

No. _____

19-5152

IN THE

SUPREME COURT OF THE UNITED STATES

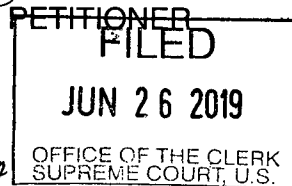
Dacyll Shumake In Pro-Se

(Your Name)

vs.

The Commonwealth of Virginia

RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Dacyll Shumake

(Your Name)

WRSP Pobox 759

(Address)

Big Stone Gap, VA 24219-0759

(City, State, Zip Code)

276-523-3310

(Phone Number)

QUESTION(S) PRESENTED

1. How is it the law enforcement/Defendant the officials involved in the investigation that led to the wrongful conviction as inter-partes + inter se pertained to the petitioner's Trial as instruction being fraud?
2. Were in law is it legal to withhold substantial interlocktory different evidence that was binding in one light as a variance?
3. Why wasn't the knowledge of such evidence made known to the petitioner's knowledge ~~given~~ when the petitioner requested through his attorney Court appointed D.S. for any + all evidence that the defendant have in its possession?
4. If the defendant caught the petitioner's cousin Kenny Johnson + his friend Ryan Hagins in possession how is it the defendant had to conspire to manufacture use false evidence; along with coerced testimony for a wrongful conviction against the petitioner, when possession is ninety percent of the law?
5. Is the Defendant aware of the fact that date of the crime the petitioner was out of town September 30, 2002?
6. How come Kenny Johnson + Ryan Hagins are not being prosecuted for the crime rather than the petitioner yet and still Kenny Johnson have confessed to committing the crime after being caught initially in possession which is the law?
7. How can the petitioner be held accountable for the crime that he never had any knowledge of?
8. Why is it the Defendant ^{D.S.} further ~~relied~~ ^{is it} a violation of the constitution ~~law~~ being Error as to manifest injustice - Manifest weight of the evidence, false imprisonment, malicious prosecution due process violation, coerced statements, from other parties prosecution altered statements with holding two suspects information that the police had taken into custody?
9. Why is it the Defendant further relied merely of the confession that the petitioner cousin Kenny Johnson + the hearsay from Ryan Hagins that is inadmissible instead of using his own/the Defendant's own information → not mere hearsay?
10. Is it illegal an misrepresentation of the specific evidence in one trial generally in admissible due to the prejudicial statute?

continued

Continued

11. Isn't it a federal constitutional right for the petitioner's rights to confrontation with the object to him or cross-examine so that the Commonwealth's witness may identify the accused and maintain the truth of the testimony in ^{his} presence with a more definitive look at conflict of laws?
12. Isn't the Affidavit confession that is evidence as his plea admitting that truth of fact as stated in the pleading to which it is an answer nullifying their legal effect through the allegation of new & related facts?
13. Isn't the withholding of records requested a federal violation of the petitioner's rights being concealment plus a violation of the petitioner's due process the 5th & 14th Amendment

Offender Monthly Trust StatementCOV\mlh72902
5/1/2019 7:22:13 AM
CORIS Snap

Facility: WALLENS RIDGE STATE PRISON FG

Fiscal Period: April 2019 - Closed 05/01/2019

From: 4/1/2019 To: 5/1/2019

Shumake, Daryll Keith (1146217)

Wallens Ridge State Prison [C-1-112-B]

Beginning Payables:	SPEND (511)	HOLD (512)	SAVINGS (513)	COMMISSARY (514)	UNCLAIMED (515)	RESERVE (516)	COURT (519)	CHILD SUPPORT (520)
	0.00	25.00	339.46	0.00	0.00	0.00	0.00	0.00
Beginning Receivables:	LOANS (211)	MEDCO LOANS (212)						
	155.87	32.70						

Post Date	Batch Number	Transaction Description	TC REF	Amount	Received From / Payee Name
04/09/2019	WRSP20190409DPMLW04	Legal Mail Postage Loan	198-211	0.50 +	
04/09/2019	WRSP20190409DPMLW04	Legal Mail Postage Loan	198-511	0.50 +	
04/09/2019	WRSP20190409WDMLW02	Legal Mail Postage	84-511	0.50 -	
04/12/2019	WRSP20190412DPMLW03	Legal Mail Postage Loan	198-211	0.50 +	
04/12/2019	WRSP20190412DPMLW03	Legal Mail Postage Loan	198-511	0.50 +	
04/12/2019	WRSP20190412WDMLW02	Legal Mail Postage	84-511	0.50 -	
04/25/2019	WRSP20190425DPC_A01	DP - EDI Jpay	19-511	39.00 +	SHUMAKE, PATRICIA
04/25/2019	WRSP20190425WDMLW01	Spend > Savings	464-511	3.90 -	
04/25/2019	WRSP20190425WDMLW01	Spend > Savings	464-513	3.90 +	
04/25/2019	WRSP20190425WDMLW01	Court Filing Fee 511 > 516	940-511	7.80 -	U.S. DISTRICT COURT
04/25/2019	WRSP20190425WDMLW01	Court Filing Fee 511 > 516	940-516	7.80 +	U.S. DISTRICT COURT
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-212	5.00 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-511	5.00 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-511	5.00 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-212	5.00 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-212	5.00 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-511	5.00 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-511	5.00 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-212	5.00 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-212	2.30 -	
04/25/2019	WRSP20190425WDMLW01	Collection Med Co-Pay Loan	59-511	2.30 -	

Ending Payables:	SPEND (511)	HOLD (512)	SAVINGS (513)	COMMISSARY (514)	UNCLAIMED (515)	RESERVE (516)	COURT (519)	CHILD SUPPORT (520)
	5.00	25.00	343.36	0.00	0.00	7.80	0.00	0.00
Ending Receivables:	LOANS (211)	MEDCO LOANS (212)						
	156.87	10.40						

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 The Commonwealth of Virginia

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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 M+N to the petition and is

☐ reported at For the Fourth Circuit; 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 F+G to the petition and is

☐ reported at Alexandria Division; 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 C to the petition and is

☐ reported at Virginia Supreme Court; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Twenty Ninth Judicial Circuit court appears at Appendix A+B to the petition and is

☐ reported at Court of Appeals of Virginia; 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 April 30, 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: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. N/A A N/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 7, Nov 2002.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A N/A.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Procedure § 62.7 Constitutional Error

Manifestation of Justice

Manifestation of Justice - weight of the evidence

Denial of civil rights see the Fargo v City as DCSDNY case no 1:13-cv-04921 PMB-RLZ

Due process violations *Hewitt v Helms* 39 US 460 (1983)

Ford v Wainwright, 447 US 339 (1983)

Davis v Alaska, 415 US 308 (1974);

Olden v Kentucky, 488 U.S. 277 (1988)

Boyd v US, 533 US 83 (1963)

Brady v Maryland, 373 US 83 (1963)

US v Valenzuela-Bernal 458 US 858 (1982)

Mal v Blodgett, 970 F.2d 619 (CA-9 (1992)) - applying *Strickland v Washington* 466 US 668 (1984)

US v Godwin, 452 US 368 (1982)

Simmons v United States, 390 US 377 (1968)

Clemens v Mississippi, 494 US 738 (1990)

Chapman v California, 318 US 18 (1962)

Ashcraft v Tennessee, 322 US 143 (1944)

Holbrook v Flynn, 475 US 560 (1986)

US v Bagley, 473 US 667 (1985) - *Estelle v Williams* 425 US 501 (1976)

Darden v Wainwright, 477 US 168 (1986)

Ohio v Roberts, 448 US 56 (1980)

Jackson v Virginia, 443 US 307 (1979)

In re Winship, 362 US 402 (1960)

Dusky v US, 362 US 402 (1960)

US v Bailey 444 US 394 (1980)

US v Russell 411 US 423 (1973)

Litaker v US 510 US 540 1994 - *Arizona v Fulminante* 499 US 279 (1991)

Chambers v Mississippi 410 US 284 (1973)

Riggins v Nevada 304 US 127 (1972)

Taylor v Illinois 484 US 400 (1988)

N.A.A.C.P. v Alabama 357 US 449 (1958)

Braverman v US 317 US 49 (1942)

Mills v Maryland 486 US 367 (1988)

Miranda v Arizona 384 US 436 (1966)

Boston v Kentucky 476 U.S. 79 (1986)

See *US v Arvizu* 534 US 566, 277 (2002)

Ornelas v US 690, 700 (1996)

STATEMENT OF THE CASE

1. The petitioner asserts that September 30, 2002 at approximately 11:30 to 2:00pm he was out of town in Philadelphia not having any knowledge to the events of a carjacking had taken place. The facts remain are the crime that the petitioner's cousin Kenny Johnson committed he had nothing to do with neither nor ever were a part of ever.
2. The petitioner further asserts that his father had not died he'd of put himself as well as his uncle IRVIN for witnesses along with knowing that the petitioner wasn't even in Virginia at the time that the crime took place
3. The petitioner asserts the mistake of one party only being there is a mutual mistake or the presence of undue influence or fraud; which means there is little or no ground of avoiding the contract for mistake.
4. The petitioner asserts the mistake of LAW, ONE OF FACT that the petitioner's cousin Kenny Johnson was caught in possession possessing the control + ownership taken into custody then released with the use of positive condition as well as Positive Fraud plus positive Evidence
5. The petitioner asserts that the detective VAN Meter and the Commonwealth's Attorney Kenneth A Philips both conspired in conspiracy to manufacture false evidence; further law enforcement officials involved in the investigation that led to the wrongful conviction
6. The petitioner asserts the defendant lied recklessly conspiring to manufacture false evidence and coerced false testimony by effectively withholding the names of the suspects as requested to his court appointed attorney
7. The petitioner asserts in re cousin Kenny Johnson wrote the petitioner a signed sworn notarized affidavit admitting to committing the crime that the petitioner have been wrongfully convicted of; even though detective VAN Meter when making the complaint stop to use his own information knowledge and just upon mere hearsay.
8. The petitioner warrants for arrest were illegally issued upon a complaint or a affidavit made by some competent person - the officer when records reflect that the detective VAN Meter merely used hearsay plus Circumstantial Evidence, chose IN ACTION AND COLUSION
9. The petitioner asserts that when requesting for the bill of particulars from his attorney the gentleman acted as if he didn't know what the petitioner was requesting; which is reason why he didn't have any knowledge of his cousin committing the crime that he the petitioner is innocent of.

continued

continued

- 10 The petitioner asserts ANIMO FELONICO intentionally conspired ANIMUS, ANIMO After apprehending the petitioner's cousin Kenny Johnson.
- 11 The petitioner asserts that the AFFRANT Bore thought with AN Agenda presumption without further proof
- 12 The petitioner asserts by sufficient evidence PRIMA FACIE Case AND PRIMA FACIE Evidence along with preponderance of evidence
- 13 The petitioner asserts Preperse Ambiguity
- 14 The petitioner Furthermore request the Honorable Court Amendment to the allegation presumptive evidence
- 15 The petitioner asserts Admiralty be used IN A Admission to Affirm the Admission of Innocence for the wrongful conviction
- 16 The petitioner asserts APOSTERIORI that when you clearly look at the ABNITIO you could tell that the petitioners cousin + his friend as well as the authorities intended to use Action EX CONTRACTU AS WELL AS Adjective LAW
- 17 The petitioner asserts that impediment was used SO IN PRIMIS if the petitioner had of had full knowledge of the proceedings by request as to the imputed detective's duty + the common wealth's Attorney negligence he'd of had A FAIR TRIAL
18. The petitioner asserts IN CUSTODIA LEGIS IN JURE he's IN
- 19 The petitioner asserts that the conviction is illicit.
- 20 The petitioner asserts that he have endured Detriment to his property being the hurt that's been caused physically, mentally + emotionally
- 21 The petitioner asserts that EX MALEFICIO - EX DOLO MALO by EX CONTRACTU shouldn't he be given A ex post factum AS TO EX Relativae?
- 22 Yeah the petitioner asserts that he have a long record that is criminal; but his cousin acted alone on this crime
- 23 The petitioner asserts that FRAUD is the word that is used in the conviction + conspiracy as well

REASONS FOR GRANTING THE PETITION

1. The petitioner is innocent
2. The conspiracy between the detective + Asst. Commonwealth Attorney General to manufacture false evidence plus coerced testimony
3. There are large number of constitutional errors
4. The petitioner was convicted by an error in law
5. Brady v Maryland violation clearly
6. The law is possession which is nine tenths of the law
7. The petitioner had know knowledge of the crime/offense in question
8. The Asst. Commonwealth Attorney + detective both were going to do whatever that it took to persecute the petitioner using Double jeopardy
9. The petitioner would not have plead guilty for the crime if it wasn't for the evidence being withheld under duress when the petitioner was under mind altering drugs the date of the trial for mental health issues
10. Because the wrongful conviction was of an extremely malicious prosecution
11. Because the petitioner have proven with fact that he is innocent + a victim of a vindictive prosecution also based on the exercise of right.
12. The petitioner asserts that he's now doing a crime at present even though he's not done any wrong as to double jeopardy law which is his record
13. The Defendant - Commonwealth of Virginia need to release the petitioner because the defendant made the mistake + you can clearly see from the records in the petitioners file that the Commonwealth Erred numerous times without setting the record straight
14. Because the defendant knows the petitioner is innocent + that it is wrong that's why the Eastern District court sent the petitioner a order to confuse the petitioner of violating a rule when the courts are in conspiracy to keeping an innocent man in prison for a crime that he didn't do by way of prejudicial fraud from the start.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 6-21-19