No. 18-9771

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

DENNIS WILLIAM ROBINSON - PETITIONER,

vs.

ATTORNEY GENERAL, STATE OF FLORIDA,
SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE EIGHTEENTH JUDICIAL CIRCUIT, SEMINOLE COUNTY, FLORIDA

PETITION FOR WRIT OF CERTIORARI

DENNIS WILLIAM ROBINSON
SOUTH FLORIDA RECEPTION CENTER, SOUTH UNIT
13910 NW 41ST STREET
DORAL, FLORIDA 33178-3014

QUESTIONS PRESENTED

1. Did State Court violate Petitioner's constitutional rights to due process, to a fair and impartial trial, and to effective assistance of counsel, in the matters of:

   a) IADA violation,

   b) Counsels failure to suppress evidence,

   c) Improper, erroneous and misleading jury instruction,

   d) State's destruction of evidence,

   e) Constitutional speedy trial violation,

   f) Prosecutor's improper remarks.

2. Did District Court err in denial of 2254 Petition regarding the above claims?

3. Did Circuit Court err in denial of COA regarding the above claims.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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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

[X] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix C to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

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

The opinion of the highest state court to review the merits appears at Appendix **A 1-4** to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the Florida Fifth District Court of Appeals appears at Appendix **A 5-6** to the petition and is

[X] reported at 141 So. 3rd 194 (Fla. 5th DCA 2014); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was **December 26, 2018** a copy of that decision appears at **Appendix C-1**.

[ ] No petition for rehearing was timely filed in my case.

[X] a timely petition for rehearing was denied by the United States Court of Appeals on the following date: **March 1, 2019**, and a copy of the order denying rehearing appears at **Appendix C-2**.

[ ] 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 **May 13, 2014**. A copy of that decision appears at **Appendix A-5**.

[X] a timely petition for rehearing was thereafter denied on the following date: June 19, 2014 and a copy of the order denying rehearing appears at **Appendix A-6.**

[ ]An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

IADA Violation–Due Process, Effective Assistance of Counsel - Const. Amend. 5, 6, 14

Failure to Suppress evidence issue, - Effective Assistance of Counsel - Const. Amend. 5, 6, 14

Improper Jury Limiting Instruction – Due process, Effective Assistance of Counsel, Fair Trial - Const. Amend. 5, 6, 14

Destruction of Evidence – Due Process, Effective Assistance of Counsel, Fair Trial - Const. Amend. 5, 6, 14

Constitutional Speedy Trial - Due Process, Effective Assistance of Counsel- Const. Amend. 5, 6, 14

Prosecutor's Improper Remarks, Due Process, Effective Assistance of Counsel - Const. Amend. 5, 6, 14

FEDERAL QUESTIONS RAISED[1]

IADA Violation, Post-Conviction..... R, at 464-67

Failure to Suppress Evidence, Post-Conviction..... O, at 17–18

Improper, erroneous Jury limiting instruction, Post-Conviction.

Raised as Ineffective Counsel ..... O, at 11-12

Raised as Ineffective Counsel ..... O, at 12-13

Raised as Ineffective Counsel ..... P, at 54–55

Raised as Fundamental Error ..... P, at 53–54

Destruction of Evidence, Pre–Trial Motion ..... A, at 313-14

Post-Conviction, Raised as Ineffective Counsel ..... R, at 461-64

Post-Conviction, Raised as Fundamental error ..... O, at 33-36

Constitutional Speedy Trial Violation, Pre–Trial Motion ..... A, at 141-42

Post-Conviction, Raised as Ineffective Counsel ..... O, at 25-26

Post-Conviction, Raised as Fundamental Error ..... R, at 468-69

Prosecutor's Improper Remarks, Post-Conviction ..... R, at 455-61

Ineffective Counsel, Cumulative Error Effect, Post-Conviction ..... O, at 48-50

1 All citation number refer to States Appendix to Appeal Record

STATEMENT OF THE CASE[1]

In March 1996, alleged victims, Armstrong and Mudica, were videotaped by C.P.T. Armstrong alleged that Petitioner had fondled him, but did not do "anything else" [State App. A, at 326-29]. Mudica denied that Petitioner had committed any act of fellatio upon him. [State App. R, at 520]. Mudica was Audio taped, in an interview by Altamonte Springs Police [State App. A, at 663 Ln. 11-19]. Both videotapes and the Audio tape were lost or destroyed by the State, prior to trial. [State App. A, at 676 Ln. 4-8]. The State filed informations, in May 1996, charging Petitioner with second degree felonies on Armstrong and Mudica. [State App. A, at 241; A, at 233]. The State made no attempt to locate, or search for, Petitioner. [State App. D, at 391-92; R, at 516-18].

In May 2001, State was advised Petitioner was in U.S. Virgin Islands Prison. A "hold was placed" on Petitioner by State. [State App. A, at 228 comment #1]. In August 2001, State filed an amended information in Armstrong's case only [State App. A, at 240], using the same factual data, (alleged dates of offense, victim name, circumstances), in the original 1996 information [State App. A, at 241]. The "amended" information merely changed the offense level from second degree felonies to a Capital Felony, thereby eliminating the three-year statute of limitations, which had expired on the original information. Prosecutor Stewart

1 All citation number refer to States Appendix to Appeal Record

Stone, made this Amendment, over five years later, with no new information or evidence, and without speaking with alleged victim, [State App. A, at 946-47], or any other witness.

The State filed request for temporary custody of Petitioner, under Article IV., of the IADA, in December 2001, with the U.S. Virgin Islands, [State App. A, at 149-50]. The previous August, the U.S. Virgin Islands government stated that, should Florida request Petitioner's extradition, the U.S. Virgin Islands would have no objection to allowing Florida to have Petitioner without him serving his U.S. Virgin Island sentence, [State App. R, at 532, 534-35]. The State advised the U.S. Virgin Islands of pending pick-up of the Petitioner and the Agency doing so, [State App. X, at 670], and then failed to show up. Petitioner was arrested on a governor's warrant in June 2005, prior to release from U.S. Virgin Islands prison, and returned to Florida in August 2005.

Over the next nineteen months, Petitioner was represented by the Public Defender's office, by a succession of four different attorneys. Two of which who had no prior experience in criminal felony cases or in jury trials. [State App. V, at 9-16; 18-19].

Petitioner's first attorney, Winston Hobson, filed numerous motions, to no avail. Chief among them was a violation of Petitioner's constitutional speedy trial

right [State App. A, at 141, 142].

Petitioner's second attorney, N. Ryan Labar, filed a single motion, to compel the videotaped and audio taped interviews of the alleged victims, [State App. A, at 254-55].

Petitioner's third Attorney of Record, Darnell Toth (now Darnell Lawshe), being inexperienced with felony cases, was assisted by Timothy Caudill. Attorney James Figgett assisted with a motion to dismiss due to destruction of evidence. [State App. A, at 313-14].

During jury deliberations, the jury returned with a question, regarding the similar fact limiting instructions and how they applied to the various testimonies [State App. A, at 379.1; D, at 529-30]. The Trial Judge, Donna McIntosh, decided to answer the jury's question by reciting the uncharged collateral acts to which the limiting instruction applied. However, the Trial Judge omitted from her response [State App. A, at 379; D, at 537-38], the uncharged collateral act, [State App. A, at 336, fn [1]], which was essentially the same type of act which was charged. [State App. A, at 173].

Petitioner was found guilty by jury trial on April 13, 2007, [State App. D, at 539; E], and sentenced to life with no possibility of parole for twenty-five years. [State App. F, at 4, 5].

The Federal Courts, in justifying the denial of Petitioner's claims, and by extension his constitutional rights, have merely adopted or mirrored the opinions of the State Courts.

It would appear that no one has actually compared the facts in Record with those offered by the State, or has chose to ignore those facts that contradict the States version of events.

REASONS FOR GRANTING THE PETITION

This Petition for Writ of Certiorari should be granted, per rule 10(b) and (c), and based on the facts and the arguments that follow, which clearly establish that constitutional error occurred in this case.

a) The State violated the IADA by failing to accept temporary custody of Petitioner from the U.S. Virgin Islands in 2001, after filing a detainer. The mandatory sanction is dismissal with prejudice. [Title 18 USC Appx, IADA, Art. V(c)]. (*U.S. v. Lualemaga*, 289 F. 3d 1260, 1263-64 – Condition "2" (9th Cir. 2002). The State successfully deflected this violation by, first, claiming that no record existed of the temporary custody request. [State App. W, at 634-35], when the record clearly shows that there was a record of the request. [State App. A, at 149-50]. Then the State resorted to further obfuscation by stating that Petitioner did not request final disposition, which is under Article III of the IADA, so his

claim was without merit. [State App. W, at 634-35]. Petitioner was not advised of Florida's charges against him until June of 2005, and therefore unaware of any need to request final disposition.

In any case, Petitioner's claim does not involve Article III of the IADA. Petitioner's claim is based solely upon Article IV and Article V(c). As a last resort, the State promoted a claim that the U.S. Virgin Islands failed or refused to co-operate with their request for temporary custody of Petitioner. The State, despite repeated requests, has been unable to produce a single verifiable or supported document, or other evidence, which establishes a refusal, or failure on the part of the U.S. Virgin Islands in the matter of temporary custody of Petitioner in 2001. This theory was simply State Prosecutor Lora Horan's attempt to establish a reason for the the State's failure to act diligently and lawfully in their duty to bring Petitioner to trial in a timely manner. Horan proffered this excuse to the Trial Judge, who in turn accepted it as fact without any supporting evidence.

The Record establishes that none of Petitioner's attorneys attempted to investigate, or raise the IADA defense, [State App. V, at 15; 21; 30-31; 47], which if successful, would have resulted in dismissal of the case. See: *U.S. v. Williams* 615 F. 2d 585, 591 (3rd Cir. 2001); *Holleman v. Duckworth,* 652 F. Supp. 82, 86 (ND Ill. 1986). Petitioner was denied effective assistance of counsel in this issue, a

violation of his Sixth Amendment rights.

b) As to the failure of Petitioner's counsel to suppress evidence, a letter, [State App. A, at 285]: The State Courts have claimed that "the record shows" that Trial Counsel "repeatedly sought to exclude this letter from trial." A comprehensive review of the record, including the similar fact hearings [State App. A, at 679-743; 744-824; 924-960; 1041-78], and of that portion of the trial, [State App. D, at 417-18], will establish just the opposite: that trial counsel barely even mentioned this letter at any time. Counsel's one vague mention of the letter, at one similar fact evidence hearing, [State App. A, at 807 Ln. 23-25], and one vague and confused objection at trial, [State App. D, at 417-18], contained no argument, or reason why the letter should be excluded, or of the inherent, unfair prejudicial effect of the letter. Nor did counsel attempt to negate the prejudicial effect, or object to Prosecutor Stone's offering his personal opinion of the letter's meaning, to the jury. [State App. D, at 464-65]. This letter, if relevant, was only so as Propensity evidence. It did not mention or address the alleged victim in this case, Armstrong, nor did it allude to any specific criminal act. *Old Chief v. U.S.*, 519 U.S. 172 (1997), held that unfair prejudice speaks to the capacity of some concededly relevant evidence to lure factfinder into deciding guilt on an improper basis rather than on proof specific to the offense charged. Id. at **(b)**. Trial Court's

error, in failing to ascertain the correct facts on this issue, resulted in the violation of Petitioner's due process rights and the denial of a fair and impartial trial.

c) The errors of counsel, and Trial Court, in the similar fact limiting instructions, are clearly established on the face of the record. The Trial Court admits to the omission of the word "Allegedly" from its limiting instructions. [State App. W, at 631]. The State refuses, however, to acknowledge how that omission changed the context of, and the meaning of, the instruction, and expanded the inferences which could be derived from the testimonial evidence in applying the instructions as given. As these instructions were given numerous times throughout the trial, the entire trial was infected by these misleading instructions.

More egregious however, is the Trial Court's error in replying to the jury's question on how to apply the various testimonies to those limiting instructions. [State App. A, at 379.1; D, at 529-30]. The Trial Judge omitted the uncharged collateral act in a boat, [State App. A, at 336 fn[1]], from her reply to the jury's question. [State App. A, at 379; D, at 537-38]. Said collateral act being similar to the charged act in the case. [State App. A, at 173]. Thereby failing to properly and correctly instruct the jury on what was an uncharged collateral act and what were charged acts. This is clearly established in the record, and resulted in the due

process violation. *Estelle v. McGuire,* 502 U.S. 62, 72 (1991), stated that: the question was "whether there is a reasonable likelihood that the jury has applied the challenged instruction in a way" that violates the constitution. (Quoting *Boyde, v. California,* 494 U.S. 370, 380 (1990). In the instant case, there is a reasonable likelihood that, as a result of Trial Court's omission of the uncharged act in reply to jury's question, the jury, or a juror, determined guilt on this uncharged act. Conviction on an act not charged is a due process violation.

The Trial Court admits to omitting the uncharged act in answer to the jury's question [State App. W, at 632]. In defending this error, the trial court states that the limiting instruction was given at the time of Armstrong's testimony of the uncharged act, and that the jury was instructed that Defendant was not on trial for a crime not included in the information [State App. W, at 632-33]. However, the question is not whether the trial court failed to isolate and cure a particular ailing instruction, but whether the ailing instruction by itself so infected the entire trial that the resulting conviction violates due process. *Cupp v. Naughten,* 414 U.S. 141, 147 (1973). These limiting instructions, given throughout the trial, did so. As did the erroneous supplemental instruction given as a reply to the jury's question, which was evidence of their confusion. Trial Court's erroneous reply failed to correctly and sufficiently answer jury's question.

The Record further establishes counsel's culpability in allowing these misleading and erroneous instructions and his failure to raise objection to error.

d) Regarding the State's destruction of evidence: The Record establishes that the State lost or destroyed not one, but two, videotaped interviews. One of the alleged victim, Armstrong, and another of the alleged collateral act victim, Mudica, plus an audio taped interview of Mudica. [State App. A, at 675 Ln 22-25; 676 Ln 4-8]. In both videos, the alleged victims denied that Petitioner had committed the charged act. [State App. A, at 326-29; R, at 520]. The State destroyed, literally, every piece of evidence which could have impeached Armstrong's testimony of the charged act, and of his testimony of allegedly witnessing a similar act by Petitioner upon Mudica. Armstrong claims to not remember the 1996 videotaped interview, [State App. A, at 945], nor does the C.P.T. Interviewer Marden. [State App. R, at 522-23]. Mudica was deceased at the time of trial [State App. D, at 339 Ln 7-10]. Therefore, no comparable evidence exists and *California v. Trombetta,* 469 U.S. 479, 489 (1984) clearly applies to make this destroyed evidence "constitutionally material" for *Brady* purposes.

It is beyond belief to think that these destroyed videotapes and audiotape would not be the most crucial part of Petitioner's defense, as the only means of

impeaching Armstrong's testimony.

The Trial Court's continued insistence that the destroyed videotape would only be "potentially useful", for cross-examining Armstrong, and thus Petitioner must show bad faith, on the part of the State, in its destruction, [State App. A, at 341 #4], is misguided and in contradiction with established Federal Law. *U.S. v. Bagley,* 473 U.S. 667, 676 (1985), as well as *Giglio v. U.S.,* 405 U.S. 150, 153-54 (1972), and *Youngblood v. W. Va.*, 547 U.S. 867, 869, 870 (2006), hold that the *Brady* Rule extends to impeachment evidence as well as exculpatory evidence. *Brady v. Maryland,* 373 U.S. 83, 87 (1963), has found that failure to disclose evidence favorable to accused violates due process where evidence is material to guilt or punishment, and that the issue of good faith or bad faith is irrelevant in these circumstances. Additionally, *Kyles v. Whitley,* 514 US. 419 (1995), held that the correct standard for materiality, and prosecutor's disclosure obligation, turns on the cumulative effect of all suppressed evidence. Petitioner's Trial Court erred by considering only the one single destroyed videotape of Armstrong and ignoring the other destroyed videotaped interview and the destroyed Audio taped interview of Mudica.

This destroyed evidence meets all three components of a *Brady* violation: 1) Evidence was destroyed by the State, either willfully or inadvertently; 2) Evidence

was exculpatory or impeaching; and 3) Prejudice ensued. See: *Strickler v. Greene,* 527 U.S. 263, 281-282 (1999). Petitioner has established that a due process violation has occurred by the destruction of this irreplaceable evidence.

Petitioner's counsel failed to sufficiently investigate the facts and the law of this issue, which resulted in their failure to establish the State's culpability and negligence in the loss and destruction of the video and audio tapes, and failed to establish the import of the destroyed evidence in Petitioner's defense, and that the issue of good or bad faith was irrelevant under these circumstances. Counsel also failed to even attempt to establish, to the jury, that alleged victim, Armstrong, and also the alleged collateral act victim, Mudica, had in 1996 denied that Petitioner had committed the specific act charged. Counsel further failed to establish, to the jury, that Armstrong's more serious allegations, of the charged act, arose while Armstrong was awaiting sentencing on a Probation violation, and only after he spoke with Prosecutor Horan. In short, Counsel failed to even attempt to impeach Armstrong's testimony with any available tangible evidence. This is clearly deficient performance and constitutes denial of Assistance of Counsel under *Strickland v. Washington,* 466 U.S. 668, (1984).

The important question here, and the Standard of Prejudice, is whether or not, had the destroyed videos and audiotapes been available and presented to the

jury, the case would be seen in such a different light as to have a different outcome. Had the jury seen these videos, and gave more credence to them than Armstrong's trial testimony, the answer would be yes. As such, the absence of this destroyed evidence has undermined any confidence in the verdict. See *Youngblood v. W. VA.*, 547 U.S. 867 (2006) and *Strickler V. Greene*, 527 U.S. at 290. The Trial Court's rulings, on the nature of and the import of, this destroyed evidence conflicts with U.S. Supreme Court rulings on like issues.

e) Regarding the constitutional speedy trial violation: The Record, which includes the speedy trial hearing transcript, [State App. A, at 564-600], when read in context of events, establishes that the trial judge's "factual determinations" were based entirely on prosecutor Lora Horan's "composite exhibit" [State App. A, at 226-45], and the unsupported, undocumented assertions of Horan, in a previous motion, [State Exhibit A, at 53 #6]. Trial Court's findings, that a "reasonable reason" for the four year delay, was based on the alleged "facts" in State's Composite Exhibit. Those alleged facts were: in 2001, the State learned that Petitioner was in U.S. Virgin Islands prison; State tried to extradite; U.S. Virgin Islands "would not send him over here" [State App. A, at 577-78]. The Trial Court's written order on this issue [State App. A, at 224-25], states the facts as:

1) After the crime, Defendant fled jurisdiction; 2) In 2001, State learned Petitioner was in U.S. Virgin Islands prison; 3) State initiated extradition, but U.S. Virgin Islands, for unknown reasons, did not cooperate; 4) Petitioner knew of impending charges (1996), but left jurisdiction. Review of the complete record will conclusively establish that, at the time of Trial Court's "factual findings," there was no documentary or testimonial evidence presented to the Court which shows that, in 1996, the Petitioner knew of impending charges; that Petitioner fled jurisdiction; or that in 2001, the U.S. Virgin Islands refused to cooperate with State's request for temporary custody of Petitioner. There is no document in State's "Composite Exhibit," that supports any of State's alleged facts, or the Court's findings of fact.

Further, the Trial Court ruled that the delay was only four years, from State's amended information, in 2001 until Petitioner's arrest in 2005, [State App. A, at 574]. Trial Court chooses to ignore the five year period, from the original filing of an information in this case in May 1996, until August 2001, when State filed their amended information. During that period,, the State made absolutely no attempt to locate or search for Petitioner. Thus, the actual delay is nine years.

The facts of this case, as supported by the record, are: In 1996, the State made no attempt to locate or search for Petitioner. [State App. R, at 516-18]. Thus, State cannot claim unavailability of Petitioner in 1996, nor that Petitioner

fled jurisdiction. In 2001, the State failed to accept temporary custody of Petitioner from U.S. Virgin Islands, even though the U.S. Virgin Islands offered no opposition to such. [State App. R, at 532,534-35]. The State has presented no credible evidence to refute these facts, nor did the State offer any credible evidence to the Court, at or prior to the speedy trial hearing, to support their version of facts, or to support Trial Court's findings that Petitioner knew of impending charges in 1996 and left jurisdiction.

The State failed in their duty to bring Petitioner to trial in a timely manner due to their negligence and lack of diligence. As such, the factor of reason for the delay, under the *Barker* balancing test, would favor Petitioner rather than the State.

> "*Barker* made it clear that different weights [are to] be assigned to different reasons for delay. Although negligence is obviously to be weighed more lightly than a deliberate intent to harm accused defense, it still falls on the wrong side of acceptable and unacceptable reasons for delaying a criminal prosecution once it has begun. And such is the nature of the prejudice presumed that the weight we assign to official negligence compounds over time as the presumption of prejudice grows." *Doggett v. U.S.*, 505 U.S. 647, 657 (1972).

Petitioner's counsel at that time, Winston Hobson, did not inform Petitioner of intent to file constitutional speedy trial motion until the day of hearing on same. Had counsel conferred with Petitioner on this matter prior to filing motion, Petitioner would have given counsel investigative leads which, if fully developed,

would have produced evidence which would have conclusively refuted or disproved the State's version of facts and events. Petitioner's counsel chose to rely upon State's version of facts and events, rather than conduct his own reasonable investigation. Therefore, counsel was insufficiently prepared to challenge the State's assertions of fact. Counsel had the duty to make reasonable investigations. *Strickland v. Washington*, 466 U.S. 668, 691 (1984). Petitioner has specified what a proper investigation would have revealed, and that the fruits of that investigation would have changed the results of the proceeding. As such, counsel was not functioning as the counsel guaranteed by the Sixth Amendment so as to provide reasonable effective assistance.

Based on the foregoing, Petitioner has established that Trial Judge's application of the *Barker v. Wingo*, 407 U.S. 513(1972), balancing test was skewed by Trial Judge's reliance upon Prosecutor Horan's unsupported assertions and State's "Composite Exhibit" to make factual determinations. An abuse of judicial discretion at the very least, which resulted in constitutional error – a due process violation - and allowed Petitioner's constitutional speedy trial right to be violated. Trial Judge failed to conduct a fair and impartial hearing on the constitutional speedy trial issue. The Trial Court's rulings on this issue conflict with *Barker.*

f) Regarding Prosecutor Stone's improper remarks: the record establishes that Prosecutor Stone did bolster the credibility of his witnesses by improperly commenting on the truthfulness and credibility of their testimonies. [State App. D, at 456, 457, 460], essentially testifying as his own witness. Stone also commented on facts not in record, evidence, or testimony, again essentially testifying as his own witness. Prosecutor Stone "testified" that: one: In 1996, Petitioner had no pre-existing conflicts or problems with his witnesses [State App. D, at 453]; two: that in 1996, Petitioner used the name Robert Williams [State App. D, at 463, 511]; and three: that in 1996, Petitioner bought a train ticket with cash so as not to leave a record of it [State App. D, at 463]. It is patently obvious that Stone's intent was to raise the specter of consciousness of guilt. Stone did so by improperly injecting extraneous evidence into the trial and by acting as his own witness. The obvious, though unstated, prejudice to Petitioner was a due process violation by depriving Petitioner of a fair and impartial trial. Most definitely a substantive right. See: *U.S. v. Young*, 470 U.S. 1 (1985). Further, had any instruction been given by the Trial Court, it could not unring the bell. Trial Court's instructions, given at the end of trial as part of general instructions, was too little, too late. Those instructions did not specifically address this issue as counsel failed to effectively object to these comments by Stone.

CONCLUSION

The above stated facts are in the record and lead to the logical conclusion that Petitioner did not receive a fair trial, or effective assistance of counsel. Petitioner's right to due process was violated as a result of the State Prosecutor's nefarious tactics to obtain a conviction at any cost. The State Courts have skewed, or ignored, these facts, just as they have ignored, or enabled, the State Prosecutor's questionable tactics in their quest for a conviction.

Petitioner has demonstrated the errors of Trial Court, and the conflict with U.S. Supreme Court rulings, in the constitutional speedy trial issue, the destruction of evidence issue, and the limiting instruction issue. Trial Court ignored, or overlooked, established federal law in its rulings on these issues, thereby occasioning a violation of Petitioner's due process rights. As such, Petitioner has been deprived of a fair and impartial trial.

Petitioner has demonstrated counsel's complete failure to competently or sufficiently raise or argue to suppress propensity evidence, the letter, which allowed highly prejudicial propensity evidence before the jury. The record establishes that none of Petitioner's attorney's, at any stage of the proceedings, attempted to raise the issue of the IADA violation, by the State. As a successful assertion of the IADA defense would have resulted in a dismissal of the

information, the failure of counsel to raise it would undoubtedly be prejudicial to Petitioner. See: *U.S. v. Williams*, 615 F.2d 585, 591 (3rd Cir. 2001).

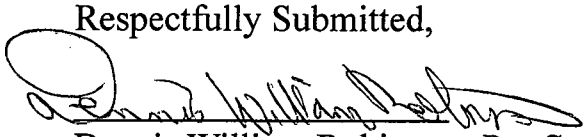
Petitioner has demonstrated his numerous attorney's failures in conducting sufficient investigation of the facts and the law involved in the constitutional speedy trial issue, the destruction of evidence issue, the improper, erroneous limiting instruction issue, the failure to suppress evidence issue, and the Prosecutorial misconduct issue, as well as their complete failure to raise the IADA defense. These errors and omissions, cumulatively, have resulted in the violation of Petitioner's Fourteenth and Fifth Amendment rights to due process, and constitutes a further violation of Petitioner's Sixth Amendment right to effective assistence of counsel.

Petitioner has demonstrated that the combined errors and omissions, of his various attorneys, were sufficiently serious to deprive Petitioner of a fair and impartial trial, and of effective assistance of counsel, because of a reasonable probability that, but for counsel's unprofessional errors, the results of the proceedings would have been different. See: *Strickland*, 466 U.S. at 694.

Wherefore, based on the foregoing facts and arguments, Petitioner believes there is sufficient reason to grant this Petition for Writ of Certiorari. Petitioner prays that this Honorable Court will grant this Writ of Certiorari and Remand for

Lawful Proceedings in the proper Court of Law.

Respectfully Submitted,



Dennis William Robinson, *Pro Se*

Date: June 17, 2019