18-8476

No._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2018

ANTHONY GRANDISON,

Petitioner,

v.

STATE OF MARYLAND,

Respondent,

Petition For A Writ Of Certiorari To The

Court of Appeals Of Maryland

PETITION FOR WRIT OF CERTIORARI

Anthony Grandison, #172622
N.B.C.I.
14100 McMullen Hwy., S.W.
Cumberland, Maryland 21502
Pro Se Petitioner

QUESTIONS PRESENTED

I. Since Maryland Law Prohibits Imposition Of The Death Penalty Without Considering The Presentencing Investigation Report Convictions As Evidence The Appellate Courts Abuse There Discretion In Erroneously Ruling Grandison Failed To Prove He Had Suffered Significant Collateral Consequences Since It Was Legally Impossible To Determine Beyond A Reasonable Double Under The Harmless Error Test The Jury's Consideration Of The Sodomy And Assault Convictions Did Not Influence There Decision To Impose The Death Sentences Under The Preponderance Of The Evidence Standard Of Proof.?

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Petitioner, Anthony Grandison, currently confined under two sentences of Life imprisonment without the possibility of parole, [1] and sentence of life imprisonment plus 15 years imposed by the State of Maryland, respectfully requests that a writ of certiorari issue to review the judgment of the Court of Appeals of Maryland in this case.

OPINION BELOW

The decision of the Court of Appeals of Maryland is unreported (Petition Docket No. 327, Sept. Term, decided November 16, 2018). (Appx. 1a). The decision of the Court of Special Appeals of Maryland is unreported at Anthony Grandison v. State of Maryland, No. 1189, Sept. Term, 2017, decided August 1, 2018. (Appx. 2b thru- 7b). The rulings of the Circuit Court for Baltimore City, Maryland denying relief on July 10, 2017, (Appx. 8c- thru 16c) unreported.

JURISDICTION

The judgment of the Court of Appeals of Maryland was entered on November 16, 2018, and this petition is filed within ninety days of that date. Therefore, jurisdiction of this Court is properly invoked pursuant to 28 U.S.C. § 1257(a) See Sup. Ct. R. 13.1.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the Fourteenth Amendments to the United States Constitution.

STATEMENT OF THE CASE

A. The Proceeding Below

On July 7,1975, Anthony Grandison, was charged by way of a three-count indictment in the Circuit for Baltimore City, Case No. 17502127, with common law sodomy, perverted sexual practice, and common law assault in the Circuit Court for Baltimore City. Grandison was acquittal perverted sexual practice and convicted of sodomy and common law assault, and those convictions were affirmed in an unpublished opinion by this Court on direct appeal on October 26, 1976, Anthony Grandison v. State of Maryland, No. 80 (Court of Special

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FN1. Originally sentenced to two death sentences June 6, 1984 and after a new resentencing hearing was granted, was resentenced June 3, 1994 to two death sentences.

Appeals), October 26, 1976; Cert. denied January 26, 1977. writ of certiorari was denied January 26, 1977. Petition for writ of habeas corpus relief in the United States District Court of Maryland was denied on July 19, 1977. Anthony Grandison v. Warden of the Maryland of Correction, et al, Civil No HM-76-1590 (D. Md. filed July 18, 1977). The United States Court of Appeals for the Fourth Circuit affirmed Grandison appealed but ordered circuit court Judge Solomon List to file a certification that it would have imposed the same sentence had the court not known of his illegal prior convictions. See; Grandison v. Warden Maryland House of Correction, 580 F.2d 1231, (1978); cert. denied 440 U.S. 918, 59 L.Ed. 2d 469 S.Ct. 1239 (1979).

In 1979, [Grandison] was convicted, in the United States District Court for the District of Maryland in Criminal Case No. (Har-79-0189 of forcibly assaulting, resisting, and intimidating federal officers and employees; 18 USC &111 and 1114 carrying a firearm during the commission of a a felony; carrying a firearm during the commission of a felony in violation of 924(c)(2) and the sodomy/assault convictions were used convicted him of possession of a firearm by a convicted felon in violation of 18 USC & 1202(a)(1). On appeal, the convictions and sentences on the first and third counts were affirmed however, the conviction and sentence imposed on the second count were vacated. United States v. Grandison, No. 79-5261 (4th Cir. Mar. 25, 1981). Grandison was charged in 1983 with contracting with Vernon Evans to kill the David Scot Piechowicz and his wife, Cheryl because they were witnesses against him in an upcoming narcotic case pending in the federal district court. [2]/ Grandison was convicted of committing two counts of first-degree murder, conspiracy to commit murder, and unlawful use of a handgun arising out of the deaths of David Scott Piechowicz and Susan Kennedy. And at a separate capital sentencing

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FN2. Grandison was first tried in the United States District Court for the District of Maryland under Title 18 USC §§ 241 and 1512 involving the two first-degree murders, conspiracy to commit murder, and unlawful use of a handgun arising out of the deaths of David Scott Piechowicz and Susan Kennedy. Grandison v. State, 305 Md. 685, 696-98 (1986)..

hearing, the jury imposed two death sentences. Grandison v. State, 305 Md. 685, 696-98 (1986).

Grandison in 1992 however, was awarded a new capital sentencing hearing based on the Supreme Court's opinion decided in Mills v. Maryland, 486 U.S. 367, 108 S.Ct. 1860, 100 LEd 2d 384 (1988). Resentencing proceeding was conducted in May through June of 1994 and the state during those proceedings introduced into evidence a presentence investigation report (hereinafter PSI) containing Grandison's prior convictions. [3]/ After deliberations the capital resentencing jury concluded the state had met its burden of proving beyond a reasonable doubt the statutory aggravating circumstance that "the murders had been committed pursuant to an agreement or contract for remuneration or the promise of remuneration under former Article 27, 413 of the Md. Annotated Code. Then concluded the aggravating circumstances outweighed any mitigating circumstance base upon a preponderance of the evidence, [4]/ and imposed a sentence of death for each murder. (T 6/3/94 at 2341 thru 2443). The sentences of death were affirmed on appeal. Grandison v. State, 341 Md. 175, 194-95. (1995). Id. at 199.

Some thirty-seven years after Grandison was convicted of sodomy and assault, 14

FN3. Three of those prior convictions ("sodomy/assault") and (possession of handgun) were unconstitutional because during his jury trial in 1975 the jurors were instructed the court's instructions as to the presumption of innocence and reasonable doubt were advisory only and they could ignore them; his 1979 federal conviction of possession of a handgun by a convicted felony was unconstitutional, since that conviction was base on reliance on the unconstitutional 1975 sodomy/assault convictions. And during the closing argument the State argued, Grandison convictions for sodomy and assault is proof, he is a violate man, and will continued to commit crimes of violence's while in prison, as he committed the crimes of sodomy and assault before and the jury should mark not proven the mitigating circumstance that it is reasonable to conclude he will not commit any crimes of violence in the future.

FN4. See Md. Code Ann., Art. 27, § 413 (1994) (setting forth the sentencing process in former capital sentencing proceedings).

hearing, the jury imposed two death sentences. Grandison v. State, 305 Md. 685, 686-98 (1985).

Grandison in 1992 however, was awarded a new capital sentencing hearing based on the Supreme Court's opinion decided in Mills v. Maryland, 486 U.S. 367, 108 S.Ct. 1860, 100 L.Ed.2d 384 (1988). Resentencing proceeding was conducted in May through June of 1994 and the state during those proceedings introduced into evidence a presentence investigation report (hereinafter PSI) containing Grandison's prior convictions. V. After deliberations the capital resentencing jury concluded the state has met its burden of proving beyond a reasonable doubt the statutory aggravating circumstance that "the murders had been committed pursuant to an agreement or contract for remuneration or the promise of remuneration under former Article 27, 413 of the Md. Annotated Code. They concluded the aggravating circumstances outweighed any mitigating circumstance bases upon a preponderance of the evidence, [4] and imposed a sentence of death for each murder. (T 6/3/94 at 224) thru 24-13). The sentences of death were affirmed on appeal. Grandison v. State, 341 Md. 175, 194-95, (1995). Id. at 199.

Some thirty-seven years after Grandison was convicted of sodomy and assault, [4]

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years after the death penalty was re-imposition on in 1994, and some 34 years after Grandison was convicted of forcibly assaulting, resisting, and intimidating federal officers and employees; carrying a firearm during the commission of a a felony; and possession of a firearm by a convicted felon, and was sentenced to concurrent sentences totaling five years, in 1979 in the United States District Court for the District of Maryland. On May 24, 2012 the Court of Appeals in Unger v. State 427 Md. 383 (2012) held that the interpretation of Article 23 in Stevenson was a new state constitutional standard and the failure to raise claims concerning the use of advisory only jury instructions were not waived. February 25, 2013 base on Unger, Grandison filed a petition for writ of error coram nobis challenging the advisory jury instructions arguing his 1975 sodomy and assault convictions should be set aside.

On July 10, 2017 the circuit court without holding a hearing or a ruling upon all claims raised therein denied Grandison's petition for coram nobis relief. **(Appx. 8-c- thru 16-c).** Grandison appealed challenging that court's order denying coram nobis relief. In an unreported August 1, 2018 opinion the immediate appellate court sua sponte distilled Grandison's four questions into one: 'Did the circuit court err in denying coram nobis relief based on a finding that appellant was not facing significant collateral consequences as a result of his 1975 convictions for sodomy and assault? **(Appx. 2-b thru- 7-b).** November 16, 2018, Maryland's highest appellate court denied a petition for writ of certiorari. **(Appx. 1-a).**

SUMMARY OF ARGUMENT

This petition for writ of certiorari here presents this Court with the important question to determine whether state appellate courts abuse there discretion in determining there was no doubt the principal factor upon which the capital sentencing jury imposed the death penalty at the 1994 resentencing was the nature and circumstances of the murder for which Grandison was then being resentenced, not that he had been previously convicted of sodomy and assault, and did not meet his burden of proving that he is suffering or facing significant collateral consequences, as a result of the convictions challenged in his petition

years after the death penalty was re-imposition on in 1994; and some 34 years after Grandison was convicted of forcibly assaulting, resisting, and intimidating federal officers and employees; carrying a firearm during the commission of a felony; and possession of a firearm by a convicted felon, and was sentenced to concurrent sentences totalling five years, in 1979 in the United States District Court for the District of Maryland. On May 24, 2012 the Court of Appeals in Unger v. State, 427 Md. 383 (2012) held that the interpretation of Article 23 in Stevenson was a new state constitutional standard and the failure to raise claims concerning the use of advisory only jury instructions were not waived. February 25, 2013 based on Unger, Grandison filed a petition for writ of error coram nobis challenging the advisory jury instructions arguing his 1975 sodomy and assault convictions should be set aside.

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This petition for writ of certiorari here presents this Court with the important question to determine whether state appellate courts abuse there discretion in determining there was no doubt the principal factor upon which the capital sentencing jury imposed the death penalty at the 1994 resentencing was the nature and circumstances of the murder for which Grandison was then being resentenced, not that he had been previously convicted of sodomy and assault, and did not meet his burden of proving that he is suffering or facing significant collateral consequences as a result of the convictions challenged in his petition

for coram nobis. [5] Since it is legally impossible to determine beyond a reasonable double the sodomy and assault convictions did not influence the jurors determination whether to impose death sentences under a preponderance of evidence standard of proof. [6]

FN5. Writ of error coram nobis is an equitable action originating in common law whereby a petitioner seeks to collaterally challenge a conviction after the judgment has become final. Coleman v. State, 219 Md. App. 339, 354 (20140, cert. denied, 441 Md. 667 (2015). The writ is available to "a convicted person who is not incarcerated and not on parole or probation" and who is "suffering or facing significant collateral consequences from the conviction." Skok v. State, 361 Md. 52, 78-79 (2000) (emphasis added). It is "an extraordinary remedy justified only when circumstances compel such an action to achieve justice." Duncan v. State, 236 Md. App. 510, 526 (2018). Due to the "extraordinary" nature of relief under coram nobis, appellate courts review a coram nobis court's decision to grant or deny the petition for a writ of error coram nobis for abuse of discretion.: Id. at 527. We will not "disturb the coram nobis court's factual findings unless they are clearly erroneous, while legal determination shall be reviewed do novo." Id. (quoting State v. Rich, 454 Md. 448, 471 (2017)

FN6. Mills v. State, 310 Md. 33 (1987): 'One difficulty in applying § 413(k)(2) is that the General Assembly has required more of the jury then the single determination of what the sentence should be. Under § 413 (d), (f), (g) and (h), the jury must make decisions concerning the existence of aggravating circumstances, the existence or nonexistence of aggravating circumstances, the existence or nonexistence of mitigating circumstances, and the weighing of aggravating against mitigating circumstances. Moreover, analytically, (if not always practically), those decisions are to be made in sequential stages. Article 27, § 413 (h) 1-3 sequential stage dealing with the weighing of the aggravating circumstances against the mitigating circumstances phase, the jury is only required to find by a preponderance of the evidence whether the State has proven the aggravating circumstances outweighs mitigating circumstances in there determination, as to whether to impose the death penalty. Id. 310 Md. at 64-65; also see Md. Rule 4-343. Section IV (Weighing of Aggravating and Mitigating Circumstances). Each individual juror has weighed the aggravating circumstances found unanimously to exist against any mitigating circumstances found unanimously to exist, as well as against any mitigating circumstances found by that individual juror to exist. We unanimously find that the State has proved BY A PREPONDERANCE OF THE EVIDENCE that the aggravating circumstances marked "proved" in Section II outweigh the mitigating circumstances in Section III.

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Given the state legislature long with case law mandates that before the death penalty or a sentence of life imprisonment without the possibility of parole may be imposed in capital sentencing proceedings the following conditions must be met: 1) creation of a presentence investigative report involving capital sentencing case seeking the death penalty or life without the possibility of parole; 2) judge or jury in capital sentencing proceedings that the presentence investigation report shall be considered as evidence, used and considered by the sentencing body in there determination whether to impose one of those two sentence. See Former Article 41, § 4-609 (c) (**'now Correctional Service Article 6-112(c) (1) (2) and (3)**") that in capital cases a presentence investigation is compelled to be made **and the report must be considered by the sentencing body**. Baltimore Sun v. Thanos, 92 Md. App. 227 (1992). Id. 92 Md. at 230 thru 242; Nelson v. State, 315 Md. 62, 553 A.2d 667 (1989) (in capital cases a presentence investigation is compelled to be made **and the report must be considered by the sentencing body**; id at 57-73; Sucik v. State, 344 Md. 611 (1997), at 615-618; also see Acts 1983, ch 297 added subsection (d). It made a presentence investigation mandatory "(i)n any case in which the death penalty is requested under Art.27, § 412 **and required that it "be considered by the court or jury before whom the separate sentencing proceeding is conducted**; also see former Article 41, § 4-609 (c) (now Correctional Service Article 6-112(c) (1) (2) and (3).

Considered with those precepts in mind, because the capital sentencing jury was compelled to use and consider those convictions of sodomy and assault in there determination whether to impose the death penalty Grandison's coram nobis petition failed to established that he suffered or facing substantial significant collateral consequences pursuant to Md. Rule 15-1202 (F). Whether the appellate courts abuse there discretion in determine beyond a reasonable doubt under the harmless error test announced by the Supreme Court in Chapman v. State [of Cal., 386 U.S. 18, 87 S. Ct 824, 17 L. Ed. 705 (1967)] in concluding the convictions for sodomy and assault contained in the PSI did not influence the verdict of the resentencing jury decision to impose the death penalty. Base

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upon its own unreported opinion decided in Grandison v. State, No. 150. September Term 2014 (filed October 14, 2015) holding, [7] 'we affirmed the denial of a petition seeking coram nobis relief from the 1975 handgun conviction, holding that there is no doubt that the principal factor relied upon in imposing the death sentences was that [appellant] engaged in murder for hire scheme .. not that he had previously been convicted of wearing, carrying, or transporting a handgun. Id at 11. Conclusions predicate upon that court's erroneous misinterpretation of the holdings decided in "Grandison III," supra, 341 Md. at 199, and 212-213 (1995): at 11. (Appx. 17-d thru 34-d). unreported at Anthony Grandison v. State of Maryland, No. 1189, Sept. Term, 2017, decided August 1, 2018. at 3-4 (Appx. 2b thru- 7b).

ARGUMENT I.

> **I. Since Maryland Law Prohibits Imposition Of The Death Penalty Without Considering The Presentencing Investigation Report Convictions As Evidence The Appellate Courts Abuse There Discretion In Erroneously Ruling Grandison Failed To Prove He Had Suffered Significant Collateral Consequences Since It Was Legally Impossible To Determine Beyond A Reasonable Double Under The Harmless Error Test The Jury's Consideration Of The Sodomy And Assault Convictions Did Not Influence There Decision To Impose The Death Sentences Under The Preponderance Of The Evidence Standard Of Proof.**

Instead of coming to grips with the reality the sodomy and assault convictions ("invalid under Unger") influenced the jury to resentenced Grandison to death in 1994. Since Maryland's former sequential capital sentencing proceeding conducted under the preponderance of the evidence standard of proof [8] to determine whether the aggravating circumstances outweighed the mitigating circumstances pursuant to former Art. 27, § 413 (h), and whether to impose the death penalty. Former Article 41, § 4-609 (c) ('now

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FN7. Maryland Rules of Criminal Procedure, Md. Rule 1-104 (a) (b) prohibits use of unreported opinions as precedent within the rule of stare decisis or persuasive authority. Oliveira v. Sugarman, 226 Md. App. 524, 130 A.3d 1085 (2016).

Correctional Service Article 6-112(c) (1) (2) and (3)") mandated that in capital cases a presentence investigation is compelled to be made **and the report must be considered by the sentencing body**. Baltimore Sun v. Thanos, 92 Md. App. 227 (1992) holding a presentence investigation report ("presentence report") is one tool used by a judge or jury to assist in determining the appropriate sentence of a person convicted of a crime. Article 41 §4-609 of the Annotated Code (1957, 1990 Repl Vol. 1992 Sup.) sets forth the conditions and procedure by which presentence reports are used in Maryland. In most cases a presentence report is simply filed with and considered by a trial court in its discretion.

> **In capital cases, however, a presentence investigation is required to be made, the report must be considered by the sentencing body and can be entered into evidence. §4-609 (d). Nelson v. State, 315 Md. 62, 67, 553 A.2d 667 (1989). A presentence report often involves "a broadranging** inquiring into a defendant's private life, not limited by traditional rules of evidence. United States v. Corbitt, 879 F.2d 224, 230 (7th Cir. 1989). These reports generally include information concerning the convicted person's reputation, **past offenses**, financial condition, mental and physical health, habits, social background and family history among other things.

Id. 92 Md. at 230 thru 242:

In Nelson v. State, 315 Md. 62, 553 A.2d 667 (1989) that appellate court held: "in capital cases a presentence investigation **is compelled to be made and the report must be considered by the sentencing body**; id at 57-73; Sucik v. State, 344 Md. 611 (1997) [9]/ at 617; Acts 1983, ch 297 added subsection (d). It made a presentence investigation mandatory "(i)n any case in which the death penalty is requested under Art.27, § 412 **and required that it "be considered by the court or jury before whom the separate sentencing**

FN8. Not the great standard of proof of beyond a reasonable doubt that the jury is mandated to find as to whether the State had proven the aggravating circumstances has been proven to exist to make one eligible for the death penalty. See Maryland Rule 4-343: Phase I. Based upon the evidence, we unanimously find that each of the following Aggravating Circumstances marked proved has been proved beyond a reasonable doubt.

proceeding is conducted; also see former Article 41, § 4-609 (c) (now Correctional Service Article 6-112(c) (1) (2) and (3); also see Conyers v. State, 345 Md. 525, 693 A.2d 781 (1997) (the trial court erred by allowing his juvenile record to be admitted to the capital sentencing jury and he is therefore entitled to a new sentencing hearing. We agree that portions of appellant's juvenile record were inadmissible and should have been excluded because this evidence was inflammatory and highly prejudicial , we reverse appellant's sentence of death and grand a new sentencing hearing. Id. 345 Md. at 563-565.

Nonetheless despite these factors the appellate court in affirming the circuit court denial of Grandison's petition for writ of error coram nobis relief did so base on the unreported opinion decided in Grandison v. State, No. 150. September Term 2014 (filed October 14, 2015). An unreported opinion that distorted the actual conclusions reached in Grandison v. State, 341 Md. 197, (1995) settling the issue concerning whether the other information contained in the PSI was so clearly irrelevant as to the jury determination in finding beyond a reasonable doubt proof of the "aggravating circumstance, **("whether there was a murder for hire" agreement between Evans and Grandison**"). However, those conclusions can not be presumed to have settled whether the use and consideration of the sodomy and assault convictions did not influence the jury in weighing of aggravating circumstances against the mitigating circumstances to determine whether to impose the death penalty upon the lesser standard of proof of a preponderance of the evidence. [10]/

Therefore in performing a harmless error analysis, no court could legally conclude beyond a reasonable doubt that Grandison sodomy and assault convictions did not influence the jury's determination to impose the death penalty without violating the harmless error analysis. In the Supreme Court in Chapman v. State [of Cal., 386 U.S. 18, 87 S. Ct 824, 17 L. Ed. 705 (1967). That held courts are not to find facts or weigh evidence. Instead, "what

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FN9. In fact Maryland's highest appellate court in Sucik vacated his sentence of life imprisonment without the possibility of parole because the circuit court failed to have PSI created and use by the sentencing body. Sucik v. State, supra, 344 Md. at 618.

proceeding is conducted; also see former Article 41, § 4-309 (c) (now Correctional Service Article § 7-112(a) (1) (2) and (3); also see Convers v. State, 345 Md. 525, 693 A.2d 781 (1997) (the trial court erred by allowing his juvenile record to be admitted to the capital sentencing jury, and he is therefore entitled to a new sentencing hearing. We agree that portions of appellant's juvenile record were inadmissible and should have been excluded because this evidence was inflammatory and highly prejudicial, we reverse appellant's sentence of death and grand a new sentencing hearing. Id. 345 Md. at 583-586.

Nonetheless despite these factors the appellate court in affirming the circuit court denial of Grandison's petition for writ of error coram nobis relief did so base on the unreported opinion decided in Grandison v. State, No. 130, September Term 2014 (filed October 14, 2015). An unreported opinion that distorted the actual conclusions reached in Grandison v. State, 341 Md. 137, (1995) settling the issue concerning whether the other information contained in the PSI was so clearly irrelevant as to the jury determination in finding beyond a reasonable doubt proof of the "aggravating circumstance, ("whether there was a murder for hire" agreement between Evans and Grandison"). However, those conclusions can not be presumed to have settled whether the use and consideration of the sodomy and assault convictions did not influence the jury in weighing of aggravating circumstances against the mitigating circumstances to determine whether to impose the death penalty upon the lesser standard of proof of a preponderance of the evidence. [1]

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FN1. In fact Murphy's highest appellate court in Suek vacated his sentence of life imprisonment without the possibility of parole because the circuit court failed to have PSI created and use by the sentencing body. Suek v. State, supra, 344 Md. at 318.

evidence to believe, what weigh to be given it, and what facts flow from that evidence are for the jury ... to determine. Bellamy v. State, 403 Md. 308, 941 A.2d 1107 (2008) held: 'We set out the appropriate standard for harmless error analysis: In Dorsey v. State, 276 Md. 638, 350 A.2d 665 (1976),] we adopted the test for harmless error announced by the Supreme Court in Chapman v. State [of Cal., 386 U.S. 18, 87 S. Ct 824, 17 L. Ed. 705 (1967)] As adopted in Dorsey, the harmless error rule is: In performing a harmless error analysis, we are not to find facts or weigh evidence. Instead, "what evidence to believe, what weigh to be given it, and what facts flow from that evidence are for the jury ... to determine. "Once it has been determined that error was committed, reversal is required unless the error did not influence the verdict; the error is harmless only if it did not play any role in the jury's verdict.

> The reviewing court must exclude that possibility beyond a reasonable doubt. "To say that an error did not contribute to the verdict is, rather, to find that error unimportant in relation to everything else the jury considered on the issue in question, as revealed by the record. "The harmless error rule.. has been and should be carefully circumscribed." Harmless error review is the standard of review most favorable to the defendant short of an

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FN10. Since that subsection of Grandison III only dealt with whether the "murder for hire" aggravating circumstance found in Md. Code (1957, 1992 Repl. Vol.), Art. 27, § 413 (d)(7) genuinely narrows the class of defendants eligible for the death penalty. There is no question that under Maryland law the fact that Grandison hired Evans to commit murder can serve as both the factual predicate for a conviction and as the basis for death. Grandison III, id. 341 Md. at 15-16 erroneous alleges. at 196-197; whether or not Grandison waived his right counsel during the Md. Rule 4-215(e) hearing by failing to establish good cause for dismissing his attorneys; at 199-203; And finally, Grandison claim the circuit court judge should had instructed the resentencing jury the presentencing investigation report (PSI) admitted into evidence listing some of his prior convictions and prison infraction should have been instructed that these prior offenses were in no way probative of whether the aggravating circumstances had been proven. In which Grandison III merely held the other information contained in the PSI was so clearly irrelevant as to that issue that the jury could not have used it in its determination; therefore, any error in failing to instruct the jury on its relevance was clearly harmless beyond a reasonable doubt. Grandison III, id. 341 Md. at 212-213.

> The reviewing court must exclude that possibility beyond a reasonable doubt. "To say that an error did not contribute to the verdict is, rather, to find that error unimportant in relation to everything else the jury considered on the issue in question, as revealed by the record. "The harmless error rule has been and should be carefully circumscribed." Harmless error review is the standard of review most favored by the deferential afoot of an

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FN10. Since that subsection of Grandison III only dealt with whether the "murder for hire" aggravating circumstance found in Md. Code (1957, 1992 Repl. Vol.), Art. 27, § 413 (d)(7) neutrally narrows the class of defendants eligible for the death penalty. There is no question that under Maryland law the fact that Grandison hired Evans to commit murder can serve as both the factual predicate for a conviction and as the basis for death. Grandison III, id. 341 Md. at 15-16 erroneous charges at 159-160; whether or not Grandison waived his right counsel during the Md. Rule 4-215(e) hearing by failing to establish good cause for dismissing his attorneys, at 159 2009; And finally, Grandison claim the circuit court judge should had instructed the recruitment jury the presentencing investigation report (PSI) admitted into evidence listing some of his prior convictions and prison infraction should have been instructed that these prior offenses were in no way probative of whether the aggravating circumstances had been proven. In which Grandison III merely held the other information contained in the PSI was so clearly irrelevant as to that issue that the jury could not have used it in its determination; therefore, any error in failing to instruct the jury on its relevance was clearly harmless beyond a reasonable doubt. Grandison III, id. 341 Md. at 212-213.

> automatic reversal. When an appellant, in a criminal case, establishes error, unless a reviewing court, upon its own independent review of the record, is able to declare a belief, beyond a reasonable doubt, that the error in no way influenced the verdict, such error cannot be deemed "harmless" and a reversal is mandated. Such reviewing court must thus be satisfied that there is no reasonable possibility that the evidence complained of whether erroneously admitted or excluded may have contribute to the rendition of the guilty verdict.

Id. at 332-33, 941 A.2d at 1121 (internal citations omitted).

Thus considered with those precepts in mind, because the Maryland legislative body has specifically provided statutes and case law mandated that, in cases governed by Article 27, §413 (and only those cases), a sentencing judge or jury "shall" consider the presentence report and has characterized these reports as a type of evidence. Article 27, 413 (c)(i) (iv); Nelson v. State, supra, 315 Md. at 62. This in turn indicates that in these particular cases the legislative may intent that presentence reports be admitted into evidence or treated as entered into evidence. Id. No sentence of death or life imprisonment without the possibility of parole may be imposed without the jury consideration of such convictions. Baltimore Sun v. Thanos, supra 92 Md. App. at 247. It goes without saying under those circumstances because jurors "shall" in capital sentencing proceedings consider presentencing reports that contain prior convictions as evidence. Nelson v. State, 315 Md. at 65-70.

Clearly, it was not legally possible for an appellate court to declare a belief beyond a reasonable doubt that the sodomy and assault convictions in the case sub judice, did not in any way play a role to influenced the jurors determination to impose the death penalty. As so the use of those invalid convictions cannot be deemed "harmless" and a reversal is a must just as is was in another death penalty case. See State v. Colvin, 314 Md. 1, (1988):

> "Vacating Colvin-El's death sentence is also required for the reasons stated by the Circuit Court on post conviction review. At the sentencing hearing the State introduced records of the former Criminal Court of

> Baltimore reflecting Colvin-El's convictions in 1960 for six burglaries and conviction in 1962 of a seventh burglary. Current sentences to the State Reformatory for Males for two years were imposed for the 1960 burglaries. The 1962 offense resulted in an additional two year sentence. At that time of his arrest for those offenses Colvin-El was between sixteen and eighteen years of age.
>
> At that time, had Colvin-El been arrested and proceed against outside of Baltimore City, the proceedings would have been under the Juvenile Cause Statute, Md. Code (1957), Art. 26, § 51 et seq. Citing Railford v. State, 296 Md. 289, (1983), we held that the State violated equal protection by using convictions obtained under procedure invalidated by Long in order to demonstrate predicate crimes under a sentence enhancing statute. The State made use of the prior convictions when it introduced them against Colvin-El at the capital sentencing proceeding and it introduced those convictions of an adult in the Criminal Court of Baltimore City, if another person being sentenced for capital murder committed the same acts, during the same period, and at the same age as Colvin-El, but outside of Baltimore City and absent a waiver of juvenile jurisdiction that person's prior record would reflect, at must findings of juvenile delinquency. The particular jurisdiction within Maryland in which the offense was committed is not a a rational bases for this distinction in the present use of the records. We cannot say that the error was harmless beyond a reasonable doubt. Dorsey v. State, 276 Md. 638, (1976).

Id. 314 Md. supra at 25-26.

In sum, the appellate courts in concluding there was no doubt the principal factor upon in which the capital resentencing jury imposed the death penalty was based on the nature and circumstances of the murder for which Grandison was then being resentenced, not that he had been previously been convicted of sodomy/assault. As result he had failed to meet his burden of proving he had suffered significant collateral consequences resulting from the use of the sodomy and assault convictions, constitutes an abuse of discretion, and must be reversed..

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> At trial time, had Colvin-El been arrested and proceed against outside of Baltimore City, the proceedings would have been under the Juvenile Causes Statute, Md. Code (1957), Art. 26, § 51 et seq. Citing Ballford v. State, 256 Md. 289, (1983), we held that the State violated equal protection by using convictions obtained under procedure invalidated by Long in order to demonstrate predicate crimes under a sentence enhancing statute. The State made use of the prior convictions when it introduced them against Colvin-El at the capital sentencing proceeding and it introduced those convictions of an adult in the Criminal Court of Baltimore City, if another person being sentenced for capital murder committed the same acts during the same period, and at the same age as Colvin-El, but outside of Baltimore City and absent a waiver of juvenile jurisdiction that person's prior record would reflect, at most findings of juvenile delinquency. The particular jurisdiction within Maryland in which the offenses was committed is not a s rational bases for this distinction in the present use of the records. We cannot say that the error was harmless beyond a reasonable doubt. Dorsey v. State, 276 Md 638 (1976).

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CONCLUSION

For the reasons stated herein, Petitioner respectfully requests this Court:

1. To Grant Petitioner's Petition for Certiorari for all the reasons stated herein; and reverse the decisions of the appellate courts affirming the decisions of the circuit court.

2. To reverse the appellate courts decision denying Grandison petition for coram nobis relief for all the reasons stated herein.

3. To remand same with instructions to the Maryland appellate courts to vacate Grandison's convictions and sentences for sodomy and assault.

Respectfully submitted

Anthony Grandison #172622

Petitioner

Counsel of Record Pro Se

February, 13, 2019