

No. _____

19-8769

IN THE
SUPREME COURT OF THE UNITED STATES

Darryll Keith Shumate
(Your Name)

— PETITIONER

vs.

The Commonwealth of Virginia

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FILED

APR 13 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

The United States Court of Appeals For the Fourth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Darryll Keith Shumate
(Your Name)

WRSP PO Box 759
(Address)

Big Stone Gap, VA. 24219-0759
(City, State, Zip Code)

276-523-3310
(Phone Number)

ORIGINAL

whether there was insufficient evidence as a matter of law?

QUESTION(S) PRESENTED

whether the Defendant voluntarily made the approval/unfair to withhold in using a enabling squeeze out transaction against the petitioner Deliberately?

whether the Defendant had a difference in opinion to one's own benefit?

whether the trial court Erred refusing to exclude testimony that the Defendant had knowledge of?

whether the trial court committed reversible Error in not granting a continuance of mistrial?

whether the Defendant upon making a forethought stopped to question if the petitioner cousin committed the crime, upon being caught in possession possessing the victim's property being nine tenths of the law?

whether the investigatory report contained statements by witness to the incident which exonerated the petitioner from the crime?

whether the Defendant failure to disclose to him the investigatory report deprived him of his due process in violation of the fourteenth Amendment?

whether it concluded that there was no evidence to substantiate the crime against him?

whether which hold that suppression by the prosecution of evidence clearly favorable to the petitioner violates due process where the evidence pertaining to the petitioner's involvement?

whether due process claim denial of the petitioner right to confront his accuser and present evidence in his own behalf. A denial of his rights to be given the investigatory report relied on by the Defendant and a denial of his right to be punished only upon a finding of substantial evidence?

whether the petitioner was accorded due process only to the extent that he was given proper written notice of the charges against him and offered the opportunity to present witnesses, however the Defendant procedures did not meet the minimum due process standards required?

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:

The COMMONWEALTH OF VIRGINIA

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TABLE OF AUTHORITIES CITED

CASES

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 People v Mc Cullough 298 P3d 860 (Colo 2013)
 Morse v People 452 P2d 300 (1969)
 McCoy v People 2019 P644 (2019)
 Lunsford v Bennett 17 F3d 1574, 1582 7 Cir (1994)
 Wolff v McDonnell 418 U.S. 539, 94 S.Ct. 2963, 41 LEd2d 935 (1974)
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 Lovitt v Warden 266 Va. 2165 585 SE2d 801 (2003)
 Hunsford v Angelone 244 F.Supp2d 666 (E.D.Va. (2002))
 Green v Young 264 Va. 609 571 SE2d 135 (2002)

STATUTES AND RULES

Violation of codes 18.2-91
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 Carico v Griffith 165 W.Va. 812, 272 SE2d 235 (1980)
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 Strickland v Washington 466 U.S. 668 (1984)
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 Wheat v U.S. 486 U.S. 153 (1988)
 Williams v Taylor 528 U.S. 362 (2000)
 Nix v Whiteside 475 U.S. 157 (1986)
 Douglas v Alabama 380 U.S. 415 (1965), Dutton v Evans 400 U.S. 74 (1970)
 Davis v Alaska 415 U.S. 308 (1974), Olden v Kentucky 488 U.S. 277 (1988)
 Pointer v Texas 380 U.S. 400 (1965)
 Arizona v Youngblood 488 U.S. 51 (1988)
 Barefoot v Florida 463 U.S. 939 958 103 S.Ct. 3418 3431 77 LEd2d 1134 (1983) (Stevens, J.)
 Zant v Stephens 462 874 103 S.Ct. 2733, 2741, 77 LEd2d 235 (1983)

OTHER

Gregg v Georgia 428 U.S. at 188-189 96 S.Ct. at 2932-2933 opinion (Stewart, Powell + Stevens JJ).
 People v Randall 297 P3d 989 Colo (2012) But, in (2014)
 People v Acallo 338 P3d 442 Colo (2014)
 Anders v California 1967 386 U.S. 738 18 LEd2d 493 87 S.Ct. (1396)
 U.S. v Williams 553 U.S. 285 304 128 S.Ct. 1830 170 LEd2d 650 (2008)
 Hoffman Estates v Flipside Hoffman Estates Inc 455 U.S. 489 498 102 S.Ct. 1867 1 LEd2d 362 Quoting Graywelder
 City of Rockford 408 U.S. 104, 108 92 S.Ct. 2294 33 LEd2d 222 (1972) The fear is that vague laws will trap the
 innocent 455 U.S. at 498 102 S.Ct. 1867 1 LEd2d 362 These concerns have less found guilty of crimes in question

REASONS FOR GRANTING THE PETITION

Because everything in this writ is Truth
To the knowledge of the petitioner

That the petitioner is A INNOCENT MAN; Nor Did
Anything to Deserve the violation of his rights
Pertaining to this crime

and The Defendant is one hundred and ten percent ^{at fault}
Wrong fully regarding, to using an enabling statute
to one's own benefit to obtain the conviction
prior to withholding favorable evidence ^{from} ~~for~~ _{D.S.} the petitioner

^{clear} Brady violation ^{clearly}

Due process clause violation

Due Diligence violation

Constitutional Error violation

Trial/court Error

Reversible Error violation by the trial/court

The Vagueness

The criminal statute is UNCONSTITUTIONAL AND UNFORCE-
ABLE - VOID FOR VAGUENESS

11* (The evidence being the Affidavit written signed notarized is material that creates A
reasonable doubt that did not otherwise exist id at 112, 96 S. Ct at 112 96 S. Ct at 2401)

Brady v Maryland 373 U.S. 83, 83 S. Ct. 1194 10 L. Ed 2d 215 (1963)

U.S. v Agurs 427 U.S. 97 96 S. Ct. 2392 49 L. Ed 2d 342 (1976)

request form

~~stop looking AS if you ARE MAD at the world AS well AS
walking with your head down AS if you ARE sulking / ASHAMED
of yourself; what I'm saying exactly is that it won't be to much
longer before I'm released; because you fail to realize that when
you look AS if you ARE MAD you leave me a wedge AS to not knowing
who have upsetted you + when you walk around hanging your head at
times I get aroused from it, even though I can't stand seeing you in a
depressed state. yes I do care about you that much to where I can't
understand how come~~

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 L, M, N to the petition and is

☐ reported at For the Fourth Circuit

~~VOID~~ ☒ has been designated for publication but is not yet reported; or,
~~VOID~~ ☒ is unpublished.

The opinion of the United States district court appears at Appendix F+G to the petition and is

☐ reported at Alexandria Division

~~VOID~~ ☒ has been designated for publication but is not yet reported; or,
~~VOID~~ ☒ is unpublished.

☐ For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix E+C to the petition and is

☐ reported at Supreme Court of Virginia

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

The opinion of the Court of Appeals of Virginia court appears at Appendix A+B to the petition and is

☐ reported at Twenty-ninth Judicial Circuit

☐ 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 April 29, 2019, April 30, 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: MARCH 23, 2020 4-29-19, and a copy of the order denying rehearing appears at Appendix E.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A N/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 3-23-20. A copy of that decision appears at Appendix N/A.

☐ A timely petition for rehearing was thereafter denied on the following date: 3-23-20, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including EXHIBIT D (date) on EXHIBIT D (date) in Application No. A N/A. 3-23-20

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Attached also are Exhibits G, T, U. (more on his scribble on my PSI)
The petitioners counsel
jotted down with scribble
every were speaking of what
had have the petitioners
mother to say

Exhibit U is the scribble on my PSI
playing sports being some
proof with each

Exhibits WXX2 + K-3 all
provided to show proof facts

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Procedures § 62.7 Constitutional Error

See *The Am. v. City of US DS* SDNY

Case no 113 CV 04921 PMB-RLF

Due process clause violated both

Fifth & 14th Amendment

Civil obligation

due process obligation

Holland v Florida #56045631 649 (2010)

Pace v DiGirolamo #54445408 418 (2005)

Ervin v Dept of Veterans Affairs 498, 89, 96 (1990)

Harris v Hutchinson 209 F3d 325 330 4th Cir (2000)

Mills v Jarvis 232 F3d 244 249 4th Cir (2003)

42 USC §§ 1983 + 1985

Anders v California # (1967) 386 US 738, 18 LEd. 2d 493, 875 So2 (1396)

Jackson v Virginia # 4435, 307 (1979)

STATEMENT OF THE CASE

The date of September 30, 2002 the petitioner had know knowledge of a crime nor any body being committed with a firearm, because the petitioner was out of town visiting his father and family in Philadelphia PA; wherefore if his appointed counsel had of contacted with a subpoena both the petitioner's father and uncle regarding his alibi of his whereabouts at the time before the two of them past away like he requested. The petitioner wouldn't have this issue to date, although instead the appointed counsel did contact the petitioner's mother who would testify to the fact under oath the petitioner's court appointed attorney did in fact contact her attempt to get her to perjure herself on the witness stand, stating that I was with her at my brother's basketball game at her church at the time of the crimes when I was ^{being} being an innocent man stating lie that the petitioner have in writing written by the appointed attorney. The fact still remains is the petitioner being under stressful duress during the time of questioning and still not aware of anything other than I the petitioner didn't commit any crime, even though it's possible by the terms of how the investigation of this case being manufactured with false evidence binding interlocking previously that substantially different evidence only one variance in one light in the evidence that led to the conspiracy - conspiring to manufacture false testimony. When it all said and done the law enforcement apprehend the petitioner's cousin in sole possession possessing the victims property, even though further law enforcement withheld the requested exculpatory evidence and or all evidence the commonwealth may of had against me - see Exhibit 1 and Exhibit 2 the two written letters to his court appointed attorney requesting the evidence stating that I'm not they guy, but if you look at the motion to Discovery the cover page the Commonwealth states that it doesn't have any exculpatory evidence in its file, although when you flip to the PSI page you'd find were the Defendant apprehended the petitioner's cousin and his friend both claiming to have gotten the said property from me. The facts that be are the petitioner's cousin lied to the Defendant in order to get out of a tight spot then wrote admitting to me how he committed the crime got it notarized for me under oath now here I AM AN INNOCENT MAN who have been wrongfully convicted per a botched conspiracy the commonwealth manufactured in order to obtain a conviction being wrong the entire time using the (enabling statute) unfair squeeze out trans-action; To differ in opinion to one's own benefit."

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 4-13-20