

23-5049  
No. \_\_\_\_\_

RECEIVED

JUL 05 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

IN THE

SUPEREM COURT OF THE UNITED STATES

MARCUS O SINGLETON-PETITIONER

FILED

FEB 08 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

Vs.

SCOTT ECKSTEIN-RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

WISCONSIN WESTERN DISTRICT CIRTCUIT COURT

PETITION FOR WRIT OF CERTIORARI

MARCUS ORLANDO SINGLETON

GREEN BAY CORRECTIONAL INSTITUTION .PO BOX 19033

GREENBAY WI, 54307

RECEIVED

JUN 16 2023

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

## QUESTION(S) PRESENTED

1. Whether the Wisconsin courts failed to address the issue presented to them that the prosecutor vouch for their witnesses.
2. Whether the prosecutor vouch for their witnesses.

## LIST OF PARTIES

Scott Eckstein, warden respondent.  
Attorney general office, attorney for the respondent.

## RELATED CASE

State vs. singleton, no. 2011CF1543, Wisconsin Court of Appeals. Judgement entered March 25, 2014.

Singleton vs Smith, no. 15-cv-355-wmc, U.S. District Court for the Western District of Wisconsin. Judgement entered July 6 2017.

Singleton vs. Eckstein, no. 17-2528, U.S. Court of Appeals for the Seventh Circuit. Judgement entered November 29 2022.

## TABLE OF CONTENTS

OPINIONS BELOW.....	page 5
JURISDICTION.....	page 5
CONSTITUTION AND STATUORY PROVISIONS INVOLVED.....	page 4
STATEMENT OF THE CASE.....	page 6
REASON FOR GRANTING THE WRIT .....	page 7, 8, 9
CONCULSION.....	page 9

## INDEX TO APPENDICES

APPENDIX A: United States Court of Appeals unpublished decision.

APPENDIX B: Wisconsin district court published decision. As petition do not have a copy the petition respectfully ask the court to look a Marcus O Singleton vs. Scott Eckstein (2017)

## TABLE OF AUTHORTIES CITED

### Case

Anthony v. Louisiana, 598 U.S. 143 S.Ct. 29, 214 L. Ed. (2022) at 3 (D)

Beer V. United States, 564 U.S. 1050, 131 S. Ct. 2865 L. Ed. 2d. 909 (2011)

Berger, 295 U.S., at 88, 55 S. Ct. 6919.

Binrashed, 502 F. 3d at 673;

Clisby v. Jones, 960 F. 2d. 925, 936 (11<sup>th</sup> Cir 1992)

Durgac v. Gonzales, 430 F. 3d. 849, 851-52 (7<sup>th</sup> Cir. 2005)

Truehill V. Florida, 138 S. Ct. 3 (2017),

Hall V. United States, 419 F. 2d. 582 583- 584 (C.A.5 1969).

Hengan v. INS, 79 F. 3d 60 63 (7<sup>th</sup> Cir 1996)

United States v. Dinitz, 420 U.S. 600, 612, 96 S Ct. 1075, 1082, 47 L. Ed. 2d. 269 (1976)

United States v. Schmitz, 717 F. 3d. 536, approx. 9 (7<sup>th</sup> Cir 2013)

United States young, 470 U.S 1, 18 105 S. Ct. 1038, 84 L. Ed. 2d. 1 (1985)

United States v. Vidal, 705 F. 3d. 742, 744-45 (7<sup>th</sup> Cir 2013)

### STATUTES AND RULES

28 U. S. C. § 2254

28 U.S.C. §1254(1)

IN THE  
SUPMERE COURT OF THE UNITED STATES  
PETITON FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

The opinion of the United State court of appeals appears at appendix A to the petition and is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is reported at Marcus o Singleton vs. Eckstein (2017).

JURISDICTION

For case form federal courts:

The date on which the United States Court of Appeals decided my case was no petition for rehearing was timely filed in my case.

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

CONSTITUTIONAL AND STATUTORY POVISIONS INVOLED  
DUE PROCESS

STATEMENT OF THE CASE

The petitioner presented three issue for the Wisconsin western district court to address under 28 U. S. C. § 2254. They were (1) whether the prosecutor misconduct created unfair trial. (2) Ineffective of assistance counsel for not objecting to that misconduct. (3) Insufficient evidence due to inconsistencies statement.

The court address several issue of prosecutor misconduct presented to them. However, they did not address prosecutor closing statement as it portent to vouching for it witness. This petitioner is a request that this court send back this issue to the court to address.

PROSECUTOR COMMENTS:

Closing arguments: "why would they like make no since, they would have to be awarded winning actor to lie to embellish, to make u this story".

## REASON FOR GRANTING THE PETITION

In Untied State vs young, 470 U.S 1, 18 105 S. Ct. 1038, 84 L. Ed. 2d. 1 (1985), The court in young identified at least “two danger” to help determine whether misconduct rise to the level of a due process violation. (1) A prosecutor may convey to the jury the impression that the prosecutor is aware of information, unknown to the jury that suggests the defendant’s guilt. Ibid. (2) the prosecutor’s opinion may carry with it the imprimatur of the government and may induce the jury to trust the government’s judgment rather than its own view of the evidence. When these dangers arise, they implicate due process because they “jeopardize the defendant right to be tried solely of the basis of the evidence presented to the jury

Prosecutor comments about “award winning actors” is clearly the prosecutor opinion and suggest his witness could never lie.

This assertions of personal knowledge of the prosecutor knowing that, his witness are not award winning actor and must be telling the truth, is what the courts in Anthony v. Louisiana, 598 U.S. 143 S.Ct. 29, 214 L. Ed. (2022) at 3 (D).

This court held: our criminal justice system hold prosecutor to a high standard. “The prosecutor is the representative not of an ordinary party to a controversy, but of a sovereignty.” Berger, 295 U.S., at 88, 55 S. Ct. 6919.

From that special ‘improper suggestions, insinuations, and especially, assertions of personal knowledge are apt to carry much weight against the accused when

they should properly carry none.” Ibid. It is inescapable truth that the “power of the government tend to impart an implicit stamp of believability to what the prosecutor says.” Hall V. United States, 419 F. 2d. 582 583- 584 (C.A.5 1969). The Wisconsin District Court failed to address this issue, leaving a mitigating merit unaddressed.

In Truehill V. Florida, 138 S. Ct. 3 (2017), court held:

This court has in the past hesitated to vacate and remand a case when a court has failed to address an important question that was raised. Beer V. United States, 564 U.S. 1050, 131 S. Ct. 2865 L. Ed. 2d. 909 (2011). (Remanding for consideration of unaddressed preclusion claim).

Also the court in U.S. V. Schmitz held;

If, a defendant argument in mitigation has sufficient merit as to cause one to wonder in the absence of an explanation, why the court rejected it then the court must address it explicitly. See Patrick 707 F. 3d. At 819. Also United States V. Vidal, 705 F. 3d. 742, 744 (7<sup>th</sup> Cir. 2013)

By failing to address this closing comment the may have violated Clisby V. Jones, 960 F 2d. 925,936 (11<sup>th</sup> Cir. 1992) (by failing to address McMillan’s claim that his trial counsel was ineffective for failing to object to hearsay testimony by the victim’s cousin “Vickie”).

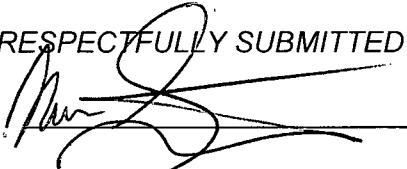
The U.S. CA. Constitution Amendment 6, and U.S.C.A. § 2254. Makes districts courts denial of Habeas Corpus relief, while failing to address issue of merit requires appellate court to vacate and remand for consideration those claims.

The seventh circuit court of appeals did not remand to the District Court as they did in Hengan V. INS, 79 F. 3d. 60, 63 (7<sup>th</sup> Cir. 1996) where that court said, "We remand only to allow the IJ the first opportunity to pass judgment on the claims it previously ignored".

Petitioner only ask that the merit of his issue be address, and that this court do so.

#### IN CONCLUSION

The low court have failed to address meritable claims, and by failing to do so this court and the court of appeals, could not weight in on the full merit of the claim in the original habeas corpus brought to the courts. Petitioner humbly ask this court to remand for reconsideration of unaddressed preclusion claims.

RESPECTFULLY SUBMITTED  
  
MARCUS O SINGLETON

5-11-23

Inmate#57188