

No. _____

19-6145

IN THE

SUPREME COURT OF THE UNITED STATES

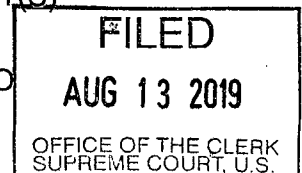
WASHINGTON, DC

Anthony Smith Jr — PETITIONER
(Your Name)

vs.
Commonwealth of Virginia — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Virginia
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)



PETITION FOR WRIT OF CERTIORARI

Anthony Smith Jr #1208105
(Your Name)

R.N.C.C., 329 Dellbrook Lane
(Address)

Independence, Virginia 24348
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. In light of the decisions in *Jackson vs Virginia*, 443 U.S. 307 (1979), and *In Re: Winship*, 397 U.S. 358 (1970), did Virginia Supreme Court and Court of appeals Refusal to side aside his conviction and sentence violate rights secured by the proof beyond a reasonable doubt?
2. Whether Trial Court erred when it allowed the entrance of a photograph of the Victim's apartment which contained the victim's children, because it was irrelevant and more prejudicial than probative in value is in Conflict with their own precedent "*Beverly v Comm*", "*Snarr v Comm*" and other Sister Circuit's "*United States v Washington*"?
3. Whether Trial Court erred in admitting testimony evidence that included Inadmissible Hearsay and called for speculation is in Conflict with their own precedent *Beverly vs Commonwealth* 12 VA App 160 (1991), *Snarr v Commonwealth*, 131 VA 814 (1921)?

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:

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3. *Jackson v Virginia* 443 U.S. 307 (1979) 4,7
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STATUTES AND RULES

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| 18.2-32 | 7,9 |
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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 _____ to the petition and is

☐ reported at _____; 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 A to the petition and is

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☐ is unpublished.

The opinion of the Court of Appeals of VA court appears at Appendix B 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 _____.

☐ 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: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ 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 June 21, 2019
A copy of that decision appears at Appendix A.

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

☐ 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. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A doubt especially about the guilt of a criminal defendant that arises or remains upon fair and thorough consideration of the evidence or lack thereof (all persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is prove beyond a reasonable doubt, — and

Proof of guilt beyond a reasonable doubt is required for conviction of a criminal defendant. A reasonable doubt exists when a factfinder cannot say with moral certainty that a person is guilty or a particular fact exists.

Surrounding the Sufficiency of the Evidence that was INAdmissible in my trial imposed a prejudicial violation of my 14th Amendment Right to a fair and impartial Trial.

And Allowance of prejudicial photograph graphs of Victim's apartment which contained the Victim's children Inflame the minds of the Jury.

In The United States Supreme Court
____ Washington, D.C. ____

ANTHONY SMITH JR.
Petitioner

VS

RECORD NO: _____

COMMONWEALTH OF VIRGINIA
RESPONDENT(S)

____ Petition For Writ of CERTIORARI ____

Petitioner Anthony Smith JR, moves this Honorable Court in "Good Faith" From a June 21, 2019 Ruling Judgment, which the highest state Court decided, which your petitioner is Aggrieved by:

This Honorable Court have Jurisdiction pursue to Article III of The Constitution of the United States and 28 U.S.C. § 1254(1) and 28 U.S.C. § 1257(a), To hear this Writ of Certiorari,

In The United States Supreme Court
____ Washington, DC ____

ANTHONY SMITH JR
Petitioner

VS

Record No: _____

Commonwealth of VIRGINIA
Respondent(s)

____ Petition For Writ of Certiorari ____

Petitioner Anthony Smith JR, moves this Honorable Court in "Good Faith" From a June 21, 2019 Ruling Judgment, which the highest state Court decided, which your petitioner is Aggrieved by;

This Honorable Court have Jurisdiction pursue to Article III of The Constitution of the United States and 28 U.S.C. § 1254(1) and 28 U.S.C. § 1257(a). To hear this Writ of Certiorari

STATEMENT OF THE CASE

1. On August 8, 2016 Anthony Mark Smith was indicted on (1) count of misdemeanor vandalism of a vehicle under 18.2-146 (1) Count of 1st degree Murder under 18.2-32, (1) Count of use of a firearm in commission of a felony, first offense under 18.2-53.1, one (1) count of possession of a firearm by a convicted felon under 18.2-308.2 and one (1) count of breaking and entering at night time under 18.2-90. On June 22, 2017, A jury did find defendant guilty on all counts and did sentence him to life imprisonment on murder in the first degree, life imprisonment on statutory burglary, three years on the use of a firearm in the commission of a felony, and 12 months on misdemeanor vandalism of a vehicle. On 9/29/2017, the Court accepted and did order the jury's and per VA CODE § 19.2-295.2, did place an additional three years on each offense and suspended such time conditioned upon three year post-release supervision with indefinite supervised probation. He timely noted his Appeal to the Court of Appeals, who denied his Appeal See Appendix (B) Petitioner turn around Noted his Appeal in VA S.Ct Court and raised these grounds in petition for Appeal.

1. The trial Court erred when it allowed the entrance of a photograph of the victim's Apartment which contained the victim's children, Because it was irrelevant & more prejudicial than probative in value.

2. The trial Court erred in admitting testimonial evidence that included inadmissible Hearsay and called for speculation.

3. The trial court erred denying appellant's motion to strike and renewed motion to strike where insufficient evidence was presented to establish perpetrator's identity beyond a reasonable doubt.

On 6/21/2019, the VA S.Ct denied his Appeal.

STATEMENT OF THE CASE

1. On August 8, 2016 Anthony Mark Smith, Jr was indicted
 - (1) Count of misdemeanor vandalism of a vehicle under 18.2-146
 - (1) Count of 1st degree Murder under 18.2-32, (1) Count of use of a Firearm in commission of a felony, first offense under 18.2-53.1, one (1) count of possession of a firearm by a convicted felon under 18.2-308.2 and one (1) count of breaking and entering at night time under 18.2-90.

On June 22, 2017, A jury did find defendant guilty on all counts and did sentence him to life imprisonment on murder in the first degree, life imprisonment on statutory burglary, three years on the use of a firearm in the commission of a felony, and 12 months on misdemeanor vandalism of a vehicle. On 9/29/2017, the Court accepted and did order the jury's and per VA CODE 19.2-295.2, did place an additional three years post on each offense and suspended such time conditioned upon three year post-release supervision with indefinite supervised probation. He timely note is Appeal to the Court of Appeals. who denied his Appeal. Petitioner turn around Noted his Appeal in Virginia Supreme Court and raised these grounds in petition for Appeal,

1. The Trial court erred when it allowed the entrance of a photograph of the victims' Apartment which contained the victim's children, Because it was irrelevant and more prejudicial than probative in value.
2. The Trial court erred in Admitting testimonial evidence that included inadmissible Hearsay and called for speculation.
3. The Trial court erred denying appellant's motion to strike and renewed motion to strike where insufficient evidence was presented to establish perpetrator's identity beyond a reasonable doubt.

On June 21, 2019 the VA SCT denied his Appeal.

REASONS FOR GRANTING THE PETITION

- I. Petitioner was convicted on less than proof beyond a reasonable doubt of every element of the charge Crime.
- II. Petitioner conviction was base on evidence insufficient to establish guilt beyond a reasonable doubt.
- III. Jackson and In re Winship is sound where as Virginia State Court's decision is unfair and invited future mistakes.
- IV. Finally there was no physical evidence's e.g. "Scientific, D.N.A, or Fringerprints" placing him at the Crime scene, where, when the Crime was Committed.
- V. The hearsay Evidence having been erroneously admitted to the prejudiced, prejudical effect of petitioner.
- VI. "the identification evidence is sufficient, standing alone or in combination with other evidence to sufficiently prove beyond a reasonable doubt the identity of the perpetrator. As in petitioner case he was not identified as the perpetrator!
- VII. Trial court clearly erred when it allowed the entrance of a photograph of the Victims apartment which contained the victims children, This alone was done to inflame the minds of the Jury with prejudical value.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Anthony Smith JR

Date: 9/6/2019