

No. 21-5447

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

AUG 16 2021

OFFICE OF THE CLERK

NICHOLAS EDWARDS

— PETITIONER

(Your Name)

vs.

JOHN WETZEL, KRASNER,

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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

PETITION FOR WRIT OF CERTIORARI

NICHOLAS EDWARDS

(Your Name)

SCI BENNERTWP, 301 INSTITUTION DR.

(Address)

BELLEFONTE, PA 16823

(City, State, Zip Code)

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. WHETHER THE U.S. COURT OF APPEAL ERROR IN NOT FINDING PETITIONER WAS NOT PREJUDICED BY TRIAL COUNSEL FAILURE TO CALL WITNESSES P/O OFFICER WHO WOULD HAVE IMPEACH IDENTIFICATION EVIDENCE, AND COUNSEL FAILED TO IMPEACH THE EYEWITNESS WITH POLICE REPORTS THAT PROVE HIS INNOCENCE, OF MISCARRIGE OF JUSTICE.
2. WHETHER THE U.S. COURT OF APPEAL ERROR THAT PCRA COUNSEL'S INEFFECTIVENESS CONSTITUTES CAUSE AND PREJUDICE TO PETITIONER PROCEDURAL DEFAULT OF HIS TRIAL COUNSEL INEFFECTIVE ASSISTANCE.
3. WHETHER PETITIONER SHALL ENJOY THE RIGHT TO HAVE COMPULSORY PROCESS OBTAINING WITNESS IN HIS FAVOR AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE UNDER THE SIXTH AMENDMENT.

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

COMMONWEALTH V. EDWARDS, NO. CP-51-CR-10063-2003, COMMON PLEAS
OF PHILADELPHIA COUNTY JUDGMENT ENTER ON 8-9-2016

COMMONWEALTH V. EDWARDS, NO. 2760 EDA 2016, PENNSYLVANIA SUPERIOR
COURT JUDGMENT ENTERED 7-6-2017

COMMONWEALTH V. EDWARDS, NO. 406 EAL 2017, PENNSYLVANIA SUPREME
COURT EASTER DISTRICT, JUDGMENT ENTERED 1-9-2018

NICHOLAS EDWARDS V. SUPERINTENDENT FOREST SCI, NO. 15-5615 U.S.
DISTRICT COURT EASTERN DISTRICT OF PENNSYLVANIA, JUDGMENT
ENTERED 8-7-2018

NICHOLAS EDWARDS V. SUPERINTENDENT FOREST SCI, NO. 18-2936
U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT, JUDGMENT ENTERED
7-16-2021

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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

[x] 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.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JULY , 16 2021.

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: JULY 8th, 2021, and a copy of the order denying rehearing appears at Appendix A.

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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

THE FOLLOWING STATUTORY AND CONSTITUTIONAL PROVISIONS ARE INVOLVED IN THIS CASE.

U.S. CONST. AMEND. VI

IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY AND PUBLIC TRIAL, BY AN IMPARTIAL JURY OF THE STATE AND DISTRICT WHEREIN THE CRIME HAVE BEEN COMMITTED, WHICH DISTRICT SHALL HAVE BEEN PREVIOUSLY ASCERTAINED BY LAW, AND TO BE INFORMED OF THE NATURE AND CAUSE OF THE ACCUSATION, TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM, TO HAVE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR, AND TO HAVE THE ASSISTANCE OF COUNSEL FOR HIS DEFENCE.

U.S. CONST. AMEND. XIV

SECTION 1. ALL PERSON 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 LAWS.

STATEMENT OF THE CASE

PETITIONER MR. EDWARDS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL UNDER THE SIXTH AND FOURTEENTH AMENDMENT WAS VIOLATED BY TRIAL COUNSEL'S FAILURE TO CALL AND CONDUCT INTERVIEW OF THE POLICE OFFICER'S, COUNSEL FAILED TO REVIEW AND PRESENT THAT EVIDENCE TO THE JURY IN DISCOVERY MATERIAL, COUNSEL FAILURE RESULTED IN PREJUDICE TO MR. EDWARDS, HAD THE JURY HEARD THAT THE COMMONWEALTH WITNESS STANTON TOLD POLICE OFFICER AT THE SCENE THAT HE HAD NOT WITNESSED THE SHOOTING IN VIEW OF THE POLICE REPORTS. AND THE LAST COMMONWEALTH WITNESS HENDRICK ADMITTED THAT HE DID NOT ACTUALLY SEE THE SHOOTING BECAUSE HE WAS HALF WAY UP THE STAIR IN 2838 JASPER STREET. THE FACTS IS IN THE AFFIDAVITS OF PROBABLE CAUSE IN THE POLICE REPORT RECORDS THAT WAS NEVER USED AT TRIAL NOR DISCOVERY THAT HENDRICK STATED HE WAS IN FACT DOWN THE STRRET AT DIFFERENT ADDRESS OF 2830, THE NEXT BLOCK, HAD TRIAL COUNSEL USE THE REPORTS AND QUESTION THE WITNESSES AND ALL THE EVIDENCE BEEN ADMITTED TO THE JURY, MR. EDWARDS COULD HAVE ARGUE IN LIGHT OF THE NEWLY PRESENTED EVIDENCE OF HIS INNOCENCE, OF THE TRUSTWORTHY EYEWITNESS ACCOUNT, IT IS MORE LIKELY THAN NOT THAT NO REASONABLE JUROR WOULD HAVE FOUND MR. EDWARDS GUILTY BEYOND A REASONABLE DOUBT.

PETITIONER MR. EDWARDS WAS DENIED THE OPPORTUNITY TO HAVE THIS CLAIM HEARD DURING THE STATE POST-CONVICTION (PCRA) PROCEEDING DUE TO THE STATE APPOINT (PCRA) COUNSEL'S WAS UNREASONABLE FAILURE TO ASSERT IT, PURSUANT TO MARTINEZ V. RYAN, 566 U.S. 1 (2012), THIS FAILURE CONSTITUTION CAUSE AND PREJUDICE EXCUSING HIS PROCEDURAL DEFAULT OF THE UNDERLYING CLAIM OF TRIAL COUNSEL INEFFECTIVENESS. THE COMMONWEALTH PRESENT NO ONE PIECE OF REAL PHYSICAL EVIDENCE LINKING MR. EDWARDS TO THIS CRIME. THEY RELIED PRIMARILY TWO CONVICTED FELONY AS PURPORTED EYEWITNESSES TO THE CRIME.

ON NOVEMBER 21, 2005, THE JURY FOUND MR. EDWARDS GUILTY OF FIRST-DEGREE MURDER, CARRYING FIREARMS WITHOUT A LICENSE, POSSESSING AN INSTRUMENT OF CRIME, AND CRIMINAL CONSPIRACY. ON FEBRUARY 3, 2006, THE COURT SENTENCED MR. EDWARDS TO LIFE WITHOUT PAROLE, AND CONCURRENT TERMS OF 20 TO 44 YEARS IMPRISONMENT. THE SUPERIOR COURT AFFIRMED JUDGMENT ON JULY 28, 2009.

ON JUNE 28, 2010, MR. EDWARDS FILED A PRO SE PETITION FOR RELIEF UNDER PENNSYLVANIA POST-CONVICTION RELIEF ACT (PCRA). THE PETITION CONTAINED NUMEROUS CLAIMS FOR RELIEF, INCLUDING THAT TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO IMPEACH STATES EYEWITNESSES WITH PRIOR INCONSISTENT STATEMENTS. IN SUPPORT OF THIS CLAIM, MR. EDWARDS ATTACHED AND CITED THE INVESTIGATION INTERVIEW OF OFFICER MICHAEL WALSH. MR. EDWARDS ARGUED PCRA PETITION THAT WALTER STANTON COULD NOT HAVE BEEN AN EYEWITNESS TO THE CRIME BASE OF HIS STATEMENT TO OFFICER WALSH THAT HE RAN WHEN HE SAW THE SHOOTER AND DID NOT IN FACT HEAR GUNSHOTS UNTIL HE HAD TURNED THE CORNER ON HART LANE AND HEARD SHOTS, THIS GOES TO THE TRUSTWORTHY EYEWITNESS ACCOUNT. MR. EDWARDS ALSO ARGUED THAT TRIAL COUNSEL WAS INEFFECTIVE FOR NOT CALLING OFFICER MICHAEL WALSH AS A WITNESS AT TRIAL THAT WAS FAVOR TO THE DEFENSE.

ON MARCH 16, 2011, ELAYNE C. BRYN, ESQUIRE, WAS APPOINTED TO REPRESENT MR. EDWARDS. MS. BRYN SUBMITTED AN AMENDED PCRA PETITION FOR MR. EDWARDS AND A CORRECTED VERSION OF THAT PETITION FILED ON JUNE 1, 2012. THE CORRECTED AMENDED PETITION COMPRISED ONLY TWO CLAIMS FOR RELIEF: 1. TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO CALL ALIBI WITNESSES AT TRIAL; AND 2. MR. EDWARDS RIGHT TO A PROMPT SPEEDY TRIAL RULE 600 WAS VIOLATED.

ON MAY 8, 2013, MR. EDWARDS SENT MS. BRYN A LETTER REFERENCING A PHONE CONVERSATION ABOUT RAISING ADDITION ISSUES IN HIS PCRA PETITION. IN THE LETTER, MR. EDWARDS LISTED THE ISSUES HE WANTED HER TO RAISE THAT TRIAL COUNSEL FAILED TO ADEQUATELY REVIEW THE DISCOVERY MATERIAL AND CONDUCT AN INDEPENDENT INTERVIEW OF THE POLICE OFFICER MICHAEL WALSH AND SGT. JOHN PRZEPIORKA, AND TRIAL COUNSEL FAILED TO USE THESE POLICE REPORTS TO UNCOVER IMPEACHMENT EVIDENCE, THAT THE COMMONWEALTH EYEWITNESS WALTER VIEW OF THE CRIME WAS OBSTRUCTED, HE WAS AROUND THE CORNER AND HE DID NOT SEE WHAT HE CLAIMED TO HAVE SEEN.

ON JUNE 4, 2013 MR. EDWARDS FILED A PRO SE SUPPLEMENTAL PCRA PETITION REQUESTING TO ASSERT ADDITIONAL CLAIMS, INCLUDING HIS CLAIM THAT TRIAL COUNSEL FAILED TO USE POLICE REPORTS TO IMPEACH COMMONWEALTH EYEWITNESSES, MS. BRYN NEVER FILED ANY TYPE OF MOTION, PETITION, OR OTHER DOCUMENT RELATING TO THE ADDITIONAL CLAIMS MR. EDWARDS ASKS HER TO RAISE, WHICH SHE SAID SHE WILL DO.

THE PCRA COURT HELD AN EVIDENTIARY HEARING ON THE CLAIMS IN THE CORRECTED AMENDED PCRA PETITION FILED BY PCRA COUNSEL MS. BRYN. ON APRIL 23, 2014, THE PCRA COURT DISMISSED THE PETITION. MS. BRYN TIMELY APPEALED THE DISMISSAL RAISING THE SAME TWO ISSUES SHE HAD RAISE IN THE CORRECTED AMENDED PCRA PETITION.

ON MARCH 2, 2015, THE PENNSYLVANIA SUPERIOR COURT AFFIRMED THE DISMISSAL OF THE CORRECTED AMENDED PCRA PETITION. THE PENNSYLVANIA SUPREME COURT DENIED ALLOWANCE OF APPEAL ON JULY 29, 2015.

ON DECEMBER 29, 2015, MR. EDWARDS FILED A PRO SE SECOND PCRA PETITION WHICH INCLUDED HIS CLAIM THAT HE WAS DENIED HIS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL UNDER THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION WHEN TRIAL COUNSEL FAILED TO CONDUCT AN INDEPENDENT INTERVIEW OF THE POLICE OFFICER IN THE DISCOVERY MATERIAL.

MR. EDWARDS WAS ALLOWED TO PROCEED PRO SE AND PURSUANT TO PENNSYLVANIA RULE OF CRIMINAL PROCEDURE 907, WAS SERVED NOTICE OF THE PCRA COURT'S INTENTION TO DISMISS HIS PETITION ON APRIL 26, 2016. MR. EDWARDS FILED A RESPONSE TO THE RULE 907 NOTICE ON MAY 10, 2016, ARGUING THAT ALL PRIOR COUNSEL WERE INEFFECTIVE FOR FAILING TO DEVELOP HIS CLAIMS. ON AUGUST 9, 2016, THE PCRA COURT DISMISSED THE PETITION AS UNTIMELY AND DENIED RELIEF.

MR. EDWARDS TIMELY FILED NOTICED OF AN APPEAL ON AUGUST 24, 2016.

ON DECEMBER 30, 2016, MR. EDWARDS FILED A BRIEF TO THE SUPERIOR COURT THAT INCLUDED HIS CLAIM THAT THE PCRA COURT ERRED IN DENYING APPELLANT POST CONVICTION RELIEF BECAUSE TRIAL COUNSEL FAILED TO IMPEACH WALTER STANTON BY SHOWING TO THE JURY POSSIBLE PREJUDICE AND BIAS. MR. EDWARDS POINTED TO OFFICER WALSH'S AND SERGEANT PRZEPIORKA'S INTERVIEW STATEMENTS AND THAT COUNSEL SHOULD HAVE CALLED THESE TWO OFFICERS AS WITNESSES AT TRIAL SHOW THAT THE ALLEGED EYEWITNESSES TO THE CRIME HAD PROVIDED PRIOR INCONSISTENT STATEMENTS, OF THERE TRUSTWORTHY EYEWITNESS ACCOUNT WAS UNRELIABLE. ON JULY 6, 2017, THE SUPERIOR COURT AFFIRMED THE DISMISSAL OF HIS SECOND PCRA PETITION SOLELY ON GROUNDS THAT IT WAS UNTIMELY. MR. EDWARDS FILED A PETITION FOR ALLOWANCE OF APPEAL, WHICH THE PENNSYLVANIA SUPREME COURT DENIED ON JANUARY 9, 2018.

ON OCTOBER 12, 2015, MR. EDWARDS FILED A PRO SE PETITION FOR WRIT OF HABEAS CORPUS IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA RAISING TWENTY-ONE GROUNDS FOR RELIEF, RELEVANT TO THIS APPEAL, GROUND 20, CLAIM THAT TRIAL COUNSEL FAILED TO CONDUCT AN INDEPENDENT INTERVIEW OF THE POLICE OFFICER'S IN THE PETITIONER'S MR. EDWARDS DISCOVERY MATERIAL. THE PETITION WAS ASSIGNED TO DISTRICT COURT JUDGE GERALD A. MCHUGH, WHO REFERRED IT TO MAGISTRATE JUDGE LYNNE A. SITARSKI FOR A REPORT AND RECOMMENDATION (R&R).

THE COMMONWEALTH FILED A RESPONSE TO MR. EDWARDS PETITION, AND MR EDWARDS FILED A TRAVERSE IN REPLY, HE ARGUED THAT PROCEDURAL DEFAULT OF HIS CLAIM SHOULD BE EXCUSED UNDER MARTINEZ V. RYAN, 566 U.S. 1 (2012), AND HE REITERATED HIS CLAIM OF INEFFECTIVE ASSISTANCE TRIAL COUNSEL. MR. EDWARDS EXPLAINED THAT HAD TRIAL COUNSEL REVIEWED THE DISCOVERY MATERIAL HE WOULD HAVE UNCOVERED THAT WALTER STANTON'S VIEW OF THE CRIME WAS OBSTRUCTED BECAUSE WALTER WAS AROUND THE CORNER AND DID NOT IN FACT SEE THE SHOOTING IN VIEW OF THE POLICE OFFICER'S REPORT. MR. EDWARDS ALSO CLAIMED COUNSEL FAILED TO CALL THE OFFICER'S WALSH AS WITNESSES AT TRIAL BECAUSE THEIR TESTIMONY WOULD HAVE CONTRADICTED THE TESTIMONY BY THE COMMONWEALTH ONLY KEY WITNESS AND WHICH FOR THE BASIS FOR THE CONVICTION.

THE MAGISTRATE JUDGE ISSUED AN R&R ON JUNE 15, 2018, RECOMMENDING THAT THE DISTRICT COURT DENY THE PETITION. ON JUNE 28, 2018, MR. EDWARDS FILED OBJECTION TO THE R&R, INCLUDING A SPECIFIC OBJECTION TO THE MAGISTRATE JUDGE'S RECOMMENDATION FOR HIS CLAIM REGARDING TRIAL COUNSEL'S INEFFECTIVENESS. FOR

THE DISTRICT COURT ADOPTED THE R&R OVER MR. EDWARDS OBJECTIONS ON AUGUST 7, 2018, DISMISSING THE PETITION WITH PREJUDICE AND WITHOUT ISSUING A CERTIFICATE OF APPEALABILITY. MR. EDWARDS FILED A NOTICE OF APPEAL ON AUGUST 24, 2018, FOLLOWED BY AN APPLICATION FOR A CERTIFICATE OF APPEALABILITY (COA).

ON MARCH 14, 2019, THIS COURT GRANTED A COA REGARDING GROUND 20, OF MR. EDWARDS FEDERAL HABEAS PETITION, SPECIFICALLY TO ADDRESS 1) WHETHER THAT CLAIM IS PROCEDURALLY DEFAULTED; 2) IF SO, WHETHER THE DEFAULT OF THAT CLAIM IS EXCUSED UNDER MARTINEZ V. RYAN, 566 U.S. 1 (2012); AND 3) WHETHER APPELLANT IS ENTITLED TO RELIEF ON THE MERITS OF THAT CLAIM. THE SCOPE OF THE COA ALSO INCLUDES THE QUESTIONS OF WHETHER TRIAL COUNSEL SHOULD HAVE CALLED AS WITNESSES OFFICER WALSH AND SERGEANT PRZEPIORKA, WHETHER THAT CONSTITUTES A SEPARATE CLAIM, AND WHETHER MR. EDWARDS SHOULD HAVE BEEN GRANTED LEAVE TO AMEND TO ASSERT IT. THE COURT ALSO GRANTED MR. EDWARDS MOTION FOR APPOINTMENT OF COUNSEL AND WAS APPOINTED BY THE FEDERAL COMMUNITY DEFENDER OFFICER TO REPRESENT HIM IN THIS APPEAL. MR. EDWARDS APPLICATION FOR COA WAS DENIED.

ON MARCH 17, 2021, CIRCUIT JUDGE GREENAWAY Jr. GRANTED MR. EDWARDS MOTION FOR 60 DAYS EXTENSION OF TIME TO FILE PRO SE PETITION FOR REHEARING UNTIL MAY 18, 2021, AND FOR FEDERAL COUNSEL TO WITHDRAW. DATE ON MAY 18, 2021, THE COURTS OF APPEAL HAVE RECEIVED THE PETITION FOR REHEARING BY NICHOLAS EDWARDS BY ORDER MR. EDWARDS TO MOTION TO FILE EXHIBITS ATTACHED TO THE PETITION WHICH MR. EDWARDS FILED BY THE CLERK SEND MR. EDWARDS A BACK DATED LATTER TO CORRECTED THE DEFICIENCIES BY

6-10-2021,

THE PETITION FOR REHEARING BY THE PANEL AND THE COURT EN BANC
WAS DENIED BY ORDER DATED JULY 8, 2021.

REASONS FOR GRANTING THE PETITION

RULE 10

PETITIONER IS SEEKING REVIEW OF THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS SUPREME COURT PRECEDENT CASE OF MARTINEZ V. RYAN, 566 U.S. 1 (2012), ON PETITIONER PROCEDURAL DEFAULT CLAIM BY SHOWING CAUSE AND PREJUDICE FROM A VIOLATION OF FEDERAL LAW, SEE, STRICKLAND, V. WASHINGTON, 466 U.S. 668 (1984), THE SECOND PRONG TWO-PART TEST, THAT PETITIONER SUFFERED PREJUDICE AS A RESULT OF TRIAL COUNSEL DEFICIENCY, GIVEN THE TOTALITY OF THE CIRCUMSTANCE THAT TRIAL COUNSEL BREACHED HIS DUTY TO INVESTIGATE AND CALL WITNESSES IN HIS FAVOR WHICH THE SIXTH AMENDMENT IMPOSE ON COUSEL BECAUSE REASONABLE EFFECTIVE ASSISTANCE MUST BE BASE ON PROFESSIONAL DECISION AND INFORMED LEGAL CHOICES CAN BE MADE ONLY AFTER INVESTIGATION OF OPTIONS WHICH PETITIONER WAS DENIED AT ALL LEVEL AND COUNSEL HAD A CONFLICT OF INSTERST AND A RIGHT TO A FAIR TRIAL WAS DENIED. IN LIGHT OF PETITIONER NEWLY PRESENTED EVIDENCE OF HIS ACTUAL INNNOCENCE EXCEPTION AS THE FUNDAMENTAL MISCARRIGE OF JUSTICE, SEE, MURRAY V. CARRIER, 477 U.S. 478 (1986), SCHLU V. DELO, 513 U.S. 298 (1995), INDEED CALLS INTO QUESTION THE CREDIBILITY OF BOTH COMMONWEALTH ONLY WITNESSES THAT WAS NEVER ON THE CRIME SCENE IN VIEW OF THE POLICE REPORTS AND IN A AFFIDAVITS OF PROBABLE CAUSE, THIS EVIDENCE WAS NOT PRESENTED AT TRIAL TO THE JURY. WITH THIS NEW RELIABLE EVIDENCE DEALING WITH THE TRUSTWORTHY EYEWITNESS ACCOUNT IN SCHLU IT IS MORE LIKELY THAN NOT THAT NO REASON JUROR WOULD HAVE CONVICTION PETITIONER IN LIGHT OF NEWLY DISCOVERED EVIDENCE OF HIS INNOCENCE. CONFIDENCE IN THE VERDICT IS GREATLY UNDERMINED

THESE CASE ILLUSTRATE THE FACT THAT THE THIRD CIRCUIT HAS COURT OF APPEAL IS OUT STEP WITH THIS COURT IN ITS CONSIDERATION OF THE STRICKLAND V. WASHINGTON, 466 U.S. 668 687-88 (1984), PREJUDICE PRONG. CERTIORARI SHOULD BE GRANT TO CORRECT THIS ERROR AND CONFLICT, THE IMPORTANCE OF THIS CASE NOT ONLY TO PETITIONER BUT TO OTHER SIMILARLY SITUATED. BECAUSE OF THE CONSTITUTIONAL ERRED DEPRIVED THE JURY OF HEARING CRITICAL EVIDENCE THAT WOULD HAVE ESTABLISHED PETITIONER MR. EDWARDS INNOCENCE. THIS COURT SHOULD CONSIDER WHETHER ANY STANDARD PROVIDES ADEQUATE PROTECTION AGAINST THIS KIND OF MISCARRIAGE OF JUSTICE THAT WOULD RESULT FROM MR. EDWARDS LIFE AND LIBERTY TO DIE IN PRISON WHO IS INNOCENT.

SUPREME COURT RULE 10,

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

NICHOLAS EDWARDS

Date: AUGUST, 11 2021