20-5764

IN THE SUPREME COURT OF THE UNITED STATES

RODNEY BERRYMAN, SR., Petitioner

V.

ROBERT K. WONG, et al., Respondent

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

REPLY BRIEF FOR PETITIONER

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CAPITAL CASE
QUESTIONS PRESENTED

Petitioner Rodney Berryman Sr. presents five questions as follows:

The fist question; The Court of Appeals finding there was no basis for Interlocutory Appeal, on December 17, 2002.

The second question; Is that the Court of Appeals on May 1, 2014, declined to entertain petitioner's pro se request for "COA" expanding.

The third question; Is that the Court of Appeals on December 18, 2018, declined to entertain two of petitioner's pro se motion - which was the pro se request for the panel to grant motion due to petitioner repeatedly objected before trial to prevent trial counsel from admitting guilt during the trial. And, Motion requesting for TOUCH-DNA on shoes to be granted.

The fourth question; The Court of Appeals did not issue a Order to the filed April 9, 2019, pro se motion to grant new trial under People v Eddy

And the fifth question; Is the Court of Appeals Opinion filed on March 27, 2020, affirming the District Court's denial of habeas corpus.

DIRECTLY RELATED PROCEEDINGS

Superior Court of the State of California, County of Kern:

People v. Rodney Berryman, No. 34841 (Nov. 28, 1988) (judgment of death).

California Supreme Court:

People v. Rodney Berryman, No. S008182 (Dec. 27, 1993) (on automatic appeal, conviction and death sentence affirmed).

In re Rodney, No. S034862 (Dec. 27, 1993) (petition for writ of habeas corpus denied).

In re Rodney Berryman, No. S068933 (Apr. 29, 1998) (petition for writ of habeas corpus denied).

In re Rodney Berryman, No S077805 (Apr. 21, 1999) (petition for writ of habeas corpus denied).

Rodney Berryman v. Davis, No. S226259 (May 4, 2015) (petition for writ of habeas corpus filed).

United States District Court for the Eastern District of California:

Rodney Berryman, v. Ayers, No. 1: 95-CV-05309-AWI (July 10, 2007) (petition for writ of habeas corpus denied).

United States Court of Appeals for the Ninth Circuit:

Rodney Berryman v. Wong, No 10-99004 (Mar. 27, 2020) (affirming denial of habeas corpus relief).

Rodney Berryman v. Woodford, No. 02-80106 (Dec. 17, 2002) (denying interlocutory appeal).

Supreme Court of the United States:

Rodney Berryman v. State of California, No. 93-7680 (Jan. 9, 1995) (certiorari denied).

Rodney Berryman, Sr. v. Chappell, Warden. No. 12-9604 (Jun. 3, 2013) (certiorari denied).

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STATEMENT

Mr. Berryman was convicted and sentence to death on December 6, 1988, for the September 6, 1987, rape and murder of Florence Hildreth. The district appeal proceeding in the Supreme Court were completed on December 27, 1993, with the issuance by the State High Court of an Opinion Affirming the conviction and sentence. Mr. Berryman's initial state habeas petition was denied on the same day. The Federal action was commenced on April 27, 1995, with a request for appointed of counsel and a stay of execution.

The District Court appointed Charles M. Bonneau, Jr. and Jessie Morris, Jr. On November 4, 1996, Berryman's Habeas Corpus Petition was filed. On January 15, 2010, the District Court denied the petition, and issued a Certificate of Appealability on a single issue. On February 3, 2010, counsel filed a Notice of Appeal, and on February 23, 2010, present counsels was appointed to the case.

On February 11, 2010, the Court of Appeals issued a scheduling Order directing Berryman to file his Opening Brief by May 12, 2010. Due to the extensions of time requested by Mr. Stetler, and petitioner's pro se submissions, the Opening Brief ended up being filed on December 29, 2014.

On March 27, 2020, the Court of Appeals filed their Opinion Affirming the District Court's denial of petitioner's federal habeas corpus petition. Present counsel, then, filed on July 8, 2020, for "petition for rehearing and rehearing en banc." Which was Denied on August 20, 2020....

The First Question; The Court of Appeals finding there was no basis for Interlocutory Appeal, On December 17, 2002. The Second Question; Is that the Court of Appeals on May 1, 2014, declined to entertain petitioner's pro se request for "COA" expanding. The Third Question; Is that the Court of Appeals on December 18,2018, declined to entertain two of petitioner's pro se motions - which was the pro se request for the panel to grant motion due to petitioner repeatedly objected before trial to prevent trial counsel from admitting guilt during the trial. And, Motion requesting for Touch-DNA on shoes to be granted. And the Fourth Question; The Court of Appeals did not issue a Order to the filed April 9, 2019, pro se motion to grant new trial under People v. Eddy. And the Fifth Question; Is the Court of Appeals Opinion filed on 3/27/2020, affirming the District Court's denial of habeas corpus.

ARGUMENT

Petitioner first would like to point out that the false evidences is a fact in this case, which, makes the false testimonies of those false evidences true. So how can there be a reasonable reason and established rules for counsels to not advance the pro se claims - and the Court of Appeals refusing to entertain the pro se claims of true false evidences?

The Court of Appeals observed Berryman would be able to raise his claims of prejudice on appeal from the final judgment. Don't mean that Berryman would be able to raise those those claims in pro se while being represented by an attorney who chose not to advance the claims. (Page 8)

If petitioner isn't allowed to raise his pro se claims of false evidences, then, how is petitioner to show that the District Court prejudiced him? And how was petitioner to show the Court of Appeals that the false evidences is true, so to, stop counsel's from admitting guilt? Petitioner's appeal in the Court of Appeals haven't been fair due to the Court issued a Order for the pro se Interlocutory Appeal after judgment, but, refuse to allow petitioner to demonstrate that he had been prejudiced by the District Court's refusal to file his pro se motion.

The pro se Interlocutory appeal is also a complaint against prior and present counsels for not filing the pro se claims of false evidences, and admitting guilt over petitioner's objection. Counsel couldn't advance the pro se claims of false evidences after admitting guilt - Due to he would then be throwing himself and prior counsels under the bus. So, it wasn't reasonable for counsel not to raise Berryman's desired claims of false evidences on appeal from the final judgment. (Page 8)

Plus, counsel is aware that the pro se claims of false evidences would affect how the instant case is managed or decided. Pursuant to Ninth Circuit Rule 28-2.6. The Circuit Aduisory Committee Note to 28 - 2.6., states;

"The purpose of this rule is to alert the parties and the Court to other known cases pending in this Court that might affect how the instant case is managed or decided."

Counsel didn't alert the parties and the Court of the "trial record that shows the false evidences and false testimonies that is in fact true, in which, would affect how the instant case is managed or decided.

Petitioner believe if counsel would have alerted the parties and the Court of Mr. Laskowski using his planted horseshoe-shaped chain link to create his false chain link evidences in trial exhibit 76 through 80. And that there was no fingerprint test comparison results presented to the Court showing that Ms. Hildreth's thumb print was found in petitioner's truck.

Also, Laskowski's false left rear tire test rolled imprint exhibit 66, clearly shows it is not a match. See C.A. DKt. 40. at 38. And, that Mr. Laskowski's report clearly states he did not even test roll the right rear tire. See C.A. DKt. 40. at 39. The false evidences mention here above is just some of the prosecution misconduct in the pro se claims, at DKt. 40...,That could effect how the instant case is managed or decided. Such as counsel wouldn't be able to admit guilt, and the Court of Appeals Opinion would more then likely would have granted relief - instead of Affirming the conviction.

The Court of Appeals erred for not expanding the certificate so petitioner could show through DNA TESTING that the Brooks shoes in evidences is not his shoes. How can the Court of Appeals allow counsel to admit guilt on petitioner's last appeal, but deny petitioner DNA TESTING on the planted Brooks shoes?

The strategic decision of appellate counsel not to seek Certification of Berryman's desired claims was entirely reasonable. (Page 6) This can not be reasonable because it gave the Attorney General an unfair advantage over petitioner, due to, the Attorney General did not have to respond to the planted and false evidence. Which means counsel's strategic decision allows him to continue admitting guilt while removing the pro se Interlocutory appeal from petitioner.

The Attorney General pointed out how the District Court agreed with counsel, that, Berryman's claims of false evidence were implausible. D. Ct. DKt. 462 at 3-4. It explained that:
"Evidence of Malfeasance on the part of Kern County Law enforcement officials (including investigators for the District Attorney's Office) in manipulating evidence cannot be developed due to nonexitence. The Court has studiously considered Berryman's pro se claims, as presented in his pro se state habeas petition and reiterated in his pro se communication received by the Court the contentions he advances simply cannot be sustained. The evidence presented at Mr. Berryman's trial does not appear to have been, in any way, planted."

The state record alone will show malfeasance and manipulation of the evidences. And petitioner's pro se motion, at C.A. DKt. 40. will show the planted and false evidence at the crime scene. The District Court had made a mistake, and so did "independent counsel. But petitioner know why independent counsel didn't reveal the false evidence in this case. It was because he thought counsel was going to win relief in the District Court with the strategy of admitting guilt."

The Attorney General pointed out that this Court explained, an indigent defendant does not have a constitutional right to compel appointed counsel to press nonfrivolous points requested by the client, if counsel, as a matter of professional judgment, decides not to present those points Jones v. Barnes 463 U.S. 745, 751 (1983). (Page 8,9)

Petitioner do not believe that this Court expect for counsel and the Court of Appeal to use Jones v. Barnes to silent petitioner so he can not object to counsel admitting guilt - and show that the planted and false evidences is true, which, prove counsel should not have admitted guilt over petitioner's objection. So it was an error for the Court of Appeals to use Jones v. Barnes to allow counsel to have complete control over petitioner's.

The Attorney General argues that the jewelry evidence was considered by the District Court but didn't warrant inclusion in the Certificate of Appealability. D. Ct. DKt. 462. at 13-14, 18. And that the Court explained that the jury had access to a photograph depicting the shape of the item at the crime scene. Id. at 14. And that the presence of a gold colored clasp at the crime scene is no less incriminating then a gold colored horseshoe link. Id. at 18.

The trial record shows that Mr. Peterson stated to the jury that the jury only spent fifteen minutes to reach a verdict. (RT 4021-4024) And, that it was not physically possible for the jury to examine the numerous exhibits and listen to a 45-minute tape. (RT 4034) And, that the trial exhibit "34" of the crime scene round circle chain link was not a blow-up photograph so one could see the shape clearly - So petitioner had "three" blow-up photographs of exhibit 34, and attached it to Exhibit "AAA", in the Pro Se Motion, At DKtEntry. 40.

Also, the jury never saw the physical crime scene round chain link because the prosecutor and Soria stipulated that the chain link need not be produced. (RT 2360) Why did they stipulate that?

The prosecutor used the false chain link evidences to place petitioner at the crime scene with Ms. Hildreth inside petitioner's truck. That is how important the false chain link evidences was to the prosecutor, to, incriminate petitioner with that false evidence. The prosecutor's false closing argument have placed Ms. Hildreth inside petitioner's truck at the crime scene - Being drugged out of the truck while she's grabbing the chains around the rear view mirror, taking with her, one of the chain links on to the crime scene. (RT 3363 line 9-19)

The prosecutor stated, "thank goodness at least that one was found." RT 3363 line 20. The problem here is that that "one crime scene chain link is not a horseshoe-shaped link which make it physically impossible be that it is round." It could not come from petitioner's truck. And here the prosecutor used Mr. Soria's ineffectiveness when stated;

"The defense has had the (chain link) longer than the People have had it. No one can come in here and say that link was likely to have come from another chain. Its perfectly consistent, in the tool marks, physical makeup and how it appears, its tool marks and its metallic composition that chain link was from defendant. (RT 3363 line 22-28 & RT 3364 line 1)

Mr. Soria's ineffectiveness falls under Strickland v. Washington, 466 U.S. 668 (1984). Due to Soria did not call his expert who had examine the chain link evidences - and Charles Morton could have clearly impeach Mr. Laskowski's false chain link evidences in exhibit 76 through 80. And Mr. Morton could have testified not only that he examine the chain link, (RT 3104) But could have stated that it is physically impossible for the crime scene round chain link to have the same tool marks with those horseshoe-shaped chain links recovered from the truck. Due to the expert Mr. Schliebe was called to testify and he stated, "the scene link and the chain link from the truck - left the same tool marks." (RT 3105 1-10)

The prosecutor's false chain link evidence even had the defense expert Schliebe believing that the crime scene chain link was a horseshoe-shaped link. So with the defense agreeing that the crime scene link was a horse-shoe shaped link - the jury had no choice but to believe that the false prosecutor's closing argument was true, that, Ms. Hildreth grabbed on to the horseshoe-shaped chain links while being drugged out of the truck, taking with her that one chain link - this was incriminating against petitioner who was being attacked by both side. The defense was helping the prosecutor if they planned on doing it or not!

The Attorney's General's tire track evidences (pages 10-12), argues that there is inconsistent statement about the "left and right rear tire, but, that the inconsistency is far from enough to vacate Berryman's conviction." (Page 11)

The Attorney General have overlooked the fact that Laskowski lied under oath when he did not exclude the "left rear tire test rolled impressions from creating the crime scene impression in exhibit 30. Due to the fact that the left rear tire track width is 4½ inches, and the crime scene track impression width is a big truck tire size 7½ inches wide.

Petitioner pray that this Court will view the trial photos exhibits of Mr. Laskowski's false test rolled impressions - and the pro se arguments under ADDITIONAL TIRE EVIDENCE, on pages 38-43, at DKtEntry. 40...,And if the left rear tire did not create the crime scene impression in exhibit "30" then the "spare tire impression in exhibit "38" have to be planted evidence! See Manipulation of Crime Scene and Newly Discovered Evidence, on "pages 19-28 and 28-38, at DKtEntry. 40....

The Attorney General know for a fact from Laskowski's test results that the "left rear tire track on petitioner's truck, did not, create the crime scene impression in trial exhibit 30." And that the "Right Rear Tire" was never test rolled from Laskowski's own report. See Argument on page 39, at DKtEntry. 40...,Petitioner believe that the conviction should be vacated not because of inconsistencies, but, for Laskowski's false tire and chain link evidences and false trial testimonies on those false evidences that prejudiced petitioner.

The Attorney General's argument on (pages 12-13) of the Shoe print evidence, is focusing on District Court (errors) by stating, "that the Court determined that the claim (of the shoes being planted) was "implausible" and unsubstantiated." The Court explained that Laskowski had relied on crime scene photographs taken prior to Berryman's arrest.

The Attorney General have overlooked the fact that the jury didn't know that there are two pairs of Brooks shoes, and that the Brooks shoes presented to them in evidence, is not, petitioner's shoes. It was a error for the District Court not to grant DNA TESTING, and not "grant certificate of appealability, of the states key evidence against petitioner.

See proof in photographs of the two pairs of Brooks shoes in the "Pro Se Motion, on pages 78-84, at DKtEntry. 40...,And in the Pro Se Motion, at DKtEntry. 162...,Prior and present counsel erred for not having DNA TESTING on the Brooks shoes because of their strategy of admitting guilt was not reasonable!

Petitioner believe that the District Court reasons for omitting all of petitioner's pro se claims from the certificate of appealability was due to the fact that prior and present counsels was strongly focusing on admitting guilt. Petitioner will argue here the proof of planted evidence at the crime scene - Due to the Court and the Attorney General have over looked the fact that officer did planted evidence at crime scene some times, maybe not all times, but some times.

It must be noted that the Attorney General have "a copy of the telephone recording conversation of petitioner and present counsel's investigator Mr. Joseph M. Serrano. Who voluntarily told petitioner about the crime scene misconduct by stating, "that the hands of the victim are different in the photographs. And that there are two tires of evidences that don't match the photographs that they have." The Attorney General had received the telephone recording conversation in exhibits 5H and 5I with the petition from the SUPREME COURT OF CALIFORNIA, In re Rodney Berryman on Habeas Corpus, 5226259, the Court states;

"The Court has directed me to inform you that, by letter dated August 26, 2015, the Attorney General has been informed that, upon further consideration, the Court has concluded that no informal response to your petition should be submitted at this time. The Attorney General, and you, will be notified if and when the Court later decides that an informal response to your above referenced petition should be submitted."

The other evidences of crime scene planted evidence can be seen in the preliminary hearing testimony of Mr. Roper a long with the exhibits 12, 13, and 14. If one compared Roper's testimony his photographs exhibits here with the trial exhibits and testimony - will reveal that trial exhibit 38 the Spare Tire imprint is Planted Evidence. See Argument of "Manipulation of Crime Scene" on page 19 through 27, at DKtEntry. 40....

Petitioner believe that counsel of record on post conviction should have requested the District Court and the Court of Appeals - To Order the prosecutor's office and the Attorney General's Office, to turnover, the preliminary hearing photographs exhibits 12, 13, and 14. Due to counsels stated that they did not have them. This request should have been made be for counsel decided to blind-side petitioner with their strategies of admitting guilt over petitioner repeated objection.

There are other key crime scene photographs depicting strings pointing to evidences that present counsel stated:
"Counsel pursued those matters with the trial court clerk's office and trial court prosecutor's office. E.g., the trial court record contains references not supported by the trial exhibits or trial discovery: Trial counsel and prosecutor both reference crime scene photos depicting

"strings" at the crime scene, ER 20, RT 27, 29, yet no such photos are among the exhibits or in the discovery. Berryman's pro se pleading allege this is evidence that law enforcement re-staged the crime scene without strings as part of the undisclosed effort to convict Berryman based upon fabrication of evidence." (See Opening Brief Foot-Note 26, on page 120, At DKtEntry. 200.)

Petitioner believe that present counsel should know that those photos depicting strings would not be in the trial exhibits - because Soria was in a hearing to exclude them. So counsel should have filed a motion to the Court of Appeals requesting that the Court Order the prosecutor's office and trial counsels to turnover those photographs - before counsel filed his Opening Brief on petitioner's birthday December 29, 2014, based on "admitting guilt" over (my) objection.

It must be noted that there is a recording telephone conversation of petitioner with counsel Tim Brosnan who agreed that Mr. Stetler have crime scene photos with arrows pointing to evidence. That Stetler was to send to petitioner, but, Mr. Stetler refuse to send petitioner the photos (See Pro Se Motion With Telephone Recording, At DKtEntry. 21...)

The photographs with arrows pointing to evidences and the photographs depicting strings - Are photos petitioner strongly believe will show that the "Spare Tire Side Wall impression exhibit 38, and the Side Shoe High Top impression exhibit "40" is infact Planted Evidences." And there is evidences of two crime scene from the photograph evidences that Mr. Soria stated, "They took thirty photographs at the site where she was discovered." ER 20. RT 27 line 23-26. Petitioner is able to show that there is maybe about "54 crime scene photos - which is another crime scene." SEE ARGUMENT OF SIX ADDED PROOF OF TWO CRIME SCENE, ON PAGES 67-74, AT DKtEntry. 40....

THE FINAL ARGUMENT

Present and prior appeal counsels have violated petitioner's right to autonomy under McCoy v. Louisiana, 584 U.S. ___ (2018), by admitting guilt on this appeal over petitioner's objection. Pet. 13-15 (third question) See C.A. DKt. 330 (motion) And trial counsel did in fact violated petitioner's autonomy under McCoy v. Louisiana, 584 U.S. (2018), when conceding guilt over petitioner's objection. Also trial counsel violated McCoy as applied by the state court in People v. Eddy 33 Cal. App. 5th 472 (2019). Pet. 17-18 (fourth question presented), See C.A. DKt.348 (motion)

FOOT-NOTE

It must be noted that petitioner is unable to lookup cases cited in the Brief in Opposition. And is unable to cite his own cases, due to, COVID-19 the library is CLOSED. Staff will take request but respond is a week if able.

The Court of Appeals erred for allowing present counsel for allowing presented counsel to admitting guilt over petitioner's objection. And the Court erred for not entertaining the pro se claim that present counsel violated (my) right to autonomy under McCoy - In which the Court could could have STOP the violation when learned of this Court's Opinion in the McCoy! Thus, an error by the Court of Appeals.

The Court of Appeals erred for not entertaining the pro se claim that trial counsel violated McCoy as applied by the state court in People v. Eddy. The Court knew present counsel's argument was that "trial counsel should have pursued admitting guilt more vigorously over petitioner's objection! The Court of Appeals knew that trial counsel violated McCoy in People v. Eddy. (See Court of Appeals Opinion, page 15, FootNote 2, At DKtEntry. 349 - 1.)

The Court of Appeals erred for using Jones v. Barnes, 463 U.S. at 745, at 751-753. To allow counsels to have complete control over petitioner to the point that petitioner is forced to be silent to live and die by counsels strategies of admitting guilt. Petitioner believe that this Court's Opinion in Barnes was not for allowing the lower Court to allow present counsel to violate petitioner's constitutional Sixth Amendment to not remain silent - So to object to counsels admitting guilt, so to be able to have a pro se Interlocutory appeal.

The Attorney General states Berryman focuses on a remark by defense counsel during closing argument regarding the gold color chain link; "We're not saying what Mr. Laskowski is saying he saw is incorrect." (RT 3408) (Brief Page 15) Petitioner believe Mr. Soria did conceded here and when he stated, "We don't disagree that that could probably be from the chain, but when he tries to show you his work that was a waste of time. they're out of focus." (RT 3409) (Brief Pages 15 and 16)

Mr. Soria making the same type of remark twice is clear that he's agreeing that the chain link evidences is true against petitioner. The jury have no choice but to believe that Soria just conceded, just like, his expert Schliebe who agreed that the crime scene link had the same tool mark as one of the horseshoe shaped link. (RT 3105 line 1-10)

And, Soria conceded by not calling Charles Morton who did examine the chain link evidence and who could have cleared up any misunderstanding with the crime scene link and the horseshoe chain link - By impeaching Laskowski's false chain link evidences.

The Attorney General argument (on page 16) that Soria's brief admitting guilt argument was far from an admission of guilt. It must be noted that present counsel's petition for "panel rehearing" counsel pointed out that trial counsel "admitted guilt during his closing argument when stated:

"And if, despite what we say, Rodney was out there, there, was an explosion of emotion." Id., at 294: 2-5. The victim's shoe being off indicated consent, not rape. DKtEntry. 201-8, at 9." (See Petition for Panel Rehearing, on page 14, at DKtEntry. 362.)

Petitioner believe that Mr. Soria had lead the jury to forget about his Opening Statement that, "Berryman did not do this horrible act." In to leaving the jury no choice but to believe guilt, when Soria stated; "Despite what we say, Rodney was out there." Soria's alternative argument no longer exist in the jury's mind petitioner believe once Soria stated, "Despite what we say, Rodney was out there." Which is a Sixth Amendment violation!

Petitioner believe that the Court of Appeals Opinion filed March 27, is stating that present counsel's argument is that trial counsel should have adopted admitting guilt more vigorously during the guilt phase. In which the the panel said is a far fetched theory this is what the panel stated;

"By adopting this far-fetched theory, Berryman's lawyers would have lost the ability to argue the more straightforward theory that the police had arrested the wrong person. The circumstantial evidence tying Berryman to the scene was not insurmountable. The strongest piece of evidence was the drop of blood on Berryman's shoe. consistent with only 1 in 1, 470 unrelated African Americans. Berryman, 864 P. 2d at 49. But Berryman had a ready reply: The blood could have come from any of Hildreth's relatives, with whom he frequently had contact. As for the fingerprint in his truck, his lawyers also had a response prepared. Even though Hildreth had never ridden in his truck, she still could have left a print by leaning against the car while talking. The straightforward innocence argument that Berryman's lawyers pursued was not a lost cause." (See Panel's Opinion on page 16, at DKtEntry. 349-1)

The Panel's Opinion here shows that the Court believed, that, Soria and appeal counsels should have never admitted guilt over petitioner's objection. So why did the Court of Appeals error by allowing present counsel to admit guilt on this appeal?

Here, petitioner will focus on the Court of Appeals stating; "That the straight forward innocence argument that Berryman's lawyers pursued was not a lost cause."

Petitioner believe it was a lost cause due to counsel argued in the alternative, so to, take away the innocence argument when Soria stated; "Despite what we say, Rodney was out there." And Soria did not have a defense for the innocence argument. There was no expert testifying that examine the evidence against petitioner which happen to be false evid.

Which, brings petitioner to the Panel's Opinion about the strongest piece of evidence against petitioner was the "drop of blood on the shoe. And Ms. Hildreth's thumb print inside the truck." The problem here is that there is two pairs of Brooks shoes that the jury did not know about. And the Brooks shoes with blood on them in evidence is not petitioner's shoes. DNA TESTING ON THE SHOES SHOULD BE GRANT (I) PRAY!

The fingerprint evidence was "no evidences." The prosecutor and his fingerprint expert mislead the jury to believe that there was a comparison test result of a match.

The trial record shows that the jury may have mistook one of these trial exhibits 41, 42, 43, and 44, for Ms. Chappell's comparison test result, which they was not, the evidences shows that in exhibits herein below starting with:

"Trial Exhibit 44, A photograph of petitioner's truck. (RT 2417) Exhibit 43, A rolled right thumb print of Ms. Hildreth. (RT 2418) And Exhibit 42 the latent #18 that became trial Exhibit 41. (RT 2420)

Mr. Soria's ineffectiveness falls under Strickland v. Washington, 466 U.S. 668 (1984). For not having a fingerprint expert to testify that Ms. Hildreth's thumb print was not found inside petitioner's truck. And to have a expert to impeach Ms. Chappell's testimony.

CONCLUSION

The petition for a writ of certiorari should be granted petitioner pray. Respectfully submitted, Rodney Berryman Sr. Dated December 31, 2020.

Rodney Berryman Sr