No. 20-6036

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Torrey Lavell Washington — PETITIONER
(Your Name)

vs.

Harold Clarke — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeal 4th Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Torrey Lavell Washington 1305527
(Your Name)
Nottoway Corr. Center
P.O. Box 488
(Address)

Burkeville, VA 23922
(City, State, Zip Code)

(434) 767-3054
(Phone Number)

QUESTION(S) PRESENTED

1) Was there enough evidence to Convict the Petitioner because the Circumstantial evidence never prove guilt Beyond a Reasonable doubt?

2) Was the Petitioner given a fair trial with the Misconduct of the Prosecuting Attorney when She Vouched that her experts was telling the truth and did this deny the Petitioner his 6th Amendment Right?

3) Was the Warrant defective because an arrest must be made on firmer ground than mere Suspicion?

4) Did the Prosecuting Attorney prove Elements beyond a Reasonable doubt?

5) Did the Circumstantial evidence cover the burden of Proof?

6) Did the Victim Samantha Pace Commit Perjury when She Changed her testimony from the Mistrial and Police report, that was not the same as the testimony She gave In the trial when the Petitioner was found guilty?

7) Was it Misconduct on the Prosecuting Attorney's part when She knew that the Victim Changed her testimony just to convict the Petitioner?

8) Is it a Miscarriage of Justice that the Procedures of Finger print analysis is flawed Which a study shows which came out in Sept. 2016 From the President's Council of Advisors on Science and Technology (PCAST) on Forensic Science analysis, and the tactics used?

9) Was the Petitioner deprived of Due Process of Law since the Petitioner was not provided a hiring to defend Himself prior to being unconstitutionly accused of a Crime since he was never Identified and no procedures were taking

10) Was the Petitioner's Right Against Unreasonable Search and Seizures [of his Body] Violated because there was no probable Cause...?

Question(s) Presented Con't

11) Was the Petitioner's 6th Amendment Violated when one of the Juror knew the Victim Samantha Pace and only let it be Known once the Jury was Selected

12) Was the Defense Attorney ineffective because he never objected to the juror Staying to the Jury even though the juror and the Victim knew each other?

13) Was the Defense Attorney ineffective because he never call witnesses to the Stand that could of explained the Petitioners where abouts at the time of the crime?

14) Was the Jury instructed properly on guilt beyond a reasonable doubt?

15) Was the Jury's Verdict rendered in the absence of proper instructions on every element of the offense

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:

RELATED CASES

Terry v. Ohio, 392 U.S. 1 (1968)
U.S. v. Cronic, 466 U.S. 648 (1980)
Naupe v. Illinios, 360 U.S. 264 (1959)
U.S. v. Martinez-Salazar (2000)
House v. Bell, 126 S.Ct. 2064 (2006)
Jackson v. Virginia, 443 U.S. 307 (1979)
Osborne v. Ohio, U.S. 103 (1990)
U.S. v. Russell, 411 U.S 423 (1973)
Darden v. Wainwright, 477 U.S 264 (1986
Chambers v. Miss., 410 U.S. 284 (1949)
In re Winship, 397 U.S 358 (1970)
U.S. v. Young, 470 U.S. 1 (1985)
U.S v. Gonzalez, 110 F.3d, 936, 946 (2nd Cir 1997)
Sullivan v. La. 508 U.S 275, 281 (1993)

U.S. v. Gaudin, 515 U.S. 506 (1995)
U.S v. Loayza, 107 F.3d 257, 261 (4th Cir 1997)
U.S v. Harrison, 716 F.2d 1050 1052
U.S. v. O'Brien, 130 S.Ct. 2169, 2174 (2010)
U.S v. Bonner 648, F.3d 209, 214 (4th Cir 2011)
Murray v. Carrier, 471 U.S. 478 (1986)
Liggins v. Burger, 422, F.3d 642, 650 (8th Cir 2005)
Yarborough v. Gentry, 540 U.S. 1, 5 (2003)
Padilla v. Ky, 130 S.Ct 1473, 1480-81 (2010)
Strickland v. Washington 466, U.S 688, 687-88 (1984)
Goodman v. Bertrand, 467, F.3d 1022, 1023-31 (7th 2006)
U.S. v. Powell, 680 F.3d 350, 358 (4th Cir 2021
U.S v. Brooks, 681 F.3d 678, 689 (5th Cir 2012)
Payton v. NY 445, US 573, 602-03 (1980)

Related Cases con't

Brinegar v. U.S. 338 U.S. 160, 177 (1949), Carroll v. U.S, 267 US, 132 155-56 (1925
U.S. v. Gatewood, 173 F.3d 983, 986 (6th cir 1999), Weinberger v. Wiesenfeld, 420 U.S 636 638 n.2 (1975)
Yates v. Evatt, 500 U.S 391, 403-05 (199), Reed v. Farley, 512 U.S 339, 348 (1994)
Winslow v. Comm., 64 VA App. 122, Hohn v. U.S, 524 U.S. 236 (1998)

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OTHER

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 A & C to the petition and is

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

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

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

[ ] For cases from **state courts**:

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

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

The opinion of the ____________________ court appears at Appendix _____ to the petition and is

[ ] reported at ____________________; or,
[ ] 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 ______________.

[✓] 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 a 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 courts**:

The date on which the highest state court decided my case was ______________. A copy of that decision appears at Appendix ______.

[ ] 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 a 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).

PETITION FOR A WRIT OF CERTIORARI

Petitioner, Torrey L. Washington, respectfuly petitions for a writ of Certiorari to review the judgment of the United State Court of Appeals for the Fourth Circuit, denying Petitioner's application of Appealability.

OPINIONS BELOW

The Follow opinions and Order below are pertinent here, Some of Which are Unpublished; [1] In the United States District Court dismissed the Writ of Habeas Corpus for not writing objections to the Report and Recommendation. (2/14/20) [2] In the United States Court of Appeals For the Fourth Cicuit ~~Dismissed~~ Denied Petitioner's certificate of apealability and dismissed Petitioner's appeal (7/28/2020) [3] The United States Court of Appeals for the Fourt Circuit. Dismissed Both appeals for lack of jurisdiction because the notices of appeals were not timely Filed (8-20-20) (See Appendix For Copies)

STATEMENT OF JURISDICTION

The District Court and the Court of Appeals for the Fourth Circuit denied Petitioner's request For Certificate of Appealability. In Hohn v. United States, 524 U.S. 236 (1998), this Court held that, pursuant to 28 U.S.C. § 1254(1), the United States Supreme Court has jurisdiction, on Certiorari, to review a denial of a request for Certificate of Appealability by a Circuit Judge or Panel of a Federal Court of Appeals

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Right of a State prisoner to Seek Federal habeas Corpus relief is
is guaranteed in 28 USC § 2254. The Standard for relief under "AEDPA" is Set
forth in 28 USC § 2254 (d)(1)

STANDARD OF REVIEW:

DENIAL OF CERTIFICATE OF APPEALABILITY

In Miller-EL v. Cockrell, 537 U.S. 322, 123 S.Ct 1029 (2003), this Court Clarified ~~held~~ the
Standards for Issuance of a Certificate of Appealability [hereafter "COA"]
... A prisoner Seeking a COA need only demonstrate a "substantial Showing of the denial
of a constitutional right"; A petitioner Satisfies this Standard by demonstrating that jurists
of reason could disagree with the district court's resolution of his consitutional claim or
That jurists could conclude the issues presented are adequate to deserve encouragement
to proceed further... We do not require Petitoner to prove, before the issuance of a COA, that
Some jurists would grant the Petition for habeas Corpus. Indeed, a Claim can be
debatable even though every Jurist of reason might agree, After the COA has been granted
and the case has received full consideration, that Petitioner will not prevail.
Id. 123 S.ct. at 1034, citing Slack v. McDaniel, 529 U.S. 473, 484 (2000)

STATUTORY PROVISIONS INVOLVED

A Claim presented in a Second or Successive habeas Corpus application
Under 28 USC § 2254 that was not presented in a prior application
Shall be dismissed Unless (B)(ii). The Facts underlying the Claim, if proven
and View in light of the evidence as a whole, would be Sufficient to establish
by clear and Convincing evidence that, but for Constitutional error, no reasonable
Factfinder would have found the applicant guilty of the Underlying offense
(B)(i) The factual predicate for the Claim could not have been discovered
previosly through the exercise of due diligence. This is from
28 USC § 2244.

STATEMENT OF THE CASE

Petitioner was convicted by a Virginia Beach jury of two Counts of abduction One count of Armed Statutory Burglary, One Count of Robbery, One count of Conspiracy and three Counts of Use of a firearm in Comission of a Felony, Petitioner was Sentenced to 33 Years and 12 months.

STATEMENT OF PERTINENT FACTS

The incidents in question occurred at an apartment complex in Virginia Beach, VA On October 2, 2011 Some time after 10:30 pm. The police recovered a partial latent print On the outside of the apartment door.

At trial the Court let a juror on the Jury that know the Victims in the Case. Also from which We learn the following;

REASONS FOR GRANTING THE PETITION

Argument Summary

The Following Factors were all present in and During the case and will Show this Honorable Court why this Writ should be granted:

(1) The evidence presented is insufficient to Convict Petitioner of the Charge(s)

(2) Petitioner's Due Process was Violated when the Prosecutor Fail to prove beyond a reasonable doubt.

(3) Petitioner's Due Process was Violated because the Petitioner was never given a hearing Prior to being accused of the Crime and the was no probable cause for his arrest

(4) The Defense Counsel was ineffective at trial.

(5) The Prosecutor should of Known that the Victim Samantha Pace committed perjury by change her Story from the police report and the Mistrial transcripts because her testimony Changed at the trial.

(6) The Juror was not excluded from the jury because She Knew the Victim, The Juror even admitted it after the jury Selection was over.

(7) The jury was not properly instructed of Petitioner's guilt beyond a reasonable doubt.

(8) The jury was not properly instructed about the essential element of the Charged Offense(s)

(9) The Prosecutor's Misconduct; In her closing arguments She Vouched for the State's expert was telling the truth, which Violates the Petitioner Sixth Amendment Right to a fair and impartial trial.

(10) A Study from the President's Counsel Advisor of Science and Technology (PCAST) did a Study in Sept. 2016 about forensic Science and the Methods that Forensic Scientist performed are flawed.

Reason(s) Why This Court Should Grant the Writ,

(1) It is true that a mere fingerprint viewed in isolation, wholly independently
of any Contextual Circumstances, often falls far short of proving guilt
Winslow v. Comm., 64 Va App. 122 which also makes the evidence insufficient
to convict because this is the only evidence presented.
(2) Under the Due Process Clause of the Fifth Amendment, the Prosecution is
required to prove beyond a reasonable doubt every elements of the crime with which
a defendant is Charged See In re Winship, 397 U.S. 358 364 (1970)
See also U.S. V. O'Brein, 130 S.Ct. 2169, 2174 (2010)
The Prosecutor never proved beyond a reasonble doubt every element of the crime
which the Petitioner was Charged with. The government's failure to meet it burden of proof
results in the Petitioner's acquittal U.S. v. Bonner, 648 F.3d 209, 214 (4th Cir. 2011)
(3) A challenge can also be brought on Due Process or Equal Protection
Since they did not Provide the Petitioner a hearing to defend himself prior to
Unconstitutionally accused of a Crime, it deprived the Petitioner Due Process. The
Fifth Amendment Forbid[s] discrimination that is "so unjustifiable as to be Violative
of Due Process. Weinberger v. Wiesenfeld, 420 U.S. 636 638 n. 2 (1975) quoting
Schneider v. Rusk, 377 US 163 168 (1964)
Probable Cause to obtain an arrest Warrant exist when the police
have, at the moment of arrest, knowledge of facts, And Circumstances grounded in
reasonably trustworth information and sufficient in itself to warrant a belief
by a prudent person that an offense has been or is being committed by the Suspect
It is basic that an arrest... must stand upon firmer ground then mere suspicion
Brinegar v. U.S. 338 U.S. 160, 177 (1949) The Finger print only bring mere
Suspicion, That is not enough to issue a Warrant,

(4) The defense Attorney Was ineffective because he Failed to call for a
Mistrial when the Prosecutor made multiple prosectutorial Misconducts. He
Failed to call Witnesses to the Stand on the Petitioner's behalf, and impeach
Credibility of prosecution's witnesses, this is deem ineffective for the
Defense Counsel see Goodman v. Bertrand, 467 F.3d 1022, 1023-31(7th Cir 2006)
The Sixth Amendment guarantees the Right to effective assistance of Counsel
In Criminal prosecutions Yarborough v. Gentry, 540 U.S, 1, 5 (2003)
If the Defense Counsel did call for the mistrial, the Petitioner Sixth Amendment
Right (The Right to a fair and impartial trail would not being Violated
If he call witnesses on the Petitioner's behalf he would have been
found not guilty because they can prove his whereabouts at they
time of the crime, he also never objected to the juror that knew the Victim
(5) Samantha Pace comitted perjury by changing her story that was
on the police report and the Mistrial testimony. Her testimony changed
at trial and The Prosecutor Known or should have know this since she
introduce the police report into Evidence. In Naupe v. Illinios, 360
U.S. 264 (1959) The Prosecutor knowingly used perjured testimony to obtain
a conviction
(6) The Trial court did not dismiss a juror from the jury because
She knew the Victim Samantha Pace, In U.S. v. Martinez-Salazar,
528 U.S 304 (2001) the Court imporoperly refused to excuse a juror
for cause that the juror knew the witness in the case. This Violates
the Petitioner's Sixth Amendment Right to a fair and impartial trial.

(7) The Jury Was not properly instructed of the Petitioner's guilt beyond a reasonable doubt. Any Jury that is well or properly instructed of the Petitioner's guilt beyond a reasonable doubt, would not have found him guilty Of Said Charges. The Only evidence tying the Petitioner to the Scene is a Partial latent Fingerprint on the out side of an Apartment door. Petitioner's Conviction was obtained as a result of evidence that is insufficient to persuade a properly instructed, reasonable Jury of his guilt beyond a reasonable doubt... See Jackson v. Virginia, 443 U.S. 307 (1979)

(8) The Jury Was not properly instructed about the essential element of the Charged Offense(s). If the Jury was properly instructed about the essential element Of the Charged Offense(s), the Petitioner would not have been found guilty because the essential elements of the Charged Offense(s) Were missing. The Petitioner's Conviction resulted from a Jury instruction which Omitted an essential essential element of the Charged offense(s) See Osbourne v. Ohio, 495 U.S. 103 (1990)

(9) The Prosecutor Vouched for the State expert was telling the truth which Violates the Petitioner Sixth Amendment Right, the Right to a fair and impartial trial, In U.S. v. Young, 470 U.S. 1 (1985) Petitioner's Conviction followed from the Prosecutor's Vouching for the Credibility of a Witness...

(10) "There was a Study done in Sept. 2016 that Shows that Forensic testing is flawed and that this Study under mines the prosecution's theory of the case... See House v. Bell, 126 S. Ct 2064 (2006)

CONCLUSION

Based on the Foregoing this Court should grant

The petition for a writ of certiorari [redacted].

Respectfully submitted,

Date: October 1, 2020