

CERTIFICATE

Ground 1(b). Procedurally defaulted. This ground was unlawfully denied for having Petitioner's single pictures taken of him while in jailhouse clothing and then shown to be so called eyewitness and then shown at trial.

Ground 3(b). procedurally defaulted. Court's claim Defendant "counsel did not request an alibi instruction." The District Court states on pg. 30 of their order dated 7/28/17 in Appendix B filed on this Court January 31, 2019 says "the Respondent (State of Florida) does not specifically raise a procedural bar against these claims." The 11th Circuit fails to show properly why this claim is procedurally barred.

Ground 5(a). Procedurally defaulted. Alibi witness requested at trial by Petitioner Sierra. This would prove Petitioner Sierra innocent if defense counsel would not have been prejudice.

Ground 1(a). Illegal single photographs taken of Petitioner while incarcerated in county jail and shown to supposed eyewitness along with several other single photographs shown at the same time of supposed eyewitness. Five separate single photos shown at the same time which is unlawful, due process of the 14th U.S. Constitution against Petitioner severely violated.

Ground 2(a)(i). Trial counsel, Court error and perjury by State prosecutor for failing to show correct time of death shown on autopsy report. This autopsy report was requested by the jury to know the time of death but was denied by the Court.

Ground 2(b). *Brady* violation of the Court's refusal to show the time of death of the victim as requested by the jury. The time of death and the time the victim was shot was when petitioner Sierra had been in Orlando County jail for almost 24 hours already an unrelated charges of open container.

Ground 3(a). Failure for defense counsel to pursue an alibi defense to show Petitioner's actual innocence

Ground 4(a). Failure for defense counsel to object to the fact that the Court erred by intentionally hiding from jury. State Exhibit 28, which is Petitioner's police advisement form where petitioner Sierra stated 'No' I wish not to speak to you and I wish to speak to an attorney.

Clear violation of already established Constitution 5th and 6th Amendments. Petitioner never waived his correct constitutional right to counsel as the 11th Circuit claims.

Ground 4(b). False testimony violates due process against Petitioner Sierra. This false testimony given by McCombs gave an unjust conviction against Petitioner and placed him in prison for the rest of his life. New trial warranted without the false testimony because that gave the jury reason to incorrectly believe false guilt.

Ground 5(b) and (c). Failure to defense counsel to cross-examine any of the State's witnesses. Severe violation of Petitioner's 6th and 14th U.S. Constitution Amendments.

Ground 7. Failure to cross examine a false testimony by sheriff officer who gave very damaging false information to the jury and heavily mislead the jury leading to a false life sentence of Petitioner. This shows 6th Amendment violation.

Ground 9. Defense counsel conceding guilt against Petitioner. Severe violation of Petitioner's 6th and 14th U.S. Constitution Amendments.

Ground N. Request for Production Police Investigators Report. Newly discovered evidence never shown to Petitioner nor shown at trial of bloody footprints not of Petitioner's shoe size or pattern leading to and from the deceased body to the front door. If that evidence was to be shown at trial "no reasonable jurists would have convicted Sierra in the light of the new evidence."

Showing jurisdiction in accordance to and under Supreme Court Rule 44(2), Petitioner is requested that this High Court please grant Certiorari for the above grounds and the following exculpatory never shown at trial pieces of evidence that prove Petitioner's actual innocence. These intervening circumstances of substantial and controlling effect of innocence show that "no jurist could convict Petitioner Sierra after having viewed and read the very material and exculpatory evidence never shown at Petitioner's initial trial. These include: (1) The correct time of death at when the victim was shot and killed; (2) Bloody footprints leading from the deceased victim to the front door unrelated to Petitioner's shoes; (3) Alibi witness if given witness at trial could have and would have proven the whereabouts of Petitioner at the time of the murder speculated by the prosecution at trial. Those three above pieces of exculpatory evidence never shown at trial show very intervening circumstances of complete innocence of Petitioner Sierra.

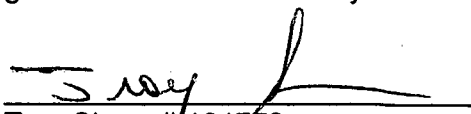
Please read *Wearry v. Cain*, 136 S. Ct. 1002 (2016) where new evidence is sufficient to “undermine confidence” in the verdict. Please also read *Kyles v. Whitley*, 115 S. Ct. 1555 (1995) exculpatory evidence is evidence the suppression of which would “undermine confidence in the verdict.”

Alibi witness would have placed Petitioner Sierra in Orlando throughout the day on December 28, 2007 which again is over 100 miles away from crime scene and this would have shown complete innocence of Petitioner Sierra.

The fourth piece of material evidence that is exculpatory and never previously presented and never shown at trial is FDLE report (See Exhibit J) that shows under the results section that “files were found on Exhibit 384027 (pg. 1 of FDLE report 384027 as a gateway notebook computer) that shows activity on December 29, 2007. Petitioner Sierra had been incarcerated since December 29, 2007 at 1:33 a.m. over 100 miles away from said crime scene, and was seen in Orlando on December 28, 2007 by ABC Liquor employee and several others throughout the day and night prior to arrest late Friday night on December 28, 2007. See Exhibit D for arrest in Orlando County. This would make it impossible for Petitioner Sierra to have accessed files as stated in FDLE report. FDLE agent Leslie Booth who gave State testimony regarding activity on said laptop was never cross-examined by defense counsel. This evidence provided at new trial would show that “no reasonable juror would have convicted Sierra in light of the new evidence.” Alibi witness again would have concluded that the December 28, 2007 files accessed could not have been done by Petitioner.

I certify that the Petitioner for Rehearing is presented in good faith and not for delay.

Executed on June 11, 2019.


Troy Sierra #131770

**Additional material
from this filing is
available in the
Clerk's Office.**