

IN THE SUPREME COURT OF THE UNITED STATES

9-17-1938

ON PETITION FOR WRIT OF CERTIORARI TO THE
SUPREME COURT OF THE UNITED STATES

THOMAS T. WINSTON - Petitioner
(Pro se)
Appellant

UNITED STATES COURT OF
APPEALS FOR THE SEVENTH
CIRCUIT CASE NO. 20-1605

V.

GARY A. BOUGHTON - Respondent
Appellee

UNITED STATES DISTRICT
COURT FOR THE EASTERN
DISTRICT OF WISCONSIN
CASE NO. 18-CV-1938

BRIEF OF PETITIONER

QUESTIONS PRESENTED

- I. WHETHER A DISTRICT COURT SHOULD BE ABLE TO DENY A PETITIONER ACTUAL INNOCENCE AS A GATEWAY TO OTHERWISE BARRED CONSTITUTIONAL CLAIMS WITHOUT CONSIDERATION OF ENTIRE RECORD AS A WHOLE?
- II. WHETHER A DISTRICT COURT SHOULD BE ABLE TO DENY A PETITIONER ACTUAL INNOCENCE AS A GATEWAY TO OTHERWISE BARRED CONSTITUTIONAL CLAIMS BY PLACING A STANDARD FOR PETITIONER TO MEET SCHUP V. DELO DOES NOT REQUIRE?
- III. WHETHER A PETITIONER SHOULD BE DENIED AN EVIDENTIARY HEARING TO QUESTION A JUROR WHO FAILED TO DISCLOSE INFORMATION, BECAUSE STATE COURTS RULED PETITIONER RECEIVED A FAIR AND IMPARTIAL JURY, DESPITE SAID JUROR NEVER BEING QUESTIONED?
- IV. WHETHER A PETITIONER IS DENIED RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN TRIAL COUNSEL'S FAILURE TO INFORM TRIAL COURT A JUROR WHO KNEW PETITIONER PERSONALLY RESULTED IN SAID JUROR BEING REMAINING JUROR?
- V. WHETHER A PETITIONER HAS A CONSTITUTIONAL RIGHT TO BE ISSUED A CERTIFICATE OF APPEALABILITY BY COURT OF APPEALS, IF THE DISTRICT COURT DENIED TO ISSUE C.O.A. FOLLOWING AN ERRONEOUS RESOLUTION OF WRIT OF HABEAS CORPUS?

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JURISDICTIONAL STATEMENT

The District Court of the Eastern District of Wisconsin issued a final judgment by denying Petitioner's Petition for Writ of Habeas Corpus under 28 U.S.C. 2254, and declined to issue a Certificate of Appealability on March 30th, 2020 (see Exhibit 2). The Court of Appeals for the Seventh Circuit declined to issue a Certificate of Appealability on December 16th, 2020 (see Exhibit 3). Thus, given the court jurisdiction pursuant to 28 U.S.C. § 1254(1, 2)

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED

This case involves Sixth and Fourteenth Amendments to the ~~the~~ Constitution which respectively provide that: "In all criminal prosecutions, the accused shall enjoy the right... to be tried by a fair and impartial jury, and to have the Assistance of Counsel for his defence," nor "[shall] cruel or unusual punishment [be] inflicted" and "nor shall any state deprive any person of life; liberty, or property, without due process of law." This case also involves 28 U.S.C. § 2254(d)(1), which provides that "an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a state court shall not be granted with respect to any claim that was adjudicated on the merits in state court proceedings unless the adjudication of the claim... resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States..."

STATEMENT OF THE CASE

On November 15th, 2003, Cary Dace was robbed, shot and killed during an armed robbery in Milwaukee, Wisconsin. The Petitioner, Thomas T. Winston was ~~was~~ arrested, following an investigation, in which two co-defendants implicated Winston

in the crime as the person responsible. Winston maintained his innocence, entered a not guilty plea leading to him being banded over for trial. During the selection of the jurors, one of the twelve remaining jurors was Winston's former high school teachers. Following a jury trial, Winston was convicted and sentenced to life in prison with eligibility to petition the Court after forty years of confinement.

SUMMARY OF ARGUMENT

Thomas J. Winston has presented evidence of actual innocence exceeding that required by this Court's holding in *Schlup v. Delo* to allow a habeas petitioner to pass through the procedural gateway and permit federal courts to review the merits of otherwise procedurally defaulted constitutional claims. In considering Winston's *Schlup* claim, the lower courts erred grievously in their evaluation of Winston's post conviction evidence of innocence. They did so by failing to give reliable credible evidence of innocence the appropriate weight and failing to consider ~~the~~ its significance in light of the purely circumstantial evidence used to convict. They did so by concluding that solely because some received evidence pointing to guilt remained, Winston had fallen short of establishing a gateway innocence claim.

The lower courts also erred under *Herrera v. Collins*, 506 US 390, at 429 (1993), and concluded that Winston's presentation of new evidence and other evidence never presented discrediting every aspect of the prosecution trial case, and pointing to a plausible alternative suspect such that no rational juror could vote to convict. They then should have granted immediate relief.

ARGUMENT

Thomas J. Winston presents a compelling case of actual innocence which warrants relief under settled law. He

When Green spoke to Hedges and claimed the murder was discussed but neither recall Pettitioner's name ever being mentioned (see Exhibit 4; page 5 and 6). Such information was never presented to the jury, thus new evidence under actual innocence as a gateway.

The only eye witness to the crime, Ruby Adams, minutes after witnessing the crime in broad daylight from very close range informed Milwaukee Police she may be able to positively identify the culprit, if she were to see him again (Exhibit 4; page 6). A jury never knew Ms. Adams was shown a photo array lineup containing six booking photos which contained the Petitioner and informed Police she didn't recognize anyone as the culprit. (Exhibit 4; page 6).

The Petitioner was never identified as the culprit by the only independent eye witness of the crime, when this eye witness' recollection was still fresh. A jury was never made aware of the fact that just two days after witnessing the crime in broad daylight Ms. Adams excluded the petitioner as the culprit, by informing police she may be able to positively identify the culprit and not identifying the Petitioner. (Exhibit 4; page 6). Adams also testified she remembers a black male with a dark skin complexion as the culprit (Trial Trs. 7/20/2004 Amr 106-107), which the petitioner is not.

The Schlup standard does not require absolute certainty about the petitioner's guilt or innocence. House v. Bell, 547 US 518 at 538 (2006). Yet, the evidence emanating from the aforementioned three witnesses - Andrae Harris, Jerome Whitehead and Ruby Adams - comes close. These three witnesses have no known connection - family, business, social, political - to the Petitioner and thus nothing to gain from lying to protect him. Cf. Blackman v. Williams, 883 F.3d 1088, 1112 (7th Cir. 2016).

Petitioner also presented to the District Court the following Newly Discovered Evidence in support of Actual Innocence as a gateway standard. At trial Codendant Green testified a person known only as "Wallstreet" actually committed the

produced evidence disproving the most incriminating evidence that the prosecution had argued at trial served to link him to the crime. In addition, he presented strong credible evidence from several unbiased, uninvolved witnesses that Winston was not named directly after the murder as the Killer initially by people involved in the murder. Given the entirely circumstantial case against him and the paucity of credible evidence that remains, Winston has surely met and exceeded the requirements of Schlup. Because of the erroneous application of this court's settled precedent, Winston's conviction stands.

I.

"Actual Innocence as a gateway does not require that the evidence be newly discovered". We have rejected limiting the Schlup inquiry to newly discovered evidence". Schlup v. Delo, 513 US 298 (1995). Actual Innocence as a gateway to otherwise barred Constitutional claims, requires a petitioner to present evidence that is reliable and that was not presented at trial. See Gomez v. Jaimez, 350 F.3d 673, 679 (7th Cir. 2003) (Nothing in Schlup indicates that there is such a strict limitation on the sort of evidence that may be considered", see also Schlup, 513 US at 324 (permitting any new evidence to be considered so long as it was not "presented at trial").

In instant case, petitioner presented evidence/information unknown to the jury at the time of his trial showing evidence existed excluding him, to support petitioner meeting actual innocence as a gateway standard to otherwise barred Constitutional claims.

Codefendant James Green's sister Taquita Hodges informed Milwaukee Police that directly after the murder occurred Green told her "Web" (Petitioner's nickname; Trial Trs. 7/21/2004 PM: 67) committed the murder (see Exhibit 4, page 5). Hodges testified consistently to such information at defendant's trial (Trial Trs. 7/21/04 PM: 82-85). Two people, Andrae Harris and Jerome Whitehead informed Milwaukee Police that they both were present

murder and he was afraid "Wallstreet" would harm his family if he gave "Wallstreet" up initially to police (Trial Trs. 7/21/04 PM: 105-107). Codefendant Jerry Lee testified he was afraid Wallstreet would harm his family if he gave him up to Authorities (Trial Trs. 7/21/04 PM: 71); which was after - first testifying Wallstreet was not involved in the crime (Trial Trs. 7/21/04 PM: 27) and later testifying Wallstreet offered him money from the crime (Trial Trs. 7/21/04 PM: 67-71) - providing inconsistent testimony regarding Wallstreet person. The true identity of Wallstreet was never revealed or discovered at Petitioner's trial (see Exhibit 4; page 4; Writ of Habeas Corpus).

The Wisconsin Innocence Project began investigating Petitioner's case in 2010 and discovered Wallstreet's real name is Damien Sanders and that Sanders has a criminal history containing armed robbery, a gun possession and is part of a gang known for armed robberies. Such evidence was presented to the District Court backed with investigative work of the Wisconsin Innocence Project. AS exhibits. (see Exhibit 5; page 5; Petitioner's Writ of Habeas Corpus).

The Petitioner presented all evidence/information to the Eastern District Court of Wisconsin in support of actual innocence as a gateway standard to otherwise Constitutionally barred claims and was denied actual innocence as a gateway. The District Court failed to consider the actual facts of Petitioner's case and concluded the following to support its decision to deny Petitioner's 28 USC. 2254 Habeas Corpus:

"... The Petitioner has not submitted affidavits from Jerry Lee or James Green - the Petitioner's Codefendants - officially recanting their testimony... There is no eye witness testimony placing Damien Sanders at the scene of this crime... (see Exhibit 1, page 15 outlined area and page 16; outlined area; District Court order dismissing case.)

This court concedes that if Green had testified differently at trial (from implicating the petitioner) and if the petitioner had known of Walkstreet's identity and if the defendant's lawyer could have brought in evidence of Walkstreet's history, it may have given the jury something to think about... (see Exhibit 4, page 16-17 outlined areas).

The District Court failed to consider the fact that the petitioner clearly pointed out in his 28 USC. 2254 Habeas Corpus Petition, that codefendant Green, under oath, indeed already officially recanted his implicating the petitioner and testified the true culprit was a person known as "Walkstreet", who is Damien Sanders by actual name. (see Exhibit 4, page 4-5). The District Court failed to consider the entire record and actual facts of petitioner's case. Had it done so, it would've never concluded "Had Green testified differently" and "There is no eye witness testimony placing Damien Sanders to this crime".

Although the District Court may have attentively managed some of the complex proceedings, carefully reviewed some of the extensive record, and drew certain conclusions about some of the evidence, the District Court did not clearly apply Schlaps predictive standard regarding whether reasonable jurors would have reasonable doubt, when it failed to consider the entire record. For this reason, this court should remain uncertain about the basis for the District Court's conclusions—a conclusion that should weaken this court's reliance on the District Court's determinations.

Respectfully, this claim should be heard for review as it contains all necessary components capable of having a Nation wide impact in helping clarify and harmonize well established United States Supreme Court law, regarding a District Court's handling of Actual Innocence as a gateway standard. Review would give a direct guide for District Court's responsibility of considering the entire record of a petitioner's case as a whole.

II

The Schlup v. Delo, 513 US 298 (1995) standard does not require absolute certainty about the petitioner's guilt or innocence. "Haise v. Bell, 547 US 518 at 538 (2006)." We have rejected limiting the Schlup ~~new~~ inquiry to newly discovered evidence. All Schlup requires is that the evidence is reliable and that it was not presented at trial." see Gomez v. Jaimet, 350 F.3d 673, 679 (7th Cir. 2003) (Nothing in Schlup indicates that there is such a strict limitation on the sort of evidence that may be considered").

The District Court of the Eastern District of Wisconsin denied the Petitioner actual innocence as a gateway to otherwise barred Constitutional claims by placing a hurdle for petitioner to overcome not required by Schlup. The District Court did not consider Petitioner's new evidence (in the terms of evidence never presented to a jury) and newly discovered evidence (in the terms of evidence coming to knowledge after petitioner's trial) for sole purpose of determining if petitioner met actual innocence as a gateway standard. Instead the District Court ruled the Petitioner's new evidence does not exonerate the petitioner.

"The evidence discovered in 2012 does not exonerate the petitioner; it does not place petitioner somewhere else at the time of the crime... There is no DNA evidence linking Damien Sanders to this crime. There is no eyewitness testimony placing Damien Sanders at the scene of this crime... (see Exhibit 1; page 16 outlined area).

The District Court completely required absolute certainty about the petitioner's guilt or innocence, contrary to Schlup v. Delo standard. In doing so, the District Court placed a hurdle in front of petitioner never established for purposes of meeting actual innocence as a gateway standard.

"Habeas petitioner asserting actual innocence exception to

procedural bar rule does not have to show clear error as to District Court's specific determination underlying its denial of petition, because the applicable standard of review does not address District Court's independent judgment as to whether reasonable doubt existed; rather, standard requires a holistic judgment about all the evidence, and its likely effect on reasonable jurors applying the reasonable-doubt standard, and the inquiry does not turn undisputed findings regarding disputed points of fact." Hause v. Bell, 547 US 518, at 540 (2006).

Respectfully, such issues should be heard for review as it contains necessary components capable of having Nation wide impact on helping clarify and harmonize already well established United States Supreme Court law, encompassing District Court's handling of Actual Innocence as a gateway standard to otherwise barred constitutional claims in proper context under Schlup v. Delo.

III.

"The Supreme Court has long held that 'the remedy for allegations of jury partiality is a hearing in which the defendant has the opportunity to prove actual bias'. See Smith v. Phillips, 455 US 209, 222 (1982). 'In most instances a post-conviction hearing will be adequate to determine whether a juror is biased.' And [p]reservation of the opportunity to prove actual bias is a guarantee of a defendant's right to an impartial jury.' Dennis v. United States, 339 US 162, 171-72 (1950).

Petitioner was convicted by a jury containing a former high school teacher of his whom petitioner claimed not to have a good relationship with. The Wisconsin Court of Appeals conceded the juror was the Petitioner's former teacher.

"The court's opinion resolving the direct appeal specifically recognized that the jury contained 'a former

teacher of Winston" and that Winston "claimed [that] he did not have a prior relationship" with the teacher..." State v. Thomas T. Winston, 2010 WL App. 171 328 Wis.2d 401, 786 N.W.2d 483 at 12 (see Exhibit 5; page 10, which is actual State of Wisconsin v. Thomas T. Winston, 2009 WL (West Law) 3417489 (Wis. App. I Dist.)).

Nothing in the record demonstrates or indicates Juror in question Jerry Gray was questioned during trial or post-trial in regards to being the Petitioner's former high school teacher. In fact in terms of post trial, only juror bias related issue was denied without an evidentiary hearing during direct appeal proceedings (see Exhibit 5; page 3 and page 10). The Petitioner was 17 years of age when his jury trial began (see Exhibit 5; page 9). Petitioner was still considered a high school student, demonstrating the importance of why the juror in question should've been questioned during or at least post trial as to being the Petitioner's former teacher.

The Petitioner never received any type of evidentiary hearing post trial seeing Juror Gray was never questioned as to his student-teacher relationship with the Petitioner at trial, as required by well established United States Supreme Court law. The State Courts of Wisconsin never disputed if Juror Gray failed to answer honestly the material question during Voir Dire of "does anyone know the [petitioner]". Instead, such courts continued to overlook this obvious error. In order to concede the juror was Petitioner's former teacher, such courts had to realize Juror Gray constituted a lie.

"A new trial is required if a petitioner demonstrates that a juror failed to answer honestly a material question during voir dire and then further shows that a correct response would have provided for a

valid basis for a challenge for cause." McDonough Power Equip. Inc. v. Greenward, 464 US 545, 556 (1984).

Ironically, the Wisconsin courts still determined the petitioner was entitled to a fair and impartial jury and that he received such a jury (see Exhibit 5; page 7). Such Wisconsin Court rulings are clearly contrary to well established federal law establishing the proper remedy was to afford Petitioner an evidentiary hearing and thus satisfies 28 US 2254(d)(1), as their rulings conflict with Smith v. Phillips, 455 US 209, 222 (1982).

In 2019, the Eastern District Court of Wisconsin handed a very similar juror related situation encompassing Wisconsin concluding when a juror's undisclosed history with a Petitioner is unexplored at trial or post trial at an evidentiary hearing, that Due Process requires that an evidentiary is to be held in which the Petitioner has the opportunity to prove actual bias. See Walker v. Pollard, 2019 US Dist. Lexis 150379, at 4-44; 2019 WL (Westlaw) 4214424.

The reason this claim of Petitioner's warrants review is because courts like Wisconsin's clearly believes it has discretion to follow well established federal law in some instances but not all, such as in Petitioner's case. Review of this particular claim is capable of help clarifying and harmonizing the remedy that is to be followed when a juror's undisclosed history with a petitioner goes unexplored at trial, for both State and Federal courts.

IV.

"According to the United States Supreme Court, 'the right to counsel is the right to effective assistance of counsel'." McMann v. Richardson, 397 US 759, 771 n.14 (1970).

"Whether counsel's actions ~~are~~ constitute ineffective assistance is a mixed question of law and fact. Strickland v. Washington, 466 US 668 at 698 (1984). The United States Supreme Court, in Strickland v. Washington, set a two-pronged test for determining whether an attorney's assistance was so defective as to violate a defendant's Constitutional rights. see Strickland, 466 US at 687.

"The primary purpose of voir dire of jurors is to make possible the empaneling of an impartial jury through questions that permit the intelligence ~~and~~ exercise of challenges by counsel." Mumby v. Virginia, 500 US 415, 431 (1991).

At petitioner's sentencing hearing, trial counsel Lew Wasserman stated:

"... At trial, Mr. Winston explained to me that he believed he was familiar with Mr. Greay... (Sentencing Transcript dated 9/7/04; pages 24-25).

Based on trial counsel's own admissions, he was aware that the jury contained a person whom, more likely than not, failed to fully disclose information to the court. Trial counsel ~~was~~ failed to take action and address the situation to the court during trial resulting in such juror remaining one of petitioner's twelve jurors. Trial counsel ignored the fact that his most essential responsibilities of defense counsel is to protect his client's Constitutional Right to a fair and impartial jury by using voir dire to identify and ferret out jurors who are biased against the defense. see Miller v. Francis, 269 F.3d 609 at 615 (6th Cir. 2001). The essential nature of the peremptory challenge is that it is one exercised without reason stated without inquiring and without being subjected to the court's control." (United States v. Harris, 197 F.3d 870 at 873 (1999)).

In the case at bar, trial counsel had two options being inform the court of the juror in question presence to allow the court to further question the juror and to preserve a peremptory challenge or simply exercised a peremptory challenge to remove the juror in question from the jury pool. Seeing it was a possibility the juror failed to answer honestly a material question during voir dire, trial counsel explored neither option.

To make matters worse, The Wisconsin state courts eventually conceded Juror in question was former high school teacher of the petitioner. (see Exhibit ~~10~~ 5; page 10).

Focusing back on trial's counsel's performance at the time of trial, trial counsel contributed to the construction of two structural errors affecting the framework of the trial by remaining silent regarding the juror in question. "The United States Supreme Court has explained that though structural error is rare, it is the appropriate finding for defects affecting the framework within the trial process itself. see "Arizona v. Fulminante, 499 US 279, at 310 (1991). Actual or constructive denial of counsel presumed to result in prejudice." Strickland v. Washington, 466 US ~~606~~ 608, at 692 (1984). Denial of counsel affects the entire proceeding and is never harmless error because it cast too much doubt on trial process." Satterwhite v. Texas, 486 US 249, 256-57 (1988). Due to the nature of the structural errors involved, trial counsel's actions cannot be deemed that of a strategic decision in any nature.

The reason this claim warrants review is because it has all components capable of helping clarifying and harmonizing the handling of trial counsel ~~juror~~ related juror issues for all courts.

Furthermore, the State Courts in Wisconsin ruled that trial attorneys' failure to take action in regards to juror Grel was not ineffective and that it did not prejudice the Petitioner (see Exhibit 5; pages 7 and 10). Such decision is clearly contrary to well established Federal law establishing a trial counsel's deficient performance resulting in prejudice and thus satisfies 28 USC 2254(d)(1) as their rulings conflict with Strickland v. Washington, 466 US 668, at 687, 692 (1984).

V.

"Habeas petitioner makes a 'substantial showing' of denial of constitutional right, as required for him to obtain Certificate of Appealability (C.A.) if he demonstrates that reasonable jurists would find District Court's assessment of his constitutional claims debatable or wrong. 28 USC 12253(c)(2). Slack v. McDaniel, 529 US 473 at 484, 120 S.Ct. 1545, 196 L.Ed. 2d 542 (2000); see also Miller-El v. Cockrell, 537 US 322, 336, 123 S.Ct. 1629, 154 L.Ed. 2d 931, (2003) ('Under the controlling standard, a petitioner must show [that] reasonable jurist could debate whether (or, for that matter, agree that petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further'). The petitioner's arguments ultimately must be assessed under the deferential standard required by 28 USC 12254(d)(1). Relief may not be granted unless the state court adjudication 'resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States.'"

In instant case, the District Court, as outlined in Issues I and II of this petition, improperly applied Schlup v. Delo standard to prevent petitioner from overcoming procedurally barred threshold that

would've allowed Petitioner substantial showing of denial of Constitutional Right claims to be heard. The District Court's Failure to consider actual facts of Petitioner's case / entire record for sole purposes of Actual innocence as a gateway (outlined in issue I of this petition) and the decision to determine Petitioner's new evidence does not exonerate the Petitioner a standard Schlup did not require Petitioner to meet (outlined in issue II of this petition), resulted in a overall debatable resolution of Petitioner's Writ of Habeas Corpus pursuant to 28 USC 2254.

Any reasonable jury would agree that due to the avenues taken by the District Court contrary to Schlup, in order to deny Petitioner's Writ of Habeas Corpus, the Petitioner's Writ should have been decided differently. Correct application of Schlup would've given access to Petitioner's substantial showing of two denial of Constitutional Right claims outlined in issues III and IV of this petition.

The ~~XXXXXX~~ District Court of the Eastern District of Wisconsin declined to issue Certificate of Appealability (Exhibit 2) and the Court of Appeals for the Seventh Circuit did so as well (Exhibit 3). Petitioner's issues outlined in III and IV of this Petition clearly demonstrated the state court's adjudication of denial of Sixth Amendment Right to a fair and impartial jury and Sixth Amendment Right to effective assistance of trial counsel, resulted in decisions that were contrary to, or involved an unreasonable application of, clearly established federal law as determined by the Supreme Court of the United States.

Section 2253(c) of Antiterrorism and Effective Death Penalty Act of 1996 separately provides that

Certificate of Appealability may issue only if the applicant has made a substantial showing of the denial of a Constitutional right. 28 USC. 2253(C)(2). Petitioner has made substantial showing of two undeniable denial of Constitutional Rights, but has been plagued with overcoming hurdle of the District Court denial of Actual Innocence as a gateway based on an erroneous application of Schlup, and the denial of both the District Court's and Court of Appeals to issue a Certificate of Appealability to allow Constitutional claims to be heard.

This situation is unique as the Petitioner first never received a trial absent of structural errors (being denial of fair and impartial jury and ~~the~~ denial of effective assistance of counsel, and second, now the petitioner never received a fair opportunity to have his claims heard due to improper application of Schlup made by the District Court of the Eastern District of Wisconsin, to prevent Petitioner from passing procedural bar threshold.

It is for the above reasons, in situations like the case at hand, Petitioner should have a Constitutional Right to have issuance of Certificate of Appealability by the Court of Appeals, to still allow substantial showing of denial of Constitutional Rights to be heard. This issue deserves pertinent review, as it undeniably will have a Nation Wide impact on the issuance of Certificate of Appealability by all Federal Court of Appeals. Respectfully, failure to issue a remedy for Petitioner's situation would be an indirect and direct failure to afford the guarantee of Constitutional Rights guaranteed by the United States Constitution; a mockery of the laws of the land.

CONCLUSION

For the reasons stated above, the decision(s) of the

District court of the Eastern District of Wisconsin and the Court of Appeals for the Seventh Circuit should be reversed, as petitioners' convictions should not stand due to not being free of denial of Constitutional rights.

Respectfully Submitted,

Thomas T. Winston

Thomas T. Winston¹¹⁻¹⁶⁻²⁰¹⁹, prose
Wisconsin Secure Program Facility
PO Box 1000
Boscobel, WI 53805

Dated this 15th day of March 2021.