

No. 20- 5497

**IN THE
SUPREME COURT *OF* THE UNITED STATES**

MARCUS SIMPSON- PETITIONER

vs.

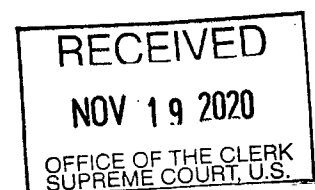
THE HAMILTON COUNTY COURT OF COMMON PLEAS
THE HONORABLE JUDGE ROBERT H. GORMAN

-RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
THE SUPREME COURT OF OHIO

PETITION FOR REHEARING

Marcus Simpson pro se
781 Villas Circle
Cincinnati Ohio 45215



PETITION

Now comes Marcus Simpson, Petitioner, pursuant to rule 44.2 and respectfully petitions the Court for a rehearing of his motion to proceed in forma pauperis which was denied, and the petition for certiorari, dismissed pursuant rule 39.8. on the 19th day of October 2020.

Respectfully Submitted,

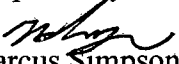

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TABLE OF AUTHORITIES CITED

CASES

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Constitutional Amendment XIV.

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection under law.

GROUND FOR REHEARING

- (1). The conviction obtained by the State Attorney's withholding of exculpatory evidence in violation of Brady v. Maryland, 373 U.S. 83 (1963).
- (2). The conviction obtained by the knowing use of perjured and false testimony by the State Attorney, contrary to this Court's findings in United States v. Agurs, 427 U.S. 97 (1976), Giglio v. United States, 405 U.S. 150 (1972), Giles v. Maryland, 386 U.S. 66 (1966), Napue v. Illinois, 360 U.S. 264, 271 (1959), and in violation of the Due Process guarantees under the Fourteenth Amendment of The United States Constitution.
- (3). Petitioner was denied a fundamental fair trial.

Respectfully argued together, Brady v. Maryland 373 U.S. 83 (1963) held that a prosecutor, under the Fifth and Fourteenth Amendments, has a duty to disclose favorable evidence to a defendant. A state violates the Fourteenth Amendment's due process guarantee when it knowingly presents or fails to correct false testimony in a criminal proceeding Napue v. Illinois 360 U.S. 364, 271 (1959) Giglio v. United States, 405 U.S. 150 (1972). Consequently, "This Court has consistently held that a conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the false testimony could have effected the judgment of the jury.", United States v. Agurs, 427 U.S. 97, 103 (1976), United States v. Bagley, 473 U.S. 667 (1985).

“[T]he same result obtains when the State, although not soliciting false evidence, allows it to go uncorrected when it appears” Giglio, 405 U.S. at 153 (quoting Napue, 360 U.S. at 269). “A conviction must be set aside even if the false testimony goes only to a witness’s credibility rather than the defendant’s guilt.” Napue, 360 U.S. 270. “The standard of review applicable to perjured testimony claims is “strict’.” Agurs, 427 U.S. at 104. This is so “not just because [those claims] involve prosecutorial misconduct, but more importantly because they involve a corruption of the truth-seeking function of the trial process” *Id*

Accordingly, in order to establish his claim, Simpson must show that (1) Brunkel, the State’s alleged victim, committed perjury, (2) the State’s Attorney knew or should have known that the testimony Mr. Brunkel was false (3) the false testimony was not corrected, and (4) there is a reasonable likelihood that the perjured testimony could have affected the judgment of the trial court.


Agurs.

Pursuant to rule 44.2 Petitioner submits the uncontested facts in this case are that a substantial violation of Petitioner’s constitutional rights was caused by the State Attorney’s withholding of evidence that proves Petitioner’s innocence, as set forth in the statement of the case within the original petition and restated as if here.

CONCLUSION

Rehearing is respectfully prayed fore;

Respectfully Submitted


Marcus Simpson Pro Se.

No. 20-5497

IN THE
SUPREME COURT *of* THE UNITED STATES

MARCUS SIMPSON- PETITIONER

VS.

THE HAMILTON COUNTY COMMON PLEAS COURT,
THE HONORABLE JUDGE ROBERT H. GORMAN

- RESPONDENT.

CERIFICATION

I, Marcus Simpson pro se, certify that this petition is in good ^{FAITH} and not for delay and ~~is restricted~~ to the ground specified in paragraph 2 of this Court rule for such petitions.

Respectfully Submitted



Marcus Simpson pro se.,