

No. 19-8386

IN THE

## SUPREME COURT OF THE UNITED STATES

DAVID L CULVERHOUSE — PETITIONER

VS.

THE STATE OF TEXAS — RESPONDENT(S)PETITION FOR REHEARING (Petitioner's Actual Innocence)

Regarding the noncapital murder jury trial, April 25-29, 1983, Life sentence, plea: not guilty — jury found guilt and assessed punishment, Texas 202nd Judicial District Court, no. 83-F-89, Bowie County, Texas, the prosecutor William L. Ferguson prior to trial destroyed ballistics report, fingerprints report that showed only Layton Cummings in possession of the murder weapon. Prosecutor also destroyed the under oath written confession of Layton Cummings admitting to the murder of Donna Ray and exculpated petitioner of said murder. Prosecutor further destroyed the under oath written confession of Layton Cummings' accomplice Tony Montgomery that exonerated petitioner of said murder. Prosecutor also suborned the perjured testimony of Tony Montgomery that caused the jury to convict and assess maximum punishment. Trial judge Donald R. Ross unconstitutionally moved the trial from 4th District to 202nd District ("right to... trial... district wherein the crime shall have been committed..." 6th Amend.) and also forced petitioner to wear restraints (straitjacket & shackles) visible to jury-guilt/innocence and penalty stages of trial and refused to allow petitioner to take the stand to testify actual innocence to the jury in the guilt/innocence stage of trial, all of which was unconstitutional 5th, 6th, 14th Amendments and contributed to jury's verdict and maximum punishment. Counsel Joe Edward Shumate stabbed petitioner with a knife causing serious injury, failed to object to any of the above manifest errors and during entire trial performed dual role of court appointed defense counsel and assistant prosecutor by telling the jury "find him guilty and assess maximum punishment" contributing to verdict and life sentence — deprived petitioner of reasonably effective assistance of defense counsel, 6th and 14th Amendments, U.S. CONST. Jury had the option to assess 10 years probation or 5 years to 99 years or life in prison. All of the above is miscarriage of justice and manifest injustice.

Miscarriage of Justice      Manifest Injustice :

Regarding the attempted murder jury trial, July 18-19, 1983, 20 year sentence,  
plea: not guilty - jury found guilt and assessed punishment, Texas 12th  
Judicial District Court, no. 13,039, Walker County, Texas. Trial  
judge Donald R. Ross unconstitutionally moved the trial from  
4th District to 12th District, refused to grant petitioner's  
timely motion to remove knife wielding counsel Joe Edward Shumate  
and appoint another defense counsel and unconstitutionally forced  
indigent in forma pauperis petitioner to accept Joe Edward Shumate  
or proceed pro se with Joe Edward Shumate as Standby Counsel  
over petitioner's objection, forced petitioner to wear restraints-  
hand-cuffs, belly band, leg irons visible to jury-guilt/innocence  
and penalty stages of trial, refused to allow petitioner to  
testify facts of actual innocence to the jury. Layton Cummings'  
accomplice Tony Montgomery told the jury that he committed  
perjury at the previous non capital murder trial in order to  
persuade the jury to wrongfully convict/punish the innocent petitioner  
(in Tex. 202nd Jud. District Court no. 83-F-89). But, then, here at the  
attempted murder trial Prosecutor William L. Ferguson suborned  
the perjured testimony of Layton Cummings to persuade the jury  
to wrongfully convict/punish petitioner for the attempted  
murder of said Layton Cummings. The under oath written confession  
of said Layton Cummings where he admitted to the murder  
of Donna Ray and he wrote that when petitioner disarmed  
him - during the struggle the firearm discharged wounding  
the said Layton Cummings showing petitioner's actual innocence  
of said attempted murder due to self-defense or accidental  
firearm discharge. Said confession was destroyed by corrupt Prosecutor  
William L. Ferguson, who also destroyed the ballistics report and  
fingerprints report showing the murder weapon/attempted murder  
weapon belonged to Layton Cummings.

State and federal courts are conflicted on these issues so  
Petitioner prays the Court will solve the problems.

Miscarriage of Justice Manifest Injustice:  
Regarding the robbery jury trial, November 29-30, 1983, 16 year sentence,  
plea: not guilty - jury found guilt and assessed punishment, Texas 71st  
Judicial District Court, no. 3211, Harrison County, Texas.  
Petitioner forced to wear restraints hand cuffs, belly band, leg irons  
visible to jury in guilt/innocence and penalty stages of trial. As  
in the other two trials there was no valid reason for shackles  
and the court took no reasonable steps to make the shackles  
invisible to the jury. Prosecutor destroyed the Security Cameras  
Video Tapes that showed Layton Cummings committing the robbery  
and Tony Montgomery driving the getaway car. Prosecutor also  
destroyed the under oath written confessions to the robbery  
by Layton Cummings and Tony Montgomery. Ineffective court  
appointed defense counsel failed to object to all of the above.  
Prosecutor suborned perjured testimony and petitioner was not  
allowed to testify his actual innocence to the jury. All of  
the above caused unconstitutional conviction and punishment.

Contents of the three trials transcripts prove by clear and convincing  
evidence that petitioner is actually innocent but Texas has concealed  
the transcripts.

The Texas court appointed counsel/public defender  
system is systemically ineffective under both *United States v. Chronic*,  
466 U.S. 648 (1984) and *Strickland v. Washington*, 466 U.S. 668 (1984)  
causing thousands of indigent, actually innocent defendants to  
be incarcerated.

This is petitioner's first time in prison  
having been incarcerated since January 10, 1983 - more than  
38 years of wrongful imprisonment.

Petitioner prays the Court to grant relief in accordance with  
Equal Laws for Equal Rights for Equal Justice with Due Process.

As always, I am your humble, obedient servant, sincerely,

Current date: January 22, 2021

David L Culverhouse

David L. Culverhouse  
# 00355569  
Stiles Unit 3060 F.M. 3514  
Beaumont, Texas 77705

No. 19-8386

IN THE  
SUPREME COURT OF THE UNITED STATES

DAVID L CULVERHOUSE — PETITIONER

vs.

THE STATE OF TEXAS — RESPONDENT(S)

CERTIFICATE IN GOOD FAITH NOT FOR DELAY

I, DAVID L CULVERHOUSE, certify that the petition for rehearing is presented in good faith and not for delay.

I, DAVID L CULVERHOUSE, declare under penalty of perjury that the foregoing is true and correct

Executed on January 22, 2021

David L Culverhouse  
(Signature)

DAVID L CULVERHOUSE  
# 00355 569  
Stiles Unit  
3060 F.M. 3514  
Beaumont, Texas 77705

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VS.  
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PROOF OF SERVICE

I, DAVID L CULVERHOUSE, do swear or declare that on this date January 22, 2021, as required by Supreme Court Rule 29 I have served the enclosed Petition for Rehearing on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the Prison Mail Box United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

State of Texas Attorney General Kenneth Paxton, Jr., P.O. Box 12548,  
Austin, Texas 78711-2548. State of Texas Governor

Gregory W. Abbott, P.O. Box 12428, Austin, Texas 78711-2428.

Solicitor General of the United States, Room 5616, Department of Justice,  
950 Pennsylvania Ave. N.W., Washington DC 20530-0001.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 22, 2021

David L Culverhouse  
(Signature)

David L Culverhouse  
# 00355 569  
Stiles Unit  
3060 F.M. 3514  
Beaumont, Texas 77705

SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK (202) 479-3011  
WASHINGTON, DC 20543-0001  
HONORABLE SCOTT S. HARRIS, CLERK  
HONORABLE CLARA HOUGHTELING  
(202) 479-5955

January 22, 2021

Re: Culverhouse v. Texas  
No. 19-8386

Dear HONORABLE CLARA HOUGHTELING,

I thank you for your letter dated January 8, 2021 - you told me to correct and resubmit petition for rehearing within 15 days - certify petition presented in good faith and not for delay that is enclosed herewith and the petition does not exceed 15 page limit.

As always, I am your humble, obedient servant, sincerely,

David L Culverhouse

David L Culverhouse #00355 569  
Stiles Unit 3060 F.M. 3514  
Beaumont, Texas 77705