

22-7518

No. _____

FILED

FEB 23 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

In Re Carlos A. Seino — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

Carlos A. Seino
(Your Name)

500 Colony Road - P.O. Box 466
(Address)

Gardner, Massachusetts, 01440
(City, State, Zip Code)

(Phone Number)

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:

Carlos A. Seino v. Massachusetts

RELATED CASES

Commonwealth v. Carlos A. Seino, Commonwealth of Massachusetts
Supreme Judicial Court No. SJC-10726. Judgment entered May 8, 2018.

Seino v. Ladouceur, Civil Action No. 19-40101-TSH, U.S. District Court,
District of Massachusetts. Judgment entered September 19, 2022.

Seino v. Divris, No. 22-1779, U.S. Court of Appeals for the First Circuit.
Judgment entered February 15, 2023.

| CASES | TABLE OF AUTHORITIES CITED CONT. | PAGE NUMBER |
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| 10.. Strickland v. Washington, 466 U.S. 668, 80 L.Ed. 2d 674, 104 S.Ct. 2052 (1984). | | 3 |
| 11.. U.S. v. Bagley, 473 U.S. 667, 676 (1985). | | 2 |
| 12.. U.S. v. Deters, 143 F.3d 577 (10 th Cir. 1998). | | 2 |
| 13.. U.S. v. Dierling, 131 F.3d 722 (8 th Cir. 1997). | | 2 |
| 14.. U.S. v. Ignasiak, 667 F.3d 1217, 1229-1233 (11 th Cir. 2012). | | 1 |
| 15.. U.S. v. Moore, 651 F.3d 30, 72-74 (D.C. Cir. 2011). | | 1 |
| 16.. U.S. v. Rodriguez, 675 F.3d 48, 62 (1 st Cir. 2012). | | 2 |

TABLE OF AUTHORITIES CITED

| CASES | PAGE NUMBER |
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| 1.. Brady v. Maryland, 373 U.S. 83, 87 (1963). | 2 |
| 2.. Bullcoming v. New Mexico, 564 U.S. 647, 655 (2011). | 1 |
| 3.. Conley v. U.S., 415 F.3d 183, 192 (1 st Cir. 2005). | 2 |
| 4.. Crawford v. Washington, 541 U.S. 36, 158 L.Ed. 2d 177, 124 S.Ct. 1354 (2004). | 1 |
| 5.. Franks v. Delaware, 438 U.S. 154 (1978). | 2 |
| 6.. Kimmelman v. Morrison, 477 U.S. 365 (1986). | 3 |
| 7.. Kyles v. Whitley, 514 U.S. 419 (1995). | 3 |
| 8.. Melendez-Diaz v. Massachusetts, 557 U.S. 305, 319-320, 129 S.Ct. 2527 (2009). | 1 |
| 9.. Powell v. Alabama, 287 U.S. 45, 57-58 (1932). | 3 |

STATUTES AND RULES

M.G.L. c. 265, §1 Murder

M.G.L. c. 265 §17 Armed Robbery

OTHER

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was January 9, 2023.

☐ 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: February 15, 2023, 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 _____ (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 May 8, 2018.
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).

The court imposed the statutory sentence of life without the possibility of parole on the first degree murder conviction, and a sentence of 5 to 7 years on the armed robbery conviction to be served concurrently with the life sentence. On June 27, 2008, the petitioner-appellant filed a timely Notice of Appeal as to both sentences. Petitioner-Appellant's appeal was docketed on May 19, 2010.

Statement of the Case & Rule 20.4(A) Statement

The statement required by Rule 20.4(a) addressing the reasons for not making an application to the district court of the district in which I'm being held is being addressed and respectfully explained here.

Answering to the reasons for not making an application to the district court of the district in which I'm being held, the answer is yes. I did file a petition for a Writ of Habeas Corpus in the District Court of Boston, MA, on July 24, 2019 (Appendix E). The Boston District Court then transferred my application/petition to the District Court of Worcester, MA (the district where I'm being held).

On September 17, 2019, the Worcester District Court ordered me to file a Memorandum of Law in support of the petition already filed. On October 30, 2019, I submitted the memorandum of law (Appendix E); and on January 14, 2020, I also submitted a reply in opposition to respondent's opposition (Appendix F), ordered by the Worcester District Court; the district court then assigned the case number (4:19-CV-40101-TSH).

In Appendix E, I added the original memorandum of law supporting

**STATEMENT OF THE CASE
& RULE 20.4(A) STATEMENT**

On August 2, 2002, the body of a gentleman, named Daniel DeCosta, was found deceased on the grounds of a public library in the city of Quincy, Massachusetts (Thomas Crane Public Library).

Petitioner-Appellant was interviewed by Quincy Police Department and by the Massachusetts State Police, answered truthfully all their questions and was allowed to leave after two hours of interrogation.

In May 22, 2006, petitioner-appellant was arrested at his residency. On October 5, 2006, petitioner-appellant was arraigned on the charges of Murder, in violation of M.G.L. c. 265, §1; and Armed Robbery, in violation of M.G.L. c. 265, §17. On June 9, 2008, petitioner-appellant's jury trial began (Chernoff Paul, J., presiding). Just after jury impanelment, with the jury excused, the court heard oral arguments as to multiple previously filed motions in limine, relative to the admissibility of multiple substitute or surrogate witnesses, whom the Commonwealth of Massachusetts wished them to testify to the DNA reports, data, medical examiner's reports, they did not authored. The Court allowed the Commonwealth of Massachusetts' motions over petitioner-appellant's objections. On June 16, 2008, at the conclusion of the Commonwealth of Massachusetts' case-in-chief, and again at the conclusion of all the evidence, petitioner-appellant filed and argued motions for a Required Finding of Not Guilty as to both counts, but the court denied said motions.

On June 19, 2008, the jury found petitioner-appellant, ① guilty of first degree murder on the theory of felony murder; ② not guilty of first degree on the theory of deliberate premeditation and ③ guilty of armed robbery. The Commonwealth of Massachusetts never proved their case nor the elements of the case.

Keenan at the Quincy Police Station while being interrogated; c) intentionally suppressed the actual appearance of the crime scene (that changed due to renovations); d) intentionally suppressed a video from a security surveillance camera at the crime scene, and instead, provided petitioner-appellant an obscured video; e) intentionally suppressed photographs taken, at the crime scene, of the deceased, Mr. Daniel De Costa, when discovered during the early hours of a bright and sunny day of August 3, 2002, and instead, introduced photographs "taken at night"; f) intentionally suppressed the contamination of the crime scene (handling body without gloves) and introducing the tainted/contaminated evidence to corruptively convict petitioner-appellant, which petitioner-appellant discovered several years after being convicted. *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *Franks v. Delaware*, 438 U.S. 154 (1978); *U.S. v. Rodriguez*, 675 F.3d 48, 62 (1st Cir. 2012); *U.S. v. Dierling*, 131 F.3d 722 (8th Cir. 1997); *U.S. v. Deters*, 143 F.3d 577 (10th Cir. 1998); *U.S. v. Bagley*, 473 U.S. 667, 676 (1985); *Conley v. U.S.*, 415 F.3d 183, 192 (1st Cir. 2005) and more not cited. See Appendixes A, B, C, D, E, F.

Petitioner-Appellant's **VI** Amendment Constitutional Right to Effective Counsel was violated due to the incompetent, inefficient and inattentive failures of trial counsel, that were harmful and prejudicial. Petitioner-Appellant asserts that his right to have effective constitutionally assistance of counsel was also violated, when trial counsel, after repeatedly asking the court for funds, for the attendance of the petitioner-appellant's DNA expert to an exhausting DNA testing, trial counsel declined the attendance of said expert to the exhausting testing, giving "carte blanche" to the Commonwealth of Massachusetts to do as they pleased, without a watchful eye protecting petitioner-appellant's constitutional right. Also, due to the complex and specialized nature of the evidence (DNA), trial counsel was obligated to use the experts retained, in the fields of DNA, such as, DNA testing, blood spatter and pathology (since the Commonwealth of

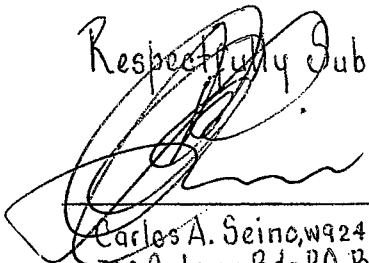
Massachusetts relied so heavily on DNA testimony) to a helpful defense in effectively cross-examine the Commonwealth of Massachusetts witnesses and also present defense expert testimony to challenge all the inconsistencies in the Commonwealth of Massachusetts's case; but trial counsel also declined to use these experts depriving petitioner-appellant of a viable defense and a fair trial. *Kyles v. Whitley*, 514 U.S. 419 (1995); *Kimmelman v. Morrison*, 477 U.S. 365 (1986); *Strickland v. Washington*, 466 U.S. 668, 80 L. Ed. 2d 674, 104 S.Ct. 2052 (1984). Also, the petitioner-appellant asserts that on May 23, 2006, he provided counsel with information as to all the places he visited the night of August 2, 2002, the names and phone numbers of the persons he encountered at all those places. This information was provided with the purpose of locating them for their testimony to confirm the petitioner-appellant's alibis at trial. But for trial counsel's careless inattention and inefficient professional standards, not a single witness was located, because it took trial counsel, over a year, to start to locate those favorable witnesses, violating the petitioner-appellant's constitutional right to effective counsel. *Powell v. Alabama*, 237 U.S. 45, 57-58 (1932) (Six Amendment guarantees effective counsel). Ineffective assistance of counsel occurs where trial counsel committed a "serious failure". A serious failure occurs where the ineffective assistance of counsel claim raises a constitutional issue, caused by "serious incompetency, inefficiency or inattention (as in this case), by trial counsel, falling measurable below that which might be expected from a fallible lawyer that likely deprived petitioner-appellant of an otherwise available and substantial ground for defense". When such errors results from tactical decisions of trial counsel, and if the errors were manifestly unreasonable, then, looking at the facts in this case, this Honorable Court should grant the petition. "Manifestly unreasonable" is defined as strategy and tactics which lawyers of ordinary training and skill in the criminal law would not consider competent. *Strickland v. Washington*, 466 U.S. 668 (1984), and cases cited. See

Appendixes A,B,C,D,E,F.

Petitioner-Appellant respectfully states to this Honorable Court that this petition is the only avenue available to present his meritorious constitutional issues, since there is no other avenue available to receive the relief and justice pursued for almost two decades.

Petitioner-Appellant also prays, that due to all the facts, evidence and arguments submitted to this Honorable Court; for the preservation and correct application of the Supreme Court laws; for the vast public interest, and for the premises and interest of justice, this Honorable Court should grant the petitioner-appellant's petition, overturn conviction and grant him a new trial.

Respectfully Submitted



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