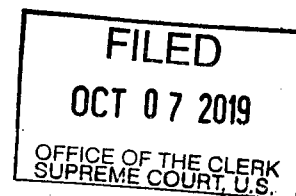


19-6251

No.

ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

In Re: Adib Eddie Ramez MaKdessi, Pro se — PETITIONER  
(Your Name)

vs.

— RESPONDENT(S)  
ON PETITION FOR A WRIT OF HABEAS TO

Fourth Circuit Court of Appeals, in Richmond Virginia  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF HABEAS §2254

Adib Eddie Ramez MaKdessi, #1187926

(Your Name)

Red Onion State Prison

10800 H. Jack Rose Highway

(Address)

P.O. Box 970

Pound, VA 24279

(City, State, Zip Code)

276-796-7510

(Phone Number)

## QUESTION(S) PRESENTED

- 1- In Light of the newly discovered Fraudulently concealed impeaching evidence, exposing many suborn Fraudulent testimony by principle witness, even prosecutors admitted that Jurors would have voted NOT GUILTY... See Claim 8 .. page 7
- 2- No doubt, trial Judge would have granted the motion to strike, In Light of the new evidence, proving the motion was denied by Extrinsic Fraud.. See Claim 9 page 8
- 3- New evidence proves that Constitutional Violations has resulted in the conviction of this Petitioner who is actually innocent.. See Claim 10 page 9
- 4- The State Fraudulently concealed that their principle witness is Labeled by NorFolk Court & Police as a "Habitual Liar"... See Claim 1 ... Page 5
- 5- The State Fraudulently concealed many impeaching evidence proving Fraudulent conviction of actually innocent Petitioner.. See Claims 1, 2, 3 & 7 Pages 5 & 6
- 6- The State made their principle witness present suborn Fraudulent testimony and Fraudulently concealed his promise of Leniency.. See Claims 4, 5, 6 & 8 Pages 5, 7
- 7- The State deprived petitioner of his Valuable right to his one Full round of Federal habeas review by Extrinsic Fraud. see Claim 7... page 6
- 8- According to all JUSTICES, "Denying this Petition is a Miscarriage of Justice". page 10

## 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:

In Re: Adib Eddie Ramez MaKdessi, Pro se - PETITIONER

VS.

Commonwealth of Virginia - RESPONDENT

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## STATUTES AND RULES

## OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF  *HABEAS* §2254

Petitioner respectfully prays that a writ of *Habeas*  issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

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

☐ reported at \_\_\_\_\_; 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 B 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 \_\_\_\_\_ 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 appears at Appendix \_\_\_\_\_ 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 June 18 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: July 23, 2019, and a copy of the order denying rehearing appears at Appendix C.

☐ 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 \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ 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

Constitutional violations has resulted in the conviction of Petitioner who is actually innocent.

Schlup, 513 U.S., at 327. House, 547 U.S., at 536-37. McQuiggin, 569 U.S., at 392.

6<sup>th</sup> Amendment Access to the Courts

14<sup>th</sup> Amendment Due Process

Violation of 28 U.S.C. § 2254 :

Petitioner Makdessi has been violated by the State and deprived-contrary to congressional intent-of his valuable rights to his one Full round of Federal habeas review by Extrinsic Fraud upon all courts and upon initial Federal habeas review. see Claim 7 page 6

6<sup>th</sup> Amendment Access to the Federal habeas Courts

14<sup>th</sup> Amendment Due Process.



## STATEMENT OF THE CASE

Petitioner MaKdessi discovered so much evidence in (Pet. 411 & 512) Proving actual innocence, Fraudulent Concealments & Extrinsic Fraudulent conviction.

The State deliberately Fraudulently concealed all the material Facts and impeaching evidence discovered in (Pet. 411 & 512) From all Courts, From trial, defense, Jury, direct appeals & initial Federal habeas, that would have been IMPOSIBLE to discover with any diligence, had it not been For the miracle discovery of investigative articles (Pet. 411 & 512) attached. Even defense attorney & direct appeal attorneys could not discover this evidence.

Petitioner MaKdessi has been deprived-contrary to congressional intent- of his valuable right to one Full round of Federal habeas review :

in MaKdessi v. Watson, 682 F.Supp.2d, 633 (E.D. Va. Feb. 4, 2010)  
and MaKdessi v. Watson, 415 Fed. Appx. 483 (4th Cir 2011)  
and MaKdessi v. Watson, 132 S.Ct. 202 (2011) No. 10-11013

This deprivation of MaKdessi's Valuable rights to one Full round of Federal habeas review, above, was violated and denied as the results of deliberate Fraudulent concealments of so much impeaching evidence and presenting Extrinsic Suborn Fraudulent testimony, resulting in the deliberate Extrinsic Fraudulent Conviction of actual innocent Petitioner MaKdessi.

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Supreme Court held :

"Actual innocence, serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar, as in Schlup v. Delo, 513 U.S. 298 (1995) and in House v. Bell, 547 U.S. 518 (2006), or expiration of A.E.D.P.A. Statute of Limitation as in McQuiggin v. Perkins, 569 U.S. 383 (2013)"

CLAIMS OF Fraudulent concealments of impeaching evidence and Extrinsic Suborn Fraudulent testimony and miscarriage of Justice Exception to actual innocence.

Claim 1. The State fraudulently concealed that their Jailhouse principle star witness Timothy Gurley is labeled a "Habitual Liar" according to Norfolk Virginia Court records and Norfolk police for fraudulently testifying against so many defendants before Makdessi's trial in 2006. see (Pet. six at 44)

Claim 2. The state also fraudulently concealed that:

"In 1999 'Habitual Liar' Gurley testified in Norfolk Court that he had been paid by Norfolk police investigators to gather information on other Defendants one of whom Joseph Dick Jr. "see (Pet. six at 5) attached

Claim 3. The above impeaching evidence was fraudulently concealed because the state did not want the Judge & Jury in Makdessi's Virginia Beach trial court in March 2006 to know that Joseph Dick Jr. was granted a pardon by Virginia Governor because "Habitual Liar" Gurley helped the state fraudulently convict Joseph Dick Jr., 48 Hours CBS News reported.

Claim 4. And because the State wanted this "Habitual Liar" Gurley's Extrinsic Suborn Fraudulent testimony to be undiscovered and deliberately deceived the Judge and Jury that:

"Gurley never hoped on anyone's case before Makdessi's trial" see (Tr. 1087) & (Tr. 1093) attached

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<sup>1</sup> "The government's Failure to disclose impeaching evidence is a constitutional violation of the first magnitude requiring automatic reversal" Davis v. Alaska, 415 U.S. 308, at 318 (1974)

<sup>2</sup> "Miscarriage of Justice include consideration of the credibility of the witnesses presented at trial" House, 547 U.S., at 539, 126 S.Ct., at 2078.

Schlup, 513 U.S., at 330

Claim 5. The State again made this "Habitual Liar" Gurley present more Extrinsic Suborn Fraudulent testimony<sup>2</sup> that :

"Gurley is not getting paid and not expecting any Leniency For his testimony"  
see (Tr. 1081) attached.

Claim 6. The State again made this "Habitual Liar" Gurley present another Extrinsic Suborn Fraudulent testimony<sup>2</sup> that :

"Gurley's mandatory is only 10 years"  
see (Tr. 1081) attached.

Claim 7. The payment of Leniency to this "Habitual Liar" Gurley was Fraudulently concealed and deliberately delayed by the State in a "Scheme". From 2006 Makdessi's trial, until and after Makdessi concluded all appeals and after initial Federal habeas was denied in Feb. 4, 2010, and Violated and deprived Makdessi of his right to his one Full round of Federal habeas review<sup>3</sup>, with all the newly discovered Fraudulently Concealed impeaching evidence proving that no reasonable Juror would have Found Makdessi guilty beyond a reasonable doubt. see Claim 8 next page

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<sup>2</sup> "The newly presented evidence may indeed call into questions the CREDIBILITY of the witnesses presented at trial"

Schlup, 513 U.S., at 330

House, 547 U.S., at 539, 126 S.Ct., at 2078

<sup>3</sup> "When a habeas petition has been dismissed on clearly defective Procedural ground, the State can hardly claim Legitimate interest in the Finality of that Judgment. Indeed, the State has experienced a windfall, While the State Prisoner has been deprived-contrary to Congressional intent-of his valuable right to one Full round of Federal habeas review"

Gonzalez v. Crosby, 545 U.S. 524., at 541, 125 S.Ct. 2641., at 2653 (2005)

Could not previously expose all of this "Habitual Liar" Gurley's suborn Fraudulent testimony<sup>6</sup> presented above, because the State Fraudulently concealed all the above discovered new impeaching evidence From Makdessi's trial; defense, Jury, direct appeals, & initial Federal habeas<sup>6</sup>, that would have been IMPOSIBLE to discover with any diligence, had it not been For the discovered investigative articles (Pet. 411 & 512) attached.

This is how defective, defense attorney and appeal attorneys were!  
1st Proof of Miscarriage of Justice Exception to actual innocence:

Claim 8. "Habitual Liar" Gurley got paid his Fraudulently concealed promised of Leniency<sup>5</sup>, and prosecutors admitted to Judge shockley, that: without Gurley's cooperation the Jury would have voted NOT GUILTY<sup>4</sup>:

"In Feb. 2010 Judge shockley CUT Gurley's active sentence From 25 to 12 years his Promise of Leniency<sup>5</sup>, because prosecutor scott Vachris asked the Judge to CUT Gurley's sentence For his testimony against Petitioner Makdessi and two other cases" see (Pet. 411) attached

"Judge shockley 'NOTED' that 'Prosecutors said' that several cases would NOT have gone Forward without Gurley's cooperation" see (Pet. 411) attached.

Several cases are: "Dr. Loxley, Petitioner Makdessi, & Lt. Michael" see (Pet. 411)

Obviously, Judge shockley's "NOTATION" above, makes it clear, that "Prosecutors admitted": without Gurley's cooperation the Jury would have voted 'NOT GUILTY'.

[Qualifying as 1st miscarriage of Justice Exception to actual innocence.]

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<sup>4</sup> "In Light of the new evidence, no juror, acting reasonably, would have voted to Find Petitioner guilty beyond a reasonable doubt" [Prosecutors admitted] Schlup, 513 U.S., at 327. House, 547 U.S., at 537. McQuiggin, 569 U.S., at 386.

<sup>5</sup> "The State's Failure to disclose the promise of Leniency, was material affecting CREDIBILITY, the suppression violated Due process that warranted a new trial" Giglio v. U.S., 405 U.S. 150 (1972) quoting Napue v. Illinois, 360 U.S. 264 (1959)

<sup>6</sup> "Constitutional violations has resulted in the conviction of Petitioner who is actually innocent" Schlup, at 327. House, at 537. McQuiggin, at 392

## 2nd Proof of Miscarriage of Justice Exception to actual innocence:

Claim 9. The trial Judge was deceived<sup>7</sup> into denying the motion to strike by deliberate Extrinsic<sup>6</sup> Fraud:

Quoting The trial Judge's [Mi]sled [De]ceived<sup>7</sup> Ruling in Makdessi's trial:

"OKey. In addition to the circumstantial evidence, there's also the testimony of Mr. Gurley who says that the defendant told him that he came over that night, caught them, and shot him stabbed her. It becomes a question of CREDIBILITY; and therefore, the motion to strike is denied" see (Tr. 1426) attached.

Had all the above discovered impeaching new evidence not deliberately Fraudulently concealed<sup>7</sup> by the State, proving that this principle witness Gurley is Labeled a "Habitual Liar", and exposing so much of this Gurley's suborn Fraudulent testimony<sup>7</sup>, then the trial Judge, above, would NOT have called this "Habitual Liar" Gurley credible, and would NOT have denied the motion to strike by Extrinsic<sup>6</sup> Fraud.

[Qualifying as 2nd Miscarriage of Justice Exception to actual innocence]

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<sup>6</sup> "Constitutional violations has resulted in the conviction of petitioner who is actually innocent"  
Schlup, 513 U.S., at 327. House, 547 U.S., at 536-37. McQuiggin, 569 U.S., at 392.

<sup>7</sup> "Fraud on the Court consist of conduct: (1) on part of officer of the court, (2) that is directed to Judicial Machinery itself, (3) that is intentionally FALSE, willfully blind to the truth, or is in reckless disregard for the truth, that is positive averment or CONCEALMENT when one is under duty to disclose, that DECEIVES court"

Demjanjuk v. Petrovsky, 10 F.3d. 338 (6<sup>th</sup> Cir 1993)

Hazel-Atlas v. Hartford-Empire, 322 U.S. 238., at 244-46 (1944)

3rd Proof of Miscarriage of Justice Exception to actual innocence:

Claim 10. Since the trial Judge was Misled and Deceived, above in Claim 9, then also, no doubt, the Jury were [m]isled and [D]eceived by this "Habitual Liar" Gurley's Extrinsic Suborn Fraudulent testimony to their detriments when they voted guilty by Extrinsic Fraud.<sup>6</sup>

No doubt, the Jury's verdict would have been "NOT GUILTY", had the Jury been presented and discovered all the above new evidence of this "Habitual Liar" Gurley's Suborn Fraudulent testimony and all the Fraudulently concealed impeaching evidence.<sup>6</sup>

Even Prosecutors admitted in Claim 8. That Jurors would have voted NOT GUILTY without this "Habitual Liar" Gurley's Suborn Fraudulent testimony.<sup>6</sup>

Petitioner Makdessi was never in the same cell with him, or anyplace close to this "Habitual Liar" Gurley, and therefore, IMPOSSIBLE to have talked to this Jailhouse "Habitual Liar" Gurley.

In Light of all the above new evidence, no doubt, proves that, many Constitutional violations has resulted in the conviction of Petitioner Makdessi who is actually innocent"<sup>6</sup>

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<sup>6</sup> "Constitutional violations has resulted in the conviction of Petitioner who is actually innocent."  
Schlup, 513 U.S., at 327. House, 547 U.S., at 536-37. McQuiggin, 569 U.S., at 392.

## REASONS FOR GRANTING THE PETITION

1- Only the Supreme Court can and, "must consider this §2254", according to McQuiggin, at 391. quoting Chief Justice ROBERTS in House, at 556 :

"IF new evidence proves that Constitutional Violations have resulted in the conviction of petitioner who is actually innocent, such that, a Federal Court's refusal to hear the claims would be a 'MISCARRIAGE OF JUSTICE' "

2- New evidence proves that serious Constitutional Violations has resulted in the conviction of this Petitioner Makdessi who is [a]ctually [i]nnocent.

3- Even Prosecutors admitted Four years after Petitioner's trial when they secretly payed the suppressed promise of Leniency in Claim 8. that, ["without their principle witness Gurley's cooperation"] of newly discovered many suborn Fraudulent testimony and Fraudulently concealed material Facts and impeaching evidence presented in this Petition, ["this case would not have gone Forward"], therefore, the Jury would have voted NOT GUILTY!

Makes this case, EXTRAORDINARY, according to this Supreme Court in McQuiggin, at 392. quoting Schlup, at 327 & House, at 536-537, and Chief Justice ROBERTS and Justice THOMAS concurring in House, at 556. Therefore, "denying this Petition is a 'Miscarriage of Justice'". House, at 556.

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

In Re: Adib Eddie Ramez MaKdessi, Pro se - PETITIONER

Rule 20.1 and 20.4 For This Extraordinary Writ of Habeas


Rule 20.1: This Petition will be in aid of the Court's Appellate Jurisdiction, That exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court. Because:

Rule 20.4: This Petitioner had Filed this Writ of Habeas in the Lower Federal Courts, and the Lower Federal Courts refused to hear the Claims by endorsing a "Miscarriage of Justice". See Appendix A and B

Because according to all JUSTICES including Chief Justice ROBERTS:

"IF new evidence proves that constitutional violations have resulted in the conviction of Petitioner who is actually innocent, Such That, A FEDERAL COURT'S REFUSAL TO HEAR THE CLAIMS WOULD BE A MISCARRIAGE OF JUSTICE" quoting Chief Justice in House at 556 and all JUSTICES in House v. Bell, 547 U.S. 518 at 536-37 & 556 (2006)

Respectfully Submitted


 10-1-2019  
Adib Eddie Ramez MaKdessi, #1187926  
Red Onion State Prison  
Protective Custody Unit  
10800 H. Jack Rose Highway  
P.O. Box 970  
Pound, VA 24279



## CONCLUSION

The petition for a writ of ~~habeas~~ <sup>habeas</sup> should be granted.

Respectfully submitted,



Date: July 29, 2019