

No 19-6381

IN THE

SUPREME COURT OF THE UNITED STATES

ANTHONY TYRONE BROWN

- Petitioner

VS

MICHIGAN

- RESPONDENT

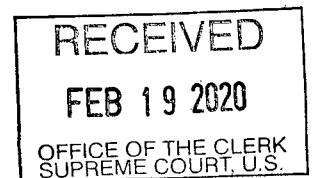
Motion for Reconsideration Under F.R.C.P 59(E)

★ ASK This Court for Petition for Rehearing ★

U.S. Supreme Court has Jurisdiction where the
Petitioner BROWN, Exhausted all States Remedies
as of July 29, 2019 The Jurisdiction of this
Court is invoked under 28. U.S.C. § 1257(A)

DATED February 11, 2020

Anthony Brown
Anthony Brown



The petitioner ask this Court for a Rehearing for
These Reason

① Ineffective Assistance of Trial Counsel

Trial Counsel failed to object. Unpreserved error
and reviewed for plain error affecting a
Defendant's Rights. *People v. Carines*, 460 Mich
750; 597 N.W.2d 130 (1999). "of Domestic Violence".

The petitioner has a due process right to a fair
Trial undeterred by the admission of improper
Evidence. U.S. Const. Am. XIV; Mich Const
1963, ART 1, § 20 MRE 404(b)(1). provides

Evidence of other crimes, wrongs, or acts is not admissible
to prove the character of a person in order to show action
in conformity therewith, ~~In~~ order to use other acts
evidence, the prosecutor must (1) offer the other acts
evidence under something other than a character to
conduct or propensity theory. MRE 404(b); (2) the
evidence must be relevant under MRE 402, as enforced
through MRE 104(b), to an issue of fact of consequence
at trial; (3) a determination must be made whether
the danger of undue prejudice substantially

outweighs the probative value of the evidence in view of the availability of other means of proof and other facts appropriate for making decision of this kind under Rule 403; and (4) the trial court, upon request, may provide a limiting instruction under MRE 105. *People v. VanderVliet*, 444 Mich 52; 508 N.W.2d 114 (1992). In addition, the prosecution must provide notice of its intent to use other act evidence MRE 404b(2). "Evidence of similar misconduct is logically relevant to show that the charged act occurred where the uncharged misconduct and the charged offense are sufficiently similar to support an inference that they are manifestations of a common plan, scheme, or system". *Sabin, supra*, 463 Mich at 63. Relevant evidence must be related to a fact that is of consequence to the action. *Id.* At 57. Even relevant evidence must be excluded

if its probative value is substantially outweighed by the danger of unfair prejudice, MRE 403.

Here, the prosecution impermissibly introduced Evidence that the petitioner was involved in Numerous Acts of Domestic Violence against Complainant and her mother (T2 52, 195-199). and false STATEMENT knowingly that they were false (Page 198 * 15(Q)) of Alecia Brown Testimony first, the prosecution did not give any notice about using other Acts Evidence during the Trial. Second, the prosecutor never offered a proper motive for introducing this testimony. This case involved various alleged sexual assaults against petitioner stepdaughter. The other Act Evidence was not relevant an issue of fact of consequence at trial. MRE 404(b) Rather, it showed that the petitioner had the propensity to argue and fight with his wife. Additionally, the Evidence was substantially more

prejudicial than probative. MRE 403. No Determination was made regarding whether the danger of undue prejudice substantially outweighed any slight probative value of the Evidence.

The introduction of the other Acts Evidence prejudiced petitioner. This impermissible Evidence led the petitioner to be convicted base on bad character rather than because the prosecution showed beyond a Reasonable Doubt that he was Guilty. Reversal is required

② Prosecutorial Misconduct

In this Trial the prosecution made many false Statement knowingly that they were wrong Just to ~~save~~ And Taint the the jury The prosecutor stated to Alecia Brown on page 198 #15 (Q) Do you Remember another time where he pushed Devonna against the wall, and the police were called. #17 (A) No. This was a

false statement made by the prosecutor knowingly it was false and there's no evidence to support this statement or a police report to back it up. "Because it never happened," it was only introduced to tamper the jury and is a violation of the petitioner's Due process Right to a fair trial and Prosecution Misconduct. See

Imbler v. Pachtman, 424 U.S. 409

Petitioner challenged a decision of the United States Court of Appeal for the Ninth Circuit, which held that the Respondant prosecutor was immune from liability under U.S.C.S. § 1983 for his role in petitioner's conviction that was later vacated on a habeas corpus petition - "false statements" also see

People v. Poole 2009 Mich. App. Lexis 2707 and *People v. Abraham*, 256 Mich. App. 265, 272; 662 N.W.2d 836 (2003). Where an alleged error is not preserved with an appropriate objection at trial this Court review is limited to plain error affecting the petitioner's substantial right, *Id.* at 274. Further this Court will not reverse if the prejudicial effect of the

Prosecution Comments Could have been Cured by
A timely instruction upon Request People v.
Joezell Williams II, 265 Mich App 68, 70-71; 692
Nw2d 722 (2005).

In this Case the prosecutor made many false
Statement knownly that they where wrong and is
Prosecutorial Misconduct and Reversal is Required.
the Judge Even Brought up my past Home Invasion
charge which I Recieve probation for 20 years
ago. I have Attached my Affidavit, STATEMENTS,
and facts "Appendix O". 1-6

I Ask this Court for a New Trial with a New
Judge on these grounds, and to Grant the Rehearing.

- ① Ineffective Assistance of Trial Counsel - failed to
object and preserved
- ② Prosecutorial Misconduct - making false statements
knownly that they are false.

DATED february 11, 2020

Anthony Brown
Anthony Brown

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MICHIGAN

- Respondent

I Anthony Tyrone Brown, certify that the petition for rehearing is presented in good faith and not for delay.

DATED February 11 2020

Anthony Brown
Anthony Brown

**Additional material
from this filing is
available in the
Clerk's Office.**