compared petitioner case to Bank robbery. GG 154 Prosecutor
states (GG 51 And those results point the Finger squarely
At him) State expert witness testified that petitioner

"may not have discharged A Firearm" and only had
GSR on coat from being next to someone who did AND
Further Testified in her experience that she don't
believe Petitioner "Discharged A Firearm at All", So
It would be improper AND preJUDice to mislead the
Jury by making comments that "GSR" AND results
point the Fingerly "Squarely" At petitioner. Then
prosecution WENT Further on with it, ^{see} GG 156 (He Dug
A whole For himself AND The science Just
Buried him) ^{see} U.S. V. Gonzalez 488 F.2d 833 (prosecutor
closing Argument repeatedly made Assertions OF Facts
Not in Evidence) It's not in Evidence that science buries
me. ^{see} GG 180 prosecutor says (Counsel's Explanation is Almost
hard to Fathom. It is preposterous, it is Just outrageous)
^{see} U.S. V. Holmes 413 F.3d 770, 775 (prosecutor statement
during rebuttal that defense counsel presented "red herring"
Arguments AND that Counsel AND defendant needed "to get
their stories straight" was improper AND Not harmless
because defendant could only respond by objection AND
other testimony was irrelevant.) prosecutor CAN Not
down Talk trial counsel defense ^{see} Johnson V. Gibson
169 F.3d 1239, 1250 (prosecutor disparaging remarks Against
defense counsel was improper) ^{also} Bruno V. Rushen, 721 F.2d 1193
^{see} State V. Denny 119 Ariz. 131, 579 p. 2d 1101 (Argument to

Jury that impugns the integrity or honesty of opposing
counsel is improper. That's EXACTLY what the prosecutor
did with that comment. Also see State v. Thorgerson 172 Wn.2d 438,
451-52, 258 P.3d 43 (2011) and U.S. v. Rodriguez 159 F.3d 439, 450
Prosecutor's continued to make erroneous comments. see GG 190
Prosecutor's state (OFFICER PORTIS testimony WAS Credible)
Prosecution CANNOT make comments accordingly towards
A witness credibility see U.S. v. Witherspoon 410 F.3d 1142, 1151
(Prosecutor vouching for witnesses AND Arguing improperly was
Not harmless error) That statement prosecutor made Vouched for
OFFICER PORTIS which was the key witness AND only witness
Testified to see petitioner on scene with co-defendant KIELDS.
The prosecutor Already deficiently used Portis Testimony
About his Awards AND this comment in closing Argument
About OFFICER PORTIS being Credible Further more prejudice
this petitioner. The prosecution Also knowingly used perjured
Testimony AND Failed to correct Known False Testimony. Prosecutor
Knew when Dennis (Officer Portis partner) Testified to seeing
Defendant shooting At OFFICER PORTIS that it was False Testimony
AND Failed to correct him. Instead Prosecution said No Further
Questions AND left it up to Trial Counsel to correct OFFICER
DENNIS. Prosecution had police reports, statements, etc... AND
Knew what their witness OFFICER DENNIS was going to testify
to. The prosecution could have easily ASKED OFFICER DENNIS

Do you mean Defendant Fields? Because he was the one wearing the coat with fur on the hood. OR Anything Along those lines or Even Just correct him but, purposely Failed to do so. That was prosecution misconduct see *Napue v. Illinois* 360 U.S. 264 And *U.S. v. Bagley* 473 U.S. 667 (prosecutor knowingly used perjured testimony or Failed to correct known false testimony) overall This petitioner has been denied A Fair Trial, His U.S. 14th Amendment has been violated, U.S. 6th Amendment has been violated, He received A FireArm Enhancement that HAS NOT BEEN Stipulated to his charge offense, prosecution made multiple misconduct comments, prosecution never informed Petitioner of using FireArm Enhancement which Denied him the right to take A plea, prosecution used knowingly False Testimony without correcting it, prosecution vouched for witness erroneously, Trial Counsel committed Ineffective Assistance of Counsel And Thus Violated petitioner 6th Amendment of the U.S. Constitution And This petitioner deserves A NEW Fair Trial And LAW stipulation whether Attempt murder OF A peace officer carry A mandatory FireArm Enhancement

This Petition Should be Granted due to the Importance to the public Whether Attempt murder on A Police Officer Carry A mandatory Firearm Enhancement, Whether the Enhancement was properly determined by the Jury And Whether This Petitioner was properly Notified by Prosecutors of the Firearm Enhancement Before Trial. Also due to the Fact that this petition U.S. Constitution Amendment 6 was Violate by multiple Trial Counsel Errors that if taken As A whole shows Trial Counsel was Deficient And Prejudice towards Petitioner. The prosecutor made Numerous improper comments that lead to prosecution misconduct and Thus Violates This Petitioner U.S. Constitution Amendment 14 Due process and right to A Fair Trial. With All these Constitutional Violations This Petitioner Should be granted a writ of certiorari And Be remanded For A new Trial With A Stipulated Law Whether Attempt murder on A Police Officer Carrys A mandatory Firearm enhancement And if prosecution Correctly Notified this Petitioner of it. This Petitioner Shows that In Every way He Have met the criteria to have This writ of certiorari Granted.

CONCLUSION

Petitioner - RONALD JACKSON Respectfully Request that this Court have Been showed How And Why

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ronald Jackson

Date: December 20, 2018