

No. _____

20-6288

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

ALLEN SNYDER — PETITIONER

VS.

DARREL VANNOY, WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

ALLEN SNYDER
169143, WALNUT—4
LOUISIANA STATE PENITENTIARY
ANGOLA, LA 70712

FILED

OCT 22 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. In denying Snyder's application for post conviction relief, the trial court said Snyder was challenging his conviction and sentence for the second degree murder of his wife; however, Snyder's wife is not deceased and neither is she *the* victim in this case. The lower courts have overlooked and ignored this egregious error. Like the judge who presided over the trial, could the jury have been confused about who the actual victim was in this case?
2. Snyder is not an experienced pro se litigant and has not had any legal training. He received some assistance from the prison law library to restructure his claims, making 2 instead of 10. The lower courts refused to review Snyder's ineffective-assistance-counsel claim, alleging it was new; however, none of the claims were new and they are contained in Snyder's original post-conviction application. Did the lower courts err in not reviewing the claim on its merits?

LIST OF PARTIES

[x] All parties appear in the caption of the case on the cover page.

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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The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is reported at 2019 WL 1748665.

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

The opinion of the highest state court to review the merits appears at Appendix G to the petition and is reported at 2013-2647 (La. 4/25/14); 138 So.3d 643

The opinion of the Louisiana Fifth Circuit Court of Appeal appears at Appendix H to the petition and is reported at 12-96 (La. App. 5 Cir. 10/9/13); 128 So.3d 370.

JURISDICTION

[x] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 16, 2020.

[x] No petition for rehearing was timely filed in my case.

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

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

The date on which the highest state court decided my case was October 17, 2016.

A copy of that decision appears at Appendix D.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides in pertinent part:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury ... and to have the assistance of counsel for his defence.

The Fourteenth Amendment to the United States Constitution provides in pertinent part:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Louisiana Constitution Article 1, § 2

No person shall be deprived of life, liberty, or property, except by due process of law.

Louisiana Constitution Article 1, § 3

No person shall be denied the equal protection of the laws. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations.

Louisiana Constitution Article 1, § 13

When any person has been arrested or detained in connection with the investigation or commission of any offense, he shall be advised fully of ... his right to the assistance of counsel ... In a criminal prosecution, an accused shall be informed of the nature and cause of the accusation against him. At each stage of the proceedings, every person is entitled to assistance of counsel of his choice, or appointed by the court if he is indigent and charged by an offense punishable by imprisonment.

La. C. Cr. P. art. 582

When a defendant obtains a new trial or there is mistrial, the state must commence the second trial within one year from the date the new trial is granted, or the mistrial is ordered, or within the period established by Article 578, whichever is longer.

La. C. Cr. P. art. 707.

A motion for a continuance shall be in writing and shall allege specifically the grounds upon which it is based and, when made by a defendant, must be verified by his affidavit or that of his counsel. It shall be filed at least seven days prior to the commencement of trial.

Upon written motion at any time and after contradictory hearing, the court may grant a continuance, but only upon a showing that such motion is in the interest of justice.

STATEMENT OF THE CASE

Snyder is an honorably discharged Marine and father of three. Although he and his wife loved one another, there was infidelity from both of them in their relationship; even so, Snyder did not want to give up on his marriage. In 1994 Snyder was promoted to a supervisory position that required him to work graveyard shifts. It was while he was away from home that his wife ("Mary") began seeing other men. Still Snyder tried to save his marriage. He and Mary began to argue more frequently as a result of her infidelity. Mary would attempt to hide her indiscretions by starting arguments under false pretenses and retreat to her parents's house where she would meet with other men. At times, to make her lies more plausible, Mary would take the children with her. When her mother began to ask her about her actions and why she was out so late, Mary would go home to Snyder.

On August 15, 1995, Snyder and Mary talked on the phone and agreed to reconcile. Mary assured Snyder she would be home with him the following day; however, soon after getting off of the phone, Mary had a tryst with Howard Wilson. Exhilarated about his wife and children returning home, Snyder became anxious and paged Mary later on in the evening but she did not respond. Worried and nervous, Snyder looking for his wife at the home

of one of her relatives at 1:00 a.m. No one answered the door of the home but, while he was still knocking, he saw a car parked in front of Mary's parents's home. Snyder then went to see if his wife was in the car. What he saw was enough to drive any reasonably minded person insane—his wife kissing and groping another man, who was also groping her, just a few feet from where their children lay sleeping. Caught up in the heat of passion, Snyder was unable to rationally deal with what his mind was processing. Without thought, Snyder attempted to get his wife out of the car of another man and from there, everything spiraled out of control.

Snyder's recall of the incident is sketchy at best; however, he does know a violent altercation ensued when he attempted to physically remove Mary from Howard Wilson's car. In the aftermath, Snyder realized he had stabbed Wilson. He went home in a daze and overcome with depression. Later that day, Snyder called the police and said he was considering suicide.

Officer Vic Giglio of the Kenner Police Department was dispatched to Snyder's home in response to his call. When officer Giglio realized Snyder was wanted for questioning in the death of Howard Wilson, he detained him for the Jefferson Parish Sheriff's Office ("JPSO"). Officer Giglio reported that Snyder did not have any visible injuries.

Detective Debbie Labit of the JPSO arrived at Snyder's home and advised him of his Miranda rights. Detective Labit observed injuries to Snyder's right hand that appeared to be fresh. Detective Labit had Snyder transported to the Detectives Bureau where she observed Snyder "talking odd as if he had been in a war." R. p. 692.

Detective Michael Cooke said he interviewed Gwen Williams. According to his testimony, Williams supposedly witnessed Snyder stab Wilson to death. However, Det. Cooke said Williams told him she never saw Snyder with a knife. R. pp. 859-860.

Snyder launched an unsuccessful collateral attack against his conviction and sentence in the state courts. Thereafter, he filed a timely petition for a writ of habeas corpus in the Eastern District Court of Louisiana. On April 18, 2019, the district court adopted the Magistrate's recommendation and denied Snyder's petition for a writ of habeas corpus with prejudice. On September 16, 2020, the Fifth Circuit Court of Appeals denied Snyder's request for a Certificate of Appealability. This instant petition for writ of certiorari timely follows.

REASONS FOR GRANTING THE WRIT

The Fifth Circuit Court of Appeals and the other lower courts have committed clear error in denying Snyder habeas and post-conviction relief. The trial court *believed* Snyder was seeking relief for the second degree murder of his wife. Appendix F, p. 49. Snyder has asked each court, since the denial of his application for post-conviction relief, to remand the matter back to the trial court because his wife is *not* dead and he was not convicted of any crimes allegedly perpetrated against her. The trial court's belief that Snyder killed his wife is proof of how the so-called evidence-of-other-crimes negatively affected his trial and resulted in prejudice. The trial judge's confusion about the victim may also be a reflection of the jury's confusion of who the victim was. Snyder was re-indicted for second degree murder for the death of Howard Wilson. Each reviewing court has thus far refused to address the trial court's incorrect assessment of the evidence and facts. Cf. *United States v. Yanez Sosa*, 513 F.3d 194, 200 (5th Cir.2008); *Hill v. Johnson*, 210 F.3d 481, 485 (5th Cir. 2000); 28 U.S.C. § 2254(d)(2)(e)(1). Mary Snyder is still alive and well—living proof the trial court's ruling and the jury's verdict is not worthy of any confidence.

Snyder relied on his memory to file his original application for post-conviction relief and, as a pro se litigant, was entitled to liberal construction and he should have been granted a copy of the record to supplement and clarify his claims.

A mere recounting of the facts from the appellate court by the district court is not sufficient to cure the trial court's error in a federal habeas petition. The Judge who presided over the trial is the same Judge who erroneously said Snyder was seeking post-conviction relief for the second degree murder of his wife. If the Judge made a mistake of this magnitude, not knowing who the victim is, what other mistake were made? The state courts *factual* findings are not entitled to any presumption of correctness. *United States v. Yanez Sosa*, supra; *Hill v. Johnson*, supra.

1. Snyder's case was adversely affected as a result of ineffective assistance of trial counsel.

The district court contends that a jury consisting of nine females and three males, along with two females chosen as alternate jurors does not mean that a prima facie case of gender discrimination can be made. Appendix B, p. 10. On the contrary, it appears that, even without the record, Snyder has stated with reasonable specificity that his trial was infected with a severe case of gender bias, thus rendering his trial fundamentally unfair. The number

of peremptory challenges the State used is irrelevant. Especially where the State wanted as many women as possible to sit on the jury knowing it intended to portray Snyder as a jealous and abusive husband. Again, the State's strategy so affected the trial the judge thought Snyder actually killed his wife and not Howard Wilson. Appendix F, p. 49. The district court said Snyder's claim was conclusory; however, he specifically stated his need for a copy of the record. The district court could have remanded Snyder's case for him to be given a copy of the record and time to perfect his claims. *Lane v. Brown*, 372 U.S. 477, 83 S.Ct. 768, 9 L.Ed.2d 892 (1963); *Smith v. Bennett*, 365 U.S. 708, 89 S.Ct. 895, 6 L.Ed.2d 39 (1969); *State ex rel. Bernard v. Orleans Criminal District Court Section J*, 94-2247 (La. 4/28/95); 653 So.2d 1174.

The lower courts do not believe Snyder's counsel was ineffective when he failed to challenge the State use of *alleged* evidence other crimes against him; however, after Snyder presented this colorable claim, he should have been entitled to liberal construction *and* granted a copy of the record. The lower courts did not take notice of the trial court's assertion that Snyder is an experienced pro se litigant. Appendix F, p. 51. However, even if the trial court's assertion was true, Snyder is not an attorney and he should not be held

to the same stringent standards attorney's are held to. *Andrade v. Gonzalez*, 459 F.3d 538, 543 (5th Cir. 2006).

The lower courts believe Snyder's trial counsel's cross-examination of Mary was not deficient and that Snyder failed to carry his burden concerning this claim. Without the record to point to specific instances, Snyder could only generally state some of the deficiencies in his counsel's questioning of Mary.

The lower courts also believe Snyder was not denied his right to confront Gwendolyn Williams because his "trial counsel vigorously opposed the state's request to use" her testimony from the first trial. Appendix C, p. 35. Williams's testimony should not have been read to the jury at the second trial and Snyder's counsel was ineffective for his inability to produce jurisprudence to show how the State was precluded from using Williams's prior testimony because Snyder trial counsel at his first trial failed to cross-examine Williams. Again, without the record, Snyder did a good job of stating why he needed a copy of the record to support his claims.

The district court misconstrued Snyder's claim that his trial counsel was ineffective for requesting unnecessary and oral continuances. Not only did counsel fail to write the reason for the requested continuance as required by law, it was a violation of due process and equal protection when he did not.

La. C. Cr. P. art. 707; U.S. Const. art. XIV. Clearly, Snyder's case was not benefited from the granting of any continuance, especially where the State had a limited time in which to retry Snyder for the death of Howard Wilson.

On April 30, 2008, the Louisiana Supreme Court remanded Snyder's case for a new trial after this honorable Court instructed that court to do so. *Snyder v. Louisiana*, 552 U.S. 472, 486, 128 S.Ct. 1203, 1212, 170 L.Ed.2d 175 (2008). *La. C. Cr. P. art. 582*, backed by due process and equal protection requirements, compels the State to retry a remanded case in 1-year. The district court noted that the trial court appointed the Louisiana Capital Defense Project to represent Snyder and said the indictment was *amended* to "the lesser offense of second degree murder." Appendix C, p. 36. However, Snyder was *re-indicted* by a Jefferson Parish grand jury January 29, 2009. Appendix C, p. 40 (internal citation omitted).

The lower courts failed to deal with the prejudice Snyder suffered at the hands of the trial court and the State. His case was remanded on April 30, 2008, and under Louisiana law, the State had 1-year to retry him. On December 1, 2008, the trial court appointed capital attorney's to represent Snyder at his February 17, 2009, trial. On January 23, 2009, one of the capital defense attorney's withdrew from the case because Snyder was no longer charged

with a capital offense. Snyder was never without representation during this time period; however, on the day of trial, second attorney “enrolled [to represent Snyder] and requested a continuance.” Appendix C, p. 40. Snyder was prejudiced by that counsel’s oral and non-specific request for a continuance. This claim, liberally construed like the others, was sufficient for Snyder to be granted a copy of the record to perfect his claim.

2. Snyder’s direct appeal was adversely affected as a result of his appellate counsel’s deficient performance.

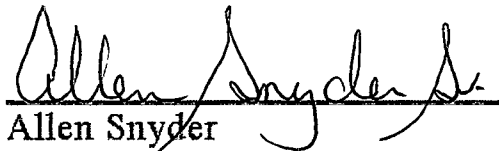
The lower courts agreed the claims raised by Snyder’s appellate counsel were unsuccessful, but believes Snyder’s pro se claims were barely stronger. Appendix C, p. 30. Snyder disagrees. The situation leading to 2 oral motions for continuances by a counsel who was appointed to represent Snyder on the day of trial, a period of almost a month had passed when former counsel withdrew representation, is suspect.

The district court said Snyder has failed “to establish how the claim that trial counsel was ineffective for requesting continuances is stronger than those actually presented on appeal.” Appendix B, pp. 15-16. Yet, the lower courts failed to consider that Snyder, despite setting forth his claims with reasonable specificity, was not granted any documents to support his claims.

CONCLUSION

For the foregoing reasons Snyder's petition for a writ of certiorari should be granted.

Respectfully submitted,


Allen Snyder

Date: October 21, 2020