

ORIGINAL

No. 22-7710

Supreme Court, U.S.  
FILED

FEB 09 2023

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IN THE  
SUPREME COURT OF THE UNITED STATES

Michael Walker — PETITIONER  
(Your Name)

vs.

Supt, Benner, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Courts of Appeals For the Third Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Michael Walker  
(Your Name)

P.O. Box 33028 301 institution Drive.  
(Address)

Bellefonte PA 16823  
(City, State, Zip Code)

N/A  
(Phone Number)

- 1) The SUPREME COURT Stated that the petitioner Must "Support his claims of constitutional error with new reliable Evidence."
- 2) ~~the~~ Petitioner, had submitted a untimely petition, of new reliable Evidence <sup>which</sup> should be excused only if petitioner makes a credible showing? See. Reeves v. Fayette SCI, 897 F.3d 154, 164 (3d Cir 2018).

Number  
(2)

## 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:

All parties

## RELATED CASES

Reeves v. Coleman, No. 3:14-cv-01500, U.S. District Court  
For The Middle District of PA.

Reeves v. Fayette SCI, 897 F.3d 154; 2018 U.S. APP. LEXIS  
20364 Vacated by Reeves v. SCI, 2018 U.S. APP. LEXIS 21600  
(3d Cir. PA, July 25, 2018)

Satterfield v. Dist. Atty Phila., 872 F.3d 152. (3d Cir. 2017)

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
	(3)
<u>Holland v. Florida</u> , 560 U.S. 631, 649 (2010), see also <u>McCaughin v. Perkins</u> , 569 U.S. 383, 392 398 (2013); (See also) <u>Reeves v. Fayette SCI</u> , 897 F.3d 154, 164 (3d Cir. 2018). / <u>Pabon v. Mahaney</u> , 654 F.3d 385, 392 (3rd Cir. 2011) / <u>Slack v. McDaniel</u> , 529 U.S. At 478) See also <u>Slack v. McDaniel</u> 529 U.S. 473, 484 (2000) See <u>Miller-El v. Cockrell</u> , 537 U.S. 322, 327 (2003)	

## STATUTES AND RULES

28 U.S.C. § 2254, 28 U.S.C. § 2244(d)(1)(2),  
28 U.S.C. § 2244(d)(1)(B)-(D), 28 U.S.C. § 2244(d)(1)(A), ("5 Id. At 392-93 ) Rule 60(b)(6)

## OTHER

Schlup, 513 U.S. at 324, 10 indeed, "the conviction of an innocent person is perhaps the most grievous mistake our judicial system can commit," and thus, the contours of the actual innocence gateway must be determined with consideration for correcting "such an affront to liberty."

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 ~~19-2832~~ to the petition and is 22-2693 <sup>(3rd Cir.) (No. 12)</sup> ~~Documents~~ <sup>(No. 12)</sup>  
[ reported at Doc. No. 12 / Doc. No. 14 ] ; 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 No. 12 to the petition and is  
[ reported at No. 22-2693 (3rd Cir.) (Doc. No. 12) <sup>(No. 14)</sup> ] ; 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 ~~19-2832~~ to the petition and is 19-2832 <sup>(No. 30)</sup> ~~Documents~~ <sup>(No. 30)</sup>  
[ reported at E. D. PA. Civ. No. 5-19-cv-02832 ; or, <sup>(No. 31)</sup>  
[  ] has been designated for publication but is not yet reported; or,  
[  ] is unpublished.

The opinion of the ~~Superior Court~~ <sup>E. D. PA. Civ. No. 5-19-cv-02832 (No. 26) (No. 28)</sup> court appears at Appendix ~~19-2832~~ to the petition and is ~~Documents~~ <sup>(No. 30) (No. 31)</sup>  
[ reported at No. 28 / No. 18 / P-7-16 / No. 19 / No. 24 ] ; 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 January 04, 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: 01/31/23, and a copy of the order denying rehearing appears at Appendix No.14.

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

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

28 U.S.C. § 2254, 28 U.S.C. § 2244(d)(1)-(2), 28 U.S.C. § 2244(d)(1)(B)-(D),

### For cases from **state courts**:

The date on which the highest state court decided my case was (No. 33/No.37). A copy of that decision appears at Appendix No.39.

A timely petition for rehearing was thereafter denied on the following date: 01/31/23, and a copy of the order denying rehearing appears at Appendix No.39. 01/31/23 PAGE 1 OF 1  
No.39

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

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

Discretionary Review was Denied on July 7, 2016

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Reeves v. Fayette, SCI, 897 F.3d 154, 164 (3d Cir. 2018)

Pabon v. Mahaney, 654 F.3d 385, 392 (3rd Cir. 2011)

Slack v. McDaniels, 529 U.S. 473, 478 (2000) See also Slack v. McDaniels 529 U.S. 473, 484 (2000) See Miller-El v. Cockrell, 537 U.S. 322, 327 (2003) McQuiggan v. Perkins, 569 U.S. 383, 392, 398 (2013)

28 U.S.C. § 2254, 28 U.S.C. § 2244 (d)

(1)-(2), 28 U.S.C. § 2244 (d)(1)(B)-(D),  
28 U.S.C. § 2244 (d)(1)(A), Rule 60(b) 6

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01/04/23 Denied Review

APPENDIX B <sup>DECISION</sup> OF State Trial COURT  
July 2, 2018 Denied Review

APPENDIX C Decision OF the U.S. District COURT  
(Doc. 30) indication of Date in (Doc NO. 31)

APPENDIX D (01/31/23 DOC NO. 39) (8-22-22)

APPENDIX E <sup>DECISION OF the U.S. District COURT</sup>  
(Dec. 18 P. 7-16) (Doc. 19) (Doc. 28) (NO. 30) (NO. 31)

APPENDIX F <sup>NEWLY DISCOVERED EVIDENCE FOR THE FOLLOWING</sup>  
<sup>REASON TO DETERMINE THE MERITS OF THE PETITION, IN ACCORDANCE TO (Doc. 28)</sup>  
Should be granted on the grounds of the merits

OF the claims, ~~the~~ petitioner, believes that he made a credible  
Showing although the Petition is untimely, An, the limitations period  
Should be Equitably tolled and Excused based ON Actual  
INNOCENCE.

## STATEMENT OF THE CASE

- 1) IN Effective assistance OF Trial counsel, Failure To call LPN, Susan E. Mechling to testify At Petitioner's pre-trial Hearing and At His trial, AS The introduction OF The medical Records violated Petitioner's Sixth Amendment OF Right To Confrontation.(Exhibit A.)
- 2) INEffective assistance OF trial counsel, INEffectiveness OF trial counsel, For providing ERRONEOUS Advice concerning Petitioner's Right to testify.
- 3) INEffectiveness OF Trial counsel Failure To challenge Simpskins' Credibility At Petitioner's trial, To Attack Simpskins ON his inconsistencies OF statements as impeachment Evidence.
- 4) INEffective assistance OF trial counsel who Refused To investigate And Present Evidence OF A Letter (Exhibit 85), written By the Co-Defendant Mark Ellis AND Furnished To His Son Brandon Simpskins.
- 5) INEffectiveness OF Trial counsel Failure To challenge The DNA Evidence (Exhibit 84) From mark Ellis Trial.
- 6) INEffectiveness OF Trial counsel Failed To Attack The credibility At Petitioner's Trial, impeachment Evidence OF Simpskins, AN Ellis, corroborated Statements OF testimony that they were to kill A second person, the Petitioner.
- 7) INEffective assistance OF Trial counsel an, PCRA Counsel Failing To Raise these issues ON Direct Appeal.
- 8) provided Constitutionally INEffective assistance OF Appellate Counsel by Refusing To Raise the court's plain ERROR, OF ENTERING AND ORDER OF Conviction without Subject - Matter Jurisdiction, IN Mr. Walker's Direct Appeal. 2254 Court, District Attorney John T. Adams of Berks County, U.S. COURT OF Appeals ORDERED to Determine the merits OF the claim,

## REASONS FOR GRANTING THE PETITION

See *PAbon v. MAHANOY*, 654 F.3d 385, 392 (3rd Cir 2011) (when a District Court Denies a habeas Petition on procedural grounds without reaching the merits of the underlying Constitutional claim, as here, a COA MAY issue only if the Petitioner shows that, (1) Jurists of Reason would find it Debatable whether the District correct was correct in its procedural ruling; and (2) Jurists of Reason would find it Debatable whether the Petition States a valid claim of the Denial of a Constitutional Right.) (citing *Slack v. McDaniel*, 529 U.S. At 478). See also *Slack v. McDaniel* 529 U.S. 473, 484 (2000) (Where the District Court has Denied Federal habeas Relief on the merits, a COA will not issue unless the Petitioner can Demonstrate that "reasonable Jurists would find the District Courts assessment of the Constitutional Debatable or wrong"). See *Miller-El v. Cockrell* 537 U.S. 322, 327 (2003) (citing *Slack v. McDaniel*, 529 U.S. At 484) (this standard can be satisfied where "jurists of reason could Disagree with the District Courts Resolution of his Constitutional claims OR that Jurists could conclude the issues presented are adequate to deserve encouragement to proceed further").

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Walker

Date: 5-08-23