No. 20-6302

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

NGUYEN VU, PETITIONER

vs.

COMMONWEALTH OF PENNSYLVANIA, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

PENNSYLVANIA SUPERIOR COURT

PETITION FOR WRIT OF CERTIORARI OR WRIT OF HABEAS CORPUS

NGUYEN VU
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QUESTION PRESENTED

Section 1 of the Fourteenth Amendment to the United States Constitution states, in part,

> "... 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 law."

Petitioner was prosecuted, convicted, and imprisoned to cover up the crimes of Jason John Kegel who is a family member, a relative, or a friend of Robert Lynch, then an assistant district attorney.

Petitioner was prosecuted, convicted, and imprisoned based solely on the perjured testimony, admitted being perjured, by the complainant himself.

Petitioner's was deprived of liberty and property without due process of law. Petitioner was also denied the equal protection of the law. Petitioner's trial and conviction lacked fundamental fairness. The Kafkaesque "judicial processes" that Petition had to go through for over 12 years lacked any judicial character.

Petitioner did not receive a fair and impartial preliminary hearing, trial, appeal, Post-Conviction proceeding because the collusion between the district attorneys and state judges.

Petitioner did not receive a fair and impartial adjudication of his *Habeas Corpus* petition also because of the collusion between the federal judges, state judges and prosecutors.

Petitioner cannot apply for a Writ of *Habeas Corpus* in the United States District Court, Eastern District of Pennsylvania, because judges at the District Court and judges at the Third Circuit are not impartial judges.

As a reason, Petition has to apply for a Writ of *Habeas Corpus* with the Court as the Court of last resort.

LIST OF PARTIES

[X] 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:

- Lawrence S. Krasner, District Attorney, Philadelphia County, Pennsylvania

RELATED CASES

- *Commonwealth v. Nguyen Vu*
- Direct
  - CP-51-CR-0009321-2007 (Court of Common Pleas of Philadelphia)
  - 2307 EDA 2008, 988 A.2d 732 (11/10/2009) (Superior Court – Direct Appeal)
  - 713 EAL 2009, 995 A.2d 352 (5/10/2010) (PA Supreme Court – Petition for Allowance of Appeal)
- PCRA
  - CP-51-CR-0009321-2007 (Court of Common Pleas)
  - 2091 EDA 2012, 87 A.3d 896 (10/30/2013) (Superior Court – PCRA Appeal)
  - 104 EAL 2014 (7/28/2014) (PA Supreme Court – Petition for Allowance of Appeal)
  - 14-6943 (U.S. Supreme Court – Petition for a Writ of Certiorari)
- Habeas Corpus
  - 2:14-cv-05691 (U.S. Dist. E.D. Pa.)
  - 16-0279 (3d Cir. Pa. – Petition for COA)
  - 17-5446 (U.S. Supreme Court – Petition for a Writ of Certiorari)
- Second PCRA
  - CP-51-CR-0009321-2007 (Court of Common Pleas)
  - 3326 EDA 2018 (Superior Court – PCRA Appeal)
  - 113 EAL 2020 (8/10/2020) (PA Supreme Court – Petition for Allowance of Appeal)

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3. Pennsylvania Supreme Court's Oder denying Petition for Allowance of Appeal, No. 113 EAL 2020, Aug. 10, 2020

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

OR A WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of certiorari or a writ of habeas corpus issue to review the judgment below.

OPINION BELOW

[X] For case from state courts:

The Opinion of the highest state court to review the merits appears at Appendix 1 to the petition and is unpublished.

JURISDICTION

[X] The date on which the highest state court decided my case was August 10, 2020. A copy of that decision appears at Appendix 3.

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

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

The Fourteenth Amendment to the United State Constitution

Section 1

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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 law.

STATEMENT OF THE CASE

Petitioner was convicted of aggravated assault, criminal mischief, and possessing an instrument of crime that arose from an alleged road rage, and was sentenced to 20 years imprisonment by Sandy L.V. Byrd, a judge of the Court of Common Pleas of Philadelphia County, Pennsylvania. Petitioner was paroled on 12/20/2019. Petitioner will be on parole until 3/7/2028.

Petitioner was prosecuted, convicted, and imprisoned to cover up the crimes of Jason John Kegel who is a family member, a relative, or a friend of Robert Lynch, then an assistant district attorney.

Petitioner was prosecuted, convicted, and imprisoned based solely on the perjured testimony of an individual whose testimony was in direct conflict with incontrovertible physical, scientific, testimonial, and documentary evidence. His testimony was also in direct conflict with the physical law of nature and human experience. He also admitted on the records that he and his foster son had repeatedly given false statements to the police, detectives; testified falsely at the preliminary hearing and trial.

- **Kegel's attack on Petitioner because Petitioner is an Asian**

On 12/7/2006, Jason John Kegel, a white man, attacked Petitioner at the intersection of Roosevelt Boulevard and Mascher Street in the City of Philadelphia, Pennsylvania. Kegel attacked Petitioner to avenge the Japanese's surprise attack on Pearl Harbor on 12/7/1941.

Kegel struck the back of Petitioner's car causing damages to the front of his

car. He ran out of his car, smashed Petitioner's driver-side window with his 9-mm handgun. Petitioner tried to get away from him. Petitioner's right front bumper bumped his left rear door. Kegel and his foster son, Cory Anthony Mattes, were not injured.

- **Robert Lynch brought criminal charges against Petitioner**

Kegel is a family member, a relative, or a friend of Robert Lynch, then an assistant district attorney. Lynch brought aggravated assault and related charges against Petitioner to cover up Kegel's crimes: hate crime, aggravated assault, and weapon offense.

In December 2006 Kegel was the Dean of Students at Franklin Towne Charter High School in Philadelphia. At trial in March 2008 Kegel was the Vice Principal at the school. Had Kegel been prosecuted, he would have been convicted and would have lost his teaching license and his job.

Lynch and the district attorneys also suborned Kegel and Mattes to fabricate a story that Petitioner attacked them violently, viciously to prosecute and imprison Petitioner. Lynch and the district attorneys also suborned Kegel and Mattes to repeatedly change their stories so that their stories coincided with physical evidence of the case.

- **Kegel's false statements to Detective Miles on 12/11/2006**

On 12/11/2006 Kegel gave statements that, for no reason, Petitioner followed his car with high beams on. He changed lanes to avoid Petitioner's car, but Petitioner also changed lanes to follow his car. When he stopped his car at a red

light at Mascher Street, Petitioner tapped his rear bumper to lure him out of the car to inspect the damages. Petitioner drove through cars in the left lane to try to mow him down. He ran towards Petitioner's car and was struck on the left leg slightly. Petitioner's car swung him around, so he was right in front of Petitioner's driver-side window to kick and break the window. Petitioner's T-boned his car two times when he and his son were in the car. His car might be totaled, but he and his son were not injured.

- **Mattes' false statements to Detective Morley on 2/11/2007**

On 2/11/2007 Mattes gave statements that Petitioner struck the back of their car to lure Kegel out of the car to inspect the damages. Petitioner struck Kegel at a high rate of speed; Kegel went over Petitioner's car; Kegel kicked and broke the window. Petitioner struck their car four times: one from behind and three on the side.

- **Detective Miles' false statements in his affidavit of probable cause**

On 3/2/2007 Detective Miles filed an affidavit of probable cause for an arrest warrant. Instead of doing an investigation, he copied Kegel's statements as the basis of his affidavit. The police officer at the scene noted in the report that Kegel's car only had moderate damage to the driver-side door. Detective Miles went to Petitioner's home on 12/17/2006 to look at Petitioner's car. At trial, he testified that Petitioner's car only had minor damage at the front bumper area, and he did not see Kegel's car in person. He made false statements that Kegel's car sustained severe damages in the amount of $10,000; Kegel suffered a broken blood vessel in his right

eyeball that required medical attention when Kegel stated that he did not require any medical attention. He also omitted Kegel's statement that Kegel had his 9-mm handgun out at the scene to have an arrest warrant issued.

- **Robert Lynch was the prosecutor at the preliminary hearing on 5/14/2007**

At the first preliminary hearing on 3/12/2007, the district attorney in charge was an Asian. Kegel and his foster son had inside information, so they did not show up.

On 5/14/2007 Robert Lynch was the district attorney in charge. Kegel and his foster son showed up. When Lynch got to the courthouse, he brought Kegel and his foster son to the bench to introduce them to Judge Robbins that Kegel was the Dean of Students at Franklin Towne Charter High School; Mattes was attending William H. Ziegler Middle School. Kegel and Mattes had to take off from work and from school to attend the hearing. Judge Robbins commented that it was good for Mattes to learn a civic lesson. Lynch also disclosed Petitioner's prior conviction to Kegel.

- **Kegel's perjured testimony at the preliminary hearing on 8/3/2007**

At the preliminary hearing, Kegel testified that Petitioner struck the upper thigh area of his left leg driving at a very high rate of speed. He fell forwards onto the hood of Petitioner's car and rolled off to the side of the car, so he landed directly facing the driver-side window to kick and break Petitioner's window.

Kegel also testified that Petitioner struck his car three times, at a very high rate of speed, direct, perpendicular, T-bone type, very violently. His left front door

collapsed, buckled inwards 8 to 12 inches, wedging him in between the door and the center console. He was restricted in his movement. He and his foster son were in the car, but they were not injured. Kegel also lied that his car sustained $11,000 in damages.

On cross-examination, Kegel denied that he testified Petitioner struck the upper thigh area of his left leg driving at a very high rate of speed.

When questioned, Kegel admitted that the engine of his car was running. He had 20 seconds to get into his car to drive away, but he decided to go after Petitioner. Prosecutor Connolly objected. Judge DiBona, Jr., sustained the objection to protect Kegel from having to incriminate himself.

- **Motion for Discovery**

On 9/20/2017 trial counsel filed a Motion for Discovery in which he specifically requested any and all photographs of the damages to Kegel's car as a result of the incident on 12/7/2006, and any and all information concerning the gun(s) carried by Kegel during the incident and any permit(s) for the gun(s).

- **Trial prosecutor Erica C. Wilson hid or destroyed exculpatory evidence**

Wilson hid or destroyed color photos and the itemized repair estimate of Kegel's car showing damages to the front of his car because they are evidence that Kegel was the aggressor. He hit the back of Petitioner's car causing damages to the front of his car.

Kegel was living and working in Philadelphia. Kegel lied about his residency

in Montgomery County to obtain or to keep his Montgomery County gun permit because it is easier to get a gun permit in Montgomery County than in Philadelphia. Prosecutor Wilson hid or destroyed all information concerning the 9-mm handgun that Kegel used to commit crimes. The make, model, the date Kegel acquired the gun, and a copy of Kegel's Montgomery County gun permit were never turned over to the defense as requested.

Prosecutor Wilson had extra copies of color photos of Kegel's car. At the preliminary hearing, Kegel testified that Petitioner struck his left front door. His left front door collapsed, buckled inwards 8 to 12 inches, when his left front door was never directly hit. The two windows on the left side of his car were still intact. On 10/17/2007 Prosecutor Wilson turned over black and white photocopies of the photos of Kegel's car to prevent the Defense's expert from doing his work. Trial counsel objected. On 10/25/2007 Wilson turned over color inkjet copies of the photos of Kegel's car to continue to cover up Kegel's crimes of perjury.

- **Commonwealth's Accident Reconstruct Report**

On 2/15/2008, Police Officer Gary Harrison, the Commonwealth's expert, filed his Accident Reconstruction Report in which he stated that there was no physical evidence that Kegel's car was struck from behind. Mascher Street which Kegel testified that Petitioner had turned his car onto numerous times chasing him is a one-way street with traffic running in the opposite direction. Kegel testified that Petitioner struck his left leg at a high rate of speed, but the strike was not high-speed because of the lack of an injury to Kegel's leg. The contact to Kegel's car was

consistent with a single impact and it was not a high-speed contact. The direction of force causing the damages appeared to have come from the rear towards the front because it was consistent with the damage to Petitioner's car. The area of direct damage to Kegel's car was his left rear door; his left front door was not directly hit and was only scraped and dented. Petitioner's car only had minor damage at the right side front. There were no tire marks, grass marks on the roadway.

- **Robert Lynch suborned Kegel and his son to change their testimony**

Since Kegel's testimony at the preliminary hearing was in direct conflict with statements made by the Commonwealth's expert in his report, Lynch gave Kegel a copy of the report to suborn Kegel and his son to change their testimony at trial so that their testimony coincided with the content of the report.

Kegel testified that he did not talk to the Commonwealth's expert, but at trial Kegel and his son changed their testimony from three hits on their car to two hits because the report stated that the contact to Kegel's car was consistent with a single impact. Kegel also changed the direction of the alleged hits from the three hits were all perpendicular, T-bone type, to two hits, one at a right angle and one at a slight angle because the report stated that the direction of the contact was from the rear toward the front. Kegel also changed his testimony from his left front door collapsed, buckled inwards 8 to 12 inches, wedging him between the door and the center console, to his left front door was dented in, pushed in so much he could not get out of his car because the report stated that Kegel's left front door was not directly hit, and was only scraped and dented.

- **Prosecutor Wilson lied to have a jury-waiver trial**

Prosecutor Wilson knew that Petitioner had a prior conviction. At trial, Wilson intentionally left Question 39 (concerning mandatory minimum sentences) on the Jury-Waiver Trial Colloquy blank because she did not want to send the colloquy out to another judge. She wanted to get the colloquy done in Judge Byrd's courtroom. Wilson also stated on record twice that there were no mandatory minimum sentences in the case to have a jury-waivered trial.

- **Testimony of Detective Miles**

At trial, Detective Miles testified that Petitioner's car only had minor damage at the front bumper, numerous scratches, and it was a little bit off frame, kind of hanging down a little bit. The driver-side window was broken out of it. It was still shards of glass on the floor. Detective Miles also testified that he did not see Kegel's car in person.

- **Testimony of Robert Lynch, ADA**

Robert Lynch testified that he was the assistant district attorney conducting the preliminary hearing on 5/14/2007. He brought Petitioner's file home the night before (5/13/2007). He spoke with Kegel over the phone. He learned Petitioner's description from Kegel, so he recognized Petitioner as soon as he stepped into the courtroom. Lynch gave Petitioner's case to Charles Akiba Ehrlich, his immediate supervisor to prosecute Petitioner.

- **Trial prosecutor knowingly presented perjured testimony**

Prosecutor Wilson knowingly presented Kegel's perjured testimony that he

was driving home from Norristown with his then 13-years old foster son. When he was coming off the expressway (I-76) entering the Roosevelt Boulevard north, for no reason, Petitioner followed his car closely with high beams on. He continued to drive north, made a couple of lane adjustments.

He stopped his car at the intersection at Nineth Street, got out of his car, yelled "Stop riding my ass," got back in his car, and continued driving north. He changed lanes three times, but Petitioner also changed lanes to follow him.

He stopped his car at a red light at the intersection of Mascher Street. There was one car in front of his car. His car was second from the light. Petitioner's car was right behind his car in the center lane. There were other people, other cars in the right, left lane. There were other cars behind Petitioner's car.

When he came to a complete stop, Petitioner struck the back of his car. Kegel got out of his car and started walking toward Petitioner's car. Petitioner turned his wheel to make an adjustment to drive towards him and sped directly towards him. He dove out of the way to his right or right onto Petitioner's alleged path to escape.

Petitioner went by him, got to the intersection at Mascher, stopped, made a left turn, drove up the grass median, and continued to come around towards him (1st left turn). He actually ran towards Petitioner's car. Petitioner circled the grass median two times chasing him. Petitioner returned to the roadway, drove in the left lane, got to Mascher Street, jumped over the median's cement curb onto the grassy median (2nd left turn). He pulled out a cell phone, tried to make a 9-1-1 call. Petitioner circled the median the third time and struck his left leg. He went over

the hood of Petitioner's car. When Petitioner's car stopped, he was right next to Petitioner's passenger side window, but he kicked and broke Petitioner's driver-side window.

Petitioner drove through cars in the left lane a third time. He thought Petitioner got stuck on the curb or on the grass. He ran back to his car. Petitioner came, struck his car at the driver-side door at a high rate of speed when he and his son were both in the car. His car moved to the right. The driver-side door was dented in so much he could not get out of his car. Petitioner backed his car toward the median. He yelled for his son to get out of the car. When he was climbing over the center console, Petitioner came towards his car and struck his car again at a very high rate of speed. He fell to the side, the passenger side door was still open, so he fell half in and half out of the car. He got out of the car and stood on the cement median to the right of his car with his son. Petitioner simply drove away.

- **Prosecutor Wilson suborned Kegel to offer perjured testimony**

In response to her subornation, Kegel changed his testimony to make the two alleged hits on his car more violent, more vicious. He testified that when Petitioner first struck his car, he was in the center lane. Petitioner's opportunity to gain speed was from the grass median, off the median, across the left-hand lane to strike his car in the center lane. The first time Petitioner struck his car, it moved his car to the far right lane. So, the second time Petitioner's opportunity to gain speed was driving forward on Router 1 [Roosevelt Boulevard], make a left-hand turn (4th left

turn), going up the median, off the median across two lanes to strike his car that was in the far right lane.

- **Prosecutor Wilson suborned Kegel to offer perjured testimony a second time**

After Kegel had perjured himself on the witness' stand, Prosecutor Wilson suborned him to offer perjured testimony again by illustrating his lies at the whiteboard.

Kegel drew three inner lanes (express lanes) of the Roosevelt Boulevard at the intersection of Mascher Street. He drew a car in front of his car. His car was second. Petitioner's car was right behind his car in the center lane. He drew cars in the right, left lanes. He also drew cars behind Petitioner's car.

Kegel then testified that Petitioner drove through cars in the left lane to try to mow him down. Petitioner made four left turns onto Mascher Street to chase him.

Kegel did not testify that Petitioner circled the grassy median three times chasing him as he did when he was on the witness' stand. He was distracted because he was trying to make a 9-1-1 call. Petitioner struck his left leg with the left front, the driver-side front, of Petitioner's car. He went over the hood of Petitioner's car, but landed a foot away from Petitioner's driver-side window to kick and break Petitioner's window.

Kegel testified that he ran back to his car to try to escape. Petitioner drove from the median, made a direct line, came, and struck his car, pushing his car over to the right lane. Petitioner backed up all the way to the median and then drove

again, and smashed into the driver-side of his car, pushing his car all the way to the far right lane of a three-lane highway. The second time Petitioner struck his car, he was half in, half out of the car on the passenger side. His body was pushed against the median.

He got out of his car. He and his foster son walked up to the cement median on the right of his car. Petitioner just simply drove away. He ran behind the back of Petitioner's car to get the license plate number. He also testified that there were tire tracks coming right in the direction of his car.

His car sustained severe structural and internal damages in the amount of $11,000. The steering column was broken. The car would not steer. However, he had testified earlier that when the firemen came, they helped him pushed his car across the outer three lanes (local lanes) of the Roosevelt Boulevard. The firemen stopped traffic and pushed his car into a parking lot.

Kegel and his son were not injured. His leg which was allegedly struck by Petitioner's car driving at a very high rate of speed was not injured. He never testified that Petitioner struck his eyeball, but he had a broken blood vessel in his right eyeball.

- **Prosecutor Wilson suborned Kegel to offer perjured testimony concerning his gun**

Prosecutor Wilson suborned Kegel to offer perjured testimony that after Petitioner had struck his car twice, he was outside of his car; he went to his car, reached into the glove box and pulled his 9-mm handgun out, and he did tell the

police that he had his gun out at the scene.

- **Kegel's admission of perjury on cross-examination**

On cross-examination Kegel admitted that he hid the gun when the police arrived and did not tell the police that he had his gun out at the scene.

He admitted that at the scene he did not tell the police officer that his car was tapped in the back. He admitted that he ran towards Petitioner's car. His car was running. He had 20 seconds to get into his car to drive away, but he decided to run towards Petitioner's car to keep danger away from his foster son who was sitting in his car.

Kegel testified that he waited 1 hour 45 minutes, 2 hours for the police to arrive. When questioned about Mascher Street, a one-way street with traffic running opposite to the direction that he testified Petitioner had turned his car onto numerous times chasing him, he answered he did not know that Mascher Street is a one-way street.

Kegel denied that he had testified that Petitioner struck his left leg driving at a very high rate of speed at the preliminary hearing. When confronted, he answered that he did not know what a high rate of speed was.

Kegel denied that he told the police officer at the scene that Petitioner's car contacted his car one time on the driver-side door. He testified that Petitioner struck his car twice at a very high rate of speed.

Kegel then admitted that he had lied about the number of hits, the speed of the hits. He did not know how fast Petitioner was going and how many times

Petitioner's car struck his car.

Kegel admitted that he had lied at the preliminary hearing that the three hits on his car were all perpendicular hits, very violent hits.

Kegel also admitted that he had told Detective Miles that he had witnesses when he did not have any witnesses.

Kegel admitted that he was a violent person. He did not back down to fights. He had a fight in a Gothic Club where he was stabbed. He denied that he was a Goth (a Gothic person). He denied that he followed the Gothic code. He also admitted that he was an ex-heroin addict.

- **Prosecutor Wilson and Judge Byrd prevented trial counsel from questioning Kegel concerning his prior hate crimes**

Through investigation, Petitioner found that Kegel had robbed homosexual males. When questioned about his prior hate crimes that he admitted committing, Prosecutor Wilson objected. Judge Byrd sustained the objection to protect Kegel from having to incriminate himself.

- **Prosecutor Wilson suborned Mattes to offer perjured testimony to match his father's perjured testimony**

Wilson knew the allegation that Petitioner struck the back of Kegel's car was a recent fabrication, she suborned Mattes to offer perjured testimony that Petitioner struck the back of their car to match his father's perjured testimony.

Wilson knew Kegel admitted that he did not know what a high speed was when he testified that Petitioner's car struck his left leg, she suborned Mattes to

offer perjured testimony that Petitioner struck Kegel's leg; Kegel went over Petitioner's car; Kegel kicked and broke Petitioner's window to match his father's perjured testimony.

Wilson knew that Kegel admitted that he did not know how fast Petitioner's car was going and how many times Petitioner's car struck his car, she suborned Mattes to change his testimony that Petitioner struck their car from three times to two times and their car moved from the middle lane to the far right lane to match his father's perjured testimony.

Mattes revealed that Robert Lynch came to court to coach him and Kegel to offer perjured testimony against Petitioner.

- **Mattes' admission of false statements on cross-examination**

On cross-examination, Mattes testified that he was sitting in the front passenger seat. It was cold that night. The windows were up. He did not see Kegel went to the glove compartment to get the gun out. However, Mattes testified that Kegel did have something in his hand when he was on the median.

Mattes testified that he had his iPod on most of the time, but he knew Kegel got out of the car and said to Petitioner to turn the high beams off and everything.

Mattes testified that he did talk to Kegel about what happened after the incident. Mattes lied that he was just saying everything that he knew.

On 2/11/2007 Mattes gave statements that Petitioner struck their car four times: one from behind and three on the side. When asked, Mattes answered that he probably thought it was three at that time. He thought it was two at trial.

Mattes testified that the two hits were slams. They were pretty hard. Petitioner backed his car up. Their car moved all the way to the right lane.

- **Testimony of Police Office Tokley**

Officer Tokley, the police officer at the scene, testified that he got the call at about 9:30 pm. He arrived at the scene at about 10:00 pm or about 30 minutes later.

When he arrived, he observed Kegel's car had moderate damage to the side of the car. Kegel did not tell him that Petitioner struck his car more than once. Kegel just stated that Petitioner's car struck his car. Kegel did not tell him that Kegel had his gun out at the scene. Kegel did not tell him that Petitioner hit the back of his car.

The tire marks on the side of the road did not appear in Officer Tokley's report. He was called by the A.I.D. Officer Gary Harrison, the Commonwealth's expert, and asked about tire marks about a year later. He testified that there were no tire marks, grass marks on the street. He was not a car expert. He could not tell what kind of car the tire marks on the grassy median belonged to.

- **Testimony of the Defense's expert**

The Defense's expert testified that Kegel had lied when he testified that Petitioner struck his car multiple times, at a very high rate of speed, because in a frontal impact, if the impact was more than 15 miles an hour, the airbag would have deployed. Once the airbag was deployed, it would freeze the front axle, immobilizing the car. It was designed to prevent people from driving after airbag deployment.

He testified that the impact associated with Petitioner's car had to be between five and ten miles per hour because Petitioner's car only had some damage on the Endura cover, the heavy plastic covering that covers the front bumper. There were no other damages beyond the Endura cover, no scraps into the front grill or the headlights. Kegel testified that Petitioner struck his car multiple times at a very high rate of speed, but Petitioner's car did not show the damages.

The Defense's expert also testified that Kegel testified that Petitioner struck his left leg driving at a very high rate of speed. Kegel actually volted [sic] over the front hood to the other side of the car. If Kegel's testimony were truthful, Kegel would not have been able to walk away without injuries.

- **False testimony of the Commonwealth's expert**

The Commonwealth's expert was sitting in the courtroom listening to Kegel's and his son's testimony. He knew that Kegel and his son committed perjury when they testified that Petitioner struck their car at a very high rate of speed, pushing their car from the center lane to the far right lane of a three-lane highway. He stated in his report that the contact to Kegel's car was consistent with a single contact. When questioned, he lied that he could not tell whether it was one hit.

He testified that the contact to Kegel's was not a high-speed contact. The hit on Kegel's car was an angle hit and not a head-on hit because the damage to Kegel's left rear door was more compacted.

He stated in his report that Petitioner's car only had minor damages at the right side front, citing page 2 of the Itemized Repair Estimate of Petitioner's car.

When questioned, he lied that he could not say the damage to Petitioner's is a minimum type of damage because he only saw the front end of Petitioner's car.

- **Prosecutor Wilson lied in her closing argument and at sentencing**

After the Defense's and Commonwealth's experts contradicted Kegel's and his son's testimony, Prosecutor Wilson stated in her closing argument that Kegel was truthful; Mattes testified and corroborated almost exactly everything that Kegel said; and the experts agreed with Kegel's testimony. Kegel did not lie when he testified that Petitioner struck his car at a very high rate of speed; he only perceived that the hit was a high speed hit. She also stated at sentencing that the testimony of Kegel and his son was consistent, and the experts' testimony, at best, was inconclusive.

- **Prosecutor Wilson told Judge Byrd to hide or destroy all trial exhibits**

At the end of the trial on 3/6/2008, Wilson told Judge Byrd to take all trial exhibits out of the courthouse. Byrd took all trial exhibits including the report of the police officer at the scene (75-48), reports of the Defense's and Commonwealth's experts, five (5) color photos of Kegel's car, nine (9) color photos of Petitioner's car home with him purportedly to read overnight. Byrd hid or destroyed all trial exhibits because they are exculpatory to Petitioner and damaging to the district attorneys and their family. None of the trial exhibits were presented to the Superior Court when Petitioner was on appeal as required by law. (Pa. R.A.P. 1921).

- **Judge Byrd attained a false verdict**

Judge Byrd knew that Kegel's and his son's testimony was false because their testimony was in direct conflict with incontrovertible physical, scientific, testimonial, and documentary evidence. Their testimony was also against the physical law of nature and human experience. Kegel admitted that he and his son had repeatedly given false statements to the police, detectives; testified falsely at the preliminary hearing and trial. On 3/7/2008 Judge Byrd found Petitioner guilty of all charges. On 4/24/2008 he sentenced Petitioner to 20 years imprisonment to cover up crimes of the family of Robert Lynch, an assistant district attorney.

- **Judge Byrd made false statements at sentencing and in his Opinion**

At sentencing on 4/24/2008, Judge Byrd made statements that somehow Petitioner managed to get off the highway, positioned Petitioner's car so that Petitioner could ram headfirst onto Kegel's car when he was sitting at the light facing straight ahead, which was confirmed by the damage to Petitioner's car, and that perjury did not matter.

Judge Byrd also made a false statement on page 2 of his Opinion filed on 3/6/2009 that Petitioner struck Kegel's left leg; Petitioner broad-sided Kegel's car jamming the driver-side front door.

Judge Byrd omitted evidence that Prosecutor Wilson suborned Kegel to offer perjured testimony that he did tell the police officer that he had his gun out at the scene. Judge Byrd also omitted Kegel's admission that he and his foster son had repeatedly given false statements to the police, detectives; testified falsely at the preliminary hearing and trial.

- **Prosecutors' misconduct on direct appeal**

On direct appeal (2307 EDA 2009, 988 A.2d 732), Hugh J. Burns, Jr., and Joan Weiner continued to hide exculpatory evidence and lied in their brief filed on 8/21/2009 that the incident was a classic road rage. Petitioner used his car to run down Kegel and ram his car. Petitioner struck the back of Kegel's car to lure him out of the car to inspect the damages. Petitioner drove through cars in the left lane to try to "mow" Kegel down. Petitioner drove through cars in the left lane three times, made three left turns onto Mascher Street, a one-way street with traffic running in the opposite direction, to chase Kegel. Petitioner struck Kegel in the left leg. The impact forced the victim's body over the front end of Petitioner's car, but "miraculously" Kegel landed on both feet directly next to Petitioner's driver-side window to kick and break the window. Petitioner rammed Kegel's car at a high rate of speed, crushing the driver-side front door. Kegel could not get out of his car. When Kegel was trying to climb over the center console to get out the passenger door, Petitioner rammed his car again causing Kegel to tumble to the ground.

The two prosecutors lied that the Defense's expert was lying that having viewed the photographs of Kegel's damaged Corolla, it was his opinion that the Corolla had been struck only one time (citing page 183 of the Notes of Testimony). On page 183 the Defense's expert was looking at nine (9) color photos of Petitioner's car, not photos of Kegel's car. He testified that Kegel testified that Petitioner struck his car multiple times at a very high rate of speed, but Petitioner's car did not show

the damages. Petitioner's car only showed an impact between five and ten miles an hour.

The two prosecutors lied that the police officer at the scene noted the tire marks that Petitioner's car had made on the grassy median strip when he testified that he did not know which car the tire marks belonged to. They lied that Kegel's car sustained $11,000 in damages. They lied that it was a "miracle" that Kegel and his son were not seriously injured.

The two prosecutors lied that at trial on 3/6/2008 Prosecutor Wilson did not know that Petitioner had a prior conviction when she advised the court that there were no mandatory minimum sentences in the case. The next day, 3/7/2008 Prosecutor Christine M. Wechsler discovered Petitioner's prior conviction.

The two prosecutors also lied that Petitioner did not present a scintilla of evidence to support Kegel's prior-robbery-of-homosexual allegation.

- **No intent to cause serious bodily injuries to Kegel and his son**

Aggravated assault is an intentional crime. Kegel and his son testified that after Petitioner had struck their car two, three, four times, Petitioner just simply drove away.

In their brief, Burns, Jr., and Weiner stated that Petitioner's intent was to ram Kegel's car twice and seeing Kegel on the ground.

> "Content at having rammed the Corolla twice and seeing Mr. Kegel on the ground, defendant backed up his Lexus, returned to the roadway, and finally drove away."

- **Petitioner was convicted on actual theory; the PA Superior Court affirmed Petitioner's conviction and sentence based on attempt theory**

Petitioner was convicted of aggravated assault, criminal mischief, and possessing an instrument of crime.

> "A person is guilty of aggravated assault if he attempts to cause serious bodily injury to another, or causes such injury intentionally, knowingly, or recklessly under circumstances manifesting extreme indifference to the value of human life. (18 Pa. C.S. § 2702(a)(1))."

At trial, Prosecutor Wilson urged the trial court to find Petitioner guilty of aggravated assault because Petitioner actually struck Kegel's leg causing him to have to end up on the other side of Petitioner's car.

Judge Byrd found Petitioner's guilty of all charges because Petitioner struck Kegel's leg; Petitioner broad-sided Kegel's car jamming the driver-side front door.

On direct appeal, Burns, Jr., and Weiner urged the Superior Court to affirm Petitioner's conviction and sentence because Petitioner struck Kegel's left leg driving at a very high rate of speed. The impact forced Kegel's body over the front end of Petitioner's car. Petitioner rammed Kegel's car twice at a high rate of speed, crushing the left front door, causing Kegel to tumble to the ground.

The Superior Court affirmed Petitioner's conviction based on the theory that Petitioner attempted to cause serious bodily injury to Kegel which was never presented at trial.

- **The Superior Court panel invented excuses to cover up Kegel's and his son's crimes of perjury**

Kegel admitted that he and his foster son had repeatedly given false statements to the police, detectives; testified falsely at the preliminary hearing and trial. The panel stated their statements, testimony were "inconsistent" because "The witnesses were interviewed on several occasions and testified at several hearings concerning a high-stress road rage incident with an unknown attacker in the dark night in the middle of the winter."

The panel also made three false statements in its Memorandum: (1) "Specifically, in the report prepared by the investigating officer, there was no indication that Appellant's vehicle hit the complainant's vehicle more than once or that Appellant retrieved a firearm during the encounter. [sic]" The records indicated that it did not have anything to do with Petitioner retrieving a firearm during the encounter. Kegel testified that after Petitioner had struck his car twice, he got his gun out of the glove box and he did tell the police officer that he had his gun out. Officer Tokley testified that Kegel did not tell him Kegel had his gun out at the scene. (2) "Furthermore, their stories are corroborated by testimony from the investigating officers [sic] that Appellant's vehicle had significant damage when they observed it several days after the night of the incident." Detective Miles testified that Petitioner's car only had minor damage at the front bumper area. (3) "... and that there were tire marks in the grass median where appellant was chasing the complainant." Officer Tokley testified that he was not a car expert. He did not know which car the tire marks on the grassy median belonged to.

- **Prosecutor's misconduct on the Post-Conviction Relief Act (PCRA) proceeding**

Samuel Harold Ritterman continued to hide exculpatory evidence and continued to use the same lies that Burns, Jr., and Weiner used on direct appeal in his motions to dismiss filed on 6/8/2011 and 1/10/2012. Ritterman also lied in his Response to Petitioner's Motion for Recusal that the allegations against Judge Byrd were unsupported and specious.

- **Motion for Recusal on PCRA proceeding**

On 4/27/2012 counsel filed a Motion for Recusal because Judge Byrd is not an impartial judge. Judge Byrd knew that Kegel's and Mattes' testimony was false because their testimony was in direct conflict with incontrovertible physical, testimonial, and documentary evidence; Judge Byrd either hid or destroyed all trial exhibits because they were damaging to the complainants; Judge Byrd made a false statement on page 2 of his Opinion filed on 3/6/2009; Judge Byrd was in collusion with the district attorneys and the Superior Court panel to keep their family and friends from being prosecuted for their crimes of perjury.

Judge Byrd did not refer the motion to another judge for a hearing as required by law. He refused to recuse. On the same day, he issued a Rule 907 Notice (Pa. R.C.P. Rule 907) dismissing the petition without an evidentiary hearing to prevent Petitioner from putting on records evidence of his crimes, evidence of the crimes of the district attorneys and their family.

- **Judge Byrd appointed a law clerk without malpractice insurance to represent Petitioner on PCRA appeal**

On 10/16/2012, Judge Byrd appointed John Martin Belli, a law clerk of the Court of Common Pleas, without malpractice insurance, to represent Petitioner on appeal to the Superior Court.

- **Judge Byrd refused to produce five (5) color photos of Kegel's car**

On 2/5/2013 the Superior Court issued an order directing Judge Byrd to produce five (5) color photos of Kegel's car marked as Commonwealth trial exhibits C-2 through C-6 that he had taken out of the courthouse at the end of the trial on 3/6/2008. On 3/4/2013 Judge Byrd wrote the Superior Court a letter refusing to produce the photos of Kegel's car to continue covering up Kegel's and his son's crimes of perjury.

- **Misconduct of prosecutors on PCRA appeal**

On appeal (2091 EDA 2012, 87 A.3d 896), after their lies had been exposed Hugh J. Burns, Jr., and Joan Weiner had the audacity to continue hiding exculpatory evidence and continued lying in their brief filed on 9/3/2013 that the incident was a classic case of road rage and that Petitioner used his car to run down a motorist and ram his car.

On direct appeal they lied that Petitioner purposely drove his car into the back of Kegel's car. They continued to lie that when Kegel stopped his car at a light, Petitioner "touched" Kegel's car with the front of his car. Petitioner drove through cars in the left lane to try to "mow" Kegel down.

On direct appeal, they lied that Petitioner drove through cars in the left lane three times, made three left turns onto Mascher Street, a one-way street with traffic running in the opposite direction, to chase Kegel. After their lies had been exposed, the three alleged left turns disappeared in their brief.

On direct appeal, they lied that Petitioner struck Kegel's left leg. The impact forced the victim's body over the front end of Petitioner's car. "Miraculously," Kegel landed on both feet directly next to Petitioner's driver-side window to kick and break Petitioner's window.

On PCRA appeal they still had the audacity to continue to lie that Petitioner's struck Kegel's leg. "Mr. Kegel flew over defendant's hood and landed **(luckily on both feet)** next to defendant's driver-side window" to kick and break the window.

On direct appeal, they lied that Petitioner rammed Kegel's car twice at a high rate of speed. On PCRA appeal they changed their statement from "at a high rate of speed" to "When Mr. Kegel looked up, he saw defendant **coming on quickly** and ram into the Corolla's side..."

They still lied that Kegel's car sustained $11,000 in damages even though there was not a shred of evidence on the records that Kegel's car sustained $11,000 in damages.

Prosecutor Wilson admitted that she knew of Petitioner's prior conviction before trial. They continued to lie that initially Prosecutor Wilson did not know that Petitioner had a prior conviction when she advised the court that there were no

mandatory minimum sentences in the case. Prosecutor Wechsler later learned that Petitioner had a prior conviction that subjected Petitioner to the mandatory "second strike" provision of 42 Pa. C.S. § 9714.

- **Misconduct of prosecutors on *Habeas Corpus* proceeding**

On 10/6/2014 Petitioner filed a *Habeas Corpus* petition with the District Court for the Eastern District of Pennsylvania (2:14-cv-05691-WD).

Thomas W. Dolegnos and Ryan James Dunlavey continued to hide exculpatory evidence and continued to lie in their Response filed on 2/3/2015 that the incident was a classic road rage. Petitioner used his car to try to run a man over on a busy highway in Philadelphia in 2006.

Kegel's attack on Petitioner was not racially-motivated. There was no evidence that Kegel and Mattes were in fact related to Robert Lynch. Lynch was not involved and had nothing to do with Petitioner's prosecution.

They did not hide any exculpatory evidence. There is no evidence that the prosecutors "hid or destroyed" anything, much less evidence that shows Kegel's version of the incident was false.

They lied that Prosecutor Wilson was "apparently unaware" that Petitioner had a prior conviction when she responded to Judge Byrd's question in the negative, and that the prosecutor made "misstatements" when she told the trial court that there were no mandatory minimum sentences in the case.

They lied that there was no evidence of perjury. There was no evidence that the prosecutor "encouraged" [Petitioner's] victims to lie. There is no credible factual

foundation for Petitioner's prosecutorial misconduct claim.

They lied that Kegel's alleged involvement in robbing homosexual men outside bars bears no relevance to Petitioner's theory. There was no credible evidence Kegel had robbed anyone or that Kegel held any animus towards Asians.

They lied that Petitioner's allegation against Judge Byrd lacks any credible factual foundation.

They lied that Hugh J. Burns, Jr., Joan Weiner, and Samuel Harold Ritterman did not lie in their briefs, motions to dismiss. Petitioner's allegations were based purely on disagreement with prosecutors' interpretation of the evidence.

They lied that Petitioner's attack on trial counsel's performance appears to be based on nothing more than fantasy.

They lied that PCRA counsel was effective when she refused to raise important issues and chose to raise only one frivolous issue under state law to cause procedural default.

They also lied that Petitioner did not offer any evidence to back up his outlandish, rambling allegations.

- **Misconduct of the magistrate judge on *Habeas Corpus* proceeding**

Petitioner's case was assigned to Carol Sandra Moore Wells, then Chief Magistrate Judge.

Judge Wells knew Kegel admitted that he did not know what a high speed was when Petitioner's car allegedly struck his left leg. If this testimony is truthful then Kegel's and his son's statements, testimony that Petitioner's struck his left leg

driving at a very high rate of speed, his body flew over the hood of Petitioner's car and ended up on the other side of Petitioner's car and "miraculously" he landed on both feet directly next to Petitioner's driver-side window to kick and break the window was fabricated to cover up his crimes that he had smashed Petitioner's driver-side window with his 9-mm handgun.

Judge Wells also knew Kegel admitted that he did not know how fast Petitioner's car was going and how many times Petitioner's car struck his car. Kegel also admitted that he had lied at the preliminary hearing that the three hits on his car were all perpendicular, T-bone type, violent hits. If this testimony is truthful, then Kegel's and his son's statements, testimony that Petitioner struck their car multiple times, at a very high rate of speed, direct, perpendicular, T-bone type, very violently are false statements, perjured testimony.

Judge Wells did not seem to understand that a conviction obtained by the use of perjured testimony is a violation of due process. *Mooney v. Holohan,* 294 U.S. 103 (1935). She also did not seem to understand that the due process sufficiency standard in *Jackson v. Virginia*, 443 U.S. 307 (1979). Judge Wells made the following statements:

> "Petitioner asserts that Kegel and Mattes lied about the events in question and that he is innocent because he was the victim of Kegel's aggression; he also argues that a great deal of evidence presented at trial refuted Kegel's version of the events. However, these assertions are not a proper basis to challenge the sufficiency of the evidence. Instead, this court must presume that the fact-finder resolved evidentiary conflicts about what happened on the night in question in favor of the prosecution. (Citing *Jackson*, 443 U.S. at 326)"

Judge Wells also knew that the Pennsylvania Superior Court panel's finding of facts was not only unreasonable but also in direct conflict with incontrovertible evidence on the records. Judge Wells stated that,

> "The Superior Court determined that, at trial, both Kegel and his son Mattes testified that Petitioner drove his car at Kegel several times. This allowed the court as fact-finder to infer that Petitioner intended to cause serious bodily injury to Kegel, which is required for aggravated assault."

Kegel testified that when he stopped his car at the intersection of Mascher Street, there was one car in front of his car; his car was second from the light; Petitioner's car was right behind his car in the center lane; there were other people, other cars in the right, left lanes; and there were other cars behind Petitioner's car. It is physically impossible for Petitioner to drive through cars in the left lane in an attempt to strike him as he testified.

Judge Wells stated,

> "Further, both witnesses testified that Petitioner drove his car onto Kegel's car twice. This allowed the fact-finder to infer that Petitioner endangered the car and its occupants, which is required for criminal mischief. Furthermore, this evidence established that Petitioner drove his car with the intent to use it criminally, which allowed the fact-finder to conclude that Petitioner possessed an instrument of crime."

Judge Wells knew that these statements are in direct conflict with incontrovertible evidence on the records because Kegel admitted that he did not know how fast Petitioner's car was going and how many times Petitioner's car struck his car.

Judge Wells also stated that,

> "This court must sustain the Superior Court's resolution of Petitioner's

> evidentiary insufficiency claim. The evidence presented at trial **allowed** the fact-finder to conclude that Petitioner had used his car to try to run down Kegel and had struck Kegel's car twice. This evidence, as the Superior Court explained, would allow the fact-finder to conclude that Petitioner had committed aggravated assault, criminal mischief and possess an instrument of crime. That is all the due process sufficiency standard requires to sustain his convictions. (Citing *Jackson*, 443 U.S. at 319). (Emphasis in original)."

There is nowhere in *Jackson v. Virginia* or any case in history that the Court held perjured testimony, admitted being perjured by the complainant, satisfies the due process sufficient standard required to sustain one's conviction.

Judge Wells also knew that the two district attorneys Dolgenos and Dunlavey committed crimes when they hid exculpatory evidence and lied in their Response filed in the District Court. On 9/30/2015 Judge Wells filed her Report and Recommendation urging the District Court to deny Petitioner's *Habeas* petition with prejudice to protect state judges, district attorneys, and their family from being prosecuted for their crimes.

- **Subsequent PCRA petition**

The Court denied Petitioner's petition for a rehearing en banc on 12/4/2017, Case No. 17-5446.

Petitioner filed a subsequent PCRA petition on 1/31/2018 based on after discovered facts, namely the prosecutors in *Habeas Corpus* proceeding hid exculpatory evidence and lied in their Response filed on 2/3/2015 pursuant to 42 Pa. C.S. § 9545(b)(1)(ii) and (b)(2).

- **Judge Byrd's misconduct in the Motion for Recusal En Banc proceeding**

On 3/14/2018 Petitioner filed a Motion for Recusal En Banc with the Honorable Sheila A. Woods-Skipper, President Judge of the Court of Common Pleas, because Petitioner's case is about criminal activities of several current and former assistant district attorneys and current judges of the Court of Common Pleas.

The Motion raised issues of the criminal conduct of Judge Byrd. On 7/10/2018 Judge Byrd usurped the power of the President Judge, held a hearing in his courtroom to deny the motion.

At the hearing, Petitioner asked Judge Byrd whether the President Judge assigned the motion to him. Judge Byrd refused to answer the question.

Petitioner also asked Judge Byrd where the trial exhibits that he took home at the end of the trial on 3/6/2006 purportedly to read overnight were. Judge Byrd refused to answer the question.

Judge Byrd made statements that the issues raised in the motion were baseless and denied Petitioner's motion to keep Petitioner's case in his courtroom to cover up his crimes, and the crimes of the district attorneys and their family.

- **Prosecutor's misconduct on PCRA proceeding**

Judge Byrd procured Daniel V. Cerone, ADA, to file a brief in response to Petitioner's PCRA petition. Cerone continued to hide exculpatory evidence and continued to lie in his brief that the case was a classic road rage. Petitioner used his car to run down a motorist and ram his car. Petitioner's PCRA petition is "ambiguous," and that Petitioner made "several baseless assertions throughout the

extensive petition." Cerone also lied that Petitioner's petition is untimely and Petitioner did not prove an exception to the time-bar.

- **Petition for a Writ of Prohibition with the PA Supreme Court**

On 8/2/2018 Petitioner filed a petition for a Writ of Prohibition with the Pennsylvania Supreme Court to remove Judge Byrd from Petitioner's case or appoint an out-of-county judge to hear the motion for recusal en banc because Petitioner did not receive a fair and impartial preliminary hearing, trial, direct appeal, and the first PCRA petition. Petitioner would not be able to receive a fair and impartial adjudication of the subsequent PCRA petition in Philadelphia County due to the corrupt, criminal collusion between the district attorneys and judges in Philadelphia.

With full knowledge that the petition was pending with the Pennsylvania Supreme Court, on 9/7/2018, Judge Byrd held another hearing in his courtroom to dismiss Petitioner's PCRA petition to prevent evidence of his crimes, evidence of the crimes of the district attorneys and their family from being exposed.

The Pennsylvania Supreme Court denied Petitioner's petition for a Writ of Prohibition on 11/26/2018.

- **Judge Byrd's false statements in his Opinion filed on 1/15/2018**

In his Opinion in response to Petitioner's PCRA petition, Sandy Byrd made at least four (4) false statements on page 3 of his Opinion.

First, he stated that "Petitioner does make a number of claims, without evidence, asserting that his constitutional rights have been violated and that a vast

array of government officials conspiring against him." (Emphasis added).

Second, he stated that "Specifically, petitioner does appear to attempt to invoke an after-discovered evidence exception to the time bar." In Note 1, he stated that "Petitioner states that there is after-discovered evidence based on the fact that the district attorneys lied to him during his pending *habeas* petition. As stated later, petitioner offers no evidence for this claim and it is untimely regardless." (Emphasis added). Petitioner never claimed that the district attorneys lied to him. Petitioner claimed that Thomas W. Dolgenos and Ryan James Dunlavey hid exculpatory evidence and lied in their Response filed in the District Court.

Third, he stated that "However, these unsubstantiated claims have no support in the record, and petitioner does not cite the record or attached documents to substantiate his claim." (Emphasis added).

Fourth, he asserted that the Pennsylvania Supreme Court held in *Commonwealth v. Jones*, 54 A.3d 14, 18 (Pa. 2012) that a PCRA petition based on information discovered during *habeas* proceedings must be filed within 60 days of receipt of that information. The assertion is false because there is nothing on page 18 or anywhere else in the opinion the Pennsylvania Supreme Court held that a PCRA petition based on information discovered during *habeas* proceeding must be filed within 60 days of receipt of that information. In Petitioner's case, unlike the *Jones* case, the District Court did not grant a stay of the proceeding, filing a PCRA petition at the state level would ensure that there would be dual litigations at both the state and federal levels at the same time.

- **Pennsylvania Superior Court is biased**

The Superior Court panel knew that Petitioner's claim is that Dolgenos and Dunlavey hid exculpatory evidence and lied in their Response filed in the District Court.

> "Appellant avers that 'in *[h]abeas [c]orpus* proceeding at the Federal District Court, [the district attorney's office] hid exculpatory evidence to Appellant ... and lied in their [r]esponse.' (Citing Appellant's Brief, at 8)."

To cover up the crimes of Dolegnos and Dunlavey, the panel intentionally misstated Petitioner's claim that:

> "Appellant's argument is based on alleged inconsistencies in the version of the facts the complainant told authorities during the initial investigation, the testimony at the preliminary hearing, and the testimony at trial. Appellant contends that the district attorney's office was in possession of documents that would have shown that the complainant 'repeatedly [gave] false statements to the police, detectives; testified falsely at the preliminary hearing and trial.' (Id. at 9) ... Appellant posits that the district attorney's office hid these exculpatory documents from Appellant."

Petitioner did not contend or posit that the district attorney's office was in possession of documents that "would have shown" that the complainant "repeatedly [gave] false statements to the police, detectives; testified falsely at the preliminary hearing and trial." Kegel admitted himself under oath at trial.

Petitioner never claimed that the newly-discovered facts are the documents exculpatory to Petitioner as the panel listed on page 6 of its Memorandum. The newly-discovered fact is the criminal activities of Dolgenos and Dunlavey who interfered with Petitioner's ability to raise his claims in *Habeas Corpus* proceeding.

The Superior Court panel concluded that Petitioner was not acting with due

diligence because:

First, the panel stated that Petitioner raises the same claim on direct appeal challenging the weight of the evidence for his conviction when the two claims are not the same. In the subsequent PCRA petition, the claim is the criminal activities of Dolgenos and Dunlavey, not the weight of the evidence.

Second, the panel stated that the evidence Petitioner cited in support of his claim was available to Petitioner and could have been obtained by due diligence. As stated above, Petitioner never claimed that the newly-discovered fact is the exculpatory documents in the records. Petitioner never claims to have an exceptional ability to see into the future. Therefore, Petitioner could not foresee that Dolegnos and Dunlavey would commit crimes many years later.

The Superior Court panel also intentionally misstated a controlling or directly relevant authority. The Superior Court panel quoted Judge Byrd in his Opinion that in the case of *Commonwealth v. Jones*, 54 A.3d 14, 18 (Pa. 2012) the Pennsylvania Supreme Court held that a PCRA petition based on information discovered during the *habeas* proceeding must be file within 60 days of receipt of that information. There is no such holding on page 18 or anywhere else in the Opinion. The Superior Court panel's opinion otherwise was, in fact, a new law made for the occasion. Petitioner has not been able to find any precedent that there should be dual litigations at both the state and federal levels as the law made up by the panel.

- **Pennsylvania Supreme Court**

On 8/10/2020 the Pennsylvania Supreme Court denied Petitioner's Petition for Allowance of Appeal without explanation. (No. 113 EAL 2020)

REASON FOR GRANTING THE PETITION

Section 1 of the Fourteenth Amendment to the United States Constitution states, in part,

> "... 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 law."

Petitioner was prosecuted, convicted, and imprisoned to cover up the crimes of Jason John Kegel who is a family member, a relative, or a friend of Robert Lynch, then an assistant district attorney.

Petitioner was prosecuted, convicted, and imprisoned based solely on the perjured testimony, admitted being perjured, by the complainant himself.

Petitioner's was deprived of liberty and property without due process of law. Petitioner was also denied the equal protection of the law. Petitioner's trial and conviction lacked fundamental fairness. The Kafkaesque "judicial processes" that Petition had to go through for over 12 years lacked any judicial character.

Petitioner did not receive a fair and impartial preliminary hearing, trial, appeal, Post-Conviction proceeding because the collusion between the district attorneys and state judges.

Petitioner did not receive a fair and impartial adjudication of his *Habeas Corpus* petition also because of the collusion between the federal judges, state

judges and prosecutors.

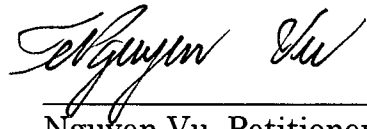
Petitioner cannot apply for a Writ of *Habeas Corpus* in the United States District Court, Eastern District of Pennsylvania, because judges at the District Court and judges at the Third Circuit are not impartial judges.

As a reason, Petition has to apply for a Writ of *Habeas Corpus* with the Court as the Court of last resort.

CONCLUSION

WHEREFORE, Petitioner respectfully requests that the Court either grant his Petition for Certiorari or grant his Petition for a Writ of Habeas Corpus.

Respectfully submitted,



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