

IN THE  
SUPREME COURT OF THE UNITED STATES

29-6023  
JEFFREY GUY RINGLE,

Petitioner,

v.

SHANE JACKSON,

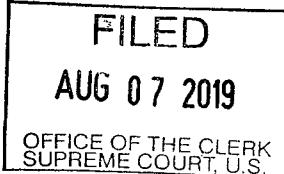
Respondent,

On Writ Of Certiorari To The  
United States Court Of Appeals  
For The Sixth Circuit

BRIEF OF PETITIONER

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## QUESTIONS PRESENTED

- I. Did the majority below err in applying this court's decision in *Giglio v. United States* to hold that Petitioner could not show prejudice, solely because some record evidence pointing to guilt remained ?
- II. What constitutes a "truly persuasive showing of withholding evidence by the prosecution" pursuant to *Brady v. Maryland* sufficiently to warrant freestanding habeas relief ?
- III. Whether the prosecutor violated Petitioner's *Miranda* rights, pursuant to *Griffin v. California*, when prosecution told the jury Petitioner stood mute or claimed that privilege when faced with accusations, and/or evidence of guilt ?
- IV. Did the majority below err in applying this Court's decision in *Ohio v. Roberts* to hold Blankenship's out of court testimonial statements were adequate with reliability to be admissible ?
- V. Was trial counsel functioning with deficient performance as that guaranteed by the Sixth Amendment, applying this court's decision in *Strickland v. Washington* ?

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**OPINIONS BELOW**

The opinion of the Court of Appeals for the Sixth Circuit is reported at Case Jeffrey Guy Ringle V. Shane Jackson, No. 19-1130 (6th Cir. 2019). The decision of the United States District Court For The western District Of Michigan Southern Division is at Jeffrey Guy Ringle v. Mary Berghuis, 1:13-CV-759.

**JURISDICTION**

The judgment of the Court of Appeals was entered on May 14, 2019. No further rehearing was sought. Mr. Ringle is within his 90 days for filing. The court has jurisdiction pursuant to 28 U.S.C § 1254(1).

**CONSTITUTIONAL &  
STATUTORY PROVISIONS INVOLVED**

This case involves the Fifth, Sixth, and Fourteenth Amendments to the Constitution, Which respectively provide that: "In all criminal prosecutions, the accused shall enjoy the right ... to have Assistance of counsel for his defense, and Assistance of counsel on Direct Appeal; "Nor shall the Prosecutor let false testimony go uncorrected, and shall not withhold evidence"; and "Nor shall the prosecutor comment on defendant's post arrest silence"; Nor shall the defendant's confrontation clause be violated; and "Nor shall any State deprive any person of life, liberty, or property, without due process of the law". This case also involves 28 U.S.C §2254d(1)&(2), Which provides that "[a]n application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim...resulted in a decision that was contrary to, or involved an

unreasonable application of, clearly established Federal Law, as determined by the Supreme Court of the United States..." Or the decision of the State court was based upon an unreasonable determination of the facts in light of the evidence presented in the state court proceedings".

#### **STATEMENT OF THE CASE**

A Michigan jury convicted Jeffrey Guy Ringle of first-degree murder and armed robbery after the prosecution urged jurors to conclude from circumstantial evidence that he had killed Chris Arnett. In Federal habeas corpus proceedings below, Ringle presented new evidence, which proved that two key witnesses had falsely testified at his trial. The significance of this evidence sharply divided the State courts and the lower federal courts on questions whether Ringle could show prejudice under *Gilio v. United States*, 405 US 150 (1972), and whether the evidence should be procedural defaulted under *Stickland v. Washington*, 466 US 668 (1984). The district court Judges agreed that Ringle's appellate counsel was ineffective, and issued a ruling on the merits of Ringle's claims, but there opinion was unreasonable. Also the district court erroneously ruled on the Miranda claim the way appellate counsel raised it on direct appeal. Ringle reconstructed the issue in his relief from judgment motion, because appellate counsel failed to federalize the issue and left out key points. The record shows the following:

##### **A. State Trial Court Proceedings**

###### **1. The crime**

This case arises from Calhoun County, Michigan. In May 18, 2002, Chris Arnett, the victim, resided above the CD's party store in Burlington Michigan. Arnett owned the store below, and lived with his girlfriend Karen Fowler. There was DNA and fingerprints left at the scene

of the crime on the cash register drawer that was taken out of the register and put on the counter. Still the case went into the cold cases until 2006, when Kathy and Daniel Shepherd told the Attorney General that they supposedly knew who had done the crime.

## 2. Trial Proceedings

Ringle was tried in Calhoun County in November 2007, after a plea agreement was denied. The evidence showed that the DNA and fingerprint on the cash register drawer was not Ringle's. The prosecution only had circumstantial evidence from Kathy and Daniel Shepherd, Mitchel Messer, and Della Harris, who said Ringle allegedly confessed the crime to them. The shepherd's "who are jail house informants", testimonies were proven by Ringle to be false, and the prosecutor let the testimonies go un-corrected. (It should be noted that this case arose from the Shepherds). Daniel shepherd's Rule 35(b) motion listed several alleged crimes that he supposedly had information on, but there was never charges filed, because Daniel's information was not accurate. Then Della Harris testified. Harris was impeached with her inconsistency of her testimony, as she told three different events of what happen. Mitchell Messer was also impeached with his inconsistency and motives for testifying against Ringle. As such, Messer said that he wanted to kill Ringle, because he had robbed him of \$8000.00 and kicked him in the privates. The defense asserted that Ringle was innocent, and that the witnesses were testifying falsely for there own self gain, and/or for there own vindication.

## 3. The circumstantial case for Ringle's conviction

The evidence presented by both parties focused upon four witnesses: Did Ringle tell the Shepherd's that he killed Chris, or was the jail house informants trying to get out of trouble, and/or get

a sentence reduction. Was Mitchell Messer telling the truth when he said Ringle supposedly confessed the crime to him, or was he being vindictive, because Ringle allegedly robbed him before. It was obvious that Della Harris was not telling the truth, because she told three different stories of the events that supposedly took place, but was she lying when she said the Ringle Confessed the crime to her.

**a. The equivocal evidence concerning Ringle's opportunity to commit the crime**

Kathy Shepherd was a Federal inmate trying to get a sentence reduction for herself and her brother Daniel. Kathy testified that Ringle confessed the crime to her when Ringle was at her house getting high, but waiting three years before she came forward. Kathy received a sentence reduction from her federal sentence 6 days before she testified at Ringle's trial, and knew that she had received a Rule 35(b) sentence reduction and lied about it to the jury. Daniel Shepherd lied about his motive for testifying at Ringle's trial. He said that he did not have a proffer and that he was not looking forward to getting anything for testifying against Ringle. Daniel did not get his sentence reduction until February 23, 2012, when he received a Rule 35(b) reduction, that knocked 8½ years off his sentence. The district court said Ringle could not show prejudice because of the testimonies of Mitchell Messer and Della Harris, but the truth of the matter is that these charges would not have been put on Ringle had the Shepherd not come forward.

Della Harris was Ringle's girlfriend for around 9 years, and told the truth to the police when she said that Ringle had nothing to do with this case. Detective Picketts threatened Harris and told her that he was going to charge her if she didn't cooperate. After Harris was threatened with charges she, then said that Ringle was gone all day long on May 18, 2002, and that about two week

later Ringle told her that he killed Chris, and then at Ringle trial Harris told a different story. That she took Ringle to the CD's party store with her two kids and that when Ringle came out he said that he Fuck up, and about two weeks later Ringle told Harris that he Killed Chris.

Mitchel Messer testified that Ringle allegedly told him that he killed Chris, but this was after Messer said that he wanted to kill Ringle because he had robbed him of \$8000.00 and kick him in the privates, but Messer wait several years before he came forward with this information. William Morse testified that he gave information about Ringle's case to Messer after Morse talked to Ringle's attorney about the case. (TT pg's 894-895).

**b. Ringle's custodial statements**

The State presented evidence that Ringle had refused to talk to the police during questioning at St. Louis Correctional Facility. Ringle only refused to talk after detectives were opprobrious, yelling, and telling Ringle that he should just tell them what they wanted. This interrogation also took place in the Captain's office, and there was no camera's or recording devices. Detective Picketts had a little tape recorder, but said it wasn't turned on. Now, Ringle is the main suspect in a murder case and your not going to turn on the only recording device that you have when questioning him? Deputy Gandy was with Picketts during the questioning, and when the prosecutor was questioning Gandy at Ringle's trial. Prosecution deliberately elicited testimony out of Deputy Gandy that Ringle had refused to talk to them when confronted with evidence against him. During trial Judge Miller's instructions, he told the jury that the attorney's statements could be considered stipulated evidence, letting the jury know that they could consider the prosecutor's comments on Ringle's right to remain silent as evidence.

**c. The forensic evidence**

The prosecution and defense counsel had a stipulation put on the DNA and fingerprints that were on the cash register drawer, and the stipulation was that it was not Ringle's. Joel Shepperly testified that the fingerprints and DNA on the cash register drawer were not Ringle's (TT pg's 1039-1040). Defense counsel ineffectively didn't use this evidence enough when questioning witnesses. This evidence should have been the main focal point to the defense, and should have been heavily conveyed to the jury.

**B. On direct Appeal**

Ringle timely filed his request for appointment of appellate counsel. The trial court appointed Daniel J. Rust to represent Ringle on direct appeal of right. On June 29, 2009 the Michigan Court of Appeals denied appeal of right in case No. 283239. Rust raised three issues in his brief, one being a sentencing issue, and none of the issues were Federalized (Procedurally barring federal habeas review). Ringle In Pro Se filed in the Michigan Supreme court on August 9, 2009. The Michigan Supreme court denied relief December 21, 2009 in case No. 139517

**C. State Postconviction Proceedings**

On January 26, 2011 Ringle filed his motion for relief from judgment pursuant to G. 6.500. February 7, 2001 Judge Stephen B. Miller denied Ringle's relief from judgment motion. See Appendix Judge Miller's opinion. On March 17, 2011 Ringle filed a motion for a concise statement regarding the opinion and order Judge Miller issued. On March 24, 2011 Judge Miller denied the motion with no opinion. See Appendix Judge Miller's opinion on concise statement motion. Ringle filed his Delayed Application for leave to appeal in the Michigan Appeals Court on January 17, 2012, and the Court

of Appeal denied Ringle's application without a opinion on November 19, 2012 in case No. 308116. See Appendix Michigan Court of Appeals opinion. Ringle filed in pro se his application for leave to appeal in the Michigan Supreme Court December 12, 2012. Ringle filed a motion to expand the record to add previously unobtainable order, and response to Rule 35(b) motion, pursuant to MCR 7.316(A)(4) on March 27, 2013 in the Michigan Supreme Court. The Michigan Supreme Court denied Ringle's Application for leave to appeal on June 25, 2013 in case No. 146377, with no opinion, but granted the motion to Expand the record to add previously unobtainable order. See Appendix Michigan Supreme court's opinion.

**Federal Habeas Corpus Proceedings**  
**1. In the District Court**

In July 11, 2013, Ringle filed a habeas corpus petition in the United States Court for the Western District of Michigan Southern Division. On November 26, 2013, Ringle in pro se filed a motion to amend his habeas corpus petition along with his amend habeas corpus petition. On May 12, 2014 the United States District Court Western District Of Michigan granted Ringle Motion to Amend his habeas corpus. On February 19, 2014 Assistant Attorney General (A.A.G) filed her answer to Ringle's Habeas Corpus. Assistant Attorney General completely failed to address Ringle's Brady claim in her answer. Under *Grandberry v. Greer*, 481 US 129 (1987), the district court's answer Must state all allegations in the habeas petition. Ringle Brady claim should have been excepted as being true, and waived. On March 24, 2014 Ringle filed his reply to the answer in opposition to petition for writ of habeas corpus. Ringle argued his opposition that Respondent completely failed to address Ringle Brady claim, and the allegations should be accepted as being true, and Ringle argued the

rest of A.A.G's allegations in her answer. On July 22, 2015 Ringle filed a motion to disqualify Judge Gordon J. Quist. Asking Quist to recuse himself from Ringle's case, because Quist had giving Kathy and Daniel Shepherd a sentence reduction for testifying against Ringle and that his impartiality might reasonably be in question because he gave the Shepherds a sentence reduction for testifying truthfully against Ringle. On August 10, 2015 Judge Gordon J. Quist issued an order denying Ringle's motion to disqualify, and refused to recuse himself. Stating Ringle cites no facts or circumstances suggesting that this court's impartiality might reasonably be questioned. When in fact Ringle did state facts and circumstances. How can there be justice in a Judge giving a person a sentence reduction for testifying against someone, and then hear the appeal of the person that got testified on? On December 7, 2018, almost five years later, Magistrate Judge Ray Kent filed a Report and Recommendation, and address the Brady claim stating Petitioner failed to establish an essential element of a Brady claim, but went on to say that even if the Shepherd's were lying, Ringle could not show prejudice and materiality, because several other witnesses testified to the same thing. There was not several other witnesses, there was only Della Harris, and Mitchell Messer. Judge Kent also, addressed the Miranda issue the way appellate counsel raised it on direct appeal, when in fact Ringle reconstructed the issue in his relief from judgment motion, because Appellate failed to federalize it and left out the beginning of the conversation between prosecution and deputy Gandy, and the beginning of the conversation is the key that unlocks the door to the Miranda claim. On December 27, 2018 Ringle filed his Objections to Magistrate's report and recommendation Objecting to all the allegations in Judge Kent's report and recommendation. On January 17, 2019

Judge Gordon J. Quist's order adopting the report and recommendation and denying Ringle's Habeas Corpus Petition. On January 24, 2019 Ringle filed his Notice of Appeal. On February 15, 2019 Ringle filed his motion to proceed in forma pauperis in the Sixth Circuit. On March 6, 2019 Ringle's motion to proceed forma pauperis on appeal was granted. On March 18, 2019 Ringle Filed a motion requesting issuance of Certificate of Appealability in case No. 19-1130, stating in part that reasonable jurists would find the district court's assessments of Ringle's constitutional claims debatable or wrong. On May 14, 2019 United States Court of Appeals for the Sixth Circuit denied Ringle's request for a certificate of appealability case No. 19-1130, stating in part that reasonable jurists would not debate the district court's denial of Ringle's claims. Ringle now timely files his Certiorari in this Honorable court.

#### SUMMARY OF ARGUMENTS

Ringle has presented evidence of ineffective assistance of appellate counsel exceeding that required by this court's holding in Murray v. Carrier to allow Petitioner to pass through the procedural gateway and permit federal courts to review the merits of otherwise procedurally defaulted constitutional claims. He has also presented evidence warranting habeas relief on false testimony from two witnesses at his trial. See Giglio v. United States, 405 US 150 (1972).

In considering Ringle's claims, the lower courts erred grievously in their evaluation of Ringle's post-conviction evidence of perjured testimony, and reconstructive claim under Miranda. They did so by failing to give reliable, credible evidence of the issues appropriate weight and failing to consider its significance in light of the purely circumstantial evidence used to convict. They did so also by concluding that solely because some

record evidence pointing to guilt remained, Ringle had fallen short of establishing that Constitutional violations occurred in Ringle's trial that caused a guilt verdict.

The lower courts also erred under §2254(d)(2). Federal courts have struggled with this question, especially in the context of the application of deference to mixed questions of law and facts. On the one hand, envisions federal review of a state court's unreasonable determination of the facts, and on the other hand §2254(e)(1) dictates that a determination of a factual issue made by a state court shall be presumed to be correct. The United States Supreme Court has so far declined to clarify the relationship between these two provisions, and it has explicitly left open the question whether §2254(e)(1), applies in every case presenting a challenge under §2254(d)(2). *Wood v. Allen* 558 US 290, 299 (2010). The Western district court ruling on Ringle's Miranda claim was an unreasonable determination of facts presented in the state court proceedings, and Ringle has rebutted that presumption with facts from the state court proceedings and has by clear and convincing evidence, shown that the district court factual findings were unreasonable, and do not have support in the record

The lower courts also erred under *Strickland v. Washington*. They should have adopted the standard announced in Justice Marshsall's dissent concurrence in that case, 466 US at 705, and concluded that Ringle's trial attorney was ineffective for not asking for a continuance to locate a Missing Res Gestae witness (James Harris). Della Harris put James Harris in the vehicle with her and Ringle when Della said Ringle confessed this crime to her, and on the day that this crime allegedly happened. James' statement to the police was completely different from Della Harris' testimony. James said Ringle never said he killed Chris, and never came out of the store saying he had

fucked up. See Appendix James' questioning in the police report. Defense counsel was ineffective for not asking for a continuance to locate James, or at the very least, ask for James' statement made to the police read to the jury. The prosecution did not want to produce James Harris, because his testimony would have contradicted Della Harris' testimony, and Della was the prosecutions main witness.

Ringle was also denied his right to confrontation, when Dallas Blankenship was unavailable, and only part of his evidentiary hearing testimony was read to the jury, but the part of his testimony that would have helped Ringle was not read to the jury.

#### ARGUMENT

Ringle presents a compelling case of constitutional violations which warrants relief under settled law. He produced objective impeachment evidence that was available at the time of his trial disproving two most incriminating witnesses testimony that the prosecution had argued at trial served to link him to the crime. These testimonies had a substantial and injurious effect of influence in determining the jury's verdict, Brecht v. Abrahamson, 507 US at, 638

In addition, Ringle presented strong, credible evidence from the trial court proceedings that show the lower courts decisions were based upon an unreasonable determination of the facts in light of the evidence presented in the state court. 28 U.S.C §2254(d)(2). Given the entirely circumstantial case against him and the paucity of credible evidence that remains, Ringle has surely met and exceeded the requirement of 28 U.S.C §2254(e)(1). Also, all of the lower court Judges below agreed that Ringle received ineffective assistance of appellate counsel, and actually addressed the merits of each of the issues raised, but addressed the Miranda issue the way appellate counsel raised it on direct appeal, which was clearly

erroneously because Ringle version in his relief from judgment motion was totally different than appellate counsel's argument on direct appeal, as so that appellate counsel (Daniel Rust) argument was not federalized and could not be ruled on by the federal court.

**I. RINGLE HAS PRESENTED EVIDENCE WHICH QUANTITIVELY AND QUALITATIVELY EXCEEDS THAT REQUIRED BY GIGLIO**

**A. Giglio established a standard for false testimony which affords Petitioners presenting persuasive claims a meaningful avenue for review of a Federal Constitutional violation that contributed to a wrongful conviction**

Giglio v. United States 405 US at 154, confirmed that the knowing use of false or perjured testimony constitutes a denial of due process if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury.

The Prosecution and defense counsel both questioned Kathy Shepherd about her motives for testifying, and if she was receiving anything in exchange for her testimony, and Kathy repeatedly stated that she was not. See Appendix (TT pg. 900; The prosecution ask her if she had been promised anything in exchanged for her testimony). It was obvious that the prosecution knew that Kathy had received a Rule 35(b) reduction, because every time defense counsel would ask Kathy about a Rule 35(b) motion the prosecution would object saying that the federal system not the state system, and Kathy would deny have received a Rule 35(b) every time. See Appendix (TTpg's 918-919) Kathy's Rule 35(b) motion was granted on November 7, 2007, and she testified against Ringle on November 13, 2007, Kathy knew that she had received a Rule 35(b) sentence reduction and lied to defense counsel, prosecution, and the jury in Ringle's trial. See Appendix (Motion Granting Rule35(b) motion, and Rule 35(b) motions). Every time Kathy was ask about a sentence reduction or

any thing in exchange for her testimony she would say "I'm not getting anything". This happen a lot by the prosecution and defense counsel, and Ringle is not going to burden this Honorable court with hundreds of pages of transcripts. The knowing use of Kathy's false testimony constituted a denial of Ringle's due process, because there is a reasonable likelihood that her false testimony could have affected the judgment of the jury, because Kathy testified that Ringle confessed to killing Chris to her.

Daniel shepherd lied about his motives for testifying. The Prosecutor ask Daniel."Mr. Shepherd, were you promised anything in exchange for your testimony? Daniel: No". See Appendix (TT pg. 599). Daniel was repeatedly questions by Prosecution and defense counsel about being promised anything in exchange for his testimony and he always said no. Kathy sent Daniel a letter telling Daniel about this case. See appendix (Letter From Kathy to Daniel). Daniel made many inconsistent statements about this murder. See Appendix (TT pg's 609-610), but when Daniel came back from a three day furlough he had a different story. Daniel received a Rule 35(b) reduction for testifung against Ringle. See Appendix (Daniel's Rule 35(b)). Daniel was trying to help himself get out of doing 17.8 years in federal prison, so he was doing whatever he could, and was lying about his motives for testifying against Ringle. There is a reasonable likelihood that Daniel's testimony effected the judgment of the jury, because he told the jury Ringle confessed to killing Chris. It should also be noted that Ringle only knew Daniel for 7 mouths when Daniel said Ringle allegedly confessed to killing Chris to him.

## II. Ringle's impeachment evidence exceeds the requirements of Brady

According to *Brady v. Maryland*, 373 US 83 (1983), "Suppression by the prosecution of evidence favorable to an

accused violates due process where the evidence is material, either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution" Brady, 373 US at 87.

It was obvious that the prosecution knew that Kathy had got a Rule 35(b) reduction for testifying against Ringle, because every time defense counsel would ask Kathy about a Rule 35(b) the prosecution would object, and say that is the federal system not the state system. See Appendix "the trial transcripts for Kathy". It was obvious that this evidence was favorable to the defense, so defense counsel could impeach Kathy. The State also, suppressed this evidence willfully or inadvertently, and prejudice resulted, because The Shepherd's testimony had a substantial and injurious effect or influence in determining the jury's verdict. Brecht, 507 US at 638. The A.A.G did not dispute this factual allegation in her answer. When a State's return to a habeas corpus petition fails to dispute the factual allegations contained within the habeas corpus, it essentially admits these allegations to be true. Dickens v. Jones, 203 FS2d 354 360(E.D.Mich 2002); Grandberry v. Greer, 481 US 129 (1987).

### **III. The courts below unreasonable ruled on Ringle Miranda issue**

The prosecutor may not, therefore, use at trial the fact that the defendant stood mute or claimed his privilege in the face of accusations. Griffin v. California, 380 US 609 (1965).

Appellate Counsel (Daniel Rust) raised this issue for the first time on direct appeal, but left out the beginning of the conversation between the Prosecutor and deputy Gandy, and the beginning of the conversation is the key that unlocked the door to the miranda violation. The Michigan Court of Appeals, also left out the beginning of the conversation. Mr. Rust also, failed to federalize the issue, barring federal review. Mr. Ringle re-constructed the

Miranda issue and added the beginning of the conversation that was left out by Mr. Rust and the Michigan appeals court, federalized it and put it in his relief from judgment motion, so that the federal court would rule on it. Well, the courts below ruled on it the way Mr. Rust argued it, and used the opinion from the Michigan court of appeal on direct appeal. The conversation that the below courts should have ruled on goes as followed:

**PROSECUTION:** What's the next thing you recall the defendant saying?

**DEPUTY GANDY:** I believe we spoke to him about having spoken to witnesses that said he was involved and he told us that we did not have any witnesses.

**PROSECUTION:** Okay, did you mention Della Harris during that exchange?

**DEPUTY GANDY:** Yes, we did.

**PROSECUTION:** And did he say anything about her?

**DEPUTY GANDY:** He said that Della wouldn't talk to us.

**PROSECUTION:** And is that the extent of your conversation with the defendant on that day?

**DEPUTY GANDY:** Yeah, shortly after he stated that

**PROSECUTION:** AH

**DEPUTY GANDY:** OKAY

**PROSECUTION:** Cause he had the right not to talk to you?

**DEPUTY GANDY:** Yes absolutely.

**PROSECUTION:** Okay, and that's what happened?

**DEPUTY GANDY:** Yes.

**PROSECUTION:** Okay, but you understand that's an absolute right, he can

**DEPUTY GANDY:** Absolutely. (See Appendix TT pg's 1088-1089).

The below courts answer/opinion resulted in a decision that was based on an unreasonable determination of facts in light of the evidence presented in the state court proceedings. Ringle has overcome the burden of rebutting the presumption of correctness with clear and convincing evidence. 28 U.S.C. § 2245(e)(1). Ringle invoked his right to

remain silence or stood mute, when confronted with allegation that the police had talked to Della Harris, but the prosecution can not tell the jury that Ringle refused to talk to police, or claimed that privilege when confronted with accusations that the police had talk to witnesses that had put Ringle at the crime scene. The trial court abused there discretion by denying Ringle's motion for a mistrial on this issue

#### IV. THE COURTS BELOW UNREASONABLE APPLIED CRAWFORD TO RINGLE'S CONFRONTATION ISSUE

Out of court testimonial statement are only admissible if it bears adequate "indicia of reliability" Roberts 488 US at 66. The trial court ruled Dallas Blankenship unavailable and read part of his Evidentiary Hearing transcripts to the jury over objection from defense counsel. The truth of blankensip's testimony was a key element of the prosecution case. The part of Blankenship's testimony that was read to the jury put a dirty Harry style gun in Ringle's hand, a .357 or 44 caliber, and told the jury that Ringle tried to steal Blankenship's tool box. Blankenship was a elderly man that was having trouble remembering the events that happened. As such, during the evidentiary hearing, defense counsel asked him had someone else tried to do the same thing to you, referring to carrying a gun and trying to steal his tool box, and Blankenship said "Oh, Yeah" Tony Gentry. See Appendix (M.H. 11-05-07 pg. 26). This part of the testimony from Blankenship was not read to the jury. It was crucial for defense counsel to question Blankenship in the presence of the jury concerning this other person, who tried to steal his tool box and was carrying a gun. Ringle knows that Blankenship got him and Tony Gentry mixed up, because Blankenship told Ringle that Tony came over one day and tried to steal his tool box and had a big gun. Cross-examination is one of

the best tools to flush out the truth. The evidentiary hearing was heavily supervised , defense counsel was limited to questioning. If the prosecution was going to read some of Blankenship testimony from the evidentiary hearing, all of his testimony should have been read to the jury, so the jury would know this man was having trouble remembering things, and said that Tony Gentry had done the same things. This Honorable court knows the law better than Ringle will ever know it, so he is just stating facts, and will not burden this Honorable court with a bunch of case law that you already know. Its obvious that Ringle Confrontation Clause was violated under several United States Supreme Court cases.

#### **V. THE COURTS BELOW UNREASONABLE APPLIED STICKLAND TO RINGLE'S INEFFECTIVE ASSISTANCE OF COUNSEL CLAIM**

Requiring reversal of a conviction for ineffective assistance of counsel petitioner must show that counsel's performance was deficient, and that the deficient performance prejudiced the defendant so as to deprive the defendant of a fair trial. Strickland, 466 US at 686.

Mr. Ringle's trial attorney made errors so serious that counsel was not functioning as "counsel" guaranteed to the defendant by the Sixth Amendment, when counsel failed to discover the Rule 35(b) sentence reduction motion for Kathy Shepherd. This was very important evidence that defense counsel could have used to impeach Kathy and show the jury that Kathy was lying about getting a Rule 35(b) motion, so what else was she lying about. It would have shown Kathy's motive for testifying against Ringle, but most important she lied about having one, when in fact she had a Rule 35(b) motion granted 6 days before she testified at Ringle trial. This evidence would have weighed heavily on the jury, and would have had a reasonable probability of persuading there verdict. Ringle is incarcerated in the MDOC and found this evidence what effective

counsel could not have found this evidence with all the resources that they have available to them. Also, defense counsel should have discovered and had Daniel's proffer, and plea agree transcripts, this is evidence anyone can get under the Freedom Of Information Act (F.O.I.A.). Defense counsel could have impeached Daniel with this evidence when cross-examining him, and could have showed the jury Daniel was lying and had motives for testifying against Ringle.

Another main focal point in Ringle's ineffective assistance of counsel claim comes in the form of a Res Gestae witness (James Harris). Della Harris' testimony put James in the vehicle with her when she said that Ringle confessed the crime to her, and in the vehicle on the day that this crime allegedly happened. James' statement to police was totally different from Della's testimony. See Appendix (James' police statement). Defense counsel was ineffective for not asking for a continuance to locate James, or at the very least ask the Judge to read James' statements from the police to the jury. There is a reasonable probability that James' testimony could have effected the outcome of this trial, because James' testimony would have showed Ringle never confessed to Della that he killed Chris while they were in the vehicle.

Defense counsel should have obtain defenses own firearm/ballistic expert. There was no murder weapon found in this case, and the testimony of Blankenship that was read to the jury, put a dirty Harry style gun in Ringle possession. The bullet that killed Chris stayed in his head. There is no way that Chris got shot with a dirty Harry style gun. The bullet would not have stayed in his head, especially when Chris got shot point blank, as the states expert testified to. At the very least, a expert for the defense could have rebutted the testimony of the states expert. If defense expert would have said that it was impossible for Ringle to shot Chris with this type of gun, there is a reasonable probability that the outcome of the trial would have been

different.

Defense counsel was ineffective of not objecting to the prosecutor's misconduct by erroneously informing the jury that she does not have to prove intent on felony murder, and for commenting on evidence not in the record. The Courts below agreed with Ringle on this claim, but said that Ringle could not show prejudice because the jury found him guilty of first degree murder. These erroneous comments could have persuaded the jury to convict Ringle of first degree. At the very least this shows that defense counsel was ineffective in more than one way. No one is going to get a attorney that doesn't have flaws, but there is a reasonable probability that the outcome of Ringle's trial would have been different had defense counsel had acted like counsel guaranteed by the Sixth Amendment, and done the things here within.

#### REASON FOR GRANTING PETITION

This Honorable court should grant Ringle relief on his false testimony claim. The Sixth circuit decided this claim in conflict with the Ninth Circuit in Maxwell v. Roe, 628 F3d 486 (9th Cir.2010), and this court upheld that decision in Cash v. Maxwell, 565 US 1138 (2012), stating the following: "Respondent alleged that a jailhouse informant lied about Respondent's confession at Respondent's trial in 1984, and was getting information from publicly available newspaper articles". Also, there was four other inmates that said Maxwell confessed the crime to them. The Ninth Circuit still over turned the conviction. Ringle should also, be granted relief under the standard set forth in Giglio on this claim, because the perjured testimony constituted a denial of due process, because there is a reasonable likelihood that this false testimony could have affected the judgment of the jury, and the courts below have decided important federal questions in a way that conflicts with relevant decisions of

this court.

Ringle should be granted relief on his Brady claim. The courts below failed to acknowledge that A.A.G failed to address this claim in her answer to Ringle's petition. The courts below rulings still conflict with the relevant decisions of this court

The courts below has so far departed from the accepted and usual course of judicial proceedings on Ringle's Miranda claim that this court should exercise its supervisory power. The courts below erroneously ruling on Ringle's Miranda claim the way appellate counsel raised it, not the way it was raised last, in Ringle relief from judgment motion. See Appendix (Judge Miller's opinion to Ringle's motion). This court should truly exercise your supervisory power, and let the courts below know that they can't get away with unreasonable determinations of facts like this.

Ringle should be granted relief on his Confrontation claim the courts below have decided important federal question in a way that conflict with relevant decisions of this court in several cases.

Ringle should be granted relief on his ineffective assistance of counsel claim the courts below have decided important federal question in a way that conflicts with relevant decisions of this court in several cases.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

  
Jeffrey Guy Ringle

Date: August 6, 2019