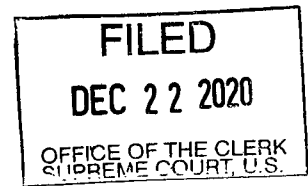


20-7195 ORIGINAL  
No. \_\_\_\_\_



\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

JAVAN FREDRICK MAYS — PETITIONER  
(Your Name)

vs.

WARDEN SCOTT LEWIS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Javan Fredrick Mays, 250287  
(Your Name)  
Perry Correctional Institution  
430 Oaklawn Road  
(Address)

Pelzer, S.C. 29669.  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

QUESTION(S) PRESENTED

Whether the petitioner's convictions ~~whether the petitioner was denied evidence for his defense~~ are unlawful for following reasons?

- (1) the state failed to provide him the victim's medical records which disproved the state's "attempted murder" offense against him
- (2) the petitioner discovered after his trial that the state used perjured testimony to convict him.
- (3) the petitioner was deprived of appellate review of his writ of certiorari by an order signed by a supreme court clerk denying his writ.
- (4) The petitioner's trial court lacked subject matter jurisdiction to convict him.
- (5) The petitioner did not knowingly and intelligently
- (6) The petitioner was denied the right to a fast and speedy trial.

Waive his right to counsel with an understanding of the elements of his attempted murder charge.

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

Evitts v. Lucey, 105 S.Ct. 830 (1985)  
Brady v. Maryland 83 S.Ct. 1194 (1963)  
~~Evitts v. Lucey~~, Strickland v. Washington, 104 S.Ct. 2015 (1984)  
Griffin v. Aikens, 775 F.2d 1235 (4th Cir. 1985)  
Giallo v. U.S., 92 S.Ct. 763 (1972)  
Napue v. Illinois, 79 S.Ct. 219 (1959)  
U.S. v. El Paso Natural Gas Co. 84 S.Ct. 1044 (1964)  
U.S. v. Cotton, 122 S.Ct. 1781 (2002)  
Faretta v. California 422 U.S. 806 (1975)  
State v. King, 772 S.E.2d 189 (2015)  
Barker v. Wingo, 92 S.Ct. 2182 (1972)  
United State v. Marion, S.Ct. 455 (1971)  
Iowa v. Tovar, 541 U.S. 77, 89 (2004)  
State v. ~~McClure~~ McClure, 289 S.E.2d 158 (1982)

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**TABLE OF AUTHORITIES CITED**

**CASES**

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See related cases on page 2 of this  
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**STATUTES AND RULES**

2254 (d)

**OTHER**

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

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

**OPINIONS BELOW**

☐ For cases from **federal courts**:

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

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

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

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

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

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the State Appellate Court court appears at Appendix D to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

## JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was June 11, 2020 / Officially filed ~~June 11, 2020~~ August 5, 2020

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

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

☐ For cases from state courts:

The date on which the highest state court decided my case was October 10, 2018  
A copy of that decision appears at Appendix D.

☐ A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (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**

This case involves Sixth and Fourteenth Amendments to the U.S. Constitution.



### STATEMENT OF THE CASE

The petitioner was indicted during the October 22, 2012, term of general sessions court for Spartanburg County (S.C.) for two counts of attempted murder (12-GS-42-5314 and 5315), armed robbery, and possession of a firearm during Commission of a Violent Crime (12-GS-42-5316). He proceeded to trial, pro se, with Standby Counsel Roger Poole, Esq. The State was represented by Derick Balsa, Solicitor for the seventh Judicial Circuit.

On November 18, 2013, the petitioner went to trial before the Honorable Alexander S. McCaulay, Judge and Jury. The Jury found him guilty of all charges, and Judge McCaulay sentenced him to twenty years for his attempted murder charge, twenty years for his armed robbery charges, and five years for possession of a weapon during Commission of a Violent Crime, all sentences to run concurrent. A timely appeal was filed on the petitioner's behalf.

The petitioner was represented on appeal by Susan B. Hackett, S.C. Appellate Defender. The appeal was denied on April 8, 2015 (Op. No. 2015-up-179).

The petitioner finally filed a State Post-Conviction to the South Carolina Supreme Court which was denied by an order signed by the S.C. Supreme Court Deputy Clerk attached hereto as Appendix D.

The petitioner now files a petition for habeas corpus seeking relief based upon the following reasons.

### REASONS FOR GRANTING THE PETITION

- (1) The petitioner was denied the right to effective assistance of appellate counsel's failure to raise and argue the state's discovery violation of failing to provide the robbery victim's medical record which contradicted the state's attempted murder charge against him. See Evitts v. Lucey, 105 S.Ct. 830.
- (2) The petitioner discovered after his trial that the state used perjured testimony by its witness to convict him. See Napue v. Illinois, 79 S.Ct. 473 (1959).
- (3) The petitioner was unlawfully deprived of appellate review of his writ of certiorari by an order signed by the Deputy Clerk denying his writ. See this Court's ruling in U.S. v. El Paso Natural Gas Co., 84 S.Ct. 1044 (1964).
- (4) The trial court lacked subject-matter jurisdiction to convict and sentence the petitioner. The petitioner's indictment indicates that he was indicted during the October 18, 2012 term of General Sessions Court for Spartanburg County. However, contrary to this indictment date, the General Sessions Court for Spartanburg County did not begin until October 22, 2012. See U.S. v. Cotton, 122 S.Ct. 1781 (2002).
- (5) The petitioner did not knowingly and intelligently waive his right to assistance of counsel with a full understanding of the elements of his attempted murder charge. See Iowa v. Tovar, 541 U.S. 77, 89 (2004).  
While the evidence in this case shows that the petitioner was aware of his right to counsel, there was insufficient evidence ~~exists~~ that existed to indicate that the court specifically inquired about the petitioner's knowledge of the elements of his attempted murder offense. This is evidenced by the judge's erroneous jury charge that "attempted murder required a general intent to kill" instead of the correct charge that "attempted murder required a specific intent to kill".
- (6) The petitioner was denied the right to a fast and speedy trial. The record shows

the solicitor delayed the trial until he could  
convince petitioner's alleged codefendant to  
testify against <sup>him</sup> for an undisclosed agreement.  
See Barker v. Wingo, 92 S.Ct. 2182 (1972).

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jovan Mayb

Date: December 22, 2020