

21-7058

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

DEC 13 2021

OFFICE OF THE CLERK

Adam Pelletier — PETITIONER

(Your Name)

vs.

Harold Clarke — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals 4th Cir. of VA

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

PETITION FOR WRIT OF CERTIORARI

Adam Pelletier 1006145

(Your Name)

Red Onion State Prison

P.O. Box 1900

(Address)

Pound, VA 24279

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Is Petitioner's claim of prosecutorial "Fraud Upon The Court" a Rule 60.b.3., a true claim of "Fraud Upon The Court" ?
- 2) The U.S. Dis. Court ruled Petitioner's Rule 60.b.3. "Fraud Upon The Court" Motion, under Gonzalez v Crosby, 545 U.S. 524 (2005), was to be construed as a 2<sup>nd</sup> Habeas. Did the Dis. Court misuse Gonzalez and did the U.S. Court Of Appeals 4<sup>th</sup> Cir. Of VA. err by affirming the Dis. Court's ruling ?
- 3) Does the AEDPA turn a "Fraud Upon The Court" claim, that originated in the state, into a 2<sup>nd</sup> Habeas ?
- 4) Petitioner first filed the Rule 60.b.3. Motion in the court where the "Fraud Upon The Court" occurred. The original court and the VA. Supreme Court have both dismissed the claim. Should the U.S. Dis. Court have appellate jurisdiction after the state has dismissed a claim of "Fraud Upon The Court" ?

## **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:

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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

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 is unpublished. NO. 21-7097

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

reported at 7-21-cv-00374; 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 is unpublished.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 November, 22, 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: \_\_\_\_\_, 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 \_\_\_\_\_. 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**

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Even with the book Instructions

### STATEMENT OF THE CASE

Petitioner was locked up for the murder of Amiee Meadows in Nov. 2000, and went to trial in the Louisa Co. Cir. Court in June 2002. He was found guilty of Capitol Murder, Rape, and two Firearm charges. He was sentenced to 2 Lifes plus 5 years on Nov. 4, 2002. Since that time Petitioner has been through Appeal, Habeas, and numerous post conviction petitions.

In April 2021, Petitioner filed a Rule 60 b.3, Motion for "Fraud Upon The Court" with the Louisa Co. Cir. Court. The Motion was dismissed and Petitioner filed to the VA. Sup. Court. That Motion was dismissed in May 2021.

Petitioner then filed the Motion to the U.S. Dis. Court Western Dis. of VA. and the Motion was dismissed on July 7, 2021. The Dis. Court used *Gonzalez v Crosby*, 545 U.S. 524 (2005), to turn his "Fraud Upon The Court" Motion into a successive Habeas. Petitioner appealed and the U.S. Court Of Appeals 4<sup>th</sup> Cir. of VA., affirmed the Dis. Court's ruling on Nov. 22, 2021.

From this. Petitioner files for Certoirari.

## REASONS FOR GRANTING THE PETITION

### Question 1 Argument

Is Petitioner's claim of prosecutorial "Fraud Upon The Court" a Rule 60 b.3., a true claim of "Fraud Upon The Court" ?

What Petitioner brings now, in dealing with this question is a set of facts, backed by the trial transcripts (App.E. Ex. 1-16), that will show the trial prosecutor, Don Short, deliberately fabricated evidence to the trial judge and the judge relied on his statements to let an expert K-9 Blood Hound dog handler testify before the jury.

### Facts

During trial the prosecutor wanted to introduce testimony of a Blood Hound dog trail of Pelletier, done by detective Buck Gardner. The court stated it would follow the legal standards set forth in, Epperly v Com. 224 VA 214 (1982) to determine admissibility (App.E. Ex. 2 Tr.Pg. 18 )

The trail in question was started from where the body of Meadows was pulled from water (App.E. Ex 1. ① Marks place), to land (App.E. Ex. 1 ② Marks place, also see Ex.3 Tr.Pg. 57). Gardner testified under Voir Dire that he had no evidence other than the body before he did his trail (App.E. Ex. 3 and 4 Tr.Pg. 57-58 ). Defense counsel further asked Gardner, "What evidence did you have at that time that Adam had been at that spot", to which Gardner replied, " I had none ", (App.E. Ex 5 Tr.Pg. 67 ). Defense counsel objected to the testimony, stating the prosecution failed to meet the Epperly standard, " that the dog was placed on the trail where circumstances indicated that the guilty party had been ".

The court agreed but gave the prosecutor a last chance to specify what evidence existed to place Pelletier at that spot,

(App. E. Ex. 6 and 7 Tr. Pg. 81-82).

### Fabrications

The prosecutor then ranted off four (4) fabrications to the judge. Here they are listed (App. E. Ex. 7 and Tr. Pg. 82-83), with the facts to prove they were false.

1) The prosecutor states that Meadows and Pelletier met and they went to this pool scent area (App. E. Ex. 7 Tr. Pg. 82 Li. 14-19, see also Ex. 1 ① marks pool scent).

Fact: Evidence of the pool scent area was not yet introduced, but when it was, Gardner testified that he did not do a scent check of Pelletier at the pool scent area (App. E. Ex. 9 and 10 Tr. Pg. 121-122). This proves the prosecutor was making up evidence that didn't exist.

2) The prosecutor tells the court, "there is no evidence of boats being anywhere but in this general area, where they're docked" (App. E. Ex. 8 Tr. Pg. 83 Li. 1-9). In essence, the prosecutor is claiming that to obtain or dock a boat, one must get it or dock it in "this general area".

Fact: During closing argument the prosecutor claimed Pelletier used Jim Finn's boat to commit the crime (App. E. Ex. 11 Tr. Pg. 841). The problem is that Finn testified his boat was docked at a property adjacent to his (App. E. Ex. 12, 13, and 14 Tr. Pg. 349-351), which is more than 200 yards from "this general area" (App. E. Ex. 1 ② marks where boat was docked).

The boat in question was found on the other side of the lake from "this general area" (App. E. Ex. 1 ③ marks where boat was found). This is a lake with docks coming off every property. This proves the prosecutor was fabricating statements.

3) The prosecutor tells the court, Pelletier got out of Finn's boat at that point (App. E. Ex. 1 ④ marks spot) and walked home (App. E. Ex. 8 Tr. Pg. 83 Li. 11-13).

Fact: Two problems exist. First, the boat was found secured on the other side of the lake (App. E. Ex. 15 Tr.Pg. 162, see also Ex. 1 (F) marks spot). Second, there is no testimony or evidence that exist to support this statement, only the prosecutor saying it. That is not evidence or a circumstance. This proves the prosecutor deliberately lied to the court.

4) The prosecutor tells the judge that circumstances put Pelletier in the vicinity at some point (App. E Ex. 8 Tr.Pg. 83 Li. 19-21).

Fact: Again, no testimony or evidence exist to support this statement, only the prosecutor saying it.

This proves the prosecutor deliberately lied to the court.

#### Result Of The Fabrications

The trial judge then stated, he would allow the testimony based on the prosecutor's statements (App. E Ex. 8 and 16 Tr.Pg. 83-84). The judge believed the prosecutor and the dog handler was allowed to testify before the jury. This testimony allowed the prosecutor to say, Pelletier was in the area, where the prosecutor said the crime happened. This is the only testimony to link Pelletier to the dead body.

#### Argument

Petitioner has come to believe that "Fraud Upon The Court" is defined as ; an officer of the court, deliberately fabricating evidence to the court, and the court relying on the fabrications to make a ruling. In this case, if Petitioner is correct, then his case is a prime example of "Fraud Upon The Court".

Petitioner would ask this court, before moving on to the following questions ; to verify the facts as a true "Fraud Upon The Court" claim.

## Question 2 Argument

Did the Dis. Court misuse Gonzalez v Crosby, 545 U.S. 524 (2005) and did the U.S. Court of Appeals 4<sup>th</sup> Cir. of VA. err by affirming the Dis. Court's ruling ?

### Facts

The U.S. Dis. Court in its order dismissing the Rule 60 b.3. Motion stated, "Any claim asserting a basis for relief on the merits in federal court from a judgment of conviction in state court is, in substance, an application for Habeas Corpus under § 2254. Gonzalez v Crosby, 545 U.S. 524 (2005)".

The U.S. Court of Appeals 4<sup>th</sup> Cir. of VA. affirmed the Dis. Court's ruling on Nov. 22, 2021.

### Argument

The Petitioner studied Gonzalez until he was seeing crossed eyed. In no portion of that case does it say that a claim of "Fraud Upon The Court" should be construed as a 2<sup>nd</sup> Habeas. The AEDPA does not circumscribe Rule 60 b. and there are extreme circumstances that allow for Rule 60 b. to go untouched by the AEDPA or the § 2254. "Fraud Upon The Court" being one of them.

Justice Stevens and Souter, in the dissenting opinion of Gonzalez, state, "The most significant aspect of today's decision is the court's unanimous rejection of the view that all post judgment motions under F.R.Civ.P. 60 b. except those alleging Fraud under Rule 60 b.3. should be treated as a second or successive Habeas Corpus petitions."

Petitioner clearly claimed a "Fraud Upon The Court" occurred in his case and he feels the Dis. Court misconstrued Gonzalez and that the 4<sup>th</sup> Cir. Court of Appeals was in error for affirming the Dis. Court's decision.

Petitioner does not think a case like his has ever come before this Court, due to the fact that what happened in his case

is very rare and one of the most vile actions against justice.

### Question 3 Argument

Does the AEDPA turn a "Fraud Upon The Court" claim, that originated in the state, into a 2<sup>nd</sup> Habeas ?

#### Argument

Petitioner has come to understand the AEDPA's concern is for finality of judgment. But there are times when judgments are founded upon fraud and cannot be preserved.

Justice Scalia gave the opinion of the Court in Gonzalez stating, "The AEDPA does not expressly circumscribe the operation of Rule 60 b.". He further stated, "Moreover, several characteristics of a Rule 60 b. Motion limit the friction between the Rule and the successive petitions prohibitions of AEDPA, ensuring that our harmonization of the two will not expose federal courts to an avalanche of frivolous post judgment motions".

Providing that this court has reviewed Question 1 and its facts, then the Court can easily find that the Motion Petitioner brought forth to the state and federal courts, is not frivolous. He has, in essence, reported a crime by the prosecutor against the court. Petitioner's claim is not normal on any level. A normal Habeas and 2<sup>nd</sup> Habeas seek to redress Constitutional violations. Here, Petitioner is contesting the integrity of the initial proceeding. Petitioner asserts the fundamental mechanics of the trial court were perverted by the prosecutor and that Rule 60 b.3. gives Petitioner the opportunity to have this claim addressed.

Justice Black stated in Hazel-Atlas Glass Co. v Hartford Empire Co., 322 U.S. 238 (1944), "tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions

set up to protect and safeguard the public, institutions in which fraud cannot be tolerated consistently with the good order of society".

Justice Roberts stated in Hazel, "No fraud is more odious than an attempt to subvert the administration of justice". The administration of justice does not only reside in the federal courts. State courts protect and ruin the lives of innocent people every day. An officer of the state court, in this case, sought a conviction at all cost, instead of the truth, corrupting the administration of justice. If the AEDPA can prevent this claim from being heard, then the AEDPA is not only unconstitutional, but promotes a Miscarriage of Justice.

The state and the AEDPA cannot claim an interest in finality, when the judgment they seek to protect, is founded upon fraud.

From reading much caselaw, handed down by this court, it appears to Petitioner that a claim of "Fraud upon The Court" is not in the same ballpark as a Habeas or 2<sup>nd</sup> Habeas. That a claim of this magnitude surpasses all limitations and procedural bars. It should not matter if the claim originated in the state or federal court, all that should matter is that the proper administration of justice be restored.

Petitioner would ask this court to specify this, so that lower courts cannot confuse the two.

#### Question 4 Argument

Should the U.S. Dis. Court have appellate jurisdiction after the state has dismissed a claim of "Fraud Upon The Court"

## Facts

Petitioner filed a Rule 60 b.3. "Fraud Upon The Court" Motion to the Louisa Co. Cir. Court (VA) and the motion was dismissed on April, 26, 2021 (App. D). Petitioner then filed with the VA. Supreme Court and the Motion was rejected on May, 19, 2021. After that, Petitioner sought relief with the U.S. Dis. Court Western Dis. Of VA.

## Argument

Petitioner read allot of 4<sup>th</sup> Cir. caselaw, noting that the court where the fraud occurred should be the one to first address it and with this Petitioner agreed. That is why he first filed to the Louisa Court. But there arise many problems with the administration of justice when the state courts are left with sole authority over such claims.

These are some of the problems ; No court wants to admit that one of its officers committed such a heinous act. That the court itself was deceived by one of its own. That its judgment must be vacated. The state courts can also bear heavy prejudices towards those that they have convicted of crimes.

Petitioner asserts that all these above happened to him. In its order, the Louisa Court called Petitioner's Motion "frivolous" and "with no substantial basis in fact or law". The facts set out in Question 1 are the same facts presented to the state courts. Providing this Court reviewed those facts, then this Court can clearly see that the Louisa Court was prejudice with their order. To call this claim frivolous is insane. To say it has no merit only makes Petitioner believe the Louisa Court never read the Motion.

This leads to a question. Why do the federal courts review Habeas Corpus after the states do ? For most of the time the states get it wrong or are prejudice. This claim is not a Habeas and should not be construed as one, but the same principles of judicial administration should apply. Once the

state courts have dismissed a claim of "Fraud Upon The Court", then the federal courts should have appellate jurisdiction to review it. To leave the state with full authority over a claim like this, is to further corrupt the integrity of the judicial process and justice.

## CONCLUSION

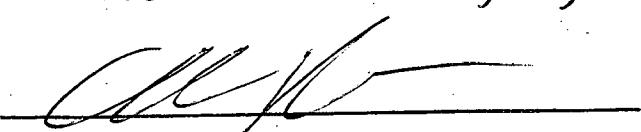
Petitioner prays this Court will grant Certiorari so that these issues can be address and resolved.

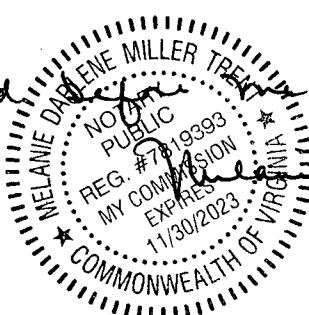
Respectfully Submitted,



12-12-21

I, Adam Pelletier, swear on God's love that the foregoing is true and accurate.



Signed  on this 8<sup>th</sup> day of December, 2021  
Melanie Darlene Miller - Notary

I certify that the above notary is not a party to this action.

