

20-8430

No. \_\_\_\_\_

Supreme Court, U.S.  
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

SAMUEL GAYDEN — PETITIONER  
(Your Name)

vs.

PEOPLE OF THE STATE — RESPONDENT(S)  
OF ILLINOIS.

ON PETITION FOR A WRIT OF CERTIORARI TO

Illinois Supreme Court  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Samuel Gayden (No. R-26456) Pro se  
(Your Name)

Menard Correctional Center  
P.O. Box 1000  
(Address)

Menard, Illinois 62259  
(City, State, Zip Code)

N/A  
(Phone Number)

ORIGINAL

## **QUESTIONS PRESENTED FOR REVIEW**

### **I**

Whether the State misused DNA evidence to link Petitioner to the weapon used in the offense, and to alleged threatening letters sent from the Cook County Jail, where that DNA evidence could not be scientifically matched to Petitioner, should have been barred, and was instead used to mislead the Jury.

### **II**

Whether the admission of multiple lay opinions of identification, from non-eyewitnesses to the offenses, was error depriving Petitioner of a fair trial, particularly given the Circuit Court's demonstrated pre-judgment of the issue.

### **III**

Whether the admission of Brian Murdock's prior oral and written statements into evidence, the latter substantively, was error where the admission of those statements did not comply with prevailing law, either as impeachment evidence or for substantive use, and the admission played on the Jury's improper tendency to credit evidence that simply is repeated.

### **IV**

Whether trial counsel was ineffective where she repeatedly failed to protect Petitioner's rights, allowing improper evidence before the Jury, and failing to place other evidence in context, thus depriving Petitioner of a fair Jury trial.

### 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

- *People v. Gayden*, No. 10 CR 18156, Circuit Court of Cook County, Illinois. Judgment entered September 13, 2016.
- *People v. Gayden*, No. 1-16-2636, Appellate Court of Illinois, First Judicial District. Judgement Affirmed entered June 26, 2020.
- *People v. Gayden*, No. 126560, Illinois Supreme Court. Judgment Affirmed entered January 27, 2001.

## TABLE OF CONTENTS

|  |      |
|--|------|
| OPINIONS BELOW .....                                   | p. 1 |
| JURISDICTION .....                                     | p. 2 |
| CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED ..... | p. 3 |
| STATEMENT OF THE CASE .....                            | p. 4 |
| REASONS FOR GRANTING THE WRIT .....                    | p. 6 |
| CONCLUSION .....                                       | p. 7 |

## **INDEX TO APPENDICES**

|                  |   |
|------------------|---|
| Appendix A ..... | Illinois Supreme Court Decision<br>January 27, 2001   |
| Appendix B ..... | Illinois Appellate Court Decision<br>June 26, 2020  |
| Appendix C ..... | Attorney's Letter Setting Forth<br>the Order of Illinois Appellate<br>Court Denying Rehearing |

## **TABLE OF AUTHORITIES**

### **I**

|  |          |
|--|----------|
| <i>People v. Hawkins</i> , 181 Ill. 2d 41 (1998) .....   | p. 10    |
| <i>People v. Gramley</i> , 520 U.S. 899 (1997) .....   | p. 10    |
| <i>People v. Rivera</i> , 2011 IL App (2d) 091060 .....  | p. 11,12 |
| <i>People v. Gomez</i> , 215 Ill. App. 3d 208 (2 <sup>nd</sup> Dist. 1991) .....   | p. 12    |
| <i>People v. Shreck</i> , 22 P. 3d 68 (Col. 2001) .....  | p. 12    |
| <i>People v. Miller</i> , 173 Ill. 2d 167 (1996) .....   | p. 13    |
| <i>Erin Murphy, The New Forensics: Criminal Justice, False Certainty, and the second Generation of Scientific Evidence</i> , 95 Cal. L. Rev. 721, 781 (2007) .....       | p. 13    |
| <i>In re Jessica M.</i> , 385 Ill. App. 3d 894 (1 <sup>st</sup> Dist. 2008), <i>overruled on Other grounds</i> , <i>In re Samantha V.</i> , 234 Ill. 2d 359 (2009) ..... | p. 14    |
| <i>People v. Banks</i> , 2016 IL App (1 <sup>st</sup> ) 131009 .....   | p. 14    |
| <i>People v. Charles</i> , 2018 IL App (1 <sup>st</sup> ) 153625 .....   | p. 14    |
| IL R. Evid. Rule 401 .....   | p. 14    |
| <i>People v. Clark</i> , 2018 IL App. (2d) 150608 .....  | p. 14,15 |
| IL R. Evid. Rule 403 .....   | p. 14    |
| <i>Swift v. Schleicher</i> , 2017 IL App (2d) 170218 .....   | p. 14    |
| <i>People v. Pulliam</i> , 176 Ill. 2d 261 (1997) .....  | p. 15    |
| <i>People v. Pulliam</i> , 176 Ill. 2d 261 (1997) .....  | p. 20    |
| 7 <i>Wigmore on Evidence</i> , Sec. 2148 at 606 (3d ed. 1940) .....  | p. 20    |
| IL R. Evid. Rule 901 .....   | p. 20    |
| <i>People v. Munoz</i> , 70 Ill. App. 3d 76 (1 <sup>st</sup> Dist. 1979) .....   | p. 20    |

## II

|  |               |
|--|---------------|
| <i>People v. Thompson</i> , 2016 IL 118667. ....                                 | <i>passim</i> |
| <i>People v. Starks</i> , 119 Ill. App. 3d 21 (4 <sup>th</sup> Dist. 1983) ..... | p. 24         |
| <i>People v. Thompson</i> , 2014 IL App (5 <sup>th</sup> ) 120079. ....          | p. 24, 29     |
| <i>IL R. Evid.</i> 402. ....   | p. 24         |
| <i>People v. Irwin</i> , 2017 IL App (1 <sup>st</sup> ) 150054 .....             | p. 25         |
| <i>IL R. Evid.</i> 602 .....   | p. 25, 32     |
| <i>People v. Enis</i> , 139 Ill. 2d 264 (1990) .....                             | p. 25         |
| <i>IL R. Evid.</i> 701. ....   | p. 25, 32     |
| <i>Bracy v. Gramley</i> , 520 U.S. 899 (1997) ) .....                            | p. 33         |
| <i>Tumey v. Ohio</i> , 273 U.S. 510 (1927) .....                                 | p. 33         |
| <i>U.S. Const.</i> , Amends. VI, XIV. ....                                       | p. 34         |
| <i>Ill. Const.</i> 1970 Art. I, Sec. 2, 8. ....                                  | p. 34         |
| <i>People v. Jones</i> , 175 Ill. 2d 126 (1997) .....                            | p. 34         |
| <i>People v. Founder</i> , 2013 IL App (3d) 120178 .....                         | p. 34         |
| <i>People v. Mohr</i> , 228 Ill. 2d 53 (2008) .....                              | p. 34         |
| <i>People v. Hudson</i> , 222 Ill. 2d 392 (2006) .....                           | p. 34         |
| <i>People v. Thompson</i> , 2016 IL 118667. ....                                 | p. 35         |
| <i>Illinois Supreme Court Rule</i> 451. ....                                     | p. 35         |

## III

|  |       |
|--|-------|
| <i>People v. Williams</i> , 204 Ill. 2d 191 (2003) ..... | p. 39 |
| <i>725 ILCS 5/115-10.1</i> .....                         | p. 40 |

|   |               |
|---|---------------|
| <i>People v. Simpson</i> , 2015 IL 116512 .....                                 | p. 40         |
| <i>IPi (Criminal) No. 3.11</i> .....  | p. 40         |
| <i>People v. Smith</i> , 139 Ill. App. 3d 21 (1 <sup>st</sup> Dist. 1985) ..... | p. 41         |
| 725 ILCS 5/115-10.1 .....   | <i>passim</i> |
| <i>People v. Smith</i> , 139 Ill. App. 3d 21 (1 <sup>st</sup> Dist. 1985) ..... | p. 43         |
| <i>People v. Simpson</i> , 2015 IL 116512 .....                                 | p. 43, 44     |

#### IV

|   |               |
|---|---------------|
| <i>U.S. Const. Amend. VI</i> .....  | p. 44         |
| <i>Gideon v. Wainwright</i> , 372 U.S. 335 (1963) .....   | p. 44         |
| <i>Strickland v. Washington</i> , 466 U.S. 668 (1984) .....   | <i>passim</i> |
| <i>People v. Bew</i> , 228 Ill. 2d 122 (2008) .....   | p. 45         |
| <i>People v. Davis</i> , 377 Ill. App. 3d 735 (2d Dist. 2007) .....   | p. 45         |
| <i>People v. Albanese</i> , 102 Ill. 2d 54 (1984), abrogated on other grounds,<br><i>People v. Gacho</i> , 122 Ill. 2d 221 (1988) ..... | p. 45         |
| <i>Perry v. New Hampshire</i> , 132 S. Ct. 716 (2012) .....   | p. 47         |
| <i>People v. Vera</i> , 277 Ill. App. 3d 130 (1 <sup>st</sup> Dist. 1995) .....   | p. 47         |
| <i>People v. Thompson</i> , 2016 IL 118667 .....  | p. 48         |
| <i>People v. Gregory</i> , 2016 IL App (2d) 140294 .....  | p. 48         |
| <i>People v. Krankel</i> , 102 Ill. 2d 181 (1984) .....   | p. 48         |



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 \_\_\_\_\_ 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 \_\_\_\_\_ 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 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 Illinois Appellate 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.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

☐ 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 1-27-21.  
A copy of that decision appears at Appendix A.

☐ 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).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

- 1) Illinois Rules of Evidence – Rule 401**
- 2) Illinois Rules of Evidence – Rule 403**
- 3) Illinois Rules of Evidence – Rule 901**
- 4) Illinois Rules of Evidence – Rule 402**
- 5) Illinois Rules of Evidence – Rule 602**
- 6) Illinois Rules of Evidence – Rule 701**
- 7) United States Constitution (6<sup>th</sup> and 14<sup>th</sup> Amendments)**
- 8) Illinois Constitution (1970, Article I, Sections 2, 8)**
- 9) Illinois Supreme Court Rule 451**
- 10) 725 ILCS 5/115-10.1**
- 11) IPI (Criminal) No. 3.11**

## **STATEMENT OF THE CASE**

A short time after midnight on September 1, 2010, two individuals were shot and killed while inside a food and liquor store. A third individual was also shot but was not killed. On October 15, 2010, the Petitioner was indicted for the murders of the two individuals and the attempted murder of the third individual. (C.641-644, 760). On May 20, 2016, the Petitioner was tried and found guilty by a Jury for the above-mentioned offenses. (C. 977-979). On September 13, 2016, the Petitioner was sentenced to Natural Life for the two murders and a consecutive twenty (20) years for the attempted murder. (C.1075; WWW27-28).

During pre-trial proceedings, the Petitioner filed various motions to suppress. Petitioner filed a motion to suppress the warrantless search. This motion was denied by the Circuit Court on May 23, 2012, where the Court found that the search was consensual. The Petitioner filed another motion to bar non-eyewitnesses from making an identification of the assailant from a store video. The Court denied this motion also and allowed non-eyewitness video identification to enter trial as evidence. (XXX9-10) and (KKKK13). Petitioner filed another motion to suppress the identification testimony culminating from a suggestive procedure. The Court also denied this motion. (JJJ18). The Petitioner filed another motion to bar DNA evidence relating to letters and envelopes mailed from the County Jail by the Petitioner. (C.882). The Court held that the objections went to weight rather than admissibility and opted to allow the DNA evidence into trial. (OOO56-59). The Court also denied Petitioner's motion to bar DNA evidence relating to ballistic testing of the gun. (EEEE3).

DNA evidence was misused and misleading, where such evidence could not be scientifically matched to the Petitioner, thereby, presenting to the Jury a misrepresentation of ethnic DNA analysis; and that the Circuit Court erred for admitting multiple lay opinion identification testimony from individuals who did not witness the actual offense; and the admission of oral and written statements to the prosecutor as impeachment and substantive evidence deprived Petitioner of a fair trial, and trial counsel's errors rendered Petitioner's trial unfair and violative of due process.

## REASONS FOR GRANTING THE WRIT

This Court should grant this writ for two main reasons: 1) The Appellate Court egregiously misrepresented the DNA science, and 2) the law was used to protect the Jury's integrity by transferring its task to third parties. The State tried to use DNA to tie the Petitioner to the murder weapon, but was only able to produce a 1-in-4 chance that the DNA was Petitioner's, a statistic so inadequate that even the State initially disdained it, and a result which conflicts with prior case law. The Appellate Court's analysis confused the true statistic with more base notions of "odds." Again, in conflict with existing case law. It allowed misleading DNA evidence measured in 1 in millions allegedly linking one allegedly inculpatory letter from the jail to Petitioner (misleading because the same statistics made it more four times more likely that an Hispanic, and twice as likely that a White man, was the DNA contributor – the Petitioner is African-American) to not only allow the admission of that letter, but as a basis for the admission of another letter for which there was no DNA linkage.

The second reason why this Court should grant this writ is because of the poor quality of the video evidence that was entered in this case. The door was opened to allow lay opinion testimony to interpret the video, which caused a repugnant effect of transferring the fact-finding task from the Jury to third parties on the central question of identity, a fact that requires this Court to re-examine the decision in *People v. Thompson, 2016 IL 118667*. Further, in allowing lay opinions here, the Circuit Court allowed (and the Appellate Court approved) a procedure in which the defense did not learn until the day of trial that one such lay opinion would be adduced by the State. This strategical method essentially ambushed the defense, which further conflicts with prior case law.

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Samuel Gayden

Date: May 11, 2021