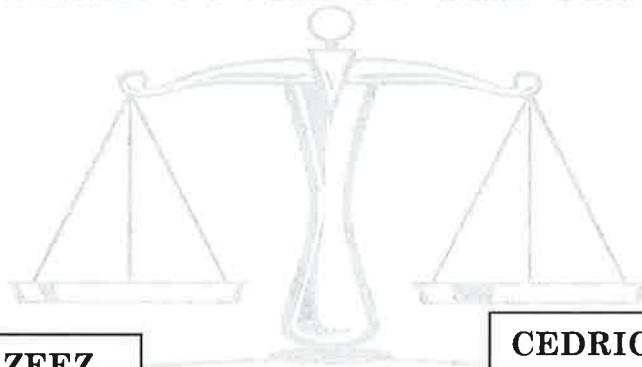


Docket No.

21-8207 ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES



JAMAL A. AZEEZ
Petitioner

vs

CEDRIC ROBERTSON, et al
Defendants/Respondents

Supreme Court, U.S.

FILED

MAY 26 2022

OFFICE OF THE CLERK

ON APETITION FOR A WRIT OF CERTIORARI TO THE FOURTH CIRCUIT COURT OF APPEALS

Jamal A. Azeez, Petitioner
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Jamaica, NY 11435
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PETITION FOR A WRIT OF CERTIORARI

Questions Presented

1. Whether The Task Falls To The Federal Courts At Some Point In The Judicial Process, Even When A Was Person Convicted Of A Heinous Crime, Deserves A Rigorous And Complete Analysis Of His (Unsettled And New) Constitutional Claims (Criminal or Civil) If No State Court Provides Such Analysis. (Bell v. Jarvis 236 F.3d at 186. 4th Cir. 2000).
2. Whether It Was Erroneous To Convert A Criminal Complaint To A "Civil Right Suit" And Dismissed After Petitioner Discovered Significant Criminal Wrongdoings And Began Filing Dozens of Pleadings Including a 53-Page Verified Criminal Complaint---Proving The Respondents Collectively, Individually, And Without Just Cause, Conspired, Obstruct Justice, and Lied Under Oath) During Two Arrests, Three Indictments, And Two Trials

RECEIVED

JUN 22 2022

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SUPREME COURT, U.S.

To Earn Two Convictions (One Reversed By The Federal Court) Responsible For 13 years of Incarceration---That Sought The Arrest, Indictment, And Convictions of The Defendants (Like Steve Bannon and Roger Stone)

3. Whether The Lower Court Condoned Systemic Injustice Knowing That Petitioner Is "Factually Innocent" To Invoke The Principles Under This Cited Authority: McQuiggin v. Perkins, 569 U.S. 383 (2013), In Which This Court Held That "Actual Innocence, If Proven, Is Sufficient To Circumvent The One-Year Statute Of Limitations For Petitioners To Appeal Their Conviction Enacted Within The Antiterrorism And Effective Death Penalty Act Of 1996 (AEDPA)".

List of Parties

Cedric Robertson, Former Police Officer, Detective
Bruce K. Lazenby, Former Prosecutor
Kristin L Keller, Former Prosecutor
John Hutchison, Former Appellate Judge
David Cook, Former police officer

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Table of Authorities (Only Major Ones)

McQuiggin v. Perkins, 569 US, 383 (2013)
Brady v. Maryland, 373 US 83 (1963)
Batson v Kentucky, 476 US 79 (1986)
Strickland v. Washington, 466 US 668, (1984)
(Too many case laws to list, and to avoid burden to review them all)

Citation Of Official Opinion

State of West Virginia ex rel. Jamal Adeen Azeez. 465 S.E.2d 163 (1995) 195 W.Va. 163.

Jurisdiction and Constitutional Provisions

Federal Hate Crimes Prevention Act (2009)
18 U.S. Code Chapter 13 - CIVIL RIGHTS
• § 241 - Conspiracy against rights to punish
• § 242 - Deprivation of rights under color of law
• § 243 - Exclusion of jurors on account of race or color
18 U.S. Code Chapter 19 - CONSPIRACY (RICO)
§ 371 - Conspiracy to commit offense or to defraud United States

18 U.S. Code Chapter 7 - OBSTRUCTION OF JUSTICE

- § 1503 - Influencing or injuring officer or juror generally
- § 1510 - Obstruction of criminal investigations
- § 1511 - Obstruction of State or local law enforcement
- § 1512 - Tampering with a witness, victim, or records

18 U.S. Code Chapter 79 - PERJURY

- § 1621 - Perjury generally
- § 1622 - Subornation of perjury
- § 1623 - False declarations before grand jury or court

18 U.S. Code § 1519 - Destruction, alteration, or falsification of records

Statement of The Case

Petitioner **is colored; a foreign-born South American, a Muslim**, and unknown to the Defendants, a bona fide US citizen since 1979. After serving the US military for 8 years (2nd Lt NBC Specialist, West Point ESMA). and graduating from medical school (MD 1985) with an **unblemished history**, Petitioner returned to Beckley, West Virginia where he had completed his Clinical Internship seeking to complete his Residency. While studying for his medical boards exam in December of 1987, he obtained a job as a Clinical Laboratory Scientist (CLS); a laboratory position he took (**during a major labor strike**) from employees who walked off their hospital jobs. Petitioner was dating a (white) ward clerk who was intensely disliked for doing so by other white employees. Just before the strike ended, an anonymous note was left on the Human Resource Manager's desk illustrating, "**Jamal was fooling around with a patient**". After an investigation, the patient bluntly denied the allegation and Petitioner was allowed to continue working, but was warned by the Hospital Pathologist, "**Be careful**".

On February 5th, 1987 the strike ended, and on that very day, three employees returned seeking re-employment in the lab, Petitioner was later that night approached by a nurse and a Nursing Supervisor who stated, "**Jamal, a patient in Room 201 said you molested her**". A swab was obtained by the same nurse (Philips) allegedly from the patient, while the patient was taken to the ER and procedurally examined by Dr. Slack who also obtained a Malicious Market Rape Kit with several swabs, slides, bedsheets, pajama bottoms etc. (Why nurse Philips took matters into her own hands was never questioned). Instead of calling the police and have Petitioner arrested immediately, the Supervisor (Ms. Fox) confiscated the hospital laboratory keys and beeper, and walked him out the front door. Being aware of Dr. Slack's ER findings, it took hospital authorities **six (6) days later** before they finally decided to call the police, and no one ever questioned why.

On February 11, 1987 Defendant Cedric Robertson conducted his investigation interviewing ONLY hospital staff and collected the rape kit and other medical records. While the rape kit was **still** in the Evidence Locker at the Beckley Police Station **unanalyzed** and awaiting shipment to the WV State Police Crime Lab, Defendant Cedric Robertson allegedly appeared before Magistrate Whitey and obtained a Complaint for Arrest for "**Third** Degree Sexual Assault" on that same day he picked up the rape kit and ER medical records, and swore under solemn oath, "**Laboratory tests including a Malicious Rape Kit...and Dr. Slack ER rape examination reports...were positive for sexual intercourse. The victim stated that the Defendant stuck his wingding in her.**" But during trial, after Defendant Robertson changed his story by stating "**a man in white coat**" committed the alleged act, trial Judge (Canterbury, now deceased) conspiratorially recused Defendant Robertson from the bench when matters regarding other contents of his Warrant for Arrest and testimony during Grand Jury Indictment. During this part of the trial also, the prosecutor tactically and conspiratorially requested a "bench conference" and told the following lies, "**I don't know anything about Dr. Slack...To my knowledge there was no examination...I never received the rape kit report...The CIB Lab Serologist quit the job**"..... even though each of these State Witnesses was on his published List, and their reports were listed in the Report on Police Investigation discovered in 2013; which is 26 years after conviction via *pro se* discovery request that gave rise to a failed Coram Nobis petition.

After successfully earning a conviction of Second Degree Sexual Assault on July 31st, 1987, Petitioner was released on a post-conviction bail. Defendant Robertson again obtained another Warrant for Arrest after he allegedly appeared before another grand jury and obtained Indictment (No. 88-F-203) for Failure to Appear stating, "**Jamil Azeez failed to appear in court on September 25, 1987 as Ordered by the Honorable Thomas Canterbury for sentencing**". In total contrast to those sworn statements, Defendant Robertson was fully aware of Petitioner's true and full name; which has always been known to him as, **Jamal Adeen Azeez** as seen in his Complaint for Arrest for the sex case, and most importantly, Petitioner was already sentenced on September 14, 1987 (for the sex case in which Robertson was present); that there was no order entered by Judge Canterbury commanding Petitioner to appear; and most contradicting, that Petitioner was in the same courthouse jail on said September 25, 1987 placed there by said Defendant, thus creating a strong suspicion that 88-F-203 is a willfully-fabricated document.in violation of 18 U.S. Code § 1519 - Destruction, alteration, or falsification of records. (Defendant Keller always referred to Petitioner as 'Jamil Azeez')

Petitioner's public defender immediately filed a pre-trial Motion to Quash Indictment No. 88-F-203 being grossly defective and fatal. Upon becoming aware of such fatalities, Defendant Keller quickly sent Petitioner (two weeks before trial)

an Amended Indictment No. 92-F-342, stating that it was **"returned by a Special Session grand jury recalled on 'November 2, 1992'"** accusing Petitioner of failing to appear in between **"July 1988 and August 1991"** which included a time Petitioner was still exhausting his appeal, and when his bond was still in effect. Petitioner will not go into many criminal details on how this conviction was eventually reversed by the federal court via *pro se* habeas corpus petition, but two outstanding evidences from the clerk of the court prove that **no special session** grand jury was held on November 2nd, 1992. After reversal, the State of West Virginia denied compensation for 2 ½ years of Unjust Incarceration, and ignored a *pro se* Petition for Return of \$25,000.00 Appeal Bond since the Failure to Appear conviction was illegal and rendered unappealable.

The two lists below concentrate on the unsettled sex case which shows many more criminal acts committed by the Defendants who always believe that Petitioner was **"illegal in the country"** ---and apparently had no rights to a fair trial especially being colored, foreign-born, and unable to hire a good defense lawyer. The lower courts have turned a deaf ear and a blind eye repeatedly for nearly 30 years simply because of the **amount of compensation for denying him the practice of medicine** for all those years. The politics should end here, as well as blatant **systemic injustice**.

List Of Newly Discovered *Brady* Evidences

1. The negative report of the entire content of the rape kit discovered in 1993; which is 6 years after conviction via *pro se* FOIA requests during the FBI Investigation of Sergeant Fred Zain of the Police Crime Lab.
2. The testimony of the Serologist from the WV Police Crime Lab (CIB) on the materials analyzed in the rape kit. 1993
3. The testimony of the Evidence Officer (Don Lilly) who received the rape kit report 4 months before trial and **"sent it to the prosecuting attorney"** (1996)
4. The testimony of the ER doctor who examined the victim and collected the rape kit. (1991)
5. The negative ER report authored by ER doctor illustrating **"non-remarkable...all normal findings....nothing unusual..."** In summary Dr. Slack stated he **"found no objective evidence that the woman engaged in recent sexual intercourse"**. (1991)
6. The report of the acid phosphatase test analyzed independently in a lab in Lexington KY.
7. The deposition testimony of the hospital Pathologist who determined the **"exact time"** sexual intercourse occurred based on the result of the acid phosphatase done on the swab collected by nurse Philips. **"Sexual**

intercourse occurred between **5 to 6 hours** before the swab was collected" ...a time both the Judge and Prosecutor knew that Petitioner was not in the room. Petitioner attempted to take ordered blood **15 minutes** before nurse Philips obtained that controversial swab. This iron-clad **alibi** defense was withheld by the Judge who initiated a conference in his chambers where it was "omitted".

If the above 7 evidences do not individually prove actual innocence, Petitioner further asks each Justice to consider whether a reasonable doubt exist, notwithstanding the exclusion of these evidences, based on the following facts repeatedly ignored by the lower court, and return a separate verdict.

List of Ignored Facts (on Sex Case Only)

1. Petitioner had only **one witness**: his white girl-friend hated by an all-white hospital staff that testified against the colored Petitioner, proving that his Public Defender was grossly ineffective by a preponderance of evidence; a typical Strickland claim.
2. The Prosecutor struck the only colored juror using falsified information in the presence of the arresting officer during jury selection. A solid Batson claim.
3. The Police committed felonious perjures, deliberately, as seen in his Warrant and Complaint for Arrest.
4. The police committed similar felonious perjuries during Indictment.
5. Petitioner was deprived of a sane witness who denied of a similar allegation against him during a labor strike when hospital employees walked-off the lab job that Petitioner took after crossing a picketed-line of strikers.
6. The exclusion of the acid phosphatase report by the trial judge who initiated a conference in his chambers where the result was "omitted".
7. The recusal of officer Robertson by the trial judge from the bench when matters regarding the result of the rape kit and the ER report came up.
8. The systemic concealment of 5 expert witnesses and withholding of 5 scientific reports. A solid claim of gross prosecutorial misconduct.
9. The denial of 2 attempts to conduct DNA, one pro se, and the other by WV Innocence Project. (WVU Law Clinic)
10. The newly-discovered Police Report on Investigation in 2013, illustrating the existence of several "EXHIBITS", including CIB Lab rape kit report, Dr. Slack ER report, etc. that were in the possession of the State 4 months before to the 1987 trial.
11. The testimony of the victim regarding the alleged incident while she was looking directly at the Petitioner and said "I never saw him---I don't know

him---I don't remember anything that happened to me---Ted did it to me---Ted made me pregnant---I ran away from Ted and want to commit suicide---I was in lots of pains" ...etc---etc

List of Conspiracies By Trial Judge to Earn the Sex Conviction

- (a) Judge Canterbury refused a defense request to allow a former (sane) patient to testify knowing that she denied a previous sex allegation ("Jamal was fooling around with a patient"); which is an anonymous note left by a disgruntled employee on the Human Resource Manager's desk, and which constitutes the first attempt to have Petitioner fired from his job.
- (b) The Judge ignored defense Motion to have Ms. Corker undergo Psychiatric Evaluation for Competency---fully cognizant that she was "mentally retarded" ---and allowed prosecutor Lazenby to introduce her with coached testimony and to invoke jury sympathy. Motion still pending resolution.
- (c) When prosecutor Lazenby revealed for the first time at bench conference, the negative CIB report, Judge Canterbury did not ensure that the jury was aware of the result; and at no time in the record the jury was told that the entire rape kit was negative; and more importantly, there's absolutely no record of the alleged "*stipulation of the result*". Also, after the bench conference, he recused Mr. Robertson from the stand without allowing defense counsel to further interrogate him on why he (Mr. Robertson) swore in his Warrant for Arrest and before the Grand Jury that both Rape Kit and Dr. Slack's ER report were positive for sexual intercourse, and also, what happened to the medical records of Ms. Corker he obtained from hospital authorities.
- (d) During *voir dire* examination, when prosecutor Lazenby struck the only colored juror based on alleged arrest history, the Judge did not ask for verification to legitimize the strike---knowing the Clerk of the Court would not have a person with previous arrest record selected for jury duty. Judge Canterbury conduct also supports **racial injustice and discrimination**.
- (e) In 1991-1995, Judge Canterbury refused to reverse the conviction when Dr. Slack concluded during Omnibus Evidentiary Hearing that the woman "***did not engage in recent sexual intercourse***"; and all findings were "***non-remarkable...normal***", even after several letters from my habeas lawyer (Mr.

Cleckley¹) demandin^g a ruling, until Cleckley, bein^g inpatient, forcefully authored a Dismissal Order without Petitioner's consent---a huge mistake.

Conspiracies By Appellate Judge to Sustain the Sex Conviction

- (a) After discovering many exculpatory materials, via several FOIA requests to the Clerk's Office; some of which were responsible for the reversal of the Failure to Appear conviction, I filed a "Criminal Complaint" with several law enforcement agencies. It was intercepted by Judge Hutchison who interpreted it as a 'civil suit" and told me at the conclusion of a hearing, "***I am warning you.... Do not come back to my court looking for documents or filing complaints.... only a citizen can file complaints...a prisoner cannot file a criminal complaint..."***
- (b) After Judge Hutchison dismissed the Criminal Complaint, he punitively and retaliatorily applied the principles of PLRA and "***revoke 50 % of all good-time credit***" earned in the instant case although I had already discharged the 10-year sentence; which accounts for an additional five (5) years behind bars for filing the criminal complaint (regarding my conviction; not on conditions of confinement) against Hutchison's fellow law enforcement officials in his courthouse.
- (c) In his ruling on my first and ONLY Motion for Production of Grand Jury Minutes, Judge Hutchison considered it "***“res judicata.....and an attempt to go on a fishing trip..... trying to re-plow fields***" when exposure of the criminal perjuries outweighs any secrecy.
- (d) A **Motion to Preserve Slides to Conduct DNA Analyses** was denied. Due to stain and preservatives added to the slides, my request employing RFLP method was rejected.
- (e) As my FOIA requests were considered a "nuisance", Judge Hutchison sent letters to the warden of the prison and indicated that such conduct demonstrates my "***failure to rehabilitate***". As the Senior Paralegal of the

¹ Mr. Cleckley strongly believed he would have gotten better result in the WV Supreme Court where he was appointed by Governor Caperton. Unfortunately, he had to step down from the case and gave it to an ill-informed, inexperienced student attorney (Paul Cranston) he was interning. The case was met with more prejudice by Chief Justice Workman who is a staunch advocate for women's rights. She earned the majority by proxy---an Administrative Order requiring the two judges (not Justices) "sitting on temporary assignment must concur with the Chief Justice". In her 3-2 opinion, Justice Workman erroneously wrote, "*Dr. Rasheed testified that sperm cells were found on slides prepared from the vaginal swab; however, the doctor could not testify, based on the tests conducted, when exactly intercourse occurred with the victim*". Workman did NOT know Judge Canterbury omitted this part of Dr. Rasheed's deposition from the record.

prison, I **always** used a logo (Scales of Justice ) on court documents, including the last FOIA request to the Hutchison's court. Suddenly, I was issued a Disciplinary Violation by prison official for using² the logo, fired from my job, sentenced to 30 days solitary confinement, transferred to a Regional Jail, and had all of my ACTIVE legal files (3 boxes) sent to my home in New York at my expense, while prison regulations require storage of such files until solitary confinement is completed.

- (f) During a court hearing, I begged Judge Hutchison for permission to have the handcuff removed for accessing my court papers I brought from the prison. The Judge bluntly replied, "**No. You cannot**". The prison guard was 'shocked' the way the Judge treated me. The DNA request was denied during the hearing.
- (g) After Federal Judge (Robert Maxwell NDWV) reversed the Failure to Appear conviction, I filed a Motion to have the charges dismissed. During a hearing on my Civil Rights law suit for Compensation for Unjust Imprisonment, Hutchison told me, "**The conviction was not reversed. You just got out of Jail**". How did I get out? Broke out? Escaped??

Reasons For Granting Certiorari

Petitioner made a substantial showing, although lacks contemporaneous knowledge on **McQuiggins, Brady, Batson, Strickland** laws, that the Defendants committed egregious crimes to earn the convictions, and that the above Newly Discovered Evidences and Ignored Facts are indisputable and supported by numerous Exhibits which should leave no room for this Court to theorize like the District Court about their implications, and thus, must find that the lower courts' findings erroneous and flawed, especially SER Azeez v Mangum. Four expert witnesses and their scientific reports; coupled with 17 reversible facts, sufficiently support more a reason to grant this Writ.

Just recently in March 2022, Petitioner received notification to update his sex offender registration status. The New York SORA Board of Examiners wrote in their Case Summary, "**He has subsequent involvement with authorities for failing to register as a sex offender in 2000**". That information provided by Defendant Keller is **highly false** and inflammatory since the record is clear that Petitioner was in actual custody and did not get court-released until 2003. Additionally, the NYSORA Board also wrote. "**The defendant violently rape the victim**" in violation of WV 15-12-6, 6(a), and 7... "**The Defendant Azeez forcibly put his penis into her vagina**" in order to have Petitioner register as a "**violent**" Level 2 sex offender for **life**. In contrast, neither the word penis nor vagina was

² I have always used the scales of justice on my pleadings but was never prohibited or punished for doing so until my last FOIA request to the Clerk of (Hutchison's) Court.

ever mentioned in the entire case: pretrial or trial. Review paragraph 11 above. Conclusively, Petitioner still suffers from blatant lies from the Defendants and it must end here. Petitioner cannot visit Canada anymore. It must end here.

WV District Attorney (Mike Stuart in charge of WV Public Integrity Unit) and the **FBI ignored** criminal complaints filed by Petitioner as did by several gymnasts in the Larry Nassar's case. Since 2015, both Presidents Obama and Trump suggested that Petitioner should "contact the WV Attorney General" who has also ignored verified criminal complaints, as well Mayor of Beckley, Governor of WV, Director of **Special** Investigation, Director of Public Safety, Chief of Beckley Police Department---all of whom could have been named as Defendants for conspiring to conceal flagrant crimes and failure to investigate.

If justice is still alive in this court, as the rights of the Petitioner in this case with 18 reversable facts, this Court must rule accordingly even though it's an old case, but certainly **not cold**. Since his 1977 conviction in Louisiana, Vincent Simmons refused to register as a sex offender for crime he stringently claimed he did not commit, and so, he chose to remain behind bars where was given the right to an attorney who successfully reopened the case that was overturned after 45 years struggling to prove his innocence. Before Petitioner follows the footsteps of Ms. Simmons, **this Court should appoint an attorney to develop the case for a published opinion.**

After 8 years protecting the lives of all American, Petitioner's dream of becoming a Clinical Pathologist to also save lives has been eradicated. He still has hopes that one day he can return to fulfill that dream and resuscitate the reputation as a **decent** citizen, son, brother, father, and grandfather....all have been tarnished. Petitioner maintained close connection with 7 fellow Guyanese friends who all served the US military during the same era, and nicknamed ourselves as the GUMBAs. (Guyana United Military Buddies Association); only Petitioner with a criminal record; all with Honorable Discharges. Petitioner served 3 branches of the US Army with 3 Honorable Discharges: one from the regular Army, one from the Reserves, and the other from the National Guard. So, to the reviewing staff of this Court, please find it in your heart to GRANT relief. Respectfully submitted,

Appendix

15 Exhibits were submitted with previous filings. See next page for a description.

Certificate of Service

Petitioner hereby certifies that a true and exact copy of the pleading was mailed via USPS, all postage pre-paid, to Patrick Morrissey (AG), counsel for the Respondents, on this day, June 16th, 2022.

Respectfully submitted,

