

22-5438

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ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Winfred Scott Simpson — PETITIONER
(Your Name)

vs.

N.C. Dept. of Public Safety — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Winfred Scott Simpson
(Your Name)

P.O. Box 728 (Warren Correctional)
(Address)

Norlina, NC 27563
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- I. Violation of Petitioner's 5th, 6th, and 14th Amendment rights of due process and the right to present an effective defense regarding suppressed evidence that contributed to Petitioner's fearful state of mind during the attack on him.
- II. Violation of Petitioner's 5th, 6th and 14th Amendment rights under the Jenck's Act, Compulsory Process, and Petitioner's right to present an effective defense regarding suppressed evidence of a recorded conversation.
- III. A violation of Petitioner's 5th, 6th, and 14th Amendment rights to present an effective defense in regard to suppresses evidence of an email showing the deceased's state of mind on and around the time of attacking the Petitioner.
- IV. A 4th and 14th Amendment violation in regard to Petitioner being unlawfully detained in custody away from his residence while a search warrant was sought and his residence searched.
- V. A violation of Petitioner's 5th, 6th, And 14th Amendment rights in regard to evidence of an unlawful interrogation that violated Petitioner's Miranda and due process rights.
- VI. A violation of Petitioner's 5th and 14th Amendment rights regarding a violation of due process where elements of the charge were never proved because self-defense was never disproved.
- VII. Violation of Petitioner's right to effective assistance of counsel.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

- 1) Jury Trial: State of N.C. v. Winfred Scott Simpson, No. 10CRS72489, District Court of Guilford County. Judgment entered Jan. 3, 2013.
- 2) Direct Appeal: State of N.C. v. Winfred Scott Simpson, No. 10CRS72489, N.C. Court of Appeals. Judgment entered May 20, 2014.
- 3) Direct Appeal: State of N.C. v. Winfred Scott Simpson, No. 10CRS72489, Supreme Court of N.C. Judgment entered Aug. 19, 2014.
- 4) State Collateral Appeal (MAR): State of N.C. v. Winfred Scott Simpson, No. 10CRS72489, Supreme Court of N.C. Judgment entered Dec. 20, 2019.
- 5) State of N.C. Certiorari: State of N.C. v. Winfred Scott Simpson, No. 10CRS72489, Supreme Court of N.C. Judgment entered June 3, 2020.
- 6) U.S. Magistrate Denial of Habeus: Winfred Scott Simpson v. N.C. Dept. of Public Safety, No. 1:20-CV-01110, U.S. District Court for the Middle District of N.C. Judgment entered July 12, 2021.
- 7) U.S. District Court Denial of Habeus: Winfred Scott Simpson v. N.C. Dept. of Public Safety, No. 1:20-CV-01110, U.S. District Court for the Middle District of N.C. Judgment entered Aug. 5, 2021.
- 8) U.S. Court of Appeals Denial of Habeus: Winfred Scott Simpson v. N.C. Dept. of Public Safety, No. 21-7413 (1:20-CV-01110-CCE-JLW), U.S. Court of Appeals for the Fourth District. Judgment entered Feb. 23, 2022.
- 9) U.S. Court of Appeals Denial of Rehearing: Winfred Scott Simpson v. N.C. Dept. of Public Safety, No. 21-7413 (1:20-CV-01110-CCE-JLW), U.S. Court of Appeals for the Fourth District. Judgment entered Mar. 28, 2022.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

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

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was Feb. 23, 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: Mar. 23, 2022, and a copy of the order denying rehearing appears at Appendix D.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including September 21, 2022 (date) on July 21, 2022 (date) in Application No. USAIP4 21-7413

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 June 3, 2020. A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Issues at Question

- I. A violation of Petitioner's 5th, 6th, and 14th Amendment rights of due process and the right to present an effective defense regarding suppressed evidence that contributed to Petitioner's fearful state of mind during the attack on him.

Statement of the Case

At trial Scott Simpson testified that he acted in self-defense to defend himself against Retha Simpson's attack and in doing so Retha accidentally died. It was shown at trial that Retha's attack was motivated by her mental illness and the fact that she had gone off her mental health medication without the permission of her mental health care giver. To convince the jury that Scott acted under reasonable apprehension of impending death or serious bodily injury, the defense attempted to introduce evidence of Retha's three prior convictions for assault and battery in the form of her criminal record.

The State objected to the evidence and the Court suppressed the evidence under R. Evid. Rule 403 that under the balancing test, the consideration of time outweighed the probative value, and "not needing to go there." (Trial T. pp. 766-67). The State requested no pretrial motion to suppress the evidence,

This evidence was offered as physical corroborative evidence to support Scott's testimony that he knew of Retha's violent past and it affected his state of mind during Retha's attack putting him in fear for his life. This was defense's key piece of evidence,

Law: Constitutional and Statutory Provisions Involved and Discussion

The U.S. Supreme Court and all 12 Circuit Courts unanimously agree that parties failing to motion to suppress evidence pretrial, waives its right, Fed. R. Crim. P. Rule 12(e); U.S. v. Wilkerson, 84 F.3d 692, 644 (4th Cir. 1996); U.S. v. Wilson, 115 F.3d 1185, 1190 (4th Cir. 1997).

Error occurs when suppressed evidence, known to the court affects a party's substantial rights, Fed. R. Evid. Rule 103(a)(2).

Under Holmes v. S.C., 547 U.S. 319, 324 (2006), the State is not entitled to limit evidence a defendant presents. A court's suppression of competent, reliable evidence violates defendant's right to present a defense, when the evidence is central to defendant's defense, Crane v. Ky., 476 U.S. 683, 690-91 (1986).

Prosecution's suppression of exculpatory evidence violates due process when evidence is material to innocence, Brady v. Md., 373 U.S. 83, 87 (1963); Cone v. Bell, 556 U.S. 449, 469 (2009); Kyles v. Whitley, 514 U.S. 419, 453 (1995).

The Court stresses that the Brady requirement for the government to disclose exculpatory evidence relative to a defendant's defense, also applies to evidence the government suppressed during trial. Dist. Attny's Office v. Osbourne, 557 U.S. 52, 68-70 (2009).

Under Bagley v. U.S., 473 U.S. 682, 685 (1985), if reasonable probability exists that suppressed evidence would change even one juror's assessment of the case and thus trial outcome, then the evidence is "material" and requires conviction reversal. See also Cone, 556 U.S. at 452, 469-70; Kyles, 514 U.S. at 434-35.

Under Fed. R. Evid. Rule 403, all relevant evidence can be

introduced as long as: (1) the probative value outweighs prejudice; and (2) it does not confuse the issue, mislead the jury, waste time, or present needless cumulative evidence. Rule 403 is abridged when a ruling infringes upon the accused's weighted interest and is arbitrary or disproportionate to its purpose. Holmes, 547 U.S. at 319.

When defense presents clear and unconvincing exculpatory evidence, then the state court's presumption of correctness is overcome. Winston v. Pearson, 683 F.3d 489, 506 (4th Cir. 2012).

A defendant presenting evidence showing he acted in self-defense may introduce evidence of the alleged victim's character to show defendant's reasonable apprehension of fear, and in showing the victim was the aggressor. Fed. R. Evid. Rule 404. Proof of specific instances of conduct are admissible when trait of character of the victim is an essential element of defense. Fed. R. Evid. Rule 405(b).

Evidence of alleged victim's violent acts, known to defendant is admissible and not limited to a particular form. It includes evidence of alleged victim's reputation, threats against the defendant, and evidence known to defendant that he personally experienced. Fed. R. Evid. Rule 404.

The Court preventing the jury from seeing such a key piece of evidence prevented the jury from being put in Scott's place and understanding his fear of death and his state of mind during the attack because Scott knew of Retha's criminal record and she had used it in the past as a threat to manipulate Scott. The defense was weakened, prejudice resulted, and a wrongful conviction

occurred.

- II. A violation of Petitioner's 5th, 6th, and 14th Amendment rights under the Jencks Act and the Compulsory Process, as well as violating his right to present an effective defense regarding suppressed evidence of a recorded conversation.

Statement of the Case

While investigating Retha Simpson's death, Det. George Moore called a telephone number registered to Anna Walton. Ms. Walton acknowledged her identity, and stated that days earlier Retha had commented to her about planning to kill Scott during his upcoming vacation. The detective recorded the conversation. (See Defense Trial Exhibit 34).

At trial, during cross-examination, Det. Moore was asked about the conversation. He replied that he would need to hear the recording to refresh his memory. (Trial T. pp. 868-69). The State objected to the evidence as hearsay. The Court sustained the objection and suppressed the evidence. The State made no pretrial motions to suppress the evidence in violation of Fed. R. Crim. P. Rule 12(e). Ms. Walton moved and was unavailable for court. Ms. Walton's recorded statements count as a deposition.

Law, Constitutional and Statutory Provisions Involved and Discussion

Witness statement is admissible as a hearsay rule exception if it is offered against a party and it is the witness' own individual statement, and the witness believes in its truth. Fed. R. Evid. Rule (84(d))

A record concerning matters a witness once had knowledge of, but now has insufficient recollection to testify fully and accurately is admissible as a hearsay exception, Fed. R. Evid. Rule 805(5).

Records, reports, and statements, in any form, of public offices or agencies setting forth: (1) the officer's or agency's activities, (2) matters pursuant to reporting duty, and (3) against the State in criminal cases, the factual findings resulting from an investigation, is admissible as hearsay exceptions, Fed. R. Evid. Rule 803(8).

If declarant is unavailable, then a statement is a hearsay exception if the court determines that the statement: (1) is materially factual evidence, and (2) is more probative on the point for which it is offered than any other evidence which the proponent can procure. Fed. R. Evid. Rule 804(b)(5).

Authentication of evidence as a condition precedent to admissibility in court is automatically satisfied with respect to: (1) telephone conversations made to a number assigned to a particular person who self-identifies himself as the one being called, or (2) evidence that was a public record, report, or statement filed in a public office. Fed. R. Evid. Rule 901(b)(6) and (7).

Under 18 U.S.C. 3500 and Fed. R. Crim. P. Rule 26.2(a), which incorporates the Jencks Act, after a government witness testifies on direct examination, the defendant may present into evidence the witness' pretrial statements if the statements are in the government's possession and relate to the subject matter of the witness testimony.

Under Chambers v. Miss., 410 U.S. 284, 294 (1973), a state cannot apply otherwise valid procedural rules that violates the Compulsory

Process rights. Also when "constitutional rights directly affecting the ascertainment of guilt are implicated, the hearsay rule may not be applied mechanistically to defeat the ends of justice. Id. at 302.

The evidence is clearly a hearsay exception under four different Rules of Evidence. It is testimony by a witness gathered from official questioning by law enforcement in the performance of their investigation. Identity of the speaker is satisfied because the detective called a number registered to the witness and she acknowledged her identity. Scott had the right to admit this evidence as a deposition because the witness was unavailable for trial, and the witness was questioned by a government agent which satisfies the Compulsory Process for the State.

III. A violation of Petitioner's 5th, 6th, and 14th Amendment rights to present an effective defense in regard to suppressed evidence of an email showing the deceased's delusional state of mind on and around the time of attacking the Petitioner.

Statement of the Case

Shortly before her death, Retha Simpson emailed Phil Roesel, telling him that she had quit school because she was terminally ill. At trial the defense attempted to admit the email as evidence of Retha's mental state on and about the time of her attack on Scott because, in fact, Retha was not dying and had no reason to think she was. The prosecution objected to the evidence and the Court suppressed it on the grounds of hearsay. The State made no pretrial motion to suppress the evidence,

Law: Constitutional and Statutory Provisions Involved and Discussion

In Doe v. U.S., 478 U.S. 201, 210 n.9 (1988), the Court defined that a "testimonial communication" relates a factual assertion or discloses information that expresses the contents of an individual's mind. The Court has held that emails constitute testimonial statements.

A statement may be offered as a hearsay exception if it is evidence of a material fact that is more probative on the point for which it is offered than any other evidence, and its admission is in the interests of justice. Fed. R. Evid. Rule 803(24).

A statement for the purpose of medical diagnosis is admissible as a hearsay exception. Fed. R. Evid. Rule 802(4) and 803(4).

A statement made by a declarant while believing his death to be imminent, concerning the cause or circumstances of what they believe to be their impending death is admissible as hearsay exceptions, Fed. R. Evid. Rule 804(b)(2); Mich. v. Bryant, U.S. Sup. Ct. (2011).

Evidence of Rettha's delusional idea of imminent death from a terminal illness is a hearsay exception and goes towards making a mental health diagnosis of her unstable state of mind on and about the time of attacking Scott.

IV. A 4th and 14th Amendment violation in regard to Petitioner being unlawfully detained in custody away from his residence while a search warrant was sought and his residence searched.

Statement of the Case

On March 24, 2010, two detectives removed Scott from his residence and brought him to the Sheriff's station for an interrogation

of about three hours. He was not read his Miranda rights before being removed from his home, he was not allowed to drive himself, he was not allowed to stay in his home alone, and he was not told of any charges or evidence against him before being removed from his home. Scott submitted to the influence of law enforcement and assumed he was in legal custody. During the time away from his home, law enforcement got a search warrant and searched Scott's home while he was away. Scott was not arrested at the end of the interrogation, but he was never allowed entry back into his home. Evidence of the interrogation was shown to the jury.

Law; Constitutional and Statutory Provisions Involved and Discussion

Under Bumper v. U.S., 391 U.S. 548-49 (1968), consent is not voluntary when submitting to the color of lawful authority.

Under Bailey v. U.S., 568 U.S. 186 (2013), factors to consider in the legality of a suspect held incident to a search warrant are: (1) occupant's vicinity to his premise being searched while being held, (2) occupant's line of sight of his dwelling while being held, and (3) ease of reentry from occupant's location. See also U.S. v. Watson, 703 F.3d 684, 689-90 (4th Cir. 2013).

Police seizure occurs when defendant is not allowed in his residence without police, while a search warrant is obtained, Ill. v. McArthur, 531 U.S. 326, 331-33 (2001).

To determine whether a suspect's actions are coerced and thus involuntary, the Court considers: (1) suspect's location after being seized; (2) whether suspect was located in a government building, (3) whether suspect could leave without assistance, and (4) whether

the suspect initiated contact with law enforcement. Miranda v. Az, 384 U.S. 436, 457-58 (1966).

The totality of the circumstances must be observed: (1) the officers unlawfully seized Scott, (2) the officers initiated the contact, (3) the officers would not allow Scott to remain at home alone, (4) they would not let Scott drive his own vehicle, (5) they drove him 20-30 mins. in a Sheriff's car to a secured government building, where Scott required the detective's assistance to leave the building and return home, (6) multiple detectives questioned Scott for about three hours, (7) Scott was not given his Miranda rights at his home, (8) Scott was kept in a small cell-like room with the door closed, (9) Scott was never told he could leave or end the interrogation at any time, (10) officers never informed Scott of any evidence or possible charges against him at his home, (11) there was no temporal separation between the warranted search and the unlawful custody - they occurred simultaneously, and (12) the officers applied verbal force and psychological plays when they yelled at Scott, called him names like "stupid" (Scott is autistic), and lied about evidence they did not have such as DNA results and blood splatter. Because Scott admitted to lying during the interrogation in his Harbison Declaration, no probative value existed in admitting the evidence of the interrogation. Scott never confessed to killing or hurting Retha,

V. A violation of Petitioner's 5th, 6th, and 14th Amendment rights in regard to evidence of an interrogation that violated his Miranda and due process rights.

Statement of the Case

On March 24, 2010, detectives took Scott into unlawful custody and interrogated him. At the end of the interrogation, Scott requested counsel. Scott was not arrested, but was not allowed to return home, so he went to a hotel, the Dairy Inn. The next day in a state of severe depression, Scott attempted suicide by overdosing on sedatives. An ambulance was called and arrived at the hotel. Also Det. Robert Cheek arrived. Det. Cheek was present the previous day when Scott requested counsel, but while the paramedic attempted to save Scott's life, Det. Cheek seized the opportunity to initiate another interrogation while Scott was in a weakened state.

Defense attempted pretrial and at trial to suppress the recording of the interrogation as a Miranda violation. The Court allowed it to be played for the jury under the justification that Scott had responded to a couple of questions. Scott never admitted to hurting or killing Retha. There was no probative value in the evidence.

Law: Constitutional and Statutory Provisions Involved and Discussion

Under Withrow v. Williams, 507 U.S. 680, 688-93 (1993), violations of Miranda rights are a due process violation. A suspect's waiver of Miranda must be clear and unequivocal for him to proceed without counsel. U.S. v. Bernard, 708 F.3d 583, 588 (4th Cir. 2013).

It is a Sixth Amendment violation when police conspire to record a defendant's conversation when he has been denied counsel.

Maine v. Moulton, 474 U.S. 169 (1985).

If police initiate an interrogation after defendant requested

counsel and counsel is not present, then it is an "impermissible interrogation," U.S. v. Johnson, 400 F.3d 187, 197 (4th Cir. 2005).

When Miranda rights are invoked and the defendant makes a statement, this showing alone is insufficient to demonstrate a waiver of Miranda. Bergquist v. Thompkins, 560 U.S. 370 (2010).

A coerced interrogation produced this evidence making it inadmissible. Scott's right to counsel is such a fundamental component of our judicial system that its violation can never be harmless. The totality of the circumstances must be observed: (1) Scott attempted suicide and was in a distraught state, (2) he was under the influence of sedatives, (3) he was under the care of a paramedic, (4) Scott's right to counsel attached the previous day in the presence of Det. Cheek, (5) the officer instigated the interrogation - not Scott, (6) Scott never verbally waived his Miranda rights - you can not hear it on the recording, and (7) the Court never validated that Scott verbally waived his Miranda rights.

IV. A violation of Petitioner's 5th and 14th Amendment rights regarding a violation of due process where the elements of the charge were never proved because self-defense was never disproved.

Statement of the Case

Scott testified that he acted in self-defense against Retha's attack, and she died accidentally as a result. The defense offered evidence and testimony in support of self-defense. The State offered no alternative evidence disproving self-defense or any alternative scenario explaining how, where, when, or why Retha

died. Murder cannot exist when self-defense has not been disproved.

Law: Constitutional and Statutory Provisions Involved and Discussion

Under Patterson v. N.Y., 432 U.S. 197, 206, 214-15 (1977), the prosecution has the burden of proving each statutory element of the charge, and the burden of an affirmative defense lies on the defendant. However, once defendant meets the burden of showing self-defense, the State bears the burden of negating that defense beyond a reasonable doubt.

Under Mullaney v. Wilbur, 421 U.S. 684, 702 n. 28 (1975), once a defendant's burden of an affirmative defense is met, it negates the essential element of malice in first and second degree murder because lack of self-defense is an essential element of murder and manslaughter. See also Guthrie v. Warden, Md. Penitentiary, 683 F.2d 820, 824-25 (4th Cir. 1982).

Under Sandstrom v. Mont., 442 U.S. 510, 524 (1979), the burden of proof of showing defendant's state of mind of intent lies on the State. See also Francis v. Franklin, 471 U.S. 307, 325 (1985).

Testimony of a psychologist and a psychiatrist, who examined Scott, as well as further character testimony from other witnesses confirmed Scott's peaceful, submissive, and passive nature. Scott has no history of violence or other criminal acts, whereas Retha has a proven history of violence and other criminal acts. They also discovered the facts that Scott has Aspergers Disorder and was subsequently abused by Retha, physically, mentally, emotionally, financially, and sexually. Retha had anally raped Scott. Most states extend self-defense to victims of battered

spouse syndrome like Scott. These states authorize judges and juries to find that the abused spouse acted in self-defense when their spouse's history of violent abuse puts the defendant in fear of death or serious bodily harm, especially when expert psychological testimony shows the abuse affected defendant's actions.

Based both on history and personality traits of both individuals, it is far more likely that Retha provoked the quarrel and the attack, than the theory that Scott randomly woke one morning, right before being expected at work, and without cause, formed a cool state of mind required for first-degree murder.

VII. Violation of Petitioner's right to effective assistance of counsel,

Statement of the Case

Before Scott's trial his attorney failed to inform Scott of the option of a change of venue because Scott's case received a lot of publicity in the media which prejudiced his jury. At trial, Scott's attorney failed to know the hearsay exception rules which would have allowed two pieces of suppressed evidence to be admitted. Counsel failed to find a key defense witness to subpoena for trial and failed to get an expert in battered spouse syndrome that was promised.

Scott's direct appeal attorney failed to address the unlawful seizure and suppressed hearsay evidence, and chose to pursue non-constitutional issues over constitutional ones, even after being told that the non-constitutional issue had already been decided in the state Court of Appeals.

Law: Constitutional and Statutory Provisions Involved and Discussion

In deciding whether counsel's performance was ineffective, a court must consider the totality of the circumstances. The court must determine whether the act or omissions were outside the range of competent assistance, Strickland v. Wash., 466 U.S. 690 (1984). Presumption of prejudice exists when cumulative errors of counsel are so great that individual error tests are unnecessary. Id. at 687.

The Supreme Court held that the burden of proving the trial would have had a different outcome if not for counsel error does not lie on the defendant, Strickland, 466 U.S. at 693; See also Woodford v. Visciotti, 537 U.S. 19, 22 (2002).

The Court examines the length of defendant's sentence and what it would have been without counsel's errors, and whether the errors were so great as to create a miscarriage of justice, Williams v. Taylor, 529 U.S. 393 (2000); Glover v. U.S., 531 U.S. 198, 202-04 (2001).

Counsel's failure to object to 4th Amendment violation evidence is ineffective assistance. Kimmelman v. Morrison, 477 U.S. 365, 382-83 (1996).

A perfunctory attempt at finding a defense witness is ineffective assistance. Sullivan v. Fairman, 819 F.2d 1382 (CA 7 1987).

If counsel fails to present promised testimony because a witness was not subpoenaed, ineffective counsel occurs. Duber v. Guarino, 293 F.3d 19, 35-36 (1st Cir. 2002); Goodman v. Bertrand, 467 F.3d 1622, 1623-31 (7th Cir. 2006).

Counsel's failure to raise arguable issues on appeal is ineffective

assistance. Carter v. Bowers, 265 F.3d 705, 715-16 (8th Cir, 2006); Delgado v. Lewis, 223 F.3d 976, 980-82 (9th Cir, 2000).

Counsel's failure to request change of venue when actual or potential jurors are exposed to publicity is ineffective assistance. Cornell v. Kirkpatrick, 665 F.3d 369, 379-80 (2d Cir, 2011). Harmless error review is unnecessary when defendant is denied fair trial due to hostile venue. Wood v. Dugger, 923 F.2d 1454, 1460 (11th Cir, 1991).

The effect of the counsel's errors both individually and cumulatively prejudiced Scott's trial and appeal and without those errors the trial's outcome would have been different.

Conclusion

All of these issues in Scott's Habeas Corpus are clear constitutional violations. The decisions made by the trial court to suppress relevant evidence, to not recognize a Miranda violation, and to allow a murder conviction where self-defense was never disproved is a clear conflict with current federal law established by the U.S. Supreme Court. All lower courts of review have dismissed Scott's appeals without presenting any law, rule, or precedent to back-up their decisions. It is impossible to defend an appeal or improve on it when you are never given reason for its denial.

Not reading Scott's Habeas would be a travesty. Sentencing a man to life in prison for a crime he did not commit. All Scott asks for is a fair review of the constitutional errors presented in his Habeas on the federal level, and to be given reason for its denial beyond "Too Late." The AEDPA deadline is

unconstitutional. Innocence should never have a deadline,

Since Scott's trial a North Carolina statute, "Concealment of Death," (N.C.G.S. 14-401.22) has been altered to meet the actions that Scott made after his wife died. This updated statute covers all the relevant evidence the State used to convict Scott. Had this statute been available in its current form at the time of Scott's trial, he would have either offered a plea bargain for the charge or had it been an option for his jury, he would have been found guilty of it instead of murder. The new statute covers all of Scott's illegal actions from after Retha's death, which he pled guilty to in his Harbison Declaration before his trial. If the murder conviction is reversed Scott would like to plead guilty to this ex post facto law in return for no further pursuit by the state of N.C. for criminal homicide. Scott has never claimed absolute innocence in his actions from after Retha's death. He simply wants to be punished for the crime he committed, not the one he did not, so he can be released to help his elderly mother who has been alone since Scott's father died four years ago. Scott has served over 12 years incarceration. Had he been found guilty of "Concealment of Death" instead of murder, he would have most likely received a 9-12 year sentence. It is time for Scott to go home and try to rebuild his life into being an honest, productive member of society like he was before his wife died.

Respectfully submitted,

W. Scott Impson
6/10/22

Reason for Granting the Petition

To the Honorable Judges of the United States Supreme Court, Winfred Scott Simpson, Petitioner pro se, respectfully petitions the Court to issue its writ of certiorari to review the decisions of the U.S. Court of Appeals and the U.S. District Court denying Petitioner's Habeas Corpus. In support of this petition Petitioner shows the following:

Petitioner is incarcerated in the N.C. Dept. of Public Safety, Division of Adult Corrections, under active sentence for 1st Degree Murder with a sentence of life without parole, which Petitioner seeks to challenge.

Petitioner was tried and convicted on January 3, 2013. Petitioner offered a plea of not guilty on the grounds of self-defense and accidental death.

Petitioner has been denied relief from the State of N.C. and has exhausted all state appeals.

U.S. District Court and the U.S. Court of Appeals have denied Petitioner's Habeas Corpus on the grounds of not meeting the one-year AEDPA deadline for filing, which Petitioner was unaware of and would have been unable to make due to lack of a legal library not being offered by the State, and the State not offering competent legal assistance by a professional. N.C. Prison Legal Services (PLS) is technically assigned to help inmates, but their performance is poor and perfunctory due to budget cuts by the state. PLS failed to competently review Petitioner's case and refused to offer any help or answer any legal questions. (Examples of this have been previously offered.)

On March 28, 2022, the U.S. Court of Appeals denied Petitioner's petition for rehearing and rehearing en banc. Petitioner is a layman at law, is unable to retain counsel, and the Court failed to appoint counsel.

Petitioner contends that the denial of his Habeas Corpus is erroneous due to multiple Constitutional errors made during Petitioner's trial and that he is entitled to the relief sought for the stated reasons in his Habeas.