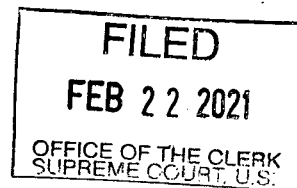


20-7345 ORIGINAL
No.

IN THE
SUPREME COURT OF THE UNITED STATES



WILLIE RAY LEWIS SR. — PETITIONER
(Your Name)

vs.

ROBERT LE-GRAND — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS (9TH CIRCUIT)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

WILLIE RAY LEWIS SR.
(Your Name)

LOVE LOCK CORRECTIONAL CENTER
(Address)

1200 Prison Road Lovelock, NV 89419
(City, State, Zip Code)

775-273-4237
(Phone Number)

QUESTIONS PRESENTED

1
2 (I) Whether Trial Counsel's failure to investigate, interview, or
3 cross-examine the alleged victims, "Pretrial", when she was in
4 possession of a recantation tape, deprive Lewis of his Constitutional-
5 right to effective assistance of Counsel.

6
7 (II) Whether Lewis was Prejudiced and denied a fair trial when the
8 trial court clerk read to the jury an inaccurate information twice
9 after impaneling, which had been dismissed by the Justice of the Peace,
10 and contained highly inflammatory and prejudicial language.

11
12 ~~Whether Counsel ineffective and Lewis prejudiced by Counsel's~~
13 ~~failures to investigate and interview vital witnesses.~~

14 (III)

15 Whether the trial court abused its discretion for allowing the State to
16 introduce highly inflammatory, uncharged prior bad acts into Lewis'
17 trial after the jury was impaneled the first day, and without notice from State.

LIST OF PARTIES

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.

WILLIE RAY LEWIS SR #91716

L.C.C. 1200 Prison Rd

Howe Lock, NV 89419

Petitioner

ROBERT LE'GRAND

Warden at the time this
Petition was Filed in the
U.S. District

OFFICE OF THE ATTORNEY -

- GENERAL AARON FORD

Carson City, NV - 100 N

Carson St.

Carson City, NV 89701

Respondents

TABLE OF CONTENTSPages1
2
3 OPINIONS BELOW

1

4
5
6 JURISDICTION

2

7
8
9 CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

3

10
11
12 STATEMENT OF THE CASE

4-16

13
14
15 REASONS FOR GRANTING THE WRIT

17-19

16
17
18 CONCLUSION

19

20

21

22

23

24

25

26

27

28

INDEX TO APPENDICES

- 1
2
3 APPENDIX-A-MOTION FOR RECONSIDERATION AND MOTION
4 FOR RECONSIDERATION EN BANC IN THE NINTH CIRCUIT
5 COURT OF APPEALS-WAS DENIED-FILED NOV/24/2020
6
7 APPENDIX-B-UNITED STATES DISTRICT COURT'S ORDER DENYING
8 PETITION FOR WRIT OF HABEAS CORPUS FILED 09/18/2019
9
10 APPENDIX-C-DECLARATION OF (MARY JAMES) "TAKEN BY THE -
11 FEDERAL PUBLIC DEFENDER(S) WHOM WERE ASSIGNED TO THIS
12 CASE. DATED: (10/19TH/2011) PAGE 1 OF 2 & APPENDIX-C-Pg 2 OF 2
13
14 APPENDIX-D-REQUEST FOR INVESTIGATION-THAT WAS NOT
15 CARRIED OUT- FROM: STACEY ROUNDTREE TO HAROLD KENDALL
16
17 APPENDIX-E-MEMO TO STACEY ROUNDTREE FROM FRED SAENZ
18 DATED: JULY/25/2005
19
20 APPENDIX-F-TRIAL COUNSEL STACEY ROUNDTREE'S REQUEST FOR
21 AN INVESTIGATION-THAT NEVER TOOK PLACE. DATES
22
23 APPENDIX-G-SUBJECT OF INVESTIGATION THAT NEVER TOOK
24 PLACE. DATED: JULY/22/2005
25
26 APPENDIX-H-IS A REQUEST FOR INVESTIGATION, WHICH
27 STILL HASN'T TAKEN PLACE. DATED (MARCH/24/2006)
28 APPROXIMATELY 1 TO 2 MONTHS AWAY FROM TRIAL.

1 APPENDIX - I - A COPY OF THE LIST OF WITNESSES THAT
2 STACEY BOUNDTREE CLAIMED I NEVER GAVE HER, PERJURING
3 ON THE WITNESS STAND "FILED BY THE FEDERAL PUBLIC
4 DEFENDER IN THE U.S. DISTRICT COURT - FILED (02/16/2012)
5

6 APPENDIX - J - A COPY OF THE ADMONITION TO THE JURY FROM
7 THE JUDGE AFTER LANGUAGE OF SEXUAL ASSAULT WITH A DEADLY
8 WEAPON WAS HEARD BY THE JURY - WHICH HAD BEEN DIMISSED
9 BY THE JUSTICE OF THE PEACE.
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1	<u>Berryman V. Morton</u> - 100 F.3d 1089 (CA 6 3 1996)	Page(s) 9
2	Turner V. Duncan - 158 F.3d 449 9th Cir. 1998	5
3	<u>Capps V. Sullivan</u> 921 F.2d 260 (10th Cir. 1990)	5
4	<u>Clark V. Blackburn</u> , 619 F.2d 431 (5th Cir. 1980)	15
5	<u>Duane # Edwards Buck V. Loni Davis</u> SC of US 2017 9+19	
6	<u>Estelle V. Williams</u> , 425 U.S. 501, 505, 0696 S.Ct. 1691 -	
7	1693-94, 48 L.Ed. 2d 126 (1976)	13
8	<u>Freeman V. Class</u> , 95 F.3d 639 (CA 8 1996)	9
9	<u>Harris By and through Ramsemer V. Wood</u> , 64 F.3d 1432 -	
10	9th Cir. 1995	15
11	<u>Jackson V. Hering</u> 42 F.3d 1380 (CA-11-1995)	9
12	<u>Johnson V. Armontrout</u> , 961 F.2d 748 (CA 8 1992)	14
13	<u>Lewis V. State</u> - Docket no. 55305 + no. 50872	6
14	<u>McKenna V. Ellis</u> , 280 F.2d 592 (5th Cir. 1960)	16
15	<u>McLann V. Richardson</u> 397 U.S. 759, 771 n. 14, 90 S.Ct.	
16	1441, 1449, n-14, 28 L.Ed. 2d 763 (1970)	9
17	<u>Pilchak V. Camper</u> , 741 F.Supp. 182 (W.D. Mo. 1990)	15
18	<u>Rogers V. McMullen</u> - 6773, 1183, 1190 (11th Cir. 1982)	14
19	<u>Sanders V. Ratelle</u> , 21 F.3d at 1457 (9th Cir.)	10
20	<u>Soffar V. Coekrell</u> , 300 F.3d 588 (5th Cir. 2002)	8
21	<u>Soffar V. Dretke</u> 368 F.3d 441 (CA 5th - 2004)	8
22	<u>Strickland V. Washington</u> - 466 U.S. 668 (1984) 647	
23	<u>Strickland V. Washington</u>	15
24	<u>Turner V. Duncan</u> 158 F.3d 449 (9th Cir. 1998)	5
25	<u>U.S. V. Garrett</u> - 149 F.3d 1019 (9th Cir. 1998)	15
26	<u>United States V. Tucker</u> - 716 F.2d 576 9th Cir	6
27	<u>Martinez V. Ryan</u> - 566 U.S. 132 S.Ct. 1309, 182 L.Ed. 2d 272 (2012)	18
28	<u>Rodney V. Filson</u> U.S. Ct. of Appeals 9th Cir. 916 F.3d 1254 (2017)	18

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 _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

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

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

H

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was July 01/2020.

[] 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: Nov/24/2020, and a copy of the order denying rehearing appears at Appendix BA.

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

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

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

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

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

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

1 CONSTITUTIONAL PROVISIONS AND
2 STATUTORY PROVISIONS INVOLVED
3

4 The Fourteenth Amendment Requires that no citizen
5 of the United States shall be deprived of life, liberty,
6 without due process of law, nor deny to any person
7 within its Jurisdiction the equal Protection of laws.
8

9 Petitioner was denied this Constitutional right in
10 an unfair arbitrary and capricious trial.

11 I was not given a full and fair hearing,
12 when it came down to the state presenting
13 uncharged prior bad acts without notice.

14 The (14th) Amendment was suppose to provide me
15 with the greatest Procedural safeguards to ensure
16 a fair Trial.

17
18 My Sixth Amendment - Right to effective Counsel

19
20 My Substantive Due Process was of no moment.

21
22 Actual Innocence is clear in my case

23 NRS CP 34
24
25
26
27
28

STATEMENT OF THE CASE

(I) Petitioner Was denied effective Assistance of Counsel, during Preliminary, (Pre-Trial) and Trial Stages, The Supreme Court for the State of Nevada Sent An order Reversing and Remanding me back to the (Trial Court) for an evidentiary hearing - to determine if ("Trial Counsel") Stacey Roundtree's reason for not Investigating OR interviewing Witnesses for Lewis' Trial, Was it Strategic tactics OR A Lack of Preparation for trial. The District Court denied my Motion for Post Conviction Counsel. Trial Counsel violated my (6th) amendment right to effective assistance of counsel and my (14th) amendment right to due Process of Law, the right to have a meaningful defense at trial. Trial Counsel should have submitted the Recantation tape into evidence, A Jurist of reason could easily have found Petitioner not guilty which would have been totally the truth. Trial Counsel simply fail to Prepare for trial, The Investigation, interviews, and the recantation tape of the alleged victim(s), "The State would not have proceeded to trial, because it was only a coerced, falsified testimony that A Jury allegedly found me guilty. To this very day, the alleged victim wants to come forward and tell the truth, but according to another family member, "The alleged victim fears -

1 that the district attorney's office will attempt to retaliate,
2 as which was done in the past, "approximately fifteen (15) years
3 ago. The Federal Public defenders team that were assigned
4 to my federal hearing case scheduled an interview with
5 a family member whom has lived around and helped to raise
6 the alleged victims. As a result of this visit in 2011,
7 it appears that the Federal team received A. Sworn
8 Declaration of ("Mary James"), dated (October/19th/2011)
9 Please See Exhibit C (Appendices C). Had Counsel exercised
10 due diligence by interviewing the alleged victims and
11 other witnesses that she was provided a list for, and
12 had Trial Counsel Investigated, along with being-
13 equipped with a recantation tape of the alleged Victim-
14 recanting her allegations long before trial, "Counsel
15 would have been extremely equipped with a defense, and
16 no reasonable jury would have grounds to convict.
17 Trial Counsel's failure to investigate and to adequately
18 conduct a Pretrial Preparation was not a strategic decision-
19 and required a remand for an evidentiary hearing to-
20 determine whether a Pretrial investigation would have-
21 produced a conviction of a lesser degree of homicide.-
22 See: Turner V. Duncan 158 F.3d 449 (9th Cir. 1998) - See also
23 Capps V. Sullivan, 921 F.2d 260 (10th Cir. 1990) states: Trial
24 Counsel's failure to adequately prepare his case by not
25 interviewing or subpoenaing the witness who would have
26 substantially corroborated Capp's testimony material
27 to entrapment defense, constituted ineffective assistance
28 of Counsel.

1 United States V. Tucker, 716 F.2d 576 (9th Cir. 1983)
2 Trial Counsel's overall Performance, Failure to
3 Prepare for trial, Properly Cross-examine Government
4 Witnesses, Impeach Government Witnesses with
5 inconsistent Prior Statements, Failed to Call Corroborating
6 Witnesses to Support the defense, Deprived defendant of
7 a Fair trial and Constituted ineffective assistance of
8 Counsel. This is exactly what the Supreme Court of
9 Nevada wanted to determine on my reverse and-
10 remand in (2009) see Lewis V. State Docket No. 55305
11 see also Lewis V. State, Docket No 80872 Reversing in
12 Part and remanding a Jurist of Reason, in light of
13 the evidence before this could easily find that the
14 Supreme Court of Nevada was wrong for Affirming
15 the State District Court's denial of my Petition for A-
16 writ of habeas Corpus. Both The state and state s.ct.
17 wrongfully adjudicated Lewis' Claims on the merits.
18 Counsel was ineffective- Reasonable Jurist could debate
19 or Conclude that Attorney Roundtree's deficient Per-
20 formance, Prejudiced Lewis. See: also Strickland-
21 V. Washington, 466 U.S. 668 (1984). Stacey Roundtree
22 nor her investigator made any attempt to talk to
23 the alleged victim about the allegations, And the fact
24 that Trial Counsel was in Possession of the recantation-
25 tape and fail to Present that evidence

26
27 Please Take Notice that Trial Counsel Roundtree
28 was later disbarred for Sexual Misconduct at the-

1 Clark County Detention Center involving an
2 inmate. Even though this behavior took place
3 after the trial was over and counsel was with-
4 drawn from the case, (my case that is) it would
5 seem reasonable that her competency be brought
6 into question. The Trial Court, Federal District Ct.
7 and State Supreme Courts' decisions were contrary,
8 to and or involved an unreasonable application of clearly
9 established U.S. Supreme Court law. See: Strickland-
10 v. Washington, 466 U.S. 668, 687-88, 691, 104 S.Ct. 2052, 2068-
11 74, 80 L.Ed.2d 674 1984, 62, 63, 125, 173, 175, 183, 193, 204, 205,-
12 227, 229, 230, 231 233, 238, 239, 240, 252 258, 266, 277.
13 Please Exhibits D reflecting that no investigation
14 nor interview has been carried out. Please see
15 Exhibit-E-Counsel failing to use the resources
16 to launch a thorough investigation, and interview
17 witnesses, especially the alleged victims. Please
18 see Exhibit F Where the alleged victim (S.S.L.)
19 had recanted and Trial Counsel had possession
20 of the recantation tape. Please see: Exhibit G
21 reflecting that the list of witnesses that I presented-
22 to Trial Counsel had not been filed. Trial Counsel
23 fail to interview witnesses, the state's witnesses,
24 my accuser(s), Therefore at trial I never had a
25 chance, The state simply railroaded me because I
26 fail to take a deal of Probation and gross Misdeemeanor
27 which I never knew anything about until after trial.
28 Please see: Exhibit H Dated March/24/2006

1 Trial Counsel making a manipulative attempt
2 to pretend as if some investigation had been carried
3 out. Trial Counsel never interviewed nor investigated the
4 alleged victims, or any of the witnesses that I presented
5 to her in the first instance. These witnesses are
6 still able and ready to provide affidavits if it be-
7 comes necessary, with the exclusion of (Victoria - C
8 Tabian and David Jones) because Petitioner has no
9 contact or idea of their whereabouts. Please see
10 Exhibit I. The witnesses that Trial Counsel lied
11 under oath on the witness stand at the evidentiary
12 hearing in 2009, around October and stated
13 that she didn't recall me ever giving her a list
14 of witnesses. Trial Counsel was extremely in-
15 effective, and Petitioner was extremely prejudiced.
16 Counsel did not try to exercise due diligence to
17 investigate and interview witnesses and the states
18 witnesses. See Soffar v. Dretke, 368 F.3d 441 (CA5 2007)
19 This case was returned upon reinstatement by the
20 en banc court Soffar v. Cockrell, 300 F.3d 588 (5th Cir. (C
21 2002. This case was reversed - writ granted, This case
22 is parallel to mine as well [The Court of Appeals].
23 agree that the Sixth Amendment imposes on counsel a
24 duty to investigate (which MY Trial Counsel did not).
25 The Sixth Amendment recognizes the right to the
26 assistance of counsel because it envisions playing a
27 role that is critical to the ability of the adversarial system
28 to produce just results. Courts has recognized that -

1 the right to counsel is the right to the effective
2 assistance of counsel. McMann V. Richardson, 397,
3 U.S. 759, 771, n. 14, 90 S. Ct 1441, 1449, n. 14, 25 L. Ed 2d
4 763 (1970). The State Trial Court, Supreme Ct
5 of Nevada, The Federal District Court, and The (9th)
6 Circuit Court of Appeals, all decisions were contrary
7 to established U.S. Supreme Court Precedents.
8 The record clearly reflects that A Jurist of Reason
9 could present a different outcome in light of
10 new evidence that was not presented to A
11 Jury and or the Court, also all documents
12 presented in Exhibits/Appendices A through I
13 which clearly shows that trial counsel fail to
14 interview and investigate witnesses, including the
15 states witnesses whom has been wanting to
16 recant the false allegation before trial ever
17 began, but was and is afraid of the state's
18 prosecution retaliating - Strategic choices w/out
19 investigation - Not Reasonable. Jackson V. Hering,
20 42 F.3d 1350 (CA-11-1995); Freeman V. Glass, 95 F.3d-
21 639 (CA 8 1996). Counsel's strategy requires the
22 existence of one. Berryman V. Morton, 100 F.3d 1089 -
23 (CA/03 1996). See also Duane Edward Busk V.
24 Lorie Davis - Supreme Court of the United States.
25 The (9th) Circuit only stated that Mr. Lewis fail
26 to establish a Constitutional Violation, but the 9th
27 Circuit is wrong, furthermore how did the 9th
28 Circuit reach that conclusion without viewing -

1 the claims on the merits? Please also see Kyle
2 J. Rodney V Timothy Filson United States Court of
3 Appeals for the 9th Cir 916 F.3d 1254, 2019 U.S. App. LEXIS
4 6330 Also Petitioner was denied Post Conviction Counsel
5 on habeas. The tape with the recanting statements exonerates me.
6 Sanders V. Ratelle, 21 F.3d at 1457 The (9th) circuit agrees

7 (II) Petitioner was denied a fair trial the moment
8 that the clerk read highly inflammatory,
9 prejudicial and damaging information charges
10 of sexual assault with a deadly weapon (to-cc
11 with a gun). To the court after the jury was
12 impaneled trial counsel moved with objections,
13 and mistrial, the motion was denied and the court
14 gave the jury a futile instruction to disregard
15 what was read. The clerk read the language twice,
16 and the court gave an instruction a second time.
17 The document presented as exhibit, I, was tampered
18 with and/or manipulated to seem as if the
19 clerk only read the language once to the jury.
20 This violates my (14th) Amendment rights
21 to due process of law, equal fair treatment
22 and protection. This is like trying to unring a bell
23 once it's rung. You just can't. Petitioner was
24 prejudiced and subjected to a miscarriage of
25 justice and denied a fair trial, especially
26 along with the facts that counsel was ineffective
27 for not presenting the recantation tape, not interviewing
28 witnesses and failing to investigate. The language
of S/A with use of deadly weapon - see T.T Pgs 159 lines 13-24, B 160 lines -
18-

1-24 also language at J.T. Pages 161, 162, 163 + 164

1. The most disturbing Part of this court's trial
2. Proceedings were, "Why didn't my trial Counsel,
3. The State's Prosecutor nor the Trial Judge, as
4. officials of the State, under oath of office
5. take the time to remove these false and un-
6. found Charges of [Sexual assault with a Deadly Fe-
7. Weapon] from the record immediately? After all, -
8. these Charges had been dismissed by the Justice
9. of the Peace, as unfound during Preliminary.
10. the State, Trial Counsel, or Trial Judge had a
11. three year Window to Correct and or remove
12. this Prejudicial, Highly inflammatory language
13. from the record/charges. There is no possible
14. way that the Jury was not inflamed and or twisted.
15. The Bell had been rung, and could not be unrung.
16. No Jury instruction and or admonishments
17. could cure such harmful Proceedings at trial.
18. the trial Judge should have declared a Mis-
19. trial, but chose to Violate the Canon Codes of
20. Judicial ethics, Violate my Fourteenth Amend-
21. rights to Due Process of law, Equal, Fair treat-
22. ment and Protection. This is a serious issue,
23. and a matter of importance to the Public, State
24. and Nationally. No Trial Court should be allowed
25. to get off with allowing A Jury to hear language
26. that damaging twice, that should not have
27. been in the record in the first place, to allow
28. such, "means" no defendant is ever safe, because

1 damaging information can be presented to the
2 Jury once it's impaneled, rendering an unfair trial.
3 A truthful and reasonable Jury can find it debatable
4 that once the bell is rung, "you cannot unring it."
5 After the Jury was impaneled, and the court came
6 to ORDER, the Trial Court Clerk read this Prejudicial,
7 highly inflammatory of Sexual Assault with the use
8 of a deadly weapon which had been dismissed by
9 the Justice of the Peace as unfounded, it took the
10 State from [2003 to 2006] before they decided to
11 go to trial, and more than likely this was due to
12 retaliation against me because the State felt
13 that I should have taken the deal of Probation
14 and a gross ~~misconduct~~ Misdemeanor, "which
15 Trial Counsel never discussed any deal with
16 me during Preliminary" nor within the three year
17 period. See: Exhibit F / Appendices F - First Paragraph
18 This reflects a violation of my First, Sixth
19 and 14th Amendment rights to the U.S. Constitution -
20 ineffective assistance of Counsel, compulsory and
21 Due Process of law, denying me inadequate access
22 to the courts and a meaningful fair trial, The
23 Jury was forever tainted after hearing the damaging
24 language that shouldn't have been there, it's also
25 on my Presentence Investigation report, which also
26 affects Parole consideration. These charges simply
27 should not have been heard by the Jury, and should
28 have been deleted. Some Courtroom Practice may -

1 deprived a defendant of his (6th) Sixth Amendment
2 right to a fair trial, which implicates the due
3 Process Clause under the (14th) Fourteenth
4 Amendment. This is next to the trial Judge
5 denying a mistrial when the trial clerk read
6 the information of sexual assault with a deadly
7 weapon "[w]ith a gun" twice, after the Jury had
8 been impaneled. The trial counsel did object
9 and moved the court for a mistrial, it was denied-
10 and the court gave the Jury admonishments and
11 instructions both times. Estelle v. Williams, 425-
12 U.S. 501, 505-06 96 S. Ct. 1691, 1693-94, 48 L. Ed. 2d 126 (1976).
13 Plaintiff was and is guaranteed, through the
14 due Process Clause, to a trial free from fundamental
15 unfairness, including any unfairness, which stems
16 from blatantly incompetent counsel. See: Clark-
17 v. Blackburns, 619 F.2d 431 (5th Cir. 1980). The —
18 language should have never entered into my
19 trial, "but should have been deleted. The district
20 court abused its discretion by refusing to
21 grant a mistrial or continuance to impanel a-
22 new Jury, because after the clerk read the
23 damaging language twice, there was no recovering
24 the unbiased minds of the Jury. This was equal
25 to having no counsel, as the Judge did deny
26 counsel's request for a continuance and/or mistrial-
27 had counsel done due diligence the false language
28 could have been discovered. U.S. Garrett, 149 F.3d
1015 CA 9 1998).

1 a reasonable Jury could find it debatable that
2 after the court read the illegal language (VIA)
3 the court clerk twice to the Jury, which had been
4 dismissed by the Justice, required A Mistrial. The-
5 language of sexual assault with a deadly weapon -
6 ~~taunt~~ - again "A Gun" was damaging, and denied
7 a fair trial - See: Johnson v. Armonthout, 961 F.2d -
8 748 (CA 8 1992). In this case defendant received
9 a trial, his Constitutional guarantee has not been
10 granted if any member of the Jury was biased. -
11 Rogers v. McMullen, 6273, 1183, 1190 (11th Cir 1982).
12 Biased must be Presumed after the Jury heard
13 illegal language that was dismissed by the Justice
14 of the Peace, especially after the Judge allowed
15 similar damaging testimony (VIA) a ~~R~~^W ~~Parocelli~~
16 hearing, my (6th) and (14th) Amendment was violated,
17

18 III. The trial Court abused it's discretion for allowing
19 the state to introduce highly inflammatory, un-
20 charged Prior Bad Acts into Lewis trial after the
21 Jury was impaneled. This was the first time Trial
22 Counsel knew that the State intended to introduce
23 Uncharged Bad Acts Evidence Into trial. In -
24 violation of the Fair Notice Act. This violates
25 my (14th) Amendment rights to Due Process of law, +
26 Compulsory Process. None the less, Trial Counsel
27 should have exercised due diligence, investigate,
28 interviews, to be prepared for trial. Trial Counsel's

1 Failure to Prepare law and evidence for trial can-
2 constitute ineffective assistance of Counsel.
3 Pilchak V. Camper, 741 F. Supp. 782 (W.D. Mo. 1990).
4 Trial Counsel's failure to investigate and prepare
5 for trial amounted to ineffective assistance.
6 Harris By and through Ramseyer V. Wood, 64 F.3d 1432-
7 (9th Cir. 1995), incorporated with Strickland V. Washington.
8 had counsel been prepared we would have
9 been ready for the uncharged prior bad acts. As
10 well, "the Court was still wrong for allowing
11 the Bad Acts Evidence into trial, In my state
12 habeas there should have been a ruling either
13 Counsel was ineffective for failing to prepare
14 for trial, or the Trial Judge abused its discretion
15 for allowing the bad acts in without the
16 defense being put on notice Pretrial to allow
17 trial Counsel enough time to prepare, especially
18 when the State never met their burden of
19 Proof other than testimonies of the alleged
20 Victims) whom wanted, and still wants to recant
21 these false Allegations, but fears the Prosecution's
22 threats if the testimony wasn't followed through.
23 The Trial Court's allowance of the uncharged bad
24 Acts into trial and Refusal to grant a Continuance -
25 so Counsel could prepare required reversal and a
26 dismissal or Remand for new trial, U.S. V. Garrett -
27 149 F.3d 1019 (9th Cir. 1998). District Court's failure to
28 grant a motion for a 30 day Continuance so -

1 defendant's counsel could adequately prepare
2 for trial was an abuse of discretion and required
3 reversal, this case was remanded for a new
4 trial. The District Court's failure to grant
5 Petitioner's continuance at trial to obtain un-
6 available witnesses was a violation of due process.
7 Gardner v. Barnett, 175 F. 3d 580 (7th Cir 1999).
8 McKenna v. Ellis, 280 F. 2d 592 (5th Cir 1960).
9 Petitioner was Denied Due Process, The
10 Uncharged Prior Bad Acts Should not
11 have entered into MY trial. A Jurist of
12 reasons, along with the facts that the
13 alleged victims had tried to Recant the
14 false accusations three years before trial -
15 to no avail, and to this very day the alleged
16 victim(s) wants to Recant the false allegations -
17 but fears the State's Prosecutor will subject
18 them to retaliation as was done previously
19 between 2003 up until trial in 2006.

Please Note: Petitioner May have The Statement
of The Case Mixed Up With - Reason For Granting The Petition

[REASONS FOR GRANTING THE PETITION]

It is reflected throughout the entire record and of Procedures, That I was denied a fair Trial from the very beginning. The record shows that the State had offered a very reasonable deal, which Trial Counsel stated I refused the deal again, Trial Counsel was untruthful, I was never presented with any deal, Trial Counsel barely discussed anything with me. See Exhibit/ Appendices F First Paragraph, fourth line, starting at (Hendricks). This is the first time I've seen this document, and the contents thereof I would not have known about it if I had not received my files from the Public defenders office. "Further," It can be easily seen that the fact that I was at liberty for three years before going to trial (Why). There was no meaningful investigation in my case. The fact that there are strong issues of the alleged victims trying to recant the false allegations there is a recantation tale. The Lower Dist Court was wrong, and abused its discretion by failing to grant me Post Conviction Counsel. The lower district court was wrong and abused its discretion for failing to grant a mistrial, when the court clerk read damaging language to the jury that had been dismissed by the Justice -

1 of the Peace-The Damaging Language was read
2 twice. Petitioner has maintained his Innocence
3 from day one. With the Recantation Tape, The
4 Declaration-See Exhibit C-1 of 2 and 2012, and
5 the fact that there is information that the alleged
6 victim(s) wanted to tell the truth before the
7 case had gone to trial and there is information
8 that the alleged victim(s) still want to come
9 forward and tell the truth but is afraid of
10 being retaliated against by the Prosecution.
11 Petitioner is also Subject to Actual Innocence
12 Pursuant to (NRS 34.900 to 34.990) added to
13 NRS (by 2019, 2977) "I", The Petitioner should
14 have been granted at least an Evidentiary
15 hearing in the Federal Court Pursuant to
16 Rodney V. Filson - United States Court of Appeals -
17 for the 9th Cir - 916 F.3d 1254; (2019) The Panel
18 vacated the district Court's denial of Nevada -
19 State Prisoner Kyle J. Rodney's Pro Se 28 U.S.C. §
20 2254 habeas corpus Petition and remanded for the district
21 Court to conduct an analysis of the substantiality
22 of Rodney's ineffective assistance of counsel claims.
23 Pursuant to Martinez V. Ryan 566 U.S. 132 S.Ct.
24 1309, 182 L.Ed 2d 272 2012. - Also The 9th Cir. Stated
25 that I failed to establish a constitutional violation -
26 and simply denied the [COA] A Jurist of reasons
27 and even a lay person can determine after obtaining
28 full knowledge, familiarizing themselves with the case,
will find nothing but Constitutional Violations &c -

1 Miscarriage of Justice - During the Direct appeal stage
2 Trial Counsel argued that the State fail to put the
3 defence on fair notice before introducing uncharged
4 Prior bad acts into mid trial after the Jury was impaneled.
5 The State claimed that Counsel was aware that there
6 may be uncharged Prior bad acts coming in and the Ct
7 only about A Pettocelli hearing the Supreme Ct of the
8 State of Nevada was wrong for affirming. The fact is
9 The State claimed Counsel had notice, well in that
10 case Counsel was Ineffective for failing to investigate
11 into those charges OR the Judge abused it's discretion
12 for allowing the uncharge Prior bad Acts, it seems
13 the System wants to have it both ways, that's
14 unfair, that's not Justice, that's A system that picks
15 and chooses when they want to Railroad. This Ct's
16 intervention is sincerely needed in this case.
17 I did not commit these crimes and I am Innocent.
18 See also Buck v Davis SC of the U.S. 137 S.Ct. 759;
19 197 L.Ed 2d 1; 2017 US.

CONCLUSION

Petitioner Prays that this Honorable Court of last resorts will Please take a look at this case and grant a C.O.A. especially facing the fact that a recantation tape was in the hands of MY Trial Counsel in the very beginning before trial, which took three years to start. The Petition for a Writ of Certiorari should be granted.

Respectfully Submitted,

Willie Ray Lewis Sr. 91716

Date: February/22/2021