

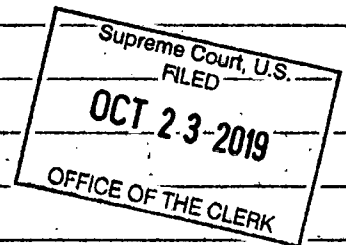
19-6645

SUPREME COURT OF THE UNITED STATES

IN RE MORGAN Allen Armstrong

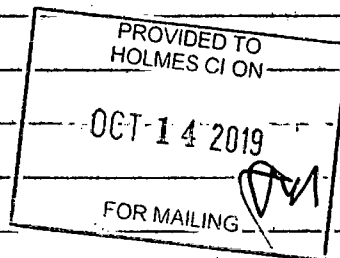
Extraordinary writ
HABEAS CORPUS

ORIGINAL



Petitioner: Morgan Allen Armstrong, DC# 209246
Holmes c/s 3142 Thomas DR,
Bonifay, FL 32425

Respondent: Attorney General, Ashley Moody
STATE OF FLORIDA
Phone (850) 487-1463
The Capitol PL-01
TALLAHASSEE, FL 32399



1 of 1

QUESTIONS

- 1.) Did the state court fabricate the petitioners identity in his williams rule orders? And did that violate his US, 14th amendment right to a fair hearing and trials, and did it amount to misconduct?
- 2.) Did the state court prove his bias by illegally sentencing the petitioners, and did that violate petitioners 14th amendment right US?
- 3.) WAS the knife evidence admissible at either trial and did it violate the petitioners 5th & 14th amendment US, rights to fair trials, and did it amount to prosecutor misconduct, and subterfuge?
- 4.) Did the investigating detective fabricate the petitioners identity, according to the evidence and did his actions, violate the petitioners 4th & 14th US, Amendment rights?
- 5.) Did the state attorney violate petitioners 4th & 14th US, amendment right with his informations considering the evidence and US, Constitutional LAW.
- 6.) Does the photo pack amendment supplement relate back under, Mayle, and in light of the evidence where they constitutionally US, LAWSFUL
- 7.) Was williams rule testimony US, Constitutionally used against the petitioners at either trial in light of the actual facts and LAW, and did the allowance of said evidence violate the petitioners 5th & 14th amendment right to fair trials, 2 of 21

QUESTIONS

- 8.) Has the petitioner proved his actual innocence to meet the fundamental miscarriage of justice to overcome procedural bar?
- 9.) Was the petitioner and has the petitioner proved cause and prejudice by and of the hands of these state actors sufficient enough to overcome procedural bar?
- 10.) Is the petitioner being held in Florida Prison in violation of the UNITED STATES Constitution?
- 11.) Does the remaining evidence qualify as admissible LAWFULLY used evidence, see schlup supra at us, 327-8.
- 12.) Is the petitioner entitled to a evidentiary hearing?

28 USC 2101(e)
APPELLATE Jurisdiction

The petitioner believes that the justification for proceeding directly in this court is expressed in the writ,

Petitioner has previously filed in the middle district of TAMPA Florida and the 11th cir., believing that with the actual facts of this case, this Honorable Court is the only forum available.

Petitioner contends that this case can also aid in the courts appellate jurisdiction to clarify or change a confusing (to the petitioner) set of holdings by this Honorable Court,

The holding in *O'Sullivan v. Boerckle* 526 US 838, 845 (US, 1999) states that a STATE prisoner must give the STATE courts one full opportunity to resolve any constitutional issues by invoking one complete round of the STATE's established appellate review process, including review by the state's court of last resort, even if review in that court is discretionary.

While the holdings in, *Douglas v. Alabama* 380 US, 415, 422 (US, 1965); *Harris v. Reed* 489 US, 255, 263 n.9 (US, 1989); *Ylst v. Nunnemaker* 501 US, 797, 803-05 (US, 1991) all declare that the STATE must only be given one opportunity to address a issue to preserve it for federal review, dealing with procedural default.

Petitioner contends that these decisions are in deep contrast to each other and result in exceptions 'in essence' that cancel each other out, which leaves a prisoner and his constitutional rights at the mercy of the STATE to 'police themselves' and their own STATE agents thereof, which is a clear conflict of interest, and highly prejudicial

to a individuals rights and a speedy resolution.
which I can only surmize is this courts
reason for its ultimate decision verbalized in
Jackson v Virginia 99 sct. 2781 (uss va. 1979) putting
a STATE conviction at the sole discretion of a
federal judge, once it was placed before a
federal court, if it ever made it, compounded by
the [years] it took to make it to a federal
bench.

Petitioner moves this Honorable Court to hear
this case and Grant this writ, as no
substantive remedy exists for a individual
once he/she is procedurally and time
barred, with very few exceptions.

U.S. SUPREME COURT

Case#:

IN RE MORGAN Allen ARMSTRONG

PROVIDED TO
HOLMES CI ON
NOV 5 2019
FOR MAILING

AFFIDAVIT
28 USC, 1746

Petitioner files this affidavit as sworn testimony as a reason for not filing in the District Courts and STATE Tribunals,

The STATE Trial Judge and or the STATE Attorney, or agents thereof tampered with the trial transcripts in a attempt to remove appealable issues favorable to the petitioner, in a furtherance of securing unconstitutional convictions based on fabricated identifications sworn to by the investigating detective, signed by the court that presided at the actual trials,

Petitioner cannot receive a fair or Constitutional proceeding based on any of this or its foundation. The evidence of this is patently on the face of the record as previously verbalized in a Federal Habeas filed in the Middle district of Florida TAMPA Division, and appealed to the 11th cir.

Under penalties of perjury, and the laws and treaties of the United STATES petitioner swears this to be true.

pro se Morgan Allen Armstrong
Holmes CJ, 3142 Thomas Dr
Bonifay, FL 32425

CC,
US Supreme Court
Att. Gen. (FLA),

RECEIVED
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Appendix - A Habeas Corpus decision U.S. Dist. Court 3-14-17

Appendix - B Appeal decision 11th Cir. Co. of Appeal, see 28 U.S.C. 2101(e)

Appendix - C

* All record references by the petitioner in this petition will be to filed attachments in his Habeas Corpus petition 1-9 U.S. Dist. Court Doc. 10

TABLE of Authorities

- Albrecht 47 sct, 250, 251 (1927) p. 17, 19
Argers 427 U.S. 97, 103 (1976) p. 13, 15
Berger v. U.S. 295 U.S. 788 (1935) p. 13, 14
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Franks v. Delaware 98 sct, 2674 (1978) p. 15, 16, 19
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In re Murchinson 349 U.S. 1331, 1336 (1955) p. 18
Mooney v. Holohan 294 U.S. 103 (1935) p. 12, 15
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Napue v. Illinois 360 U.S. 264, 269-70 (1959) p. 12
Reed v. Farley 512 U.S. 339, 347 (1994) p. 16
STATE v. Wienberg 780 sct 214 (5th DCA FLA 2001) p. 16, 19
Stone v. Powell 428 U.S. 465, 476 (1976) p. 16, 19
Mayberry v. Pennsylvania 91 sct, 499, 504-05 (1971) p. 18
Schlup v. Delo 115 sct, 851 (1995) p. 11, 13, 15, 16, 18, 20
Townsend v. Sain 83 sct, 745, 759, U.S. 313 (1963) p. 11, 15, 17, 18, 20
U.S. v. Martin 615 F.2d 318, 327-29 (5th Cir 1980) p. 15, 19
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2254 (D.C.), p. 11
FLA STAT. 812.13(2)(a) p. 18
FLA. STAT. 775.082(b) p. 18

OPINIONS Below

(1) AT Appendix-A is the order/decision of the U.S. Dist. Court Mid. Dist. TAMPA, FLA case 8:14-cv-75-T-35 T6W Habeas Corpus

(2) AT Appendix-B is the order/decision of the 11th Cir Court of Appeal - 28 U.S.C. 2101(e) is invoked.
'Pending'

JURISDICTION

The jurisdiction of this Honorable Court is invoked under 28 U.S.C. 2101(c)(e); Supreme Court R. 20-1; 28 U.S.C. 1651(a); 28 U.S.C. 2106; see also STERLING v. CONSTANTIN 287 U.S. 378, 393 (1932).

Prepared under S.C.T. R. 33(a)(b)

Constitutional & STATUTORY Provisions Involved
U.S. Constitutional Rights 5th & 14th amendments

FLA. STAT. 812.13(2)(a); 90.404(2)(a) (Williams Rule).

STATEMENT OF THE CASE

Petitioner was arrested in LAS VEGAS NV for 3 armed robberies FLA, STAT, 812.13 (a)(a), and extradited Case #s 10-00886 CFAWS Div 4; 10-00887 CFAWS Div 4; 10-00888 CFAWS Div 4, Pasco County Florida.

Petitioner was accused and convicted of robbing the Beverage Plus convenience store with a knife wearing a mask taking money from the proprietors.

Petitioner went to 3 separate trials by jury, 886 case not Guilty verdict, 887 & 888 cases guilty verdicts sentenced by the same trial judge that presided at all 3 trials on 9-20-11 to (2) 35 yr. sentences/terms run concurrent in the Florida Dept of Corrections.

It was alleged that the petitioners uncle gave the investigating detective the robbery weapon (knife), moreover that neither victim ided said knife, additionally the state used evidence of other crimes or acts under FLA, STAT, 90.401 (a)(w) (Williams ^{Hearing} rule) at which neither victim declared that they saw the robber without a mask on, but in the state courts order the court states that both victims states they "recognized his face", allowing this evidence vice versa victim testimony at both remaining trials 887 & 888, violating 5th & 14th amendment right to fair trials,

Further that the investigating detective fabricated the petitioners identity to achieve probable cause in his complaint affidavits and that the state attorney used these documents to obtain a arrest by informations in violation of 4th & 14th amendment protections, additionally a bias state court.

Petitioner's habeas petition contained 4 grounds for relief. 1) Williams rule; 2) inadmissible evidence (knife); 3) insufficiency of evidence 4th & 14th amend. violations; 4) bias state court. Actual innocence incorporated into appeal (9A) / brief, supplemented into argument. 90f21

ARGUMENT/REASON for Granting the writ

1.) Willoms Rule FLA. STAT. 90.404 (2)(a)

This ground is found in appellant's memorandum Doc. 9 dist. court p. 3-14 as well as the hearing transcript and state court orders allowing this testimony at both trials, see attachment (5).

Petitioner contends that this testimony from each victim of each respective trial vice versa violated petitioners 14th amendment & 5th rights to fair trials by negating the reasonable doubt determination of the jury by hearing and considering irrelevant evidence during deliberation, see In re Winship 397 U.S. 361-64 (1970).

This hearing was called by the state to prove identity and the allowance of this evidence is only permissible if there is a connecting factor, similarities and is relevant to the crime charged.

Petitioner contends that there were only two similarities (1) same store (2) a wood handled knife was used, (the state had in its possession a wood handled knife allegedly given to the investigating det. by the petitioner's uncle which uncle denied, but at the subsequent trials both victims declared that that knife was not the weapon used by the robber) and the state achieved no identity of the petitioner by the victims (or anybody else) at the time of the robberies, see attachment (5) victims testimony Mena Patel p. 21-25; FALCUNI Patel p. 52-56.

Petitioner contends that the presiding judge fabricated a identity made by the victims to achieve the lawful requirement to allow this evidence at trial in his orders, see att.(5) for orders by stating "they recognized his face" see orders p. 6 line 5.

Petitioner contends that the fact that Meera Patel changed her testimony at both trials after this hearing negated fair trials, meriting a evidentiary hearing, see Townsend v.ain 83 sct, 745, 759, and us, 313 (1963) further contending this hearing transcript is newly discovered evidence that was not presented at trials, a copy of this hearing transcript was sought by the petitioner of the court but was denied, believed intentional in light of the state court fabricating the petitioners identity in his orders, see hearing transcript att.(5) p. 94 line 14-24, see also Schlup v. Delo 115 sct, 851 (1995); and Murry v. Carrier 106 sct, 2639, 2656 (1986) contending interference of from officials to properly present his case, and that but for that interference it is reasonable and probable that a different result at trials would've happened, further contending that the cause and prejudice has been met to overcome a procedural default as the petitioner has always ascertained and maintained his innocence declaring his incarceration to be a fundamental miscarriage of justice, but moreover, that not having a copy of this hearing transcript worked to petitioners disadvantage in light of the victim testimonies at trials. Contending that the state courts orders where not a reasonable determination of the facts in light of the evidence presented 2254d2.

Further that the external factor of the state court denying a transcript of the hearing compounded by the fabricated identities in his or her orders, moreso hindered by the fact that the state court told the petitioner he (Court) didn't have to adhere to federal LAW, see ATT. 4p, 41-44, petitioner contends he was completely at a disadvantage before this court (state), to present any federal claim.

Contending cause, prejudice has been overcome and petitioner ascerts a fundamental miscarriage of justice proclaiming his actual innocence has been proven by and thru this above argued evidence and the below following arguments made.

Petitioner contends this Honorable Court has the authority to hear and address these issues and to grant a evidentiary hearing, if this court finds one is needed. Contending the allowance of this evidence under these circumstances & facts violated 5th & 14th U.S. Amendments, Allowing different victims from different crimes to testify at each trial.

2.) Inadmissible Evidence Knife (Both trials)

This issue has (2) parts both cases, which will be dealt with in turn.

victim Meenu Patel

887 case: the state sought to impeach their own witness in a attempt to put inadmissible hearsay before the jury about the 'alleged' robbery weapon, 'knife', which created a false impression of a connecting factor of the petitioner to the crime, see Mooney v. Holohan 294 U.S. 103 (1935); Napue v. Illinois 360 U.S. 264, 269-70 (1959), (cont.)

Giglio v. U.S. 92 S.Ct. 763 (1972); Argers 427 U.S. 97, 103 (1976).

This victim Meena Patel clearly stated that the knife the state possessed was not the weapon used by the robber before trial, see att.(7) p. 138-140 line 7, see also att.(7) p. 110-121.

Petitioner contends the testimony of the petitioner's uncle and the knife testimony was the main evidence sought by the state, see ATT.(7) p. 282-285 line 14-25.

The testimony of Steve Armstrong is found in ATT.(7) p. 286-317 line 9, petitioner contends all testimony past page 289 was subterfugal testimony to put inadmissible hearsay before a jury which amounts to a Giglio violation in that the state and court was well aware that the knife was not the knife in question, see also Chapman 386 U.S. 18, 23-24 (1966).

Petitioner cited several federal cases which were ignored, petitioner contends this testimony violated his 5th & 14th U.S. amendment rights to a fair trial and a/the reasonable doubt determination placed upon the jury, see Winship supra.

Petitioner contends humbly that this evidence also goes to proving the petitioner's actual innocence overcoming a procedural bar for cause & prejudice as intentional interference from state agents allowed this irrelevant evidence to be placed before a jury creating the appearance of a connecting factor of the crime to the petitioner when it was 'known' that that knife wasn't the weapon, see Berger v. U.S. 295 U.S. 78, 88 (1935), see also Murphy, schlup supra.

888 case; victim FALGuni Patel - testimony thru a interpreter

The state had in * its possession the same knife, with the intent to use it as evidence at trial.

This knife was allegedly given to the investigating detective by the petitioners uncle.

This issue is found in petitioners memorandum doc. 9 p. 15-24.

The victim gave testimony about this knife directly before she passed out on the stand, see ATT. (6) p. 236.

Petitioners Uncle was the first to testify about this knife after this, see ATT. (6) p. 329-345, stating that he did 'not' give the investigating detective said knife or a knife period.

Detective Moe's testimony concerning this knife is found in att. 6 p. 364-366.

Victim F. Patel back on the stand testified about this knife over several objections, see ATT. 6 p. 450-482, the state repeatedly badgering his own witness several times about said knife, as if the witness/vic. just didn't remember, but the victim was very adamant, moreover the state used knife evidence and relied on it in its closing statement, see ATT. 6 p. 592 line 3-10, further stating, falsely that "the knife was recovered from the defendant's home."

The petitioner contends that the totality of this testimony and of itself violated the petitioners 5th & 14th US. amendment rights to fair trials, moreover contending that once it was known that that knife was not the knife the state had a duty and should've not pressed it further, see Berger supra, moreover the court (state) should not have allowed the badgering by the state of his own witness over several objections.

14/2/21

Additionally, contending that the state attorney in furtherance of obtaining this conviction created a false impression about this knife to the jury, see Mooney supra, and used false evidence see NAPue supra, which amounted to a Giglio violation, see Giglio, Argers supra, that negated fair trials and the jury's reasonable doubt determinational standard during deliberation considering evidence not defined as such, see winship supra.

Petitioner contends that this tends to prove his actual innocence, contending a fundamental miscarriage of justice, which overcomes procedural bar, as the state actually has no weapon, but created a false impression of a connecting factor with this collective testimony, see Chapman supra.

The petitioner contends this merits a evidentiary hearing, if this Honorable Court finds cause, see Townsend, Murry, Schlup supra.

3) INSUFFICIENT EVIDENCE 4th & 14th amendment Violations

Appellant/petitioner contends the investigating detective fabricated petitioner's identity in his (det.) complaint affidavits to achieve probable cause for a arrest/warrant in violation of petitioner's 4th and 14th US Constitutional amendments, see Franks v. Delaware 98 S.Ct. 2674, 2681 (1978); see also US v. Martin 615 F.2d 318, 327-29 (5th Cir 1980) extending Franks to warrants.

Petitioner contends this is proven by the trial testimonies of the victims, see ATT. (1) & (2) for detectives complaint affidavits, stating "the suspect took his mark off and the victim(s) were able to identify".

This is a clear fabrication, see victim memo p. 15
trial testimony at 6, 1/93 line 13-22 888 case, at 17
p. 197 886 case, petitioner contends the nearly discarded
evidence that was not available at trial, Williams rule
hearing transcript proves this fact and tends to
prove the petitioners innocent, see Murray, Schipf, v. Ira, see
also Franks v. supra at 2683 "deliberate falsity appearing
at hearings, petitioner contends a supplemented actual
innocents claim overcomes causal prejudice as the
external factor of being denied this Williams rule
hearing transcript by state official (state court)
severally deprived the petitioners needed material that
reasonably would've changed the outcome of these
trials, see Att. (E) Williams rule transcript p. 21-25 memo at 2681
testimony, p. 52-56 Falkman, later testimony stating 'they never
saw the ~~robber~~ robber without a mask on,
petitioners contends he was never given a full and fair
hearing on this issue by the state and is seeking an evidentiary
hearing if this court deems it necessary, see Wallace v. Kato
514 U.S. 364, 395 n.5 (2007); Becht v. Abrahamson 507 U.S. 619, 635
(1993); Red v. Farky 512 U.S. 339, 347 (1994); Stone 428 U.S. 465,
476 (1976).

Petitioner further contends the state attorney that signed
the informations for petitioners arrest/warrant did so in
knowing violation of the petitioners 4th & 14th U.S. amend.
see STATE v. Wierberg 780 so.2d 214 (Fla. 2001), as
a hearing was held on 11-24-09 see att. 192 supplement p. 1
state invest. at which the victims could only have stated
that they never saw the robber without a mask on in

(cont.) / 6 of 1

light of williams rule testimony att.(5).

Petitioner contends the actions of these state actors violated his 4th and 14th amendment US rights and moves that this tends to prove petitioners actual innocents and a clear violation of his US, Constitutional rights, on the face of the record, see Townsend supra, Albrecht 47 sct. 250, 251 (1977).

Proposed Related back Amendment claim Supplement-

Petitioner contends the supplemented argument of the photo packs showed to the victims by the investigating detective relate back to this ground under Mayle v. Felix 125 sct. 2562 (2005), moreover that in light of the williams rule hearing transcript in which the victims state that they never saw the robber without a mask on, petitioner contends that it was and is a impossibility that they picked the petitioner out, in honesty as the robber, see Townsend supra

4.) Bias state Court Considering A Acquitted charge at Sentencing

Petitioner contends that the same state court presided at all 3 trials petitioner went thru, acquitted trial 886 case 3-8-11 also.

Petitioner contends that the fact that the state court mentioned the acquitted trial at the precise moment of sentencing declares his bias for which the petitioner contends made this sentencing hearing unfair, ~~and~~

(cont.)

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In re Murchinson 349 U.S. 1331, 1336 (1955); Estes v. Texas
381 U.S. 532, 543 (1965); Mayberry v. Pennsylvania 91 S.Ct. 499, 504-05
(1971).

The sentencing transcript is found in petitioners ATT(8).

Petitioner contends that the fact that the state court gave the petitioner a illegal sentence proves his bias, compounded by fabricating the petitioners identity made by the victims in his (state court's) orders allowing williams rule testimony.

Petitioner was given (2) 35 yr sentences when only 30 yr. sentences where lawful, see F.L.A. STAT. 812.13(2)(a), and 775.082(b) penalties, violating 14th U.S. amendment rights.

Petitioner contends he received no fair hearing or trial under and with this court, believing bias has been proven by the face of the record which tends to prove actual innocence, see Murry, schup supra overcoming a procedural bar for cause & prejudice, further in that this state court told the petitioner that he (state court) didn't have to adhere to federal LAW, see att. 4 p. 11-44 negating the possibility of addressing any federal issues in this state court, see Townsend supra

Petitioner contends his incarceration is a fundamental miscarriage of justice.

Conclusion

Petitioner has always ascertained and maintained his actual innocence of these crimes, ~~that~~ petitioner contends that the actual facts of this case impugne the integrity and credibility of the judicial system directly and the

state representatives thereof as the investigating detective fabricated the petitioners identity in his complaint affidavits to achieve probable cause, Franks, martin supra, the state attorney took those fabrications (believed known) and issued informations on those perjured statements, Albrecht supra, Wienberg supra, with no testimony from the victims, only photo pack identities existed, which the petitioner contends were and are fabrications in light of sworn Williams rule identity testimony of the victims, which the petitioner contends is newly discovered evidence that was not presented at trial(s) thru interference of the state court directly,

Then the presiding judge 'himself' fabricated the petitioners identity in his orders allowing Williams rule testimony to obtain these issued convictions, please take note that it was this actual state court that signed these complaint affidavits, moreover presiding at both trials to obtain these conviction negating the reasonable doubt standard defined in Winship supra, all of this violated the petitioners US, constitutional 4th and 14th amendment rights of illegal seizure and fair trial(s).

Petitioner moves this Honorable Court to Grant the Cert. Petition(s), s. Ct. R. 11 as petitioner was clearly set up by these state agents before and after the fact, patently on the face of the record.

Petitioner contends Stare doctrine does not apply to this case(s), moreover that cause and prejudice has been shown further a fundamental miscarriage of justice, because all of this proves the petitioners actual innocence as the state is actually holding the petitioner with 'no evidence at all'

(cont.) 19 of 21

in violation of the US Constitution, see chlap supra at
US, 327-8 contending no admissible evidence was used
at all.

Compounded by the fact that the petitioner was at a
severe disadvantage as this state court declared
to the petitioner that he (state court) didn't have
to adhere to federal law, see att. 4 p. 41-44, contending
the petitioner had no recourse in addressing federal
claims to the state court.

Petitioner moves this court for any and all
relief deemed just, petitioner moves for a
evidentiary hearing on all issues, see Townsend
supra and Cullen v. Pinholster 131 S.Ct. 1388, 1399-
1402 (US 2011), and any other relief by this
Honorable Court.

Petitioner further moves for the appointment of
counsel and moves the court to order full
briefing if deemed needed.

28 USC, 1746
Humbly & Respectfully Submitted
~~Morgan Allen~~
Morgan Allen Armstrong
Holmes, CA.
3142 Thomas Dr.
Bonita, FL 32425

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~~Morgan Allen~~
Morgan Armstrong