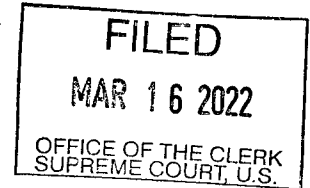


21-7858 ORIGINAL
No. _____



IN THE

SUPREME COURT OF THE UNITED STATES

LARRY LEWIS PRO SE PETITIONER
(Your Name)

vs.

Mississippi — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Mississippi Supreme Court
Mississippi Court of Appeal
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

LARRY LEWIS 76756
(Your Name)

SMCI
(Address)

PO BOX 1419 Leakesville MS 39451
(City, State, Zip Code)

601 394 5600
(Phone Number)

Question presented

- A whether the indictment was defective in count 1 and two under 106 uniform rule county court practice. The indictment fail to specify a specific date and place of alleged criminal act that ~~was~~ was alleged to have taken place two year ago with the indictment has to be concise and display all the fact in this case against the accused the court showing prejudice toward the petitioner.
- B whether the indictment showing prejudice toward petitioner for habitual offender when not stated in the indictment. 991983MCA
- C whether a motion filed to dismiss the indictment as violative of his constitutional right of due process of the law because the grand jury action was preceded by an arrest article 3-sec 26-27 improper indictment under 5th 6th amendment constitutional error.
- D whether the evidence is insufficient to support the verdict. The state produced insufficient evidence to sustain a guilt verdict of under and beyond a reasonable doubt on each of the counts because the state was unable to present physical biological evidence of rape such as DNA evidence and the state witnesses were not credible in proof.
- E whether the trial judge admitted false testimony of all witnesses into evidence that violated due process of the law of the constitution under 5th 6th amendment and 14th amendment and under rule 412. under MS Rule of Evidence of the petitioner right. under article 3-sec 26 - constitutional error of due process and article 3 sec 14. The evidence is sufficient to support the indictment.
- F whether insufficient counsel. The petitioner attorney was fully aware of these errors, and not attack validity of these allegation begin that this is my advisor. because I am layman to the law MS rule of professional conduct and attorney client privilege of federal rule of criminal procedure assistance of counsel 6th amendment articles 3-sec 26 constitutional error.
- G whether jury instruction was error under rule 105 under miss code ann 97-3-65 section 7 jury instruction failed to state and include penetration of the sexual organ of a female. the instruction violated petitioner right under 5th 6th 14th amendment. jury instruction was to find Larry Lewis guilty without evidence on hearsays. jury instruction not stated in petitioner indictment.
- H whether the court failed to grant a directed verdict because there was no proof in form of DNA evidence and witnesses was no proof. under MS code ann 97-3-63 - ~~sec 9~~ sec 9.
- I whether a motion for JNOV should have been granted because the jury verdict was against the overwhelming weight of the evidence not support by law or the constitution.

Question presented

Lewis conviction of statutory rape of a child under fourteen and Statutory Rape of a child over four teen, but under sixteen, along with his sentence, as an habitual offender, to life imprisonment without parole, were affirmed on direct appeal. Lewis v State 245 So 3d 539 Miss Ct app 2017. The mandate issued on July 5, 2018 and instant motion is Lewis first application for leave. Lewis filed a motion for rehearing was denied 27th day of March 2018 Lewis filed a motion for writ of certiorari denied 14th day of June 2018 Lewis filed a motion for application for leave to proceed in the trial court code ann 9939-1 was denied 6th day of February 2019

- whether
- A The trial court indictment prejudiced Defendant because it was defective and violative of his constitutional right and the sentence habitual under 9939-1 not stated in Lewis indictment The indictment due process of law because the grand jury was not preceded by an arrest
- B whether statement of witness conflicting testimony in violative of due process of fifth and sixth amendment of US Const, 14th Amendment
- C whether an jury of proof of fact 2d 267 ineffective and insufficient Counsel assistance act failure to investigate fact, Ignorance of rule of law, failure to raise defense and failure to raise ~~an~~ an issue on appeal
- D whether Jury instructions was due process of law prejudice defendant under miss code ann 97-3-65 section 7 because jury instruction is not stated in Harry Lewis indictment.
- E whether The state produced insufficient evidence to sustain a verdict of guilt beyond a reasonable doubt on each of the two counts.
- F whether Directed verdict should have been granted because there was no proof physical evidence of rape kit or such as DNA evidence, and the State witnesses were not credible in proof.
- G whether JNOV should have been granted because the evidence is insufficient to support the verdict or in the alternative is against the overwhelming weight of the evidence.
- H whether the verdict of the Jury should be overturned in the interest of justice.
- I whether the verdict are contrary to the law and the weight of the evidence
- J whether the conviction of the sentence is in violation of the constitution.
- K whether the alleged victim committed perjury by lying under oath at trial through DHS report, she said this never happens she was the only one of the events,

Question Presented

This court revise the constitutionality of Mississippi Statutes denovo. Thom v. Thom, 928 So 2d 852 855 (Miss 2006)

Peterson v. State 671 So 2d 647, 652 (Miss 1996) In indictment must contain ① The essential elements of the offense charge. ② Sufficient fact to fairly inform the defendant of the charge against which he must defend and, ③ Sufficient fact to enable him to plead double jeopardy in the event of a future prosecution. For the same offense. Hamling v. United State, 418 U.S. 87, 117, 94 Sct 2887, 2907 41 L. Ed 2d 596 (1974)

Appendix ABCDEF

Gilmer v. State 955 So 2d 829 (2007) under 97-294 63

In order to obtain a conviction under miss code ann 97-294-63 (2006) Four elements must proven. In Lewis case 2 element must proven the age, and sexual intercourse occurred the date time and place motion for new trial challenges the weight of the evidence (citing) Sheffield v. State, motion for new trial is abuse of discretion. Id citing Johnson v. State, 904 So 2d 162, 167 (1) (Miss 2005) The state failed to indicted as habitual - offender abuse of discretion Barton v. State 675 So 2d 1120 (Miss Ct app 2004) Lewis the defendant shows clear prejudice resulting from an undue lack of constraint on the prosecution ~~and~~ under constraint on the defense admission or exclusion of evidence of discretion.

Lewis alleges that the prosecution presented insufficient evidence to prove beyond a reasonable doubt, that he was guilty of ~~two~~ counts failed to present any medical evidence to establish that Lewis had sexual intercourse with victim failed to present any physical evidence which established that victim living there with Lewis the statements were testimonial in nature violating their right to confront/face under Crawford v. Washington, 541 U.S. 36 (2004) 1354 158 L Ed 2d 177 (2004) the child under the age of twelve is of tender year, Pesley v. State 735 So 2d 432 436 (6) Miss 1999, prejudice the defendant case, Quoting Miller v. State 740 So 2d 858 862 13 (Miss 1999) ~~1005~~

Leading question whether to allow ~~ed~~. Leading question rest
within the trial court discretion. Harris v. State 979 So 2d 721
730-31 291 Miss Ct app. 2008)

Ivy v. State 949 So 2d 748 at 9 Miss 2007.

White v. Stewman 932 So 2d 2732 (Miss 200)

Motion For directed verdict under de novo standard of
review court erred in denying
Failure to state an essential element of the offense
in indictment new Trial Due to the insufficiency of
the evidence

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List of parties

- ▣ all parties appear in the caption of the case on the 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

- Lewis v. Mississippi no 2016 KA-01484 Court of appeal Judgment entered nov-27-2017 and mar 27-2018
- Lewis v Mississippi no 2016 KA-01484 Mississippi Supreme Court Judgment entered June 14 2018
- Lewis v Mississippi US District Court for northern District of Mississippi Judgment entered may 17 2021 no 319 v120
- Lewis v Mississippi no 21-60459 US Court of appeal For fifth circuit Feb 28 2022 Judgment entered

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- APPENDIX F united state District court of appeal for Fifth
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X 2A 2B

7700

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 EF to the petition and is

☒ reported at LARRY V State no. 21-60459; 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 E to the petition and is

☒ reported at Lewis V State no 3:19cv120-mpm-DAS; 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 None to the petition and is

☒ reported at Lewis V State no 2018 M-01326; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Court of Appeals court appears at Appendix A to the petition and is

☒ reported at Lewis V State 245 So 3d 539 2017; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

1.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 28 February 2022.

☐ 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 28 day nov 2017
A copy of that decision appears at Appendix 14 day June 2018 D & A

☒ A timely petition for rehearing was thereafter denied on the following date: 27th day march 2018, and a copy of the order denying rehearing appears at Appendix BAD

☐ 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).

28 U.S.C. 1254 Constitutional and statutory provisions INVOLVED

- ① Case in the court appeals may be reviewed by the Supreme Court by the following methods. By writ of certiorari granted upon the petition of any party to any civil or criminal before or ~~after~~ after rendition of judgment or decree, by certification at any time by a court of appeal of any question of law in any civil or criminal case as to which instruction are desired and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.
- ② petitioner suffer prejudice and due process of ineffective assistance of counsel. petitioner indictment is so defective fatally that it deprives the convicting court jurisdiction under the sixth amendment const and the fourteenth amendment const of due process clause of the fourteenth amendment guarantees a criminal defendant a fair trial.
- ③ Mississippi rules of criminal procedure.
Rule 14 (Nature and contents) ① contents ② Elements and notice ③ other matter A B C D E F G ④ Enhanced punishment for subsequent offense ⑤ Cdc comment Rule 14
appendix US 530 US 466 490 120 SCT 2348 2362 63 147 Ed 2d 435 (2000) is based upon former 706 of uniform of circuit and county and county court. The rule now provide that in addition to the essential fact constituting the offense charge the indictment must also include the essential elements necessary to enhance a sentence that are required to be found by a jury. The state could produce no DNA under 97-65
 ④ Rule 14.3 severance comment the time period between the offense whether the evidence proving each count would be admissible to prove each of the other counts and ⑤ whether the crime are interwoven Richardson v. State 74 So 3d 317 32 Miss 2011 No person shall held to answer for a capital or, otherwise infamous crime unless on presentment or indictment of a Grand Jury U.S. Const amend. 5 Miss Const art 3, 27 rule 14.4 perfect indictment
Rule 14.4 issues previously raised by demurrer or motion to quash the indictment may be brought in a motion to dismiss McA 99-7-2 99-7-23 A motion to dismiss the indictment because it is legally insufficient or a defect in the indictment of the failure of the indictment to charge an offense to charge an offense rule 14.5 No person shall for any felony be proceeded against without indictment Miss Rule Evidence Rule 412 based on the sixth amendment US Const right
 LOOK ON THE BACK OF THEIR PAGE

MCA Statutes.

1. 97-3-65-7 Section The indictment defect
No date OR ~~is essential~~ the essential element in
the indictment. Appendix B, and Appendix E.

2. MCA ^{MCA} ~~9A~~ 1983 no stating in indictment.

3. Jury instruction no stating in indictment under
97-3-65-7 section and jury instruction ~~no~~ stating
under section 9 97-3-65 MCA Appendix E

4. MS const art 3 27 crime will suffice State vs Berryhill
703 so 2d 250 (miss 1997) 706 Rule Carroll v State

5. 1999 755 so 2d 483

MS. const Art 3.14 no person shall be deprived of ~~liberty~~
1. ~~Life, liberty or property~~ except by due process of Law.
Section 14. Due process

6. The testimony was admissible under 412 advisory
committee note. This provision is intended to
protect the defendant sixth Amendment right.
Mississippi Rape shield law enacted in 1977

7. MCA 97-3-68 Johnson v State 376 so 2d 1343 MS 1979

evidence of past false allegations by the alleged
victim of past sexual offense, Appendix B, Appendix E
and appendix D. art 3-26 const. in

insufficient evidence of due process fifth
amendment const.

8. motion for a directed verdict was files
because the evidence ~~was~~ was past false allegation
of sexual offense, under Rule 21 motions for
Directed verdict, Carroll State

Appendix B appendix E

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Statement of the case.

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The case proceeds from the circuit court of the second Judicial District of Pandola county mississippi and a Judgment of conviction of Statutory rape of a child under 14 and of Statutory rape of a child over but under 16 against Petitioner Larry Lewis. The trial Judge subsequently sentenced the petitioner as a violent Habitual Offender to life imprisonment without possibility of parole. The conviction and sentence followed a jury trial on August 15 16 2016. Honorable Smith Murphey II circuit Judge presiding Mr. Lewis is currently in the currently in the custody of the mississippi Department of correction.

Petitioner file a motioned for JNOV OR in the alternative a new trial. That motion was subsequently denied Date 18 August 2016 Petitioner then filed an appeal with the Supreme Court of mississippi on Date 15 September 2016. Court of appeal denied the appeal November 2017 2017 day. Petitioner file writ of certiorari it was denied 14 day of June 2018. Petitioner file 2254 in the District Court for the northern District of ms. Judgment denied 17th of May 2020 petitioner file appeal in the Fifth circuit of appeal it was denied February 28 2022.

Petitioner now timely files the petition for a writ of certiorari with the united state supreme Court, on February -28 2022 29

~~The petitioner is not a resident of Pandola county~~ see appendix B

The victim mother sign a declaration that Larry Lewis had no contact with victim prior to July 4. 2013 and July 5 2013; and the victim gave testimony she was living with her Dad and grand Mother that summer of 2013. The state used false date in the indictment to gain a conviction and false evidence of hearsay against the petitioner. The court of Pandola ignore the evidence Larry Lewis used at trial. The Petitioner Larry Lewis is innocent of statutory rape in Pandola county. Because the victim was 16 and half year old when she made her story up. She was legal under 97-3 -65. M.A.C. you cant use past sexual offense opinion or reputation unless you is source of semen pregnancy disease or injury OR false allegation under M.R. Rule 412 cant be use as evidence.

STATEMENT OF THE FACTS and case

~~Ms. Turner~~ ^{alleged victim} testified first for the State. She stated that she was 17 years of age and her birth date was July 5, 1999. In 2012-13, when she was 13 years of age, she and her family moved in with Larry Lewis. Tr. 58-59. Sometime after, Mr. Lewis took a liking toward Ms. ~~Turner~~ ^{Victim} and began making advances. The first time was when she was helping him clean up around the house and he touched her body. That day, ~~Ms. Turner~~ ^{alleged victim} stated, they had sex for the first time. Tr. 62. She described the sex has him putting his penis into her vagina, and she stated she was 13 years old. It was in the summer, before her birthday in July. Tr. 63. She stated that they had sex multiple times when she was 13. Tr. 64.

Later, after ~~Ms. Turner~~ ^{alleged victim} was 14, Mr. Lewis bought a camper. While ~~Ms. Turner~~ ^{Victim}'s mother and siblings lived in the camper back behind the house, Mr. Lewis and the girl lived in the house in his room. The mother knew about this arrangement. According to Ms. ~~Turner~~ ^{Victim}, she and Mr. Lewis had sex often during this time. Tr. 65-66.

In 2014, the Department of Human Services investigated the matter. ~~Ms. Turner~~ ^{alleged victim} told them nothing was going on between her and ~~Mr. Lewis~~. A second investigation was launched in 2015. Initially, ~~Ms. Turner~~ ^{alleged victim} continued to deny any involvement with Mr. Lewis. Eventually, ~~Ms. Turner~~ ^{alleged victim} was 16 years of age under MCA 97-3-65 she was legal however, she told the investigator that there was a sexual relationship. Tr. 67-68. Later, ~~Ms. Turner~~ ^{Victim}

~~Ms. Turner~~ ^{Victim} also spoke with Meredith Rawls and told her the details of the relationship with Mr. Lewis. Tr. 68. The Trial Judge the state when once DHS investigated when ~~Ms. Turner~~ ^{alleged victim} told them nothing was going on between her and Lewis 2 year ago

On cross-examination, ~~Ms. Turner~~ ^{alleged victim} admitted that she and everyone in her family denied any sexual relationship with Mr. Lewis during the 2014 investigation. She stated also that after living with Mr. Lewis initially, she lived with her grandparents for a period of time before moving back with Mr. Lewis. It was after she lived with her grandparents that the allegations

surfaced. During this time she never told her family that she was having a relationship with Mr. Lewis. Tr. 74-75. On re-direct exam she testified that the first time she spoke to DHS, when she

denied a relationship with Mr. Lewis, she admitted to having sex with a boyfriend her age. Tr.

77. The alleged victim was 16 when she was interviewed by Meredith Rawl and by Kristine Gable. She was legal.
~~They can't exam 16 year old for statutory rape because she legal~~
 under m.d.a. 97-3-65

Meredith Rawl testified next and was tendered as an expert in the field of child abuse and forensic interviewing. Tr. 80. She interviewed ~~Janita Turner~~ ^{ms alleged victim} in October 2015, and in that

interview ~~Janita Turner~~ ^{alleged victim} admitted that she had sex with Larry Lewis. Tr. 83. Ms. Rawl described

her process for reaching a conclusion as based on only what the child says during the interview,

and not on any outside or corroborative information. She considers factors such as the details

given by the child, as well as the child's age. Tr. 84. With ~~Janita Turner~~ ^{ms alleged victim}, Ms. Rawl's findings

were consistent with that of a child who has been sexually abused. Tr. 85. On cross-exam, Ms.

Rawl stated that at the time of the interview she did not know ~~Janita Turner~~ ^{alleged victim} had told others about

having sex with an ex-boyfriend. Tr. 88.

Kristine Gable testified next and was tendered as an expert in sexual assault and forensic nursing. She examined ~~Janita Turner~~ ^{ms alleged victim} at the Rape Crisis Center in Memphis in October 2015.

Tr. 91. She testified from her report of the exam, which stated that ~~Janita Turner~~ ^{alleged victim} told Ms. Gable

that Larry Lewis had been having sex with her from when she was 13 to about three months

before the exam. Mr. Lewis was in his 50s. Tr. 95.

Next, Stanley Lee testified that he worked with Larry Lewis at the Mississippi Department of Transportation. Occasionally at work Mr. Lee would overhear Mr. Lewis talking about a girlfriend. Mr. Lewis would state that the girl was 16 and legal. Tr. 107.

Another co-worker from the Department of Transportation, Shelby Houston, testified next. Mr. Houston testified that he worked with Mr. Lewis and was a friend. At work, Mr.

Lewis would talk about a young girl he knew whose nickname was "Pookie or Nookie or something like that." Tr. 111-113. Mr. Lewis told Mr. Houston that she was 16, that he liked

her a lot and wanted to marry her. Tr. 114.

Bryan arnold cant produce not physical evidence OR DNA form A 16 year old female

Bryan Arnold testified that he was an investigator with the Panola County Sheriff's Department overseeing this case. Tr. 118. During the course of his investigation he determined *because she is legal under 97-3-65*

Victim
that Larry Lewis and ~~Jasmine Lewis~~ were not married, and that Mr. Lewis' date of birth was

August 9, 1963. Tr. 119-120. *Bryan arnold got all the false witness to make a case when 2 and half year on hear say*

Statement of alleged victim story. she was 16 year old at the time no evidence no case
Zeandra Butler testified that she was Larry Lewis' daughter and that she was 26 years old. Tr. 127. She called Department of Human Services in July 2015 to say that her father was

When zeandra Butler called D.H.S. The victim was 16 year old Legal
alleged victim
saying ~~he was~~ was his girlfriend. Tr. 129. She never saw any inappropriate conduct

alleged victim
between the two, and ~~he~~ never told her she was in a relationship with Mr. Lewis. Tr. 130.

Jasmine Lewis testified that she was 16 and the daughter of Larry Lewis. Between 2013-2015, ~~Jasmine Lewis~~ was living with Mr. Lewis and Jasmine Lewis would see ~~him~~ over there. *alleged victim*

Jasmine Lewis stated that her father told her he started having sex with ~~her~~ when she was 13. *victim*

Tr. 133. As a result, Jasmine reported it to a teacher at school. Tr. 134. On cross-exam, the

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witness admitted that she subsequently denied saying what she told the teacher, and that she had

changed her story. Tr. 137. *Jasmine Lewis committe perjury at trial give testimony she was lying her mother work for Panola County Sheriff*

Following Jasmine Lewis' testimony, the State rested. The Defense called Charlene

Victim
Turner, mother of ~~Jasmine Lewis~~, as a witness. She stated that DHS visited the home in summer 2014 and interviewed her and her five children, including ~~him~~. No action was taken *alleged victim*

following that visit Tr. 162-163. Charlene Turner admitted that she sometimes left her children

Victim
at home at night, and would not have known if ~~he~~ ended up at Mr. Lewis' house. Tr. 172.

She also admitted that she spend six days in jail in June 2014, and during that time her children

8
were with Mr. Lewis. Tr. 173. She did not have any reason to believe her daughter was having a sexual relationship with Mr. Lewis, even after asking her about it. Tr. 177.

Destiny Lewis testified next for the Defense. She stated she was Larry Lewis' daughter and that she sometimes stayed with him when Charlene Turner and her children lived there. She stated that she never believed anything inappropriate was happening between her father and ~~Victim~~ ^{Victim}, nor did she anything of that nature. Tr. 180. She further stated that from 2013-2015 she stayed at Mr. Lewis' house two to three times a month, and was not around all the time. Tr. 181.

Larry Lewis testified in his own defense. He stated that ~~Jasmine Turner~~ ^{ms. Victim} was his stepdaughter and that he did not have a relationship with her. Tr. 184. He stated that his daughter Jasmine fabricated her story at her mother's urging because the mother did not get child support from Mr. Lewis. He stated that his co-workers from department of transportation had motive to testify against him because of an incident in which a large amount of fuel that was stolen and Mr. Lewis was initially suspected. Tr. 184-185. That concluded the proof, and

subsequently the jury convicted Mr. Lewis of Counts 1 and 2 (both statutory rape). Tr. 215.

The convicted by jury with ~~out~~ ^{out} proof of evidence without
Following a sentencing hearing, Mr. Lewis was found to be an habitual offender under A ~~rape kit~~ ^{rape kit}.
He never was indictment ~~185~~ ¹⁸⁵ sentencing under MCA 99-19-83 ~~rape kit~~ ^{rape kit}.
M.C.A. 99-19-83, and was sentenced to life without parole on each count, to be served ~~plain error~~ ^{plain error}.

It not in petitioner indictment MCA 99-19-83
consecutively. Tr. 264-265. The states produce nothing But hearsay

evidence in this and False witnesses, petitioner claim the
the victim It ~~stepdaughter~~ ^{stepdaughter} his ~~stepdaughter~~ ^{stepdaughter} was legal 16
of age under miss code ann 97-3-65 at the time charge stem from
allegations of a sexual ~~III~~ ^{III} relationship between the defendant and
the complaining witness. There is no evidence to support the charge
of statutory rape of a child under the age 14 and a child over 14
year of age. The stepdaughter was 16 and half years old when she
made complaining against Larry Lewis. ~~the petitioner~~ ^{the petitioner} of
this case ~~she~~ ^{she} living with her Dad grandmother. The stepdaughter never
had a medical examination rape kit while she was under the
age of 16 year old, she was influence by her grandmother to
do this while she living @ with them. in 2015 October
she was 16 year of age this never happen no evidence

SUMMARY OF THE ARGUMENT

The evidence is insufficient to support the verdict of guilty for both Counts 1 and 2. The prosecution failed to establish any physical evidence of sexual intercourse, and relied solely on witnesses who lacked credibility.

acase without DAA

The witnesses was lying to prove
The judge believe the victim testimony
ARGUMENT not the defendant testimony

THE EVIDENCE IS INSUFFICIENT TO SUPPORT THE VERDICT

The State failed to prove beyond a reasonable doubt that Mr. Lewis committed statutory rape. In trial counsel's motion for judgment notwithstanding the verdict or in the alternative, a new trial, counsel specifically argued that the evidence was insufficient to support the verdicts on each count. C.P. 34-35. The trial judge denied this motion. C.P. 37. The trial judge also denied Mr. Lewis' motion for directed verdict at the close of the State's case. Tr. 153. This was error.

Review of a motion for a directed verdict tests the sufficiency of the evidence. *Bush v. State*, 895 So.2d 836, 843 (Miss. 2005). The court must determine whether the evidence shows

"beyond a reasonable doubt that the accused committed the act charged and that he did so under such circumstances that every element of the offense existed; and where the evidence fails to meet this test it is insufficient to support a conviction." *Id.* (quoting *Carr v. State*, 208 So.2d 886, 889 (Miss. 1968)). Taking the evidence in the light most favorable to the verdict, the

IS Same case is mind
State Supreme Court case in MS.
My case is in conflict with the decisions
this case Carr v. State 208 So. 2d 886 889 Miss 1968
question is not whether the court believes the evidence established guilty beyond a reasonable doubt but whether a rational trier of fact could have found all the elements beyond a reasonable

doubt. *Bush*, 895 So.2d at 844.

Mr. Lewis was charged with two counts of statutory rape under M.C.A. 97-3-65. The relevant portions of that law are as follows:

- (1) The crime of statutory rape is committed when:

TTTTT

Page 9

The victim was over the age of 16 when Larry Lewis was charged with statutory rape. She was legal under CA 97-368. There is no evidence of sexual intercourse from a 16 year old alleged victim for statutory rape opinion. P 10
OR Reputation or Allegation can't be used as evidence in this case
under rule MS EVIDENCE MRE 412 and MCA 97-368

a. Any person seventeen (17) years of age or older has sexual intercourse with a child who

i. Is at least fourteen (14) but under sixteen (16) years of age;

b. A person of any age has sexual intercourse with a child who:

i. Is under the age of fourteen (14) years.

The State had to prove both age and that sexual intercourse took place. Mr. Lewis

concedes that the ages of the parties were established, as he was over 50 when the acts allegedly

took place, and ~~Jasmine~~ ^{Ms. Victim} was between 13 and 15 years of age. But the State did not prove

sexual intercourse occurred. There was no physical proof in the form of DNA evidence. That is

required under the law, but there also was no credible proof from any of the State's

witnesses. testimony

The one witness with any personal knowledge of the events was ~~Jasmine~~ ^{Ms. Victim} She

initially told DHS that there was no relationship with Mr. Lewis. Tr. 67. She never told her

mother about a relationship, nor did she tell her grandmother when she went to live with her. Tr.

74-75. She told people instead that she was having sex with a boy her age. Tr. 77. Meredith

Rawl was recognized as an expert in child abuse and forensic interviewing. She opined that

~~Jasmine~~ ^{Victim} was the victim of sex abuse, but her only observations came from a 45-minute interview

where she was not aware of the girl's previous stories of sexual activity. Tr. 83-88.

Stanley Lee testified as a co-worker of Mr. Lewis', and that he occasionally overheard

him talking about a girl he was seeing. This girl, according to what Mr. Lee heard, was 16. Tr.

107. Another co-worker, Shelby Houston, also stated that Mr. Lewis talked about being with a

16-year old. Tr. 114. Neither witness knew the girl's identity and neither testified to hearing

about any sexual activity. Jasmine Lewis stated that her father confessed to her that he'd had sex with the victim but denied it. The victim she had previous denied this and changed her story TR 137.

~~State v. Lewis~~ Judicial discretion
OF trial Judge of Panola ~~County~~

States v. Vargas-Ocampo, 747 F.3d 299 (5th Cir. 2014) (*Jackson* also “unambiguously instructs that a reviewing court, ‘faced with a record of historical facts that supports conflicting inferences must presume—even if it does not affirmatively appear in the record—that the trier of fact resolved any such conflicts in favor of the prosecution, and must defer to that resolution.’”) (citations omitted).

As noted above, Larry Lewis was charged with statutory rape of a child under fourteen (Count 1) and statutory rape (Count 2) and was found guilty on both counts. To support his claim of insufficiency of the evidence, he notes the lack of DNA or other physical evidence. The trial court explained to Mr. Lewis that the law does not require forensic evidence in sex crime cases:

~~Wilson v. State 606 2d 598 (1992) most of penetration~~
[F]orensic evidence is not required for somebody to be convicted of having sexual intercourse with somebody that they're not supposed to be having sex with. ... [The only thing required to convict him was for the victim to] sit on that witness stand, tell 12 strangers that you stuck your penis in her vagina, and they believe her.

SCR, Vol. 2, pp. 16-17; see also, *id.*, p. 22. The court then confirmed once more for Lewis that the State did not have to produce physical evidence to obtain a conviction. *Id.*, p. 17.

Mr. Lewis challenged the sufficiency of the evidence to support his convictions during direct appeal of his convictions, and the state appellate court thoroughly addressed his claim. After setting forth the elements necessary to find Lewis guilty of the two counts of statutory rape, the state court held:

The facts established that Lewis and J.T. began a sexual relationship when J.T. was thirteen years old. J.T. reported that Lewis put his penis into her vagina on several occasions. At the time, Lewis was approximately fifty years old or older. J.T. also testified that her relationship with Lewis continued until she was sixteen years old.

However, Lewis asserts that there was no direct evidence to link him to the crime of statutory rape. This Court has previously held that “[w]itness testimony alone is sufficient to secure a conviction.” [citations omitted]. no DNA no physical evidence

Furthermore, Meredith Rawl, an expert in the field of child abuse and forensic interviewing, conducted a forensic interview of J.T. Rawl testified that based on her hearsay was true, citations omitted, Mr. Lewis challenges the sufficiency of the evidence to support his conviction. He argues that the state failed to present biological evidence of rape such as DNA evidence and attacks the credibility of state witnesses. He further argues that the trial court erred in denying his motion for a directed verdict because the state was required to show penetration, and there was no physical proof of it. The witnesses

Wilson v. State 606 2d 598 (1992) according to 97-3-65 PROOF OF Penetration is not necessary if there is evidence that the private parts of the child have been lacerated or torn absent such evidence, proof of ~~penetration~~ Penetration is required actual medical evidence of penetration to sexual intercourse. Lewis did not do any implied or testimony in this case in order to sustain a conviction of Rape. ~~Penetration~~ Penetration must be established beyond a reasonable doubt.

Lewis claim the Due process of the fifth amendment and fourteenth amendment and the jury guarantee of the sixth amendment require application of it Rule see § 39 Apprendix New Jersey 530 US 466 (2000). Constitution requires that a fact be submitted to jury and proved beyond reasonable doubt only on fact. Lewis did not confess to this so called crime nor were there any eye witness to this so called Rape criminal act.

Rules v State § 2d 1043 (2007) The bodily contact ~~and~~ penetration is to establish required element of sexual intercourse in statutory rape prosecution. The state must prove that there was penetration of the victim vagina by defendant penis, however slight the penetration may be under miss code and 97-3-65 section 7 seven. In this case ~~petitioner~~ claim there is no evidence in this case to support a statutory rape under miss code and 97-3-65 section seven. Lewis claim there is no evidence of sexual intercourse or penetration in this case in 2013 and 2014 and 2015 The alleged witness said this never happen while she was under the age of 16, so there is no doctor reports, support testimony.

See Rogers v. State 599 50 2d 930 935 CMISS 1977 petitioner claim that upon a factual basis that effectively modifies an essential element of the offense charge. United State v. Hailey 23 F 3d 902 912 (5th Cir 1994) United State v. Salinas 654 F 2d 319 (5 Cir) 1981 such modification endanger a defendant's fifth amendment right to be tried only on the charge presented in a grand jury indictment. United State v. Chandler 858 F 2d 254 265 (5th Cir 1998)

⑥ Lewis Petitioner contends under this rule p 13
Mississippi Rules of Evidence

Rule 412 SEX-OFFENSE case. The victim's sexual behavior OR predisposition (a) Prohibited Uses. The following is not admissible in a criminal case involving an alleged sexual offense.

- ① Reputation or opinion evidence of a victim past sexual behavior, and
- ② evidence of a victim's past sexual behavior other than Reputation or opinion except under subdivision (b) and (c)

(b) Exceptions, The court admit evidence of:

- ① specific instance of a victim's past sexual behavior
- (A) with a person other than the defendant, if offered by the defendant to prove that someone else was the SOURCE OF SEMEN pregnancy, disease, OR INJURY
- (B) with the defendant, if offered by the defendant to prove consent, and.
- (C) if constitutionally required to be admitted and
- ② false allegations of sexual offense made at any time before trial by the victim

(c) procedure to determine admissibility

1. motion. (A) (B) (C) (D) (E)

② Hearing and order (A) (B) (C) (D) (E)

(i) the admissible evidence and (ii) the areas about which the victim may be examined. a definition in the rule

① victim includes all alleged victims, and

② Past sexual behavior' mean sexual behavior other than the alleged offense

~~1~~ subdivision (a) is designed to protect the privacy of the alleged victim by ~~excluding~~ opinion or reputation evidence of the victim's past sexual experience. This rule is applicable in all criminal case in which a defendant is accused of a sexual offense against another. This includes, but is not limited to, offense, prohibited by MCA, 97-3-95.

~~2~~ subdivision (a) also excludes evidence of the victim's past sexual experience with some exceptions in subdivision (b). Specific instances of sexual conduct are admissible to determine whether the defendant is the source of semen, pregnancy, disease, or injury. Further more, specific instances of sexual conduct between the alleged victim and the defendant are relevant on the issue of consent.

subdivision (c) provides that notice be given if the defendant intends to offer evidence of specific instances of the alleged victim's sexual conduct. The defendant does this by making a written motion to offer the evidence which includes an offer of proof. The court then hold a hearing in chambers to decide the evidence's admissibility.

~~3~~ IF otherwise admissible, nothing in this rule precludes evidence of past false allegations by the alleged victim of past sexual offense. Past false allegations shall include any such allegations made prior to trial provision 9 to intended to protect the defendant's 6th amendment rights.

Rule 412 Mississippi Rape Shield law see also MCA 97-3-68 - Johnston v. State 376 So 2d 1343 (Miss 1979)
Goodson v. State 566 So 2d 1142 (1990) Federal Rule 412
page (14)

Ground one MS Rules of Criminal Procedure brief ~~start~~

Count 1 and 2 defed (sic) indictment under 706 uniform rule county court practice. The indictment filed to specify a specific criminal act that was alleged to have ~~been~~ taken place 2 two year ago which the indictment has to be concise and display all the fact in this case against the accused that was not the case and the court allowed the indictment to stand showing prejudice toward the petitioner. For reason of habitual offender, as a motion was filed to dismiss the indictment as violative of his constitutional right of due process of the law because the grand jury action was preceded by an. see us v. Gordon 780 F2d 1165 (11th Cir 1986) 99827 see fourth amendment to united state constitution. see Giordenello v. United State 357 US 480 78 p 1245 2d Ed 2d 1503 (1958)

Exh one Reason For Granting

the petition
Improper indictment amendment article 3 sec 27 constitutional error. I never was indicted by a grand jury for this criminal act of penetration sexual organ, where the indictment fails to charge a necessary element of a crime and where there exists no subject matter. Juris dict. Lewis the petition will support the claims by case law and rules of the defected indictment in count one and two in exh one 1. The indictment violated 5 amendment article 3, 14, the 5 amendment article 3 sec 27 and 6 amendment article 3 section 26 constitutional error. The witness was live with her Dad in ~~the~~ the summer of 2013 ~~when~~ when the petitioner was indicted around July 4 and 5, of 2013. Panola county court did not have jurisdiction of such matter. The complaining witness was 16 when she made her story up no proof, no evidence 2. year ago in this case.

Reason For Granting the petition

Court of appeal and the mississippi supreme court
prejudice Mr. Larry Lewis in their review of this case on case law, on rule under mississippi rule of Evidence 412 and under Federal Rule of Criminal Procedure 706. The state is cover up for panola county wrongdoing by violative the ~~the~~ constitutional of USCA, the 5th 14th amendment of US const. In this case of Larry Lewis, rule and case law with support the abuse of power eg Appendix B.

ground given for relief on defected indictment in this
court. on count 1 and 2. ask this court to discharge Mr. Larry Lewis in this matter. page 10 15

Ground

Reasons

3. Page 16 Count 1 and 2 Granting the petition

Defective indictment under 706 Rule

Moses v. State 795 So 2d 569 (2001) We held that indictment was defective for lack of specificity as to date and facts. In Mr. Lewis case the indictment were defective and jury instructions were defective for lack of specificity as to date and fact, as to sexual intercourse with minor and also the indictment failed to state that the petitioner Mr. Lewis engaging in the criminal act of sexual penetration to by placing his penis into her vagina. The indictment failed to state that Mr. Lewis was a habitual offender under 99-19-8. However, the petitioner was sentenced as habitual offender.

The trial court erred to denying the defendant's motion to dismiss the indictment as violative of his constitutional right of due process of law. because the grand jury action was not preceded an arrest. See United States v. Sullivan 919 F.2d 403 (11th Cir. 1990) quoting Russell v. United States, 369 U.S. 749 765 82 S.Ct. 1038. LEad 2 QUC (1967) see also Hamling 418 U.S. 91 117 118 94 S.Ct. 2887. The language of the statute may be used ~~in the general description of an offence~~ but it must be accompanied with such a statement of fact and circumstance as will inform the accused of the specific offence coming under the general description with which he is charged. Mr. Lewis indictment did not inform him of the charged that he accused of the specific offence. The trial judge showing prejudice to allowed the indictment to stand. The indictment fail to charge a necessary element of a crime and where there exists no superior matter jurisdiction. See Barana v. State 635 So 2d 85 853 (Miss 1994). The violate of 5 amendment of United State and 14 amendment article 3 section 27 of Mississippi constitutional. counsel failed to file demotion on the defective indictment. See Baker v. State 930 So 2d 399 C 20057. Baker indictment tracking the language of the state stating sexual penetration to wit by placing his penis in her vagina. Mr. Lewis indictment did not stating that criminal act

~~20~~ EXPERT WITNESS TESTIMONY

p 17

~~20~~ The court committed Plain Error allowing testimony of expert witness Kristine and Meredith Rawl that ~~Juanita Turner~~^{Victim}'s statements that she had had sexual intercourse with defendant were true OPINION testimony as in a witness truthfulness is of dubious competency Wood v. State 973 So2d 1022 (Miss 2003) citing Williams v. State 925 So2d 825 838 19 par 9

~~20~~ The hon court committed Plain Error under MRE 803 is inapplicable as it requires statements made for the purposes of medical diagnosis or treatment Hull v. State 539 So2d 1338 (Miss 1989) established that hearsay testimony of child abuse counselors was admissible under medical diagnosis or treatment exception since counselors were not physician and treatment given was not medical.

~~20~~ Mitchell 539 So2d at 1370 However the State must have equivalent guarantees of trustworthiness. MRE 803 (2) requires a statement made in instant case, no report of sexual abuse was reported until a week after the abuse allegedly occurred. Too much time passed for these statements to qualify under this exception. The victim said this happen 2 year ago without any medical diagnosis or treatment and plus she was 16 legal by ~~Miss Code~~ Miss Code ann 92-3-65 when she said this happen. Then the victim said it never happen in the DHS report 2 year ago. The hon court errors in the admission of evidence including expert testimony and demonstrative evidence for an abuse of discretion see Bishop v. State 982 So2d 371 380 (Miss 2002)

~~3/11/97~~

Ground One (two) with no other grounds to add Innocence
~~in the State of Ohio~~ p 18

Lewis claim conviction were obtained in violation the Due Process Clause of the Fourteenth Amendment because the verdicts were not supported by the evidence. The Due Process Clause of the Fourteenth Amendment requires that a criminal conviction be based on proof beyond a reasonable doubt as to every fact necessary to constitute the crime for which the state defendant was charged. *Harris v. Marshall* 687 F. Supp. 1166 1168 C.S.D. Ohio 1987 (citing *Re Winship* 397 U.S. 358 364, 90 S.Ct. 1068 25 L.Ed. 2d 368 (1970), *Jackson v. Virginia* 443 U.S. 307, 316 99 S.Ct. 2781 61 L.Ed. 2d 560 (1979))

Lewis contends

Petitioner is show that the state court cause prejudice and procedural default see *Murray v. Carrie* 477 U.S. 478 488 106 S.Ct. 2639 91 L.Ed. 397 (1986) *Rust. v. Zent* 17 F.3d 155 161 (6th Cir. 1994) In addition the petitioner must show that the alleged trial errors not merely created a possibility of prejudice, but that worked to his actual and substantial disadvantage infecting his entire trial with errors of constitutional dimensions. *United States v. Frady* 456 U.S. 152 170 102 Ct. 1584 L. Ed. 2d 816 (1982) Petitioner is demonstrate a fundamental miscarriage of justice that the alleged constitutional violation probably resulted in the conviction of one who is actually innocent. *Murray* 477 U.S. at 496 106 S.Ct. 2639

Petitioner claim he is actually innocent. under *Schlup v. Delo* 513 U.S. 298 327 115 S.Ct. 851 130 L.Ed. 2d 808 (1995), to establish a probability of innocence, Lewis claim there was no ~~prob~~ in this case no reasonable juror would have found petitioner guilty beyond a reasonable doubt. if the court ~~would~~ have admission of hearsay that violate the Confrontation Clause. U.S.C.A. Const. Amend. 6. Petitioner establish actual prejudice based on his constitutional claim. *United States v. Frady* 456 U.S. 152 170 102 S.Ct. 1584 71 L.Ed. 2d 816 (1982) Petitioner was denied his rights guaranteed by the Sixth, Eighth and Fourteenth Amendments 5th amendment to the United States Constitution by the trial court court improper juror instruction and improper indictment and improper testimony. to Juror. ~~that~~ Petitioner must show that the evidence at issue was favorable to him. This failure violated Petitioner rights guaranteed by the Fifth, Sixth, Eighth and Fourteenth amendments to the United States Constitution.

Page ~~18~~

18

none the less the validity of an indictment is subject to measure
ment a general fourteenth amendment guarantees of due process
Ballard v. Bengton 702 F2d 656 17 1983 due process clause of the
fourteenth amendment guarantees a criminal defendant a fair
Alexander v. Louisiana 405 US at 631 339 2 sct 1221. In other words
criminal defendant is entitled to receive notice of the specific
charge a chance to be heard in a trial of the issue raised in the charge
Cole v. Arkansas 33 US 196 20 168 sct 514 92 Ed 644 1984 such notice
must be reasonable Id see also in Re Oliver 333 US 257 60 sct 499
92 L. Ed 612 1984 defendant right to reasonable notice of the charge
against him is applied to the state through the 14th amendment an
indictment safeguards the defendant fifth amendment right to be
prosecuted only a charge considered and fact found by a grand jury
USCA amends 5th US. v Fleming 215 F3d 930 2000 Mayfield v. State 612
502d 1120 1992 at though Rule 107 preliminary hearing

Lewis claim complaining among other thing that he was convicted for an
offense for which he had not been indicted see Quick v. State 567 2d 197
1998 Peterson v. State 677 502d 647 1996 Lewis indictment for statutory
Rape was insufficient where it failed to notify Lewis he was being charge
with sexually penetrating and guilt must be stated in the indictment
see bid su 51-6-79-47-ct 5 section 130 137 138 EMPH 545 added
prosecuted only on charged considered and fact found by a grand
jury United State v. Dubois 86 F3d 1172 7779 cat cir 1 1994 see US Fleming
215 3d 930 2000 United State v. Thredgill 172 F3d 351 366 stein 1998
fifth and sixth amendment must allege all element of that crime like
wise in order for a jury trial of a crime. Apprendi v. New Jersey 530 45
66 2000 A motion quash indictment for defect is legal sufficiency
to charge an offense State vs. Berry Hill 703 502d 256 miss 1997 see
Purnell v. State 878 502d 124 see Ford v. State 2005 01 502d 1007. The
indictment must state all the essential element Mason v. State 867 502d
1058 UCCC. Rule 706 2004

US v. Daniels 973 F2d 272 1992 Indictment Government cannot
through subsequent amendment a indictment presented by grand
jury that fails to allege each essential element USCA 5 has been
the law since 1858. The constitutions which the people of the state
of mississippi have established. United v. Daniels 973 F2d 272 274
4th cir 1992 United v. State Papo the defect Id 333 1239 Watson v.
State 291 502d 741 743 miss 1974 Everitt v. State 502d 439 441
miss 1971

Due process clause protects the accused against conviction except upon proof ~~beyond~~ beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged
Duncan v. Louisiana, 391 US 14588, 80-1441, 20 L Ed 2d 411 (1968)

Lewis contends that the state prosecution constructive amendment occurs when the jury is allowed to convict Larry Lewis upon factual basis that effectively modifies an essential element of the charged.
See U.S. v. Halley 23 F3d 902 702 5th Cir (1994) U.S. v. Salinas 654 F2d 319 324 CR (1981)

Such modification endangers a defendant's Fifth amendment right to be trial only on the charge ~~presented~~ presented in a grand jury indictment
United State v. Chandler 854 F2d 254 256 5th Cir 1998 Lewis
 argument for plain error, U.S. McGibernly - United State v. Daniel 252 F3d 411 414 5th Cir 2007 affect the Fairness proceedings
 The Due process clause protects the accused against conviction except upon proof beyond reasonable doubt of every fact under the federal constitution the cause of the accusation has the right to be informed of the nature and cause of the accusation that is the basis on which he is accused of a crime for indictment to be proper under common law right in the Fifth and sixth amendment it must allege all elements of the crime

Lewis claim Due process clauses of the Fifth amendment and Fourteenth Amendment and the Jury trial guarantee of the sixth amendment require application of its rules see Apprendi v. New Jersey 530 US 466 (2000) constitution requires that a fact be submitted to jury and proved beyond a reasonable doubt only if that fact

Lewis claim in Jone v. United States 526 US 277 1995 Ct 1215 143 L Ed 2d 311 (1991) 476 under the Due process clause of the Fifth amendment and the notice the Jury trial guarantee of the sixth amendment any fact, that prior conviction the increases the maximum submitted to the jury and proven beyond a reasonable The Fourteenth amendment command the same answers in the case involving states statutes see Apprendi v. New Jersey 530 (US 2000) Miss code ann 99 1a 83

Valentine v. Huffman 285 Fsupp 2d at 1024 quoting Russell 369 US 63 64 82 Sct 10381 Valentine essentially points to two notice problems with the indictment the wide date range and 2 the lack of differentiation among the criminal charge first Lewis claim the wide date range itself as standing in the way of his defense Lewis contends that the lack of specific date and time prejudiced him as he alibi defense for large portions of the period covered by the indictment see Valentine 285 Fsupp 2d at 1025 369 US at 736 6482 Sct 1038

Lewis the petitioner thus an Indictment is only sufficient if it contains the elements of the charge offense, give the defendant adequate notice of the charge and 3 protect the defendant against double jeopardy while the Federal Right to a grand Jury indictment has never been found to be incorporated against the state, Hurtado v. California 10 US 516 584 354 Sct 1123 Led 232 11884 Court have found that the due process right enunciated in Russell are required not only in Federal indictment but also in state criminal charge see Devonish v. Keane 19 F3d 107108 C2d Cir 1994 Fawcett v. Babilitch 962 F2d 617 18 C7th Cir 1992 see also Isanc v. Grider 2000 WL 5751 1959 at 4 6th Cir 2000 Park v. Hargett 1999 L 157 431 at 3 6th Cir 1999

Petitioner claim Hamling v. US 48 CrimK Shank 92 US 558 231 Ed 588 1895 The Crunk Shank opinion demonstrates that then these principles have been well established for quite sometime under Russell criminal charge must give a defendant adequate notice of the charge in order to enable him to mount a defense. fair notice is essential in criminal prosecution no principle of procedural due process is more clearly established than that notice of the specific charge and charge to be decided are among to be heard in a trial of the issue in raised by the charge. The constitutional right of every accused in a criminal proceeding in all court state or Federal Lewis petitioner ~~the~~ claim the state failed to raise that the indictment did not have that the petitioner engaging in penetration and insert him penis; ~~in~~ vagina of victim because it never happen there is no evidence to ~~indicate~~ indictment the petitioner for this crime act, of penetration of sexual organ of statutory rape on victim.

~~Rule 14~~ Rule 14 Indictment Rule 14.1 nature and contents. Larry Lewis the petitioner was denied the Elements and notice of the indictment.
 (b) Enhanced punishment for subsequent offense with out grand Jury indictments

Rule 14.4 Amendment of indictment.

Defects In Indictments The indictments was insufficiency of a defect in the indictment OR the Failure of the indictment to charge an offense The trial Judge denied to dismiss the defect Indictment in Count 1 and two

Rule 21 motion for directed verdict

(a) after prosecution's case-in-chief. The evidence is insufficient to support a conviction the court shall order a directed verdict of not guilty. The evidence in this case was insufficient to sustain conviction. The trial Judge denied the directed verdict when the State prosecution could prove his case in chief. NO evidence of semen, pregnancy OR disease OR injury no Doctor report with underage 16

Rule 25.1 motion for new trial

The petitioner Larry Lewis set forth in section (b) Ground. The court may grant a new trial for any of the following reasons

- (1) if required in the interests of justice
 - (2) if the verdict is contrary to law or the weight of the evidence
 - (3) court has admitted illegal testimony or excluded competent and legal testimony
 - (4) if for any other reason, the defendant has not received a fair and impartial trial.
- The trial Judge denied a motion for new trial abuse of discretion in this case.

MISSISSIPPI RULES OF CRIMINAL PROCEDURE

A petitioner who has been charged with a felony is entitled to a preliminary hearing upon request. Rule 14, contents generally elements the date and, if applicable, the time at which the offense was alleged to have been committed. Rule 14(a) based upon former Rule 706 Rule 14.4(a) defect in indictment is not insufficiency or the failure of the indictment to charge an offense. No person shall for any felony be proceeded against without indictment.

Lewis claim exceptions to Rule an Indictment not framed to in form defendant with reasonable certainty of nature of accusation against him is defective although it may follow language of statute although language of a statute may be used in an indictment in general description of an offense it must be accompanied with such a statement of fact and circumstance as will inform the accused of the specific offense coming under the general description with which he is charged.

Designation of offense or grade & degree thereof a corollary purpose to be served by requirement that an indictment set out specific offense coming under general description with which defendant is charged is to inform the court of the fact alleged so that it may decide whether they are sufficient in law to support a conviction. If one should be had effect of bill of particulars cannot save an invalid indictment. See *Russell v. U.S.* 359 U.S. 749 (1962). The indictment failed to plead the following essential and material element of the offense of statutory Rape.

Congress has expressly provided that no one can be prosecuted under 2 USC § 192 2 USCA § 192 except upon indictment by a grand jury. The petitioner indictment failed to charge essential elements of statutory Rape. The circuit court lacked subject matter jurisdiction over offense of statutory Rape against the petitioner Larry Lewis because the indictment failure to state the element of sexual intercourse under 97-3-65 section 7 and because grand jury failure to indict the petitioner because there was no evidence or proof to indictment. Larry Lewis under 97-3-65 section 7 an indictment must allege each material element of the offense. If it does not, it fails to charge that offense of statutory Rape.

Lewis claim in Jefferson v. State 556 So 2d 1016 1021 (Miss 1989) A defendant has a constitutional right to be informed of the nature and cause of the accusation. US Const amend V. 1 Miss Const art. 3-26. an indictment must be a plain concise and definite written statement of the essential fact constituting the offense charged. URCCC 706.1 must fully notify the defendant of the nature of the charge and the cause of the accusation see Gamble v. State 944 So 2d 934 (2006) Lewis contends that his indictment failed to charge an essential element of statutory rape.

An indictment serves the following purposes. 1 to furnish the accused such a description of the charge as to enable him to make his defense and ~~save~~ avail himself of his conviction on a writ of habeas corpus for the same cause. 2 to inform the court of the facts alleged so that it may decide whether they are sufficient in law to support a conviction if one should be obtained and to guard against malicious groundless prosecution.

This specific guarantee as well as Fifth amendment Due Process ~~Clause~~ Clause are therefore both brought to bear here of like relevance is the guarantee of Sixth amendment that in all criminal prosecution the accused shall enjoy the right to be informed of the nature of the accusation.

The Fifth Amendment provides that no person shall be held to answer for a capital or otherwise infamous crime unless presentment or indictment of a grand jury, see Russell v. US 369 US 419 (1962) To allow this to stand would in effect permit a defendant to be put to trial upon an indictment found not by a grand jury but by a judge.

to grant the appropriate relief for constitutional error

The fact remain that the state failed to prove the defendant guilty in accordance with the evidentiary requirements of state law, MRC 803 rule was violated. ~~the state failed to prove the defendant guilty~~ under miss

Lewis argues that ~~in his indictment~~ his indictment failed to charge him with a crime when it charge him with sexual intercourse because the defective ~~indictment~~ indictment did not contains on each count the essential element of the offense charged in miss code ann 97-365 - Sec 7 that Mr Lewis engaging in penetration to wit by placing his penis in her vagina. The indictment was plainly erroneous that is seriously affects the fairness integrity or public reputation of judicial proceedings 2d 473 1135 Ct 1770 quoting united states v alkinson 297 US 137 160 56 Sct 39 80 L Ed 555 (1936)

The petitioner claimed that the Fourteenth amendment Due process clause and the sixth Amendment Jury trial guarantees as incorporated by the Fourteenth Amendment required the ^{state} to prove to jury beyond a reasonable doubt that they had my DNA to prove sexual intercourse This is under the Federal Constitution the accused has the right 1 to be informed of the nature and cause of the accusation that is the basis on which he is accused of a crime, 2 to be held to answer for a capital or otherwise infamous crime only on an indictment of presentment of a grand jury. See Hurtado, v California 110 US 516 538 43 Ct 111 2e L Ed 232 (1884) the court has held that these protections apply in state prosecutions indictment under common law right in the Fifth and sixth Amendment it must allege all element of the crime. see appendix v new jersey 530 US 466 (2000)

Petitioner claimed The common law under constitution protection and deprivation of Liberty without due process of Law of a criminal Defendant to a Jury determination that he is guilty of every element of the crime with which he is charged beyond a reasonable doubt U.S. v Gaudin 515 US 1506 510 11 Sct 2310 182 L ed 2d 404 (1995) See Sullivan v Louisiana 508 US 275 278 435 Ct 2078 124 L Ed 182 (1993) Winship 397 US at 364 90 Sct 1068 see US sold 20 F Lopez 506 F3d 748 (2007) required under appendix allege in indictment and prove to jury date of defendant previous felon conviction and failure to Lewis claim indictment do not have him as habitual offender under miss code ann 99-1983, S d

The judge could not sentence Mr. Larry Lewis as habitual offender because it not stating in his indictment plain error

DUNCAN v. Louisiana 391 US 145 88 444 20 ED 2d 491 1968 Page 26
the right to have every element of the offense proved beyond a reasonable
doubt in rewin ship 397 US 358 90 SCT 1068 25 ED 2d 368 1970 The
Common Law under due process of Law Jury Amdt 6 entitle a criminal
defendant to a jury determination that he guilty of every element
of the crime with which he is charged beyond a reasonable doubt.
United State v Gaudin 515 US 506 510 155 CT 2310 132 L ED 2d 444 1995
Sullivan v Louisiana 508 US 275 278 113 SCT 2078 124 L ED 2d 182 1993
The Due process clause protects the accused against conviction except
upon proof beyond a reasonable doubt of every fact necessary
to constitute the crime with which he is charge. appendix v. new jersey

under the 5th Amdts 6th Hurtado v California 110 US 516
538 4 SCT 1128 ED 232 1884 the court held that these protection
apply in state prosecution Herring v new york 442 US 853 857
and n 795 SCT 2250 45 L ED 2d 593 1975 Further the court has
held that due process requires that necessary to constitute
the crime in rewin ship 397 US 358 364 90 CT 1068 25 ED 2d
368 1970 United State v Reese 92 US 214 232 233 L ED 563 1875
The indictment must contain an allegation of every fact which
is legally essential to the punishment to be inflicted Jone
v. United State 526 US 227 230 119 SCT 1215 143 L ED 2d 311 1999
Due process clause set out range of punishments in indictment
of sentence.

under Reasonable Doubt the indictment must allege what
ever is in law essential to the punishment sought to be inflicted.
The indictment must contain an allegation of every fact which
is legally essential to punishment to be inflicted appendix
v. New Jersey 530 US 466 2000 US v Reese The indictment must
contain an allegation of every fact which is legally essential
to the punishment to be inflicted US v Reese 92 US 214 232 233
L ED 563 1875 Criminal defendant has right to have Jury verdict
based on proof beyond reasonable doubt. Criminal defendant
is entitled to jury determination that he is guilty of every
element of crime with he is charge beyond reasonable doubt.
USCA const Amends 6th.

Statement of Witness conflicting testimony

The Hon court erred in not taking into consideration the fact that the alleged victim this case stated that it never happen and there was no sexual relationship between the alleged victim and the accused. Then for some unknown reason(s) the alleged victim reluctantly change her statement ^{which} the complaining witness went to live with her dad in August 2015. She was 16 then the court was more than willing to believe without any doubt Lewis claim under the statement at trial the child made ~~that~~ violates defendant right. The confrontation clause of ~~the~~ the sixth amendment there was no pediatrician with extensive experience in child abuse case. There wasnt no examination of her suggestive of sexual abuse with vaginal contact ~~there~~ see Idaho v. Wright 505 US 805 (1992)

There was no hospital of medical examination revealed evidence of medical diagnosis or treatment. see United State v. Sullivan 199 F 2d 1463 41 Cl. 10th Cir 1996 quoting Russell v. United State 369 US 749 765 82 S Ct 1638 8 L Ed 5d 240. The court have held that to equate confrontation clause prohibition with the general rule prohibiting the admission of hearsay statements. see California v. Green 399 US 149 155 156 90 Ct 1930 1933 1434 26 L Ed 2d 981 (1970) Butts v. Evan 400 US 74 86 91 S Ct 210 212 21 L Ed 213 (1970) Plurality opinion United State v. Inadi 475 381 393 n.s. 106 S Ct 1121 72 S 897 L Ed 2139 (1992) stated can only be made by purpose of medical diagnosis or treatment

Department of Human services interviewed the alleged victim and her family regarding the allegations of the sexual relationship each family member including the alleged victim specifically denied the existence of sexual relationship the conclusion would render the DHS report and without merit because it was inconclusive in 2014 and the fact that alleged victim alone which the court refuse to consider and was ready to accept the alleged victim sudden change of mind to state she did live with defendant. DHS Report exhibit 1

~~Lewis~~ Lewis claim this clearly establish Federal law relevant to a habeas court review of a prosecutorial misconduct claim is the Supreme Court decision in *Darden v. Wainwright* 477 U.S. 168 (1986) *Parker v. Matthews* 513 U.S. 214 (2003) (2012) that prosecutor improper comments will be held to violate the constitution only if they so infected the trial with unfairness as to make the resulting conviction a denial of due process (quoting *Donnelly v. DeChristoforo* 416 U.S. 637 (1974))

~~The~~ The hon state decides on this case differently that this court has on a set of materially indistinguishable facts. See also *William v. Taylor* ~~529 U.S. 4, 5362~~ 120 S.Ct. 1495 146 L.Ed.2d 387 (2000) petitioners analysis *Ex post facto* claim article 1.10 of the federal constitution provides that (no) state shall pass any *ex post facto* law. See also *Strickland v. Washington* 46 U.S. 668 697 104 S.Ct. 2052 2069. 80 L.Ed.2d 674 (1984).

~~Fun~~ Fundamental fairness may constitutional claim that may establish innocence is clearly the most compelling case for habeas essential to insure that miscarriages of justice within its reach are surfaced miscarriages of corrected *Harris v. Nelson* supra 394 U.S. at 291. 89 S.Ct. at 1086.

~~Petitioners~~ Petitioners claim that the constitutional violation from the state that he is actually innocent of the charge and a federal habeas court may grant writ even absence of showing of cause for procedural default. Petitioners was denied pretrial hearing, petitioners asking this court to discharge him.

~~AS~~ ~~AB~~

~~Deputy~~
~~Petitioner~~

The constitution of the state of MISSISSIPPI Rules of criminal Procedure

See Ormond v. State 599 So 2d 951 (1992) The indictment must include both the principal charge and charge of previous convictions. The indictment must allege with particularity the nature or description of the offense constituting the previous felonies the state of Federal jurisdiction of previous conviction and the date of Judgment.

Rule 14.1 (b) Enhanced Punishment for Subsequent offense When an indicted may be eligible for enhanced punishment because of one or more prior convictions the state shall either, (1) specify such prior conviction(s) in the indictment identifying each such prior conviction by the name of the crime, the name of the court in which each such conviction occurred and the cause number(s) the date of conviction, and if relevant, the length of time the accused was incarcerated for each such conviction.

(c) Charge the offense The Indictment shall state for each count the citation of the statute or other provision of the law which the defendant is alleged to have violated. Incorporation by reference A count may incorporate by reference facts alleged in a previous count. Rule 14.1 (d) Circuit and County court. The rule now provides that, in addition to the essential fact constituting the offense charge the indictment must also include the essential elements of the offense charge. This includes all fact and elements necessary to enhance a sentence that are required to be found by a jury. see appendix United State 530 US 466 490 120 S Ct 2348 2362 63 1471 Ed 2d 435 (2000).

Lewis claim the circuit court violated the rule in this case by sentences as a habitual offender under 99-19-83 when not stating in his indictment that violated the 5th and 14th amendment of US constitution and the 8th amendment and 14th. under the constitution of the state of Mississippi.

The United States Supreme Court in Burk v. State 437 US 198 S Ct 2141 571 Ed 2d 1 (1978) and Green v. Massey 437 US 198 S Ct 2151 571 Ed 15 (1978) held the case reversed by a reviewing court because the evidence is legally insufficient to support conviction by a retrial under the double jeopardy clause of the Fifth Amendment to the United States Constitution. The trial judge abuse his discretion by admission evidence prejudicial to the accused Chandler v. State 945 So 2d 355 364 (17 Miss 2006) Shaw v. State 915 So 2d 442 (8 Miss 2005) Tibbs v. Florida 457 US 310 52 S Ct 221 721

Ed 2d 652 (1982) the court held that a reversal by an appellate court on the ground that the verdict of the jury was against the weight of the evidence did not preclude a retrial of the defendant Tibbs clearly distinguished between case reversed the evidence was legally insufficient to support a conviction and case reversed because the verdict was against weight of the evidence

Lewis said the evidence legally insufficient to support conviction Burk supra 437 US at 187 98 S Ct at 2156 Green supra 437 US at 24 98 S Ct at 2154. This standard we explained mean that the government case we so lacking that is should not have even been submitted to the jury see Hudson v. Louisiana 450 US 40 44 45 n 5 (10) S Ct 970 972 973 n 5 67 L Ed 30 (1981) The evidence for the state resolution in conflicting testimony is against the weight of the evidence that ~~the victim~~ testimony resolution in conflicting testimony in this case in 2016 August 16

Rollings ~~State~~ 192 So 3d 1133 (2016) The victim said Rollings raped her. She was taken to the hospital where a sexual assault evidence collection kit was completed, two experts in forensic science nurse examined victim and nurse who took DNA sample from defendant that match the DNA sexual assault evidence collection kit. The state convicted Larry Lewis without a hospital sexual assault evidence collection kit are without forensic science examination. The state violative hi

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The defense cites PEOPLE V. Garvie 148 Mich App 448 384 N.W.2d 796 (1986) as authority relevant to ~~and has held~~ this issue. However this court has also addressed this and has held the evidence of a victim's past sexual conduct with person other than the accused was source of victim injury. See Goodson v. State Hel Fin v. State 643 So 2d 512 (Miss 1994) However the court previous holdings in the case do not suggest a similar result in the instant case.

The evidence was offered as proof of a false allegation of past sexual offense of victim in this case. Under Rule 412(b)(2)(C) of the Mississippi Rule of Evidence. The victim made testimony at trial with out source of semen, pregnancy, or disease, or injury. This past sexual behavior falling under no exception within Rule 412(b).

The trial Judge court admissibility of evidence in this case abuse of discretion result in prejudice to accused on prior past sexual behavior issue of sexual intercourse denial Larry Lewis the petitioner of his substantial right have been affected by the court evidentiary ruling prohibiting introduction of evidence of victim past sexual behavior or any false allegation of past sexual offense, and testimony false allegation of previous offense.

The trial Judge court Judge abuse his discretion under Rule 412(b)(2)(C) of the Mississippi Rules of Evidence under Mississippi Rules of Criminal procedure.
Under Rule 6.1 Preliminary Hearing. I was denied a preliminary hearing in general. I was secretly indicted with out a affidavit or been arrest in court 1 and 2 of the indictment.

MISSISSIPPI RULE OF EVIDENCE P 33

Rule 412 SEX OFFENSE CASE The victim sexual behavior OF predisposition, Larry Lewis contends 1, 2, 3, 4, 5, 6, 7, 8, page.

(a) prohibited use. The following is not admissible in a criminal case involving an alleged sexual offense.

(1) Reputation or opinion evidence of a victim past sexual behavior, and (2) evidence of a victim's past sexual

behavior other than reputation or opinion except under subdivision (b) and (c)

(b) exception. The court may admit evidence of:

(1) specific instance of a victim past sexual behavior

(A) with a person other than the defendant, ~~if offered by the defendant to prove that someone else was the source of semen, pregnancy, disease, or injury~~

(B) with the defendant, if offered by the defendant to prove consent, and (C) if constitutionally required to be admitted, and (d) false allegations of sexual offenses made at any time before trial by the victim.

The trial Judge abused his discretion allowed testimony of victim past sexual behavior. That

prejudice Lewis. under Rule 412(b) (2) A general

Prohibition against evidence of the victim past sexual behavior under Mississippi Rule of Evidence provides, see Peterson v. State 671 So 2d 647 (1996) in pertinent

part, that evidence of a victim's past sexual behavior other than reputation or opinion evidence is not admissible unless such evidence is past sexual behavior with person other than the accused. Offered by the accused upon the issue of whether the accused was or was not, with respect to the alleged victim, the source of semen, pregnancy, disease, or injury.

Ground three For relief constitutional error.

Insufficient Counsel The petitioner(s) attorney was fully aware of these errors and did not attack validity of these allegations begin that he is my advisor because I am layment (sic) to ~~the law~~ the Law. Pursuant to the rules of the Mississippi Rules of Professional conduct and attorney client privilege (sic) of Federal Rules of Criminal Procedure, the attorney for the defendant has a responsibility to his client assistance of counsel B. Amendment Article 3 sec 26. Constitutional error.

Insufficient Ground three

Counsel failed to raising defect in indictment under Rule 14.4 by raised demurrer motion to quash the indictment and motion to dismiss see miss code ann 9A-7-21, 9A-7-23 see apprendix United States 530 U.S. 466 496 120 S Ct 2348 2362-63 147 L Ed 2d 435 (2000) Lewis claim of ineffective assistance of counsel a habeas petitioner must satisfy the two prong test set out in Strickland by demonstrating both constitutional deficient performance by counsel and actual prejudice as a result of such ineffective assistance counsel failed to impeach witness that was lying and under reliable. The United States Supreme Court has ruled that claim of ineffective assistance of counsel are governed by the standard set forth in Strickland v. Washington 466 U.S. 668 1984

See Motley v. Collin 18 F 3d 1123 1226 (5 Cir 1994) The trial counsel failure to attack the insufficient evidence the weight of the evidence the witness statement the DHS report the jury instruction, the counsel failed to renew the motion for directed verdict at the close of all evidence. Failure to investigate fact of the case, ignorance the Rule 412, of the Law act failure to raise defense failure to raise issue on appeals

Ground Four on Jury instruction for Relief

Jury instruction was error under Rule 10.5 under miss code ann 97-3-65 - Section 7. Jury instruction failed to stated and include Penetration of sexual organ of a male. The jury instruction violated, petitioner fourteenth amendment right under the constitution of US and under Fifth amendment of the constitution of US of Mississippi. The instruction was to find the petitioner guilty without evidence with date of time of place but on hearsay, insufficient evidence that constitutional error under 5 amendment of due process clause of the articles 3 sec. 14 and 5 amendment article 3 sec 26 (1). The state could not prove the element of sexual intercourse, in the case because it (was) not stated in the indictment. The jury instruction not stated in the indictment Penetration.

petitioner establishes that an improper instruction rose to level of a constitutional violation. The jury instruction prejudicial the petitioner because the jury failed to include Penetration of the sexual organ in section, seven miss code ann 97-3-65 the statute required, the state to prove that the petitioner's ^{penetration} vagina beyond a reasonable doubt in the instruction to jury § 3. Petitioner contention that The jury was not instructed with regard to Penetration. If the trial judge would have told the grand jury that we need penetration of sexual organ to convict Mr. Lewis & would never been conviction of statutory Rape.

appendix B

Jury instruction failed to stated the element of the criminal act penetration of the sexual organ of the male. The instruction failed to tracked the language of the the statute charge of statutory Rape. The jury can't convict Mr. Lewis without penetration of the sexual organ, because the element of Rape is penetration of the sexual organ. ~~Tom~~ Tompkin v. State (2006) 159 So 2d 476 Violative under 10.5 Jury instruction. The court failed to instruction the jury. on the matter of the law for their guidance upon all question of law necessary for ~~their~~ there guidance U.S v. Gordon 186 F2d 1165 1169 5th Cir (1996).

Lewis did not receiving preliminary hearing prior to Indictment. addison v. State 608 So 2d 384 (1992)

EG Appendix B

(3)

exh 4

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~~Round five of not guilty verdict for relief directed verdict~~

Directed verdict the state was) unable to prove the element ~~of~~ OF SEXUAL intercourse. The directed verdict. The Hon court ~~erred~~ in denial motion for directed verdict. There was no WAA take from Larry Lewis to matched him to this criminal act. There was no physical proof in the form of WAA evidence. The State is Required under 97-3-65 section 7 to show penetration of the petitioner sexual organs to be convicted of statutory Rape. The Hon court violated my 14 Amendment of Constitution Right to be convicted without evidence,

Rule 21 motion for Directed verdict should have ~~been~~ been grant,
 ① after the prosecutions, Case in chief. A motion for directed verdict must specify the manner in which the evidence is deficient the evidence is insufficient to support a conviction. The court shall order ~~a~~ a directed verdict of not guilty. The Critical inquiry involves whether the evidence show beyond a Reasonable doubt, that the accused committed the act charged, and that he did so under such circumstance that every element of the offense existed and where the fails to meet this test it is insufficient to support a conviction. Bush v State 815 so 2d 836 843 (Miss 2005) quoting Carr v State 208 so 2d 886 889 (Miss 1968)

The evidence in this case was insufficient to sustain a conviction. The trial Judge denied the directed verdict when the state prosecution could prove him case in chief. no evidence of semen or pregnancy or disease or injury no doctor report while she under the age 16 to support the conviction. The trial Judge violated the constitutions of US 5, 6 & 14 amendment, and abuse his discretion and denied the directed verdict of no guilty in this case. under ~~the~~ Rule 412 The state Failed to Raise the issue and answer to the directed verdict in this court. Petitioner is asked this court to discharge are granted a new trial are to granted a directed granted verdict

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JNOV motion for JNOV should have been granted because Jury Verdict was against the overwhelming ~~weight~~ weight of the evidence and the evidence was insufficient to support the conviction because the state failed to prove the element of rape and not supported by law of Constitution. How can the petitioner be convicted without evidence. Role v. State 502d 1043 2007 The bodily contact penetration is to establish required of sexual intercourse in statutory rape prosecution the state must prove that there was penetration of the victim vagina by the defendant penis how are slight the penetration under ms code ann 97-3-65-7

A motion for new trial the court sit as thirteenth Juror with the evidence being weighed in the light most favorable to the verdict or defendant establish the offense of rape the state must prove that there was some penetration of the victim vagina by the defendant penis. Wilson v. State 606 mississippi Court of appeal and mississippi supreme court violative the petitioner constitutional right of due process of law by denied the petitioner on then ground defective indictment under Rule 706 uniform rule county ~~court~~ court. The evidence was insufficient. no DNA, insufficient counsel error jury instruction was error under Rule 105 under miss code ann 97-3-65 section 7. Directed verdict JNOV motion rape shield law under Federal rule of Evidence 412 which prevent irrelevant inquiries into women sexual histories.

Lewis petitioner suffer from him counsel the deprivation of the sixth amendment right to assistance defense counsel in all criminal prosecution the accused shall enjoy the right to have to assistance of counsel for his defense the sixth amendment right defense counsel in felony prosecution is fundamental right binding on the state through the fourteenth amendment Gideon v. Wainwright 372 43 335 83 sct 792 Ed 2d 799 1963 Mempa v. Ray 389 US 128 134 88 sct 254 251 1967 Ed 2d 336 1996 Right to counsel at all critical stages. The state perjury the petitioner and kidnapping the petitioner in prison for life without evidence resulted in miscarriage of justice Gray v. State 544 502d 1316 134 miss 1989 Moore v. Rush 536 502d 105 miss 1997 Moore v. Rush. Burk v. State 70 502d 2000. William v. State 94 324 2011

REASONS FOR GRANTING THE PETITION

This court should find that the mississippi supreme court and the mississippi court of appeal and the District court of us. and the fifth circuit of appeal us. in Error when it upheld the judgment of circuit court of panola county. That the evidence was insufficient to support a guilty verdict of statutory rape under 97-3-65 - Section 1. The evidence was admissible under Rule 412 Federal Rule of mississippi Rule evidence Petitioner was denied due process under Brady v. Maryland 11 373 U.S. 83 87 1963. Petitioner was denied directed verdict under Carr v State 208 So 2d 886 889 Miss 1968 and Bush v State 895 So 2d at 844 This was error. Petitioner Fifth and sixth and 14th amendment right to due process and a fair trial. the Fifth and sixth amendment provide as part of the constitutions fair trial guarantee. Petitioner ~~state~~ Blaim that decision of the lower court was erroneous. because the evidence was insufficient because the state could produced no DNA, and because the defective indictment do not have the essential element of the charge, and ineffective assistance counsel, and Jury instruction was insufficient and JNOV was denied.

The lower court in my case is in conflict with the decisions with another appellate court similarly situated like my case with case law. It is important to show and having the supreme court decide the question involved and address what compelling reason, exist for the exercise of the court discretionary Jurisdiction. A concise statement of the basis for Jurisdiction in the court showing. The indictment was defective in this case because it do not have date or the essential element of the charge, In the District court of us the state failed to cite the statute 97-3-65 MCA Citations in the indictment count 1 and two because the state ~~did~~ not want to commit Fraud in Federal court.

Belk v. State 850 3d 272 274 miss Ct app 2009 Indictment must contain essential elements. Petitioner raise all then claim. that the state mississippi and the court violated the petitioner's right under Rule 412, Rule 10.5 5th amendment 6th amendment 14th amendment us Const. because the state of mississippi do not have evidence to support their convictions of statutory rape. ~~and~~ Lewis pray that this court with granting the petition. on defective indictment 2 directed verdict on insufficient evidence and ineffective counsel and JNOV and Jury instruction was insufficient.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Larry Lewis

Date: 10 April 2022