

No. **20-6232**

IN THE

SUPREME COURT OF THE UNITED STATES

**BRIAN DWIGHT PETERSON**

— PETITIONER

(Your Name)

VS.

**STATE OF MICHIGAN**

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

*United States Court of Appeals for the Sixth Circuit*

~~*State of Michigan in the Supreme Court*~~

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

PETITION FOR WRIT OF CERTIORARI

**BRIAN DWIGHT PETERSON**

(Your Name)

*Carson City Correctional Facility*  
*10274 Boyer Road*

(Address)

*Carson City, MI 48811*

(City, State, Zip Code)

(Phone Number)

**RECEIVED**

**AUG 18 2020**

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

## QUESTION(S) PRESENTED

- ① Is it unreasonable for a Defense attorney to not show the defendant the police reports and not allow the defendant to hear 911 phone calls in a capital case and not hire a private investigator when he told the defendant he did? Is the Defense attorney effective for not informing his defendant/client of Defense of Others and above mentioned reasons? OR would a reasonable probability that but for counsel's unprofessional errors that the result of proceeding be different outcome?
- ② Is it unreasonable to have defendant in custody, not allow mail, and use statements after defendant requested an attorney?
- ③ Does the mere fact that an individual is held for interrogation by law enforcement officers and may have answered some questions or volunteered some statements in response to questions on his own deprive him of the right to refrain from answering any further questions until he has consulted with an attorney and thereafter consents to be questioned?
- ④ Is unnecessary photographs that clearly inflame the jury that have no reason to be shown, such as autopsy photographs, when the question is not what caused the injury but why the injury took place lawful and reasonable when the jury clearly was shown graphic photos?

(See attached)  
for more questions.

## 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:

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APPENDIX H: Peterson v. Ostrander, 2017 U.S. Dist.  
Lexis 145033 (W.D. Mich., Sept. 7, 2017)

# TABLE OF AUTHORITIES CITED

(2013)

CASES Alleyne v. United States, 570 U.S. 99, 133, S. Ct. 2151, 186 L.Ed. 2d 314 (2013) PAGE NUMBER

United States v. Holt, 751 Fed. Appx. 820, 2018

U.S. App. Lexis 31092 2018 FED App 0553N (6th Cir) 2018

Fields v. Howes, 617 F.3d 813, 2010 U.S. App. Lexis 17366, 2010 FED App. 254P (6th Cir.) (2010)

Tompson v. Keohane, 516 U.S. 99, 111, 116 S. Ct. 457, 133 L.Ed. 2d. 383 (1995)

Miranda v. Arizona, 384 U.S. 436  
STATUTES AND RULES

Glasser v. United States, 315 U.S. 60 (1942)

Rogers v. United States, 340 U.S. 367 (1951)

Stickland v. Washington Id at 694

Sixth Amendment	violations	MCLS 780.971 - self-defense
Fifth Amendment	violations	MCLS 750.316 - obligation to retreat
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Due process of law	violations	

## OTHER related cases:

Peterson v. Ostrander, 2016 U.S. Dist. Lexis 67019

Peterson v. Ostrander, 2017 U.S. Dist. Lexis 145033

Peterson v. Ostrander, 2018 U.S. App. Lexis 8902

Peterson v. Randee Rewerts, case NO. 19-2189 ~~United~~  
United States court of Appeals for the 6th Circuit. June 30, 2020

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 F to the petition and is ~~Pette v. Rewerts, 2020~~ Peterson v. Rewerts, 2020  
☒ reported at Case No. 1:16-cv-01014; 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 D to the petition and is Peterson v. Campbell, 2018  
☒ reported at Case No. 19-2184; 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 A to the petition and is  
☐ reported at People v. Peterson, 2015; or,  
☐ has been designated for publication but is not yet reported; or,  
☒ is unpublished.

People v. Peterson, 498 Mich. 950  
The opinion of the ~~Michigan Court of Appeals~~ court appears at Appendix B to the petition and is Case No. 320079  
☐ 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 ~~June 3, 2020~~ Sept. 27, 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: June 3, 2020, and a copy of the order denying rehearing appears at Appendix F.

☐ 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 12-22-2015.  
A copy of that decision appears at Appendix B.

☒ A timely petition for rehearing was thereafter denied on the following date: May 1, 2018, and a copy of the order denying rehearing appears at Appendix C.

☐ 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).



## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. US Const, Am V . . . . page 12, 13, 19
2. US Const, Am VI . . . . 12, 13, 15, 28
3. US Const, Am XIV . . . . 13, 19, 25, 28

- 1) US. Constitution Amendment V. Mr. Peterson was denied his right to a fair trial when the jury was exposed to several comments by the lead Detective Goodell calling Mr. Peterson's innocence and veracity into question. All defendants enjoy a due process right to a fair trial undeterred by inadmissible and unfairly prejudicial evidence. An important element of a fair trial is that only relevant and competent evidence is introduced against the accused. *Bruton v United States*, 391 US 123, 131; 88 S Ct 1620; 20 L Ed 2d 476 (1968)
- 2) US. Constitution Amendment VI. Mr. Peterson was denied his right to effective assistance of counsel by his trial attorney's failure to request an independent witness, failure to let Mr. Peterson read or see any police reports, failure to call witness Mr. Peterson requested that were essential to his case, failure to affirm a private investigator and failure to object multiple times. Counsel made errors so serious that counsel was not performing as counsel guaranteed the defendant by the Sixth Amendment. A criminal defendant has the right to effective assistance of counsel under both federal and state constitutions.
- 3) US. Const. Am XIV. Defendant was denied a fair trial and due process of law. All defendants enjoy the right to due process and a fair trial and with police coercion, not being able to see police reports or hear all calls before trial, witnesses not being called, questions defendant wanted asked not being asked and proven false testimony being allowed as fact being submitted and not corrected by the prosecution all added up to a unfair trial and the denial of Mr. Peterson's rights.

## STATEMENT OF THE CASE

On October 21<sup>st</sup> 2012 Peterson was at his home he shared with two female room mates. Luke Vincent was dating one of these roommates. In the early hours of October 21<sup>st</sup> 2012 there was an argument between Vincent and Rohall - (Peterson's roommate). The argument turned violent and Vincent assaulted Rohall. Peterson stopped Vincent's assault by striking Vincent with a 20 lbs ~~weight~~ dumbbell.

Peterson called the police. The police arrived within "less than a minute" after Peterson's phone call. Peterson helped the first arriving officer. Peterson was then - upon arrival of other officers - placed in the back of a marked police car and was told he was not free to leave. Peterson was in the Police car without his cell phone that he asked for.

Vincent died after 60+ minutes of CPR and Peterson was taken to the police station to be questioned.

Peterson was charged with Open murder in violation of Michigan Compiled Laws § 750.317, and the trial court sentenced him as a second-offense habitual offender to 20-50

years' imprisonment. During Peterson's confinement in the Kalamazoo County Jail Peterson was not allowed to send or receive United States mail. This was because the Kalamazoo police department had a warrant collecting all his incoming and outgoing mail.

Peterson was convicted in 2013 of Second-degree murder, in violation of MCL § 750.317 by a Michigan jury who only had first-degree, Second-degree or not guilty to choose from. Trial court sentenced Peterson to 20-50 years imprisonment.

## REASONS FOR GRANTING THE PETITION

- ① Petitioner submits that Petitioner was in custody when statements that Det. Goodell said he told her were used at Petitioner's trial. Petitioner repeatedly asked for an attorney and was not free to leave. Petitioner claims violation with regards to Miranda v. Arizona, 384 U.S. 436, Tompson v. Keohane, 516 U.S. 99, 111, 116 S. Ct. 457, 133 L. Ed. 2d. 383 (1995) and Maryland v. Shatzer, 559 U.S. 98, 112-114. Petitioner requests on Certiorari, that the United States Supreme Court vacate the judgment of the Court of Appeals in Michigan and remand the case for further proceedings without the statements that Kalamazoo Police Det. Goodell said that Petitioner said. (There is no proof that Petitioner actually said these things to her because no interrogation video was shown even after Petitioner requested his attorney to show it.)
- ② Petitioner submits that trial counsel was objectively below standard and so unreasonable that his performance prejudiced the Petitioner as established in Strickland v. Washington, 466 U.S. 668, 687, 104 S. Ct. 2052 80 L. Ed. 2d 674 (1984).
- ③ Petitioner submits the question that is it lawful and fundamentally fair for the Prosecution to not correct false testimony when prosecution knows the testimony to be false? This is in regards to Rohall's commits at trial that Vincent "never hit her" after evidence shows he did and her statement to police on the police report stated she said Vincent hit her. This is also in regards to Goodell's statement that she "never said she would go back to the wall and threaten Petitioner".

## Reasons for Granting Petition (Attachment)

Due to indigency and the restrictions placed on the facility and inmates due to Covid-19, I am unable to produce parts of the record. The applicant, myself, in Pro Per, challenges the sufficiency of the evidence that was adduced in the state court proceedings to support the state court's determination of the issues of fact. The Applicant challenged the PSI, presentence investigation in court. Vincent was never his roommate. Evidence supported that the T.V. fell before Applicant exited his room. Rohall was being assaulted by Vincent as the evidence supported. Applicant was not "free to leave" as evidence at trial supported. Officer Brian Veltman was told he, (the Applicant) was not free to leave and to watch him as he sat in the back of a marked police car. These reasons that apply to the case at hand pursuant to 28 USC § 2254 subsection a, b, e, and F all are examples of the reasons for granting this request for a writ.

Applicant can not afford to make copies of all the briefs he sent into the court's or appeals to briefs. Please order state to make such copies.

The state court's factfinding is "not fairly supported" by the record at trial. 28 USC § 2254(d)(8)

⑦ The admission of gruesome photographs of the autopsy did violate the Petitioner's right to a fair trial.

There was no question as to what caused Vincent's death. The photos only were shown in the presence of Vincent's family to inflame the jury. The autopsy photographs were unnecessary.

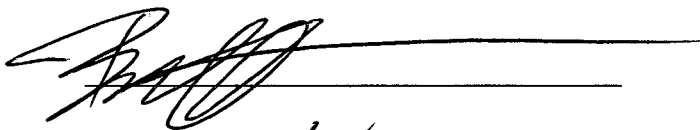
( Please see additional pages ) ( attached )

#### CONCLUSION

For the name of Justice and for the United States Constitution,  
A fair trial should be ordered or conviction overturned.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: ~~08/03/2020~~ 08/03/2020

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

BRIAN DWIGHT PETERSON

— PETITIONER

(Your Name)

VS.

People of the State of Michigan RESPONDENT(S)

PROOF OF SERVICE

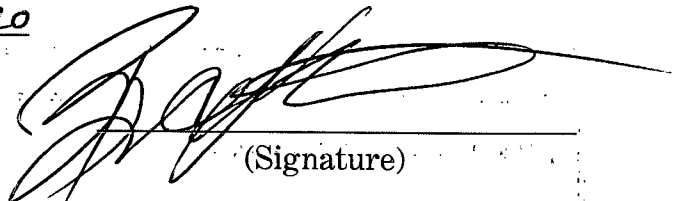
I, BRIAN DWIGHT PETERSON, do swear or declare that on this date, Sept. 14<sup>th</sup>, 2020, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Attorney General for Michigan Dana Nessel  
Cadillac Place, 3030 West Grand Boulevard  
Detroit, MI. 48202

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 09/14/, 2020

  
(Signature)

Indigent and  
can't afford copies.  
Please make them and send  
to prosecutor of State of Michigan