

18-8800

No. 18-1391

ORIGINAL

Supreme Court, U.S.
FILED

FEB 27 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OFFICE OF THE CLERK

STEPHEN R WINN

— PETITIONER

(Your Name)

vs.

JOHN S. EDINGER

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

STEPHEN R. WINN

(Your Name)

JTV CC 1181 PADDOCK ROAD

(Address)

SMYRNA, DE 19977

(City, State, Zip Code)

N/A

(Phone Number)

RECEIVED

APR 10 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- 1). STATE WITNESS EMILY CUNNINGHAM'S TESTIFY AS AN EXPERT WITNESS WITHOUT HER NOTES IN THE COURTROOM AND NOT IN EVIDENCE IN THIS CASE?
- 2). WHAT'S IS THE COURT'S POSITION WHEN IT COME TO AN EXPERT WITNES BASED THERE TESTIMONY ON NOTES TAKEN DURING AN INTERVIEW, BUT THOSE NOTES NEVER BECOME A PART OF THE TRIAL?
- 3). WAS THE COURT AWARE THAT MS. CUNNINGHAM WAS TESTING WITHOUT HER NOTES? AND WHAT REMEDY SHOULD THE COURT HAD PROVIDED? IF ANY, WAS THAT REMEDY SATISFACTORY UNDER THE LAW?
- 4). WHEN THE COURT FOUND OUT THAT THE PROSECUTION HAD RECEIVED MS. CUNNINGHAM'S NOTES, WAS THE COURT IN ERROR WHEN IT DID NOT INFORM THE PROSECUTION TO INTRODUCE MS. CUNNINGHAM'S NOTES INTO EVIDENCE? SEEING THE COURT INFORMED MS. CUNNINGHAM THAT SHE NEEDED TO PRODUCE THESE NOTES FOR TRIAL.
- 5). WAS THE JUROR'S DENIED A FAIR DETERMINATION OF THE FACT WHEN THEY WERE DENIED THE RIGHT TO REVIEW MS. CUNNINGHAM'S NOTES, COMPARING THEM SIDE BY SIDE TO THE TESTIMONY OF THE ALLEGED VICTIM? DURING THESE DELIBERATION, MS. CUNNINGHAM'S TESTIMONY ADMISSIBLE EVIDENCE IF HER NOTES WHERE NEVER PRODUCED AS EVIDENCE, SEEING SHE BASED HER TESTIMONY ON HER NOTES?

THE MOVANT ASSERTS THAT HE IS NOT ATTEMPTING TO REARGUE HIS CLAIM, MOVANT, TO THE BEST OF HIS ABILITY IS TRYING TO FORMULATE HIS CLAIM IN ORDER OBTAIN A PROPER REVIEW FROM THIS COURT.

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:

- 1). JUDGE WILLIAM C. CARPENTER, JR.
THE SUPERIOR COURT OF DELAWARE
- 2). THE PROSECUTOR, DONALD ROBERT,
HE NOT PROSECUTOR ANYMORE
- 3). JOHN S. EDINGER, JR
PUBLIC DEFENDER OFFICE

UNITED STATE COURT OF APPEALS FOR THIRD CIRCUIT
CLERK, FOR THE COURT, PATRICIA S. DODSZUWEIT.

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

ATKINSON V. STATE, DEL. SUPR. 778 A.2d 1058 (2001)
FENSTERER V. STATE, DEL. SUPR. 595 A.2d 1106
MARTINEZ V. RYAN, CITED AS 556 U.S. 2012

STATUTES AND RULES

CANON 1
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OTHER

THE ABA STANDARD 4-8.3 AND 4-8.5

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 UNITED STATES COURT OF APPEALS; 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 B to the petition and is

- ☐ reported at SUPREME COURT OF DELAWARE; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the SUPERIOR COURT OF DELAWARE court appears at Appendix C 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 FEB 13, 2019.

☐ 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: JANUARY 30, 2019, 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 NOVEMBER 14, 2018 (date) on JANUARY 8, 2019 (date) in Application No. 2 A 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 FEB 19, 2016. A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: JAN 30, 2019, 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 JUNE 19, 2018 (date) on JUNE 19, 2018 (date) in Application No. 2 A F.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

UNITED STATE COURT OF APPEALS FOR THE THIRD CIRCUIT

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

DEFENDANT'S CONSTITUTIONAL ARGUMENT THAT THERE WAS A MISFEASANCE OF JUSTICE OF JUSTICE BECAUSE OF A CONSTITUTION VIOLATION THAT UNDER THE FUNDAMENTAL LEGALITY, RELIABILITY, INTEGRITY OR FAIRNESS OF THE PROCEEDING LEADING TO THE JUDGMENT OF CONVICTION, BRADY VIOLATION AND DUE PROCESS VIOLATION, COLORABLE CLAIM

STATEMENT OF THE CASE

DEFENDANT'S ALLEGATION THAT THE TRIAL COURT JUDGE COMMITTED AN ERROR IN FORMULATING APPLY THE LAW. FENSTERER VS. STATE, DEL. SUPR 493 A.2d 963 (1985) TRIAL JUDGE ALLOWED AN GOVERNMENT WITNESS TO TESTIFY WITHOUT HER NOTES PRESENT IN COURTROOM ALSO NOTES NOT INTO EVIDENCE IN THIS TRIAL.

REASONS FOR GRANTING THE PETITION

THIS IS ALSO A VIOLATION OF THE PETITIONER'S 6 AMENDMENT RIGHT TO CHALLENGE ANY ALL EVIDENCE USED AGAINST HIM. THE PETITIONER WAS NOT OFFERED OPPORTUNITY TO CROSS-EXAMINE THE PROSECUTION'S WITNESS ABOUT THE CONTENTS OF NOTES BECAUSE THE NOTES WERE NOT IN THE COURTROOM AND WAS NEVER ENTERED INTO EVIDENCE TO AFFORD THE PETITIONER THE RIGHT TO CROSS-EXAMINE AND CHALLENGE THE VALIDITY OF THE NOTES, THIS WAS PREJUDICIAL ERROR. IT FOLLOWS THAT THE DEFENDANT WAS DENIED HIS RIGHT TO A FAIR TRIAL, BRADY VS. MARYLAND 373 U.S. 835 OF 1963 (1963),

THIS ERROR IS PLAIN ON THE FACE OF THE RECORD. THE DEFENDANT WAS DENIED HIS 5TH AND 14TH AMENDMENT RIGHT TO DUE PROCESS OF LAW AND HIS 6TH AMENDMENT RIGHT TO LEGAL AND FAIR PROCEEDING, THEREFORE, THE DEFENDANT ASK THIS COURT TO VACATE HIS SENTENCE, SET ASIDE HIS VERDICT, AND AFFORD HIM THE RIGHT TO A NEW TRIAL.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

STEPHEN R. WINN

Date: 2-26-2019