NO. 20-5870

ORIGINAL

SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2020

DeMarcus Clark PETITIONER

VERSUS

DARREL VANNOY, RESPONDENT

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES SUPREME COURT

Respectfully submitted:

DeMarcus Clark, pro se
D.O.C. number 587170
Louisiana State Penitentiary
Angola, Louisiana 70712

QUESTIONS PRESENTED FOR REVIEW

(1) Did the State's admission of the in-court testimony and DNA report of a surrogate DNA analyst in lieu of the actual testing DNA analyst and DNA report. Violate the Petitioner's Sixth Amendment right to "Confrontation"; Under the standard of Bullcoming v. New Mexico. 564 U.S. --- 131 S.Ct. 2705?

(2) Whether trial counsel violated the Petitioner's Sixth Amendment right to "Effective Assistance of Counsel," through cumulative errors, when counsel failed to conduct an independent pre-trial investigation into the laws, facts, pleadings, and circumstances of the Petitioner's case?

LIST OF PARTIES

(1) Darrel Vannoy; Warden
Louisiana State Penitentiary
Angola, Louisiana 70712

(2) Carl Stewart; (Attorney for the State of Louisiana)
District Attorney for the Parish of Caddo
501 Texas St. 5th Fl
Shreveport, Louisiana 71101
telephone (318)-429-7618

(3) United States District Court (Western District of Louisiana)
Judge E. Foote; Magistrate Judge M. Hornsby
300 Fannin St., Suite 1167
Shreveport, Louisiana 71101

(4) United States Court of Appeals (For the Fifth Circuit)
U.S. Circuit Judge: Jennifer W. ELROD

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APPENDIX "H" (1) Trial counsel's testimony of being destitute of the skill and knowledge, concerning the circumstances etc, pertaining to the Petitioner's case. (Pages 791-lines 28-32; 792-lines 1-5)

(2) Louisiana Attorney Disciplinary Board; sworn statement taken of trial counsel (relevant pages). And Louisiana Supreme Court's Ruling of trial counsel's suspension attached.

TABLE OF AUTHORITIES

UNITED STATES SUPREME COURT CASES:

CONSTITUTIONAL PROVISIONS

FEDERAL STATUTES

LOUISIANA STATE CASES

STATE STATUTES

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

[X] For cases from federal courts:

The opinion of the United States court of appeals appear at Appendix A(1) to the petition and is

[ ] reported at No. 19-30332; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[X] For cases from state courts:

The opinion of the highest state court to review the merits appears at Appendix A(3) to the petition and is

[X] reported at Clark v. State, 178 So. 3d 584 (La 2015); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the 2nd Circuit Court of Appeals appears at Appendix A(2) to the petition and is

[X] reported at, Clark v. State, No. 49722-KH (2014); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was May 28th, 2020.

[X] 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: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for writ of certiorari was granted to and including _____(date) on _____(date) in Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. §1254(1).

[ ] For cases from state court:

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for writ of certiorari was granted to and including _____(date) on _____(date) in Application No. _____ A _____.

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

STATEMENT OF JURISDICTION

The order of The United States Court of Appeals for the Fifth Circuit denied Mr. DeMarcus Clark his motion for a COA. Order filed by the Court on May 28th 2020. Petition for a Writ of Certiorari is filed within ninety days of that date, pursuant to Supreme Court Rule 13.1. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257.

Moreover, the United States Court of Appeals for the Fifth Circuit. In it's order denying the Petitioner of a COA. Totally disregarded this Honorable Court's decisions made in cases that involve surrogate forensic in-court testimony, e.g. Bullcoming v. New Mexico. Rulings that directly effect the Petitioner in this Petition before this Honorable Court. The United States Court of Appeals for the Fifth Circuit. Being in direct conflict with Supreme Court Rule 10(c). Wherefore, giving this Court the Jurisdiction to review and grant reviewal and relief. As so deemed appropiate by this Court.

STATEMENT OF THE CASE

On May 30, 2014, Petitioner submitted an Application for Post Conviction Relief. He raised numerous claims of trial counsel's ineffectiveness. Petitioner also raised a violation of his Sixth Amendment right to Confront his accusers, prefaced on the use at trial, of a laboratory compliance officer in lieu of the analyst who actually conducted the DNA testing that purportedly linked Petitioner to the crime. Trial court denied relief as repetitive on July 17th 2014. On review the Second Circuit Court of Appeal, denied writs on October 23rd 2014. One year later, on October 2nd 2015; the Louisiana Supreme Court again refused to intercede. see Appendix "A" (3)(4)(5)

On December 9th 2015. Petitioner filed his petition for Issuance of the Writ of Habeas Corpus. Petitioner argued that the trial testimony of surrogate laboratory analyst Audra Williams. Who conceded that," she did not conduct the tests, assist in the testings. perform the analysis, nor was present during the testing and neither seen the tested items with her own eyes. And merely compiled the testing analyst Mary Duke's said notes, pictures and conclusions (which were never produced at trial) and assembled them into a final report (DNA Report) for trial use." See Appendix "D". In lieu of the testimony of the declarant, DNA analyst Mary Duke. Violated his fundamental right to confront his accusers as secured by the Sixth Amendment of the U.S. Constitution.

Petitioner also maintained that his trial counsel was ineffective for several reasons; including her failure to object to analyst Williams' testimony. Failure to procure (alibi) defense

witnesses; who would have provided professional documents and verbal testimony for the defense for use at trial. Failure to give notice of Alibi Defense as required by C.Cr.P. art 727, to secure use of defensive strategy at trial. Moreover, failure to perform an independent pretrial investigation into the facts, pleadings, and circumstances, concerning the petitioner's case. See Appendix "F", (G"-1,2), (H"-1,2).

The U.S. District Court (Western District of Louisiana), denied writs on Feburary 28th 2019. Petitioner filed Motion for C.O.A. with brief in support. In the United States Courts of Appeals for the Fifth Circuit on approximately June 28th 2019. Wherefore on May 28th 2020, the United States Court of Appeals for the Fifth Circuit denied Petitioner's Motion for C.O.A. Petitioner now seeks review in his instant Petition for Writ of Certiorari to THE UNITED STATES SUPREME COURT.

AMPLIFYING REASONS FOR WRIT GRANTAL

The allowance or denial of review on a writ of certiorari rests within the sound judicial discretion of this honorable court. The following although neither controlling nor fully measuring the Court's discretion. Indicate the character of the reasons the Court considers. Moreover, the selected subsections listed under Supreme Court Rule 10. That will be cited in this argument, will convey compelling reasons for allowance of the instant writ as Rule 14. 1(H) asserts.

In the instant petition before this Court. Rule 10 subsection (a) "paraphrasing" asserts: a United States Court of Appeals has decided an important federal question in a way that has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call an exercise of this Court's supervisory power. In addition to Rule 10 subsection (c) paraphrasing asserts: a State Court or a United States Court of Appeals has decided an important federal question in a way that conflicts with relevant decisions of this Court. Both subsections of Supreme Court Rule 10 weigh heavily with divers other factors as to allow review of petitioner's certiorari as petitioner will illustrate.

The in court verbal testimony and material testimony (DNA Report). Of a surrogate DNA analyst who conceded on the record that she "did not personally perform, assist, supervise, and was not present when the testing concerning the Petitioner's DNA was examined. See Appendix "D"

Surrogate DNA analyst further stated on the record that she, never saw the tested items in person. Yet assembled a DNA Report for introduction and use at the Petitioner's trial. Having used the said notes, pictures, and conclusions left behind by the actual testing analyst. who relocated to Texas prior to the start of the petitioner's trial. See Appendix "C"-(1), "D". Petitioner must inform the Court that the said notes, pictures, and conclusions that were said to have been left behind by the testing analyst. Believed to have been used to write a report by the surrogate analyst. were never produced. Pre-trial, during, and post trial. Further invalidating this witness and prejudicing Petitioner.

The State's introduction of this form of surrogate testimony is in direct opposition with this honorable Court's holdings in Bullcoming v. New Mexico, 131 S.Ct. 2705, 2713-14, 180 L.Ed 2d 610, 619 (2011) and Melendez-Diaz-v. Massachusetts, 129 S.Ct. 2527; 174 L.Ed. 2d 314 (2009). Concerning the incourt testimonial statements of forensic analysts, et seq. Moreover, being in opposition with this Court's holdings in Crawford v. Washington, 541 U.S. 36, 59, 61-62; 124 S.Ct. 1354; 158 L.Ed. 2d 177 (2004). In addition to violating the Petitioner Sixth U.S. Constitutional Amendment to confront the accusers against him. As well as a host of other federal laws expounded upon in this instant certiorari; That call for this Court's supervisory power to be executed for correction.

Furthermore, both the State Courts and Federal Courts argue erroneously that "the U.S. Supreme Court in "Bullcoming" does not clearly establish what degree of involvement with the forensic testing, beyond what was present in Bull-

coming, is required of a testifying witness." The Court's erroneously interpreting this honorable Court's holdings and purposes for perserving a persons right to confrontation. In an effort to justify their addmission of this form of hearsay testimony and evidence to secure easier prosecutions. A personal experience that has prejudice the Petitioner in this instant petition. See Appendix "B"(2) pp. 11, clearly amplifying the reasons for writ allowance. Also being contrary to Rule 10(c).

These errors from both the State Courts and Federal Courts as it pertains to the Petitioner's rights. Follow suite in their prejudicial error to recognize the ineffective assistance of counsel rendered to the petitioner. Via his trial counsel's cumulative errors throughout the pre-trial, during trial, and post-trial steps. The record clearly reflects that trial counsel was not competently skilled to represent the Petitioner in a case of this type (jury trial), kind (crime of violence), and did not seek to obtain the requisite knowledge and skill pre trial to adequately represent the Petitioner at trial. With trial counsel having prior knowledge of her lack in skill and knowledge requisite to make her representation effective. As trial counsel so testified to for the record. see Appendix "H"(1). Trial counsel failed to conducted an independent pre-trial investigation into the facts, laws, pleadings, and circumstances concerning Petitioner's case. As the record reflects trial counsel's failure to give notice to the State of use of an Alibi Defense as required by C.Cr. P. art 727. to secure it's usage at the Petitioner's trial. Therefore prohibiting the use of the only defensive strategy deployed at the petitioner's trial by trial counsel. See Appendix "F", "G-2".

Infact, due to trial counsel's deception in obtaining retainment for financial gain. Through lying about her criminal trial and case experience, To the petitioner pre-trial. A compliant was filed against trial counsel with the Louisiana Attorney Disciplinary Board (L.A.D.B) by the petitioner. which ultimately resulted in the petitioner's trial counsel being suspended by the Louisiana Supreme Court. For trial counsel's actions against the petitioner presented by the L.A.D.B. see Appendix "H"-2 Trial counsel's suspension occuring prior to petitioner filing his Post Conviction Relief Brief. In which numerous ineffective assistance of counsel claims were raised and erroneously denied. See Appendix "A"-1,2,3,4,5

State and Federal Courts both being wrongfully contrary to this honorable Court's holdings in Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 67 (1984). United States v. Cronic, 466 U.S. 648, 654·80 L.Ed.2d 657·104 S.Ct. 2039 (1984). Concerning the errors and how to determine if ineffective or effective assistance of counsel was or wasn't rendered to the defendant. As well as being contrary to the Sixth U.S. Constitutional Amendment that guarantees a person effective counsel to safeguard his or her right to Due Process of Law. 14th U.S. Constitutional Amend and 5th U.S. Constitutional Amend. Again illustrating the State and Federal Courts prejudicial errors committed against the petitioner. That are expounded in detail within this instant certiorari. Also contrary to Rule 10(c), supporting petitioner's amplifying reasons for allowance of this instant writ.

With adament pleas, Petitioner prays this instant writ be allowed. For the record clearly displays; the so far departure from accepted and usual course of judicial proceedings, sanctioned such a departure by a lower court. By way of the Western Federal District Court of Louisiana (5th Circuit). As to call for an exercise of this Court's supervisory power.

The Western Federal District Court of Louisiana (5th Circuit), having shown favor to the State District Court. Through denial of the Petitioner's Motion for Judgement By Default. Due to the State's failure to file a timely response to the Petitioner's writ, filed into the Western Federal District Court of Louisiana (5th Circuit). As so ordered by the Court in it's summons issued to the State District Court, according to Fed. R. Civ. P. 12(a)(2)or (3). The Western Federal District Court of Louisiana (5th Circuit), asserting in it's denial; "Denied" Defaults are disfavored, There is no real prejudice from the one day delay". Petitioner's Motion shows a seven day delay. see Appendix "E"-1,2,3

The Western Federal District Court of Louisiana (5th Circuit), prejudiced the Petitioner by not executing the rules of court. Thus holding the State District unliable for it's failure to comply. Denying the Petitioner the relief warranted do to the State Court's failure to comply with the Federal rules of court cited on the issued summons. The Federal Court adamantly straying from the Supreme Rule 10 subsection (a) as records show.

Petitioner prays with supplication that this instant writ be allowed and the amplifying of reasons are satisfactor, For full review on Petitioner's claims. Which will clearify important questions of law. Reasons in accordance with Rule 10 and 14.1(H).

ISSUE ONE

Was the admission of the in-court testimony and DNA Report by a surrogate analyst in lieu of the testing analyst at trial. In violation of the Petitioner's 6th Amend right to Confrontation

Records show the Petitioner's DNA profile was generated by forensic analyst Mary Dukes at the North Louisiana Criminalistics Laboratory (N.L.C.L). However, Dukes never interpreted her machine generated data into a testimonial certification (DNA Report) pre trial; ceased employment at the "N.L.C.L," relocating to Texas. see Appendix C (1)(a)

Wherefore, surrogate analyst Audra Williams for the "N.L.C.L. Was proffered and accepted as the expert analyst for the State. Testifying to the DNA findings in lieu of the testing analyst Dukes at Petitioner's trial. Henceforth, analyst Williams testified she'd "; neither supervised, personally performed, or observed the generation of Clark's DNA profile. I never saw the evidence personally; I was not there. The testing analyst never interpreted her data into a D.N.A. report prior to ending her employment. Therefore, upon being Assigned to the case ensuing Dukes' departure. I used Dukes' results (machine generated data), notes and pictures of the evidence to create a DNA report for trial. I did write both DNA reports and signed them." see Appendix D

This Court in Bullcoming held "The Confrontation Clause does not permit the prosecution to introduce a forensic laboratory report containing a testimonial certification. Made in order to prove a fact at a criminal trial, through the in-court testimony of an analyst who did not sign the certification, personally perform, or observe the performance of the test reported in the certification." Adding that; "A testing analyst's certification reports more than a machine generated number. It represented; ... that the analyst

performed a particular test on the intended sample and adhered to a precise protocal.... Human actions not revealed in raw machine data. That's reserved for the crucible of Confrontation. Surrogate testimony of the kind offered from an analyst who did not supervise, personally perform, or observe the performance of the test reported in the certification, would not be equipped to convey what the testing analyst knew or observed about the events he or she certified, nor expose any lapses or lies on the testing analyst's part," 564 U.S, ---, 131 S. Ct. 2705 (2011)

Therefore, this Court's holdings and conclusions in Bullcoming As the record in this case also illustrates. That testing analyst Dukes' omission to have interpreted her machine generated data into a written DNA report also failing to testify at trial to her findings. Affirms the in-court testimony and DNA report; interpreted, written, signed and introduced by surrogate analyst Audra Williams at petitioner Clark's trial. Was false and false representation, having not participated in the testing process, generating the DNA results at any point. Thus hearsay under Fed. R. Evid 801(c) and not exempt under Fed. R. Evid 803 and 804(A)(4). see Appendix "D"

However, State and Federal Courts dissented in their rulings against this Court. Averring analyst Audra Williams' qualifications and experience as a forensic analyst. Qualified her as an adequate surrogate analyst to interpret, write, sign, and testify. To the DNA report and it's findings at petitioner Clark's trial in lieu of the testing analyst Mary Dukes. see Appendix "A"(1)(a), "B"(a)

Nevertheless, this Court in Bullcoming rejected that notion holding: "the State Court's reasoning would permit another expert, ...to introduce the information of it's declarant, so long as he or she was equipped to testify about the technology the executing; ...expert employed and whatever organization's or department's standard operating procedures are." Also this Court noted; "the State could have avoided any Confrontation Clause problem by

asking the surrogate analyst to retest the sample and then testify to the results of his retest, rather than to the results of a test he did not conduct or observe," 564 U.S., at 2718, 131 S. Ct. 2705 (2011). State v. Bolden, WL 4578596. (La. App. 3 Cir. 2011). e.g. Davis v. Washing, makes plain, "The comparative reliability of an analyst's testimonial report does not dispense with the clause, such testimony would violate the Confrontation Clause, 541 U.S. 813, 826; Crawford 541 U.S., at 62.

The Federal Courts in petitioner Clark's proceedings have. Erroneously interpreted and applied this Court's holdings, To deny petitioner's C.O.A. Concurring with the State Court's rulings. Federal Courts asserting that the "U.S. Supreme Court in Bullcoming, Does not clearly establish what degree of involvement with the forensic testing is required of an in-court witness offered to prove a particular fact in a testimonial certification, beyond what was deemed insufficient in Bullcoming." The Federal and State Courts reasonings giving this Court jurisdiction to review on Certiorari, Via "Supreme Court Rule 10 (c). In addition to the Federal Courts' blatant demonstration of leniency. For the State Courts concerning the Federal Rules of Court (Fed. R. Civ. P. 12 (a) (2) or (3). That directly prejudiced the petitioner. see Appendix "E" (1) (2) (3) "B" (1) page-9

Petitioner's Sixth Amendment Right to Confront the witnesses against him was clearly violated. And his Fourteenth Amendment, section 1 and Fifth Amendment to the U.S. Constitution were violated (Due Process of Law). "The jury's estimate of the truthfulness and reliability of a given witnesses testimony or evidence may very well be determinative of guilt or innocence, and it is upon such subtle factors... of the witness in testifying falsely that a defendant's life or liberty may depend" quoting - People v. Savvides, N.Y. 2d 554, 557, 154 N.Y.S. 2d 885, 887, 136 N.E 2d 853, 854-855, cited in Napue v. People of State of Ill. 79. S.Ct. 1173, 360 U.S. 264. (U.S. Ill 1959) U.S.C.A Const. Amend 14.

ISSUE TWO

Was Petitioner's 6th Amend right to Effective Assistance of Counsel violated. When trial counsel failed to conduct an investigation into the laws, facts, pleadings, and circumstances of Petitioner's case, causing cumulative errors

This Court agreed that, "The Sixth Amendment imposes on counsel a duty to investigate, because reasonably effective assistance must be based on professional decisions and informed legal choices can be made "ONLY" after investigation of options," Strickland v. Washington, 104 S.Ct. 2052, 466 U.S. 688 (1984) Id., at 121.

Trial counsel's failure to conduct a pre-trial investigation into the laws, facts, pleadings, and circumstances concerning the Petitioner's case. Caused cumulative errors to occur during trial as a result of counsel's negligence. That negligence demonstrated by counsel to not conduct an investigation. Not only lead to the failure of issuing subpoenas to procure the alibi defense witnesses appearance for trial. In addition to securing the material evidence in their possession made void. Also failure to have provided notification of an "Alibi Defense" to the prosecution. An error that legally allowed the prosecution to nullify trial counsel's only chosen line of defense usage at the Petitioner's trial, under C. Cr. P. art 727. It also lead to counsel's failure to object to the in-court testimony of an unqualified surrogate DNA analyst in lieu of the actual testing analyst during the Petitioner's trial. see Appendix "C" (1)(a), "D" page 1069-lines 1-8

Furthermore, the Court held in Bryant v. Scott, the attorney's failure to contact alibi witnesses was ineffective assistance of counsel. Counsel was aware of witnesses early in the proceedings of defendant's case, that defendant wished to call

these for his defense. Counsel had a duty to make an investigation in light of seriousness of offense and gravity of punishment," 28 F.3d 1411 (C.A.5 (TEX) 1994).

The circumstances of the Petitioner's trial counsel having prior knowledge of the alibi witnesses. As well as Petitioner wishing to have these for his defense. Is similar to the circumstance in the Bryant v. Scott case cited above. Trial counsel had pre-trial knowledge; what testimony and material evidence both personal and business (phone records and timesheets). These alibi witnesses would have provided the defense as records show. However, counsel failed to solidify the "alibi defense" strategy as records show. Yet, trial counsel affirms her reliance on only one line of defense at Petitioner's trial. Via attempts to circumvent the prosecution's barring of the use of "Alibi Defense". Through the questioning of the Petitioner himself during trial to establish such. see Appendix "G" (1)(2), "F"

In Strickland, 466 U.S. 668, the Court stated; "If there is only one plausible line of defense, counsel "MUST" conduct a reasonably substantial investigation into that line of defense since there can be no strategic choice that renders such an investigation unnecessary." Id., at 1252. Also in Rummell v. Estelle, the Court stated, .. "if counsel relies at trial on only one line of defense, although others are available, .. the investigation "MUST" include an independent examination of the facts, laws, pleadings, and circumstances involved, 590 F.2d 103, 104 (CA.5 1979). In fact, counsel's own in-court assertion of "not being experienced at crimes of violence cases and jury trials." Is an indicator as to why counsel failed to conduct an investigation. see Appendix "H" (1)

Nevertheless, trial counsel in-court statement revealed counsel's pre-trial knowledge of being destitute of the minimum skill and knowledge requisite to effectively represent the Petitioner in a

case of this seriousness of offense and magnitude of punishment. Should have compelled counsel to conduct an independent pretrial investigation into everything relevent pertaining to the Petitioner's case. To have effectively assisted the Petitioner during trial. Unfortunately for the Petitioner, counsel failed to acquire the requisite knowledge by not investigating his case.

Quoting, Cuyler v. Sullivan supra at 343," Unless a defendant charged with a serious offense has counsel able to invoke the procedural and substantive safeguards that distinguish our system of justice. A serious risk of injustice infects the trial itself", 100 S. Ct. at 1715 (citations omitted). The Petitioner in this petition had no such counsel as quoted in Cuyler v. Sullivan. Therefore injustice infected the Petitioner's trial in this petition. As Cuyler v. Sullivan suggests.

This Court in Cronic held," indeed counsel's incompetence can be so serious that it rises to the level of constructive denial of counsel, which can constitute constitutional error without any showing of prejudice," 466 U.S. 659-660, 104 S. Ct. 2047. For this Court to agree with it's holdings in "Cronic", moreover it's holdings in Strickland. Would not be beyond reasonable consideration for this Honorable Court to apply those standards. To the Petitioner's writ of certiorari. In light of the evidence presented against counsel in this petition.

Trial counsel's cumulative errors were so egregiously harmful and prejudicial to the outcome of the Petitioner's trial. Ensuing the Petitioner's trial, the Petitioner filed a complaint against his trial counsel. With the Louisiana Attorney Disciplinary Board (L.A.D.B) complaining of counsel's incompetence as a whole, pretrial, during trial and post trial. The "L.A.D.B ruling in favor of the Petitioner's complaint. Resulting in counsel's being intermitly suspended from the practice of law, By the Louisiana Supreme Court.

Counsel's errors ultimately left the Petitioner defenseless during trial. As the result of the state's usage of C.Cr.P.art 727. In essence, Petitioner was not represented by counsel as the Sixth Amendment of the U.S. Constitution mandates. In addition to contributing to the State's violating of Petitioner's Sixth Amendment right to Confrontation, (failure to object to the in-court testimony of an unqualified surrogate DNA analyst in lieu of the actual declarant). Noted results of counsel's cumulative errors' effects. see. Appendix "H" (2)

The cumulative effect of counsel's errors constituted ineffective assistance of counsel. A standard set forth in Strickland, that was an unreasonable application of Strickland by the Federal and State Courts in Petitioner's filings. As, "a cumulative-error analysis aggregates all errors found to be harmless individually and analyzes whether their cumulative effect on the outcome of the trial is such that collectively they can no longer be determined to be harmless," U.S. v. Toles. 297 F.3d 959, 972 (10th Cir. 2002)

CONCLUSION

While Petitioner will eschew further traversal of the United States Court of Appeals denial of his motion for COA. Petitioner hereby objects to the denial in its entirety and adopts the contents of his Petition and his Memorandum. For the reasons listed in the above memorandum. Petitioner respectfully, request with supplication that this Honorable Court, reject the United States Court of Appeals denial. Consequently, Petitioner is entitled to the sought after relief in accordance to standing laws of the U.S. Constitution and of this Honorable Court.

AFFIDAVIT OF VERIFICATION AND SERVICE

STATE OF LOUISIANA
PARISH OF WEST FELICIANA

BEFORE ME, came and appeared DeMarcus Clark deposing and stating that a copy of the foregoing Petition for Writ of Certiorari to the United States Supreme Court has been duly served on all parties required to be served and that all information contained herein are true and correct to the best of his knowledge and belief.

That a copy of the foregoing has been served upon the Caddo Parish District Court, Warden of Louisiana State Penitentiary, The United States District Court (Western District of Louisiana Fifth Circuit), and the United States Court of Appeals (For the Fifth Circuit), and opposing counsel namely:

Carl Stewart, (Attorney for the State of Louisiana)
District Attorney for the Parish of Caddo
501 Texas St. 5th Fl
Shreveport, Louisiana 71101
telephone 318-429-7618

All by first class mail, postage pre-paid, or electronically filed, of of one copy to each on this 17 th day of August 2020, at the same time the original was mailed to the Clerk of the United States Supreme Court.

SWORN AND SUBSCRIBED to before me on this 17th day of AUGUST, 2020.

D. Williams #153246
PRISON EX-OFFICIO
(Authorized Staff Notary)

CERTIFICATE OF COMPLIANCE

I certify that the foregoing Petitioner's Brief is in compliance with the requirements imposed by Supreme Court Rule 14 and 33.1. The instant brief consists of 10 pages and 1797 words, exclusive of the table of contents, table of authorities, and certificates of list of parties, service and compliance.

DeMarcus Clark, Pro se
DeMarcus Levell Clark
D.O.C. number 587170
Louisiana State Penitentiary
Angola, LA 70712