23-5300

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Sandro Ramos

Petitioner

v.

The State of Oklahoma and the Tenth Circuit Court of Appeals

Respondent

ON PETITION FOR A WRIT OF CERTIORARI

TO THE TENTH CIRCUIT COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI,
Pursuant to 28 U.S.C.A. § 1257 (a)

Sandro Ramos
Oklahoma State Reformatory G-1-222
1700 East. First Street
Granite, OK. 73547

THE PETITIONER PRESENTS THE FOLLOWING QUESTIONS

"The Petitioner respectfully asks"

1. **Concerning Exculpatory Evidence:** Should Mr. Ramos' convictions be set aside under Brady, withheld exculpatory evidence which led to the due process violation under the 14th Amendment and the illegal actions of the prosecution?

2. **Concerning Jury Misconduct:** Should Mr. Ramos' convictions be set aside under Title 22 O.S. § 952 Grounds for a New Trial if in an Evidentiary Hearing there are reliable witnesses and Sworn Affidavits to confirm the juror's misconduct and the 5th and 14th Amendments?

3. **Concerning Ineffective Assistance of Counsel:** Should Mr. Ramos' conviction be set aside due to the violation of the 6th Amendment due to Ineffective Assistance of Counsel and Prejudice for the excessive sentence.

PARTIES TO THE PROCEEDING AND LIST OF DIRECTLY RELATED PROCEEDINGS

- The Petitioner in this case is **Sandro Ramos, Pro se,** *I am not an attorney, but I am doing the best that I can to present these concerning questions to this Honorable Court in order to finally be heard and in hopes to have mine and many other innocent peoples convictions reversed.*
- The Respondent in this case is the State of Oklahoma and the 10th Circuit Court of Appeals.
- The proceeding(s) of this matter arise from a "*timely filed appeal to the Tenth Circuit Court of Appeals*" who has denied Certificate of Appealability.
- As this Certiorari is filed in Direct Collateral Review of his Post-Conviction Appeals, pursuant to *28 U.S.C.A. § 1257 (a).*

TABLE OF CONTENTS

OPINIONS BELOW

Appendix A. Certificate of Appealability denied by the Tenth Circuit on **April 13, 2023 in Case No. 22-7045.**

Appendix B. U.S. District Court for the Eastern District of Oklahoma, Opinion and Order denying Writ of Habeas Corpus by U.S. District Judge Ronald A. White, filed on **August 29, 2022. Case No. 6:19-CV-00112-RAW-KEW.**

Appendix C. Opinion Affirming Ramos' judgment and sentence. Ramos v. State, No. **F-2014-880, January 7, 2016 (unpublished)**

Appendix D. Order affirming denial from OCCA of application for post–conviction relief, Filed in Case No. **PC-2018-1230** on **Feb. 15, 2019.**

Appendix E. Order denying application for post-conviction relief filed in *Ramos v. State*, **CF-2013-165**, on **Oct. 15, 2018.**

Appendix F Detailed Description of Events (Explanation of the Facts).

Appendix G Constitutional and Statutory Provisions

Appendix H Exhibit List

TABLE OF AUTHORITIES

Supreme Court Cases

State Cases

Statutes

Oklahoma Constitution

United States Constitution

IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF CERTIORARI

"Introduction"

Sandro Ramos, [*an indigent, pro se, petitioner*], respectfully prays that a writ of certiorari issue to review the judgment below.

JURISDICTION

This Petition is timely filed Pursuant to *28 U.S.C.A. § 1257 (a), § 1254(1)* as the Certificate of Appealability was denied by the Tenth Circuit Court of Appeals on April 13, 2023 in Case No. 22-7045.

[SEE APPENDIX (F) FOR DETAILED EXPLANATION OF THE FACTS]

[SEE APPENDIX (G) FOR CONSTITUTIONAL AND STATUTORY PROVISIONS]

STATEMENT OF THE CASE

As mentioned in **Appendix F**, I would like to take this opportunity to tell this Honorable Court what is really going on with my case. There were many things that corrupted this case. Here are three of those things, One, a television series that influences the minds of young girls in a horrible way (Pretty Little Liars; which Ashley N. Mills, (referred to as ANM), and her friends were infatuated with and threatened to do bad vengeful things to me due to me telling her, NO!); ***See News Article attached as Exhibit A.*** Two, the lack of accountability in Hugo, OK, District 2, Choctaw County's Justice system, and three, the ambition of my fiancé who seized the moment of opportunity in order to secure "her" future and the future of her kids; there are witnesses that would have testified to all of this (if not blocked by officers of the court of Choctaw Co.) It is not fair and just that just because of the nature of the case, I am discriminated upon and denied due process of law. I believe my case and I need your help, attention and intervention.

The setting of this situation involves a business that I, Sandro Ramos, created and Amanda Siniga (my ex-fiancé) wanted. I and Ms. Siniga were partners in the venture since we considered ourselves common law married, so much so that she owns the business now (gym for gymnastics and other sports). She got what she wanted at the expense of my freedom. She was threatened because I was planning for "my" "kids" to come live with me and utilize the gym. I planned on leaving what I built to "my" children. Ms. Siniga is known for her deceitfulness which can be attested to by the community and everyone who knows her, she was not letting that happen. She offered herself *to my defense attorney* in order to get out of paying the rest of the money owed to my attorney, and gain leverage to pressure my attorney to throw the game, and that's just what he did which can easily be surmised by the record. There are witnesses to her sleeping with my attorney. Not calling the eye witness Shadadrian Mims, to prove my innocence is not a mistake; that's an intentional move to not win "a miscarriage of justice". The defense attorney was Alan Perry, a "married" man, and at the time of the proceedings was about to be promoted into the judiciary. That's a long fall for sexual misconduct; if Ms. Siniga tells it (Ms. Siniga knew this and is why this intentional deceitful act happened in the first place; leverage).

All went according to plan, I get falsely accused of wrong doing, ex- ADA claims to have lost the exculpatory evidence which was the second one of two letters, I went to prison and my ex-fiancé now owns my business which has financed other business ventures and provides for her and her children. I was to blind to see because of being in love and didn't realize that from the beginning her intentions and plans were for us to move to Hugo, OK, open the business and knock me off with the help of her family and community leaders.

Add a compromised defense attorney to the lack of accountability of the justice system in Choctaw County, District 2 the surrounding Counties and you've got what has happened here. Monumental Wrong Doing.

Obviously the habeas corpus federal judge on my petition was swayed to ignore the unethical legal practice that went on because of the "factual background" he listed in the opening. It consisted of:

1) A notebook with misleading content; ANM had a crush on defendant.

2) A recorded interview with the alleged victim.

3) Text messages.

4) Phone call made from county jail.

Factual Background answers:

1) ANM admitted that the contents of the notebook were not true.

2) ANM admitted that she lied about it.

3) The iPhone and iPad were synchronized displaying misleading information.

4) The jail phone recordings were used and applied to a conversation that had nothing to do with the case. There are witnesses that would have testified to this if Choctaw County would have let them. They blocked all the valuable witnesses for the defense.

All of "this" factual background has been blocked from view, otherwise a different outcome and attitude would be had of my case. The 2 letters are being used like a slight of hand magic trick. The letter that counts (admits it's all a lie) keeps being devalued like it's the *other* letter that truly does not have much evidentiary value (both letters speak of suicide therefore are being used interchangeably to keep the exculpatory letter off the record). And satisfy the courts.

I would like for this Court and everyone interested to know and make its decisions knowing the truth about what has been really going on in this case and not go by the misinterpretations made by the court officials including **Deputy Sheriff Larry Hendrix** at that time (***Now Jail Administrator in McCurtain County who is involved in the conversation caught on tape this month of April 2023***

talking about killing Mr. Willingham of the McCurtain County Gazette with Investigator Alicia Manning) This actual, concrete, material evidence of the illegal activity and corruption in Southeast Oklahoma. There is enough argument and material evidence to vacate my sentences. There is a line of people that would testify for my cause that got blocked in Choctaw County.

See McCurtain County District 2 Gazette News and Article as Exhibit A-2, where Governor Kevin Stitt, calls for the resignation of multiple McCurtain County Officials including *Larry Hendrix* who was involved in retrieving the exculpatory letter written by Ashley Mills where she says it was all a made up lie in my case.

I was told by some friends that had their kids attending classes in my gym that Community Leaders and State Officials didn't want me there because of being Mexican and an outsider and were worried of me making more money than them or being more successful than them in such a short time, and worried that I would soon catch on to all the corruption going on in town, If they didn't want me there then all they had to do was say so and I would have gone back to Florida. It didn't have to happen this way, I didn't have to get accused of some fantasy that a hormonal teenager with a crush and her accomplice Jacqueline Harley, fabricated with help from their parents. And I certainly didn't have to go to prison.

Not only did the Choctaw County Officials withhold exculpatory evidence that has costed me, the defendant, 10 years of my life and freedom, lie to the jury, the public and the court, and misinterpret evidence to make the me look guilty, but have intimidated and prevented a defense witness, "Shadadrian Mims" from testifying that was present at the time of the alleged incident, she was voicing the truth. She was being very boisterous because she saw and heard everything and knew that the alleged victim, "Ashley Mills" had lied about the incident. They intimidated her by

incarcerating her in juvenile detention for 30 days before trial in order to scare her into not testifying at trial and beyond.

I was granted an evidentiary hearing from the filing of my Post-Conviction Application by the Oklahoma Court of Criminal Appeals in an order stating that an evidentiary hearing is granted to dispose of "all" of defendant's propositions, this included the withholding of exculpatory evidence, ineffective assistance of counsel, jury misconduct and intimidation of a defense witness. ***See OCCA Order for Evidentiary Hearing as Exhibit B Attached.***

I had court appointed counsel (Elizabeth Griffith) send subpoenas to Shadarian Mims (defense eye witness), Bill Baze (ex-ADA in the case that became judge and admitted that exculpatory evidence was lost) Amanda Siniga (my fiancé), Janie Melton (my business secretary) Alan Perry (former trial attorney) Cailyn Wallace (Gym student and friend) and the jury foreman (juror number 6 who committed the misconduct). All subpoenas were approved by the court except the one for the jury foreman because my court appointed attorney stated that she could not find him, even with all the resources there are out there this day and age and him living close by. ***See Subpoenas as Exhibit C Attached.***

My own attorney, being an officer of the law, lied on the stand stating that he didn't know who told him about the jury misconduct when he accurately knew my ex-fiancé, Amanda Siniga and my business manager, Ms. Janie Melton from being part of the defense team and from him actually visiting the gym, my business, because of his daughter being enrolled in one of the classes.

The ex-ADA now judge, refused to comply with the subpoena and didn't show up at all because he knew that he would have to testify to the exculpatory evidence that he supposedly lost. Also the court said (through Elizabeth Griffith, court appointed evidentiary hearing counsel) that the court

would not pay for Ms. Mims' travel expenses and accommodations to attend the hearing since she had moved to Centerton, Arkansas.

Therefore, I had appointed counsel find out how much it would be for Ms. Mims' travel expenses to attend the hearing and she stated to me that it would be $254. So, I called my father and asked him to send a money order for $254 to the Choctaw County District Court for my eye witness to show up in court. When my father sent the money, an order to the court and the ex-ADA found out that he had been subpoenaed for the evidentiary hearing and would have to testify and produce the exculpatory evidence, the D.A. and the ex-ADA now judge, came out with a court minute saying that there is no need for an evidentiary hearing on any of the propositions except for the jury misconduct. ***See District Court Minute as Exhibit D Attached***

The presumption of innocence, like a defendant's right to a fair trial, has deep historical roots and is a core tenet of criminal law. The principal that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law. *Coffin v. U.S.*, 156 U.S. 432, 453, 15 S.Ct. 394, (1895); and *Flores v. State*, 1995 Ok Cr 31, 899 P.2d 1162, 1164 ("While our legal system has many problems, there is one solid, immutable principle which must be preserved and protected, and that is due process. No matter how guilty a person may appear to be, he or she is entitled to due process. To suggest otherwise is to sanction mob justice and tyranny.")

This principle is so ingrained in our jurisprudence it caused Judge Furman in *Miller v. State*, 3 Okl. Cr. 374, 377, 106 P. 538, to write:

> ***"It is said that the presumption of innocence has been classed as one of the two 'great cardinal maxims', which may be said to be written on the portals of every criminal court,***

and to hang over an accused like an aegis of protection from the moment he is placed at its bar for trial".

My own attorney's opening statement at trial was: "In my opinion, no one is innocent", and in doing so destroyed the presumption of innocence from me, the defendant from the very moment I was placed at bar for trial, tearing down the portals that should hang over an accused in every criminal courtroom.

Constitutional Law § 840- Due Process-False Evidence the 14th Amendment prohibits a state criminal conviction obtained by the knowing use of false evidence. Use of Perjured or Falsified evidence is a violation of the 14th Amendment of the U.S. Constitution. Conviction obtained by false testimony, known to be such by representatives of the State, is a denial of due process, and there is also a denial of due process when the State, though not soliciting false evidence, allows it to go uncorrected when it appears. *Napue v. The People of the State of Illinois*, 79 S.Ct. 1173. The prosecution knew the statements made by Ashley Mills were false because she herself said they were not true. Testimony cannot be said that she gave here because Ashley's testimony at trial didn't state that there was any intercourse. And the two letters that she wrote stated that it was a made up lie, betrayed me and my fiancé and wanted to commit suicide for her lies corroborating with the exam. Principle that the State may not knowingly use false evidence, including false testimony, to obtain a tainted conviction, implicit in any concept of ordered liberty, does not cease to apply merely because the false testimony goes only to the credibility of the witness. *Napue Supra,* U.S.C.A. Const. Amend. 14. In this case District Attorney's Assistants knew of the false testimony and did nothing to correct false testimony of the witness.

I understand that all of this is a *violation of Due Process* under the 14th Amendment and Oklahoma's own Constitution in *Article 2 § 7,* since I was deprived of my right to life, liberty and property. And *Indirect Contempt of Court* under 21 O.S. § 565 for refusing to comply with a subpoena to testify

and produce exculpatory evidence that the ex-ADA knowingly and intentionally lost, and *Obstruction of Justice* under 21 O.S. § 455 for preventing a witness to testify and threating her from further testimony by the prosecution team. The materiality of the exculpatory evidence withheld by the prosecution team affected the outcome of my trial.

Not only was a second exculpatory letter written by the alleged victim stating that "it was all a lie and that she made it all up" withheld and supposedly lost or destroyed, but also the DNA results and the S.A.N.E. done on Ashley Mills withheld from me, the court at trial and the jury, that proves I didn't commit the crime and corroborates with the exculpatory letters. All defendants have a *right to all the evidence at trial.* The actual exam done on Ashley Mills and the inconclusive (no Match) DNA results were not presented at trial that proves that I did not commit the crime, along with several witnesses with credible testimony that were not called to testify on my behalf. All a *violation of Due Process* under the 14th Amendment and Oklahoma's own Constitution in *Article 2 § 7.*

<u>The State's and The Habeas Court's Misinterpretation of the Factual Background</u>

The *State* and the *Habeas Court states* that at trial the *state* presented evidence that I and ANM were in a relationship "Prior" to ANM becoming 12 years old and that the relationship was first discovered when Brandy Rymel, ANM's teacher confiscated a spiral notebook from ANM (Ashley Nicole Mills) and JH (Jacqueline Harley).

Its contents containing references of ANM engaging in sexual acts with me. Then an investigation began. ANM was taken to Antlers for a forensic interview by Angie Edwards of the OSBI. In the interview ANM stated that **"she believed"** she was in a relationship with me that I molested her 4

times and eventually engaged in intercourse once and that the contents of the notebook were **"not all true".**

Officer Larry Hendrix obtained ANM's Cell phone and stated that the text messages between both phones included me referring to ANM as baby with winky face emojis, and statements of love.
The *state claims* that ANM testified that the relationship began with winks and holding hands. Then that I began kissing her and eventually engaged in oral sex 4 times and then finally engaging in intercourse with her.
The *state* also introduced a recorded conversation between me and my fiancé, Amanda Siniga, while I was in custody. Ms. Siniga asks me how this could have happened. I responded that I fell into temptation and that I didn't know what I was thinking. I know it's my fault, and that I've asked God for forgiveness for everything I've done.

Next ***Officer Larry Hendrix*** in his investigation went to ANM's school to retrieve ***two letters*** written by ANM. The first letter was turned over to defense counsel, but the second letter was not. The *state claims* that the second letter refers to no one and ANM wanting to hurt herself and it was given to her parents, so that they could address the mental health issues.
Prior to trial, the *state* presented information that a similar allegation existed in South Carolina where a young lady C.L. had alleged that I attempted to rape her when she was 14 or 15 years old. She testified that I locked myself in the bathroom with her, made her take her clothes off and attempted to rape her.

<u>These are The True Facts presented by me in objection to the State's and the Federal District Court Judge's Misconception of Factual Background.</u>

First of all, the courts and the public don't know all the facts and the whole story of what really happened. This has been a one sided, botched story from the beginning.

Most important, how this began. It began with an infatuated and obsessed teenager who developed a crush on her gymnastics coach because I was the only one who had the patience to try to help the child with her mental health issues and her bad attitude towards everyone. This teenager's parents were either always too busy or to unaware and indifferent to realize that the child needed help. In this case there was no grooming of any kind, like it would be said by the expert witnesses of the OSBI like they always do in every case like this. There **never** was any type of inappropriate relationship between ANM and myself "prior" to ANM turning 12 years of age or after.

AND THIS IS WHY.

ANM didn't start coming to our house until December of 2012 with the other kids because of the incident that happened on October of 2012, when she yelled "rape" inside the gym with everyone there and still acting inappropriately. And she turned 12 years of age in October of 2012. I opened the gym on September 29, 2011 and from that time through mid-2012 no one was visiting our house yet because we had not yet purchased our new home and moved to our new home. After we did buy our new home, the kids and parents liked coming to our house because it had an indoor pool where they could swim even when it was cold outside. Therefore, what the *prosecution and the habeas court* is stating in the *factual background* at the beginning of the habeas denial is a misunderstanding and not true. Witnesses will testify to this.

The state never presented any evidence of any "relationship" between me and Ashley Mills. The notebook, texts, and their contents is not sufficient evidence to sustain the statements made by the state or ANM's references that she herself dreamt up. Especially when they are not true, because she says they are not true. This so called notebook was an instrument fabricated between two

hormonal teen agers with nothing better to do than to destroy more than one person's life. ANM **"believed"** she was in a relationship where I had no idea of what ANM was thinking and doing.

That is why ANM decided that it was okay for her to stroll into my bedroom in the morning of September 6th 2013, after my ex-fiancé took our little boy to Little Dixie preschool. ANM showed up in the doorway of the bathroom that connects to the bedroom while I was making the bed and stated "I want you to" after I asked her if she needed something. I then asked what she meant by that and ANM then said it again while walking into the bedroom in between the bed and the TV stand and started to pull her pants down. I yelled No! And ANM got mad and pulled her pants back up. I then told her to get out of my bedroom, so she stomped her way straight to the bedroom door to leave but it was locked, I then went and unlocked the door and when I opened it, Shadadrian Mims was standing right there and heard and saw everything. I never invited or asked ANM to go into the bedroom with me. I made sure that everyone was ok after my fiancé left that morning to take the little one to school, everyone seemed to be asleep including ANM. ANM had to have woken up after hearing the car drive away and decided to do what she did not counting on the fact that Shadadrian Mims had woken up as well. Those are the true facts of these circumstances where ANM invented that her and I had sex. There was never any kind of sexual intercourse between ANM and myself. ANM was infatuated and obsessed with me. ANM never saw me naked, if she would have she would have noticed certain scars and neither did I see ANM naked. Nothing like what the D.A., OSBI and prosecutors stated that happened, actually or factually happened.

My trial attorney and the prosecution knew that the second exculpatory letter and the exam done on Ashley would corroborate with each other and prove that I didn't have sex with her. Think about it, if I would have had sex with Ashley, then there would have been blood stains on the comforter that the OSBI agent Sonny Stewart took and perhaps on the carpet, she would have been scared

and in pain when she left my room but she wasn't, Shadadrian Mims would have noticed. And Amanda, my fiancé would have definitely noticed if Ashley would have been acting different. Ashley would not have been a virgin like she was when the nurse's exam was done, her hymen would have been ruptured, but it wasn't, it was intact, and she would have had noticeable abrasions signifying her having sex. No wonder the Ex-ADA, Bill Baze didn't want to testify at trial and when I subpoenaed him for the evidentiary hearing.

The OSBI obtained ANM's cell phone and my cell phone that I shared with my girlfriend Amanda Siniga and our daughter. I never referred to ANM as "baby" or sent her emojis and statements of love. I and my fiancé received texts from all the kids and the parents all the time throughout the day and night where they stated that they loved us and us them. There was no specific statements of love to ANM that I sent to her that my fiancé Amanda Siniga wouldn't know about because our iPhone and her iPad were synced and everything showed up on both devices within minutes.

And no relationship began with winks and holding hands. "The only time I held ANM's hand was during gymnastics when spotting her and once when we all went to Oklahoma City for a competition and we had to cross the street. I had my daughter on one side and ANM happened to be the person next to me who I grabbed by the wrist. And the winks, I winked and made noise with my mouth at everybody and all the kids to acknowledge that I was keeping an eye on them while practicing their gymnastics. These actions were not specifically aimed toward Ashley. She saw what she wanted to see because of how she felt. These are not legible reasons to charge and convict a person. Many witnesses can testify to this.

I never kissed ANM in my house at any time, for one, I was never attracted to ANM as a woman, she was 5ft at best and skinny as a toothpick and it was impossible, I was never alone with her, I made sure of that. There were kids all over the house at all times when she was there. And my fiancé

Amanda Siniga was always there as well, which is a full figured woman that I was very much attracted to and was very intimate with. And how would I have engaged in oral sex when I was never alone with her at any time. The state failed to show proof of all this, there was never any intercourse, the exam proves that. The state withheld that information from the court at trial, and my attorney pretended that it didn't exist and didn't tell me about it.

The prosecutor called me a liar, and I am not a liar, the real lies are ANM's statements, she even stated that she engaged in oral sex with her own brother. Is this a lie? Or not? When it came up it was completely ignored and brushed under the rug, why wasn't anything done about that? She lied about the notebook, she lied about what actually happened and what she stated on the exam and she lied about the incident on Oct. of 2012 yelling "rape" inside the gym in front of everyone. She lied to everyone all the time and made things up all the time. And she engaged in sexual activity with other girls while watching porn at Jacqueline Harley's mom's house at a sleepover. There are witnesses that will testify to this."

The recorded conversation between myself and Ms. Siniga has been used against me deceitfully. First, during trial, my trial attorney Mr. Perry and the prosecution in an *Ex-Parte* communication, went in to chambers without saying anything. When Mr. Perry came out, I asked him what was going on and Mr. Perry said not to worry about it.

Suddenly the phone call started playing in the courtroom. I asked again what was happening and his attorney said that they asked to play this recording of the phone call and he said yes, without notifying me. Not my attorney Mr. Perry nor anyone else even asked what this phone call was in reference to which resulted in a false interpretation which supported false conclusions and advantageous to the prosecution.

The phone call was actually in reference to the "**mistake**" that I had made in falling into *temptation* with Amanda Siniga and accepting to be her boyfriend and start a relationship when my family and friends were telling me not to and to be careful with her because she has committed several horrible and deceitful acts. There are witnesses to this.

"I didn't know what I was thinking" in reference to moving to Oklahoma when I could have stayed where I was with the people that actually cared about me or go back to Florida where I belonged.

"I know it's my fault" I knew it was my fault and felt guilty that my kids were not with me in Oklahoma and had been missing them dearly,

"I've asked God for Forgiveness for everything I have done" I felt unhappy and depressed without my kids and had asked for forgiveness for leaving my kids with my ex-wife, it was the wrong thing to do. In mid-2013, I had made plans with a friend to go get my kids and bring them to Oklahoma. However, my fiancé, Ms. Siniga, did not like the idea of me bringing in "my" kids to our house and the gym that they were to inherit. Ms. Siniga became very jealous when it came to her kids possibly not getting the attention from me when my own kids arrived. There are several witnesses that will testify to this.

This phone conversation had nothing to do with ANM or the case. The prosecutor, took it upon herself to use it against me because it sounded like it fit perfectly to make me look guilty. I make no reference or indication that the conversation was about ANM at all. So this is severely prejudicial and a misinterpretation of false evidence and facts. This bogus interpretation was brought up to deceive the jury in having them think that I was referring to the case or ANM. There were follow up conversations between my fiancé and myself that cleared that up, however, they were not brought up and / or investigated by my trial attorney.

The facts are that I felt guilty and broken hearted for not having my kids with me and regretting those particular bad decisions, I could no longer be without my kids, the worry and anxiety was overwhelming.

Next ***Officer Larry Hendrix*** in his investigation went to ANM's school to retrieve ***two letters*** written by ANM. The first letter was turned over to defense counsel, but the second letter was not. The *state claims* that the second letter refers to no one and ANM wanting to hurt herself and it was given to her parents, so that they could address the mental health issues.

BRADY VIOLATION

Concerning Exculpatory Evidence under Brady: Can a corrupt Deputy Sheriff, specifically *"Larry Hendrix"* who is now caught up in the outrage in McCurtain County Oklahoma for his horrid comments and who the Governor of Oklahoma, Kevin Stitt has asked to resign as of April 22, 2023, make an honest determination of what consists of exculpatory evidence without presenting the evidence to the defense and only presenting it to the prosecution? Is this a Due Process violation under the 14th Amendment and under the *Brady Rule*? If it is, why does the government get to get away with it? Under *U.S. v. Bagley*, the Supreme Court Justice Blackmum, held that evidence withheld by government is "Material" as would require reversal of the conviction, only if there is reasonable probability that, had evidence been disclosed to the defense, result of proceeding would have been different. Therefore, if exculpatory evidence in form of a letter written by the alleged victim in this case stating that it was a lie and that she made it all up "Material Evidence" and according to her statements on the letter would not there be reasonable probability that the results of the proceeding in this case would have been different if the evidence would have been disclosed to the defense and presented to the Court and Jury at trial? This exculpatory evidence in form of a second letter written by the alleged victim that correlates with the sexual assault exam done on her,

which was also not presented at trial, would it not only be exculpatory evidence, but also impeachment evidence that falls under the "Brady" Rule? If the Defendant was deprived of a fair trial due to prosecutors not disclosing the favorable evidence to the accused and jury and in sense doesn't its suppression undermined confidence in the outcome of the trial? Why is the prosecution able to get away with a lie that the exculpatory evidence letter was lost or given back to the alleged victim's family when it could have been disclosed to the defense for examination and a precise determination to whether it was exculpatory or not, and used to conduct an effective cross-examination, obviously the evidence was in the hands of Deputy Sheriff, Larry Hendrix and the Prosecutor who admitted that "he lost it", and doesn't such non-disclosure constitute Constitutional error and require reversal of the conviction since it affected the outcome of the trial? Why do the State Officials get to completely ignore the Laws under *Brady v. Maryland, Kyles v. Whitley,* U.S. v. *Bagley, Giglio, Akins, Schlup v. Delo, Brown v. Chaney, California v. Trombetto,* and so many more when it comes to them withholding, losing, and destroying exculpatory evidence? Does the State have a Duty to Preserve exculpatory evidence most likely lost or intentionally destroyed under the 6th Amendment? If the "exculpatory evidence" has now been destroyed, wouldn't it be a violation of Obstruction of Justice and Title 21 O.S. § 454, "Destroying Evidence" because no evidence is to be destroyed for as long as the defendant remains in custody and if it is to be destroyed the defendant would have to be notified 90 days before it is destroyed to have enough time to object?

It is the obligation of prosecutors (district attorneys), in preparing for trial, to seek all exculpatory or impeachment information from all members of the prosecution team. Members of the prosecution include, federal, state, local law enforcement officers and other government officials participating in the investigation and prosecution of the criminal case against the Defendant. *Brady v. Maryland,* 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963)

Title 5 Ch. 1, App. 3-A, Rule 3.8; Special Responsibilities of a Prosecutor States;

Model Rules of Professional Conduct of the ABA:

(d) The prosecutor in a criminal case shall... make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor.

(h) When a prosecutor knows of new, credible, and material evidence creating a ***reasonable likelihood*** that a convicted defendant ***did not*** commit an offense of which the defendant was convicted, the prosecutor shall within a reasonable time:

(1) disclose that evidence to an appropriate court and prosecutorial authority in the jurisdiction where the conviction occurred, and

(2) if the judgment of conviction was entered by a court in which a prosecutor exercises prosecutorial authority,

(i) unless a court authorizes delay, make reasonable efforts to disclose the evidence to the defendant's attorney or if the defendant is not represented by counsel to the defendant, and

(ii) if the defendant is not represented by counsel, move the court in which the defendant was convicted to appoint counsel to assist the defendant concerning the evidence, and

(iii) request an appropriate authority to **investigate** whether the defendant was convicted of an offense that the defendant ***did not commit.***

(i) When a prosecutor learns of clear and convincing evidence establishing that a defendant was convicted in a court in which the prosecutor exercises prosecutorial authority of an offense that the defendant did not commit, the prosecutor shall promptly notify the appropriate court and make reasonable efforts to notify the defendant's counsel and the defendant.

(ii) What must the prosecution turn over?

Brady v. Maryland, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed.2d 215 (1963)

Prosecutors are required to turn over far more than exonerating evidence, and the *Brady* disclosure obligation is not limited to information of which the prosecutor has actual knowledge. Rather, the prosecutor has a nondelegable duty to learn of *Brady* information in the case. All evidence that would fall under *Brady* in the hands of law enforcement and other investigative

agencies is chargeable to the prosecution. In other words, if the police know, even when they do not tell the prosecutor, the government is charged with knowing.

The State also has a "Duty to Preserve" and there are sanctions for destruction or loss of exculpatory evidence. Evidence indicating that the State withheld evidence, most likely lost or intentionally destroyed important and potentially exculpable evidence, provided a flawed trial. Supported determination that I, the Defendant was deprived of due process of law and a fair trial, and thus, warrants new trial. U.S.C.A. Const. Amend. 14.

Kyles v. Whitley, made it very clear:

> This... means that the individual prosecutor has a duty to learn of any favorable evidence known to the others acting on the government's behalf in the case, including the police.

In my case the state post-conviction court did not hold that I, Mr. Ramos failed to show that the prosecution suppressed the second letter written by ANM and that it was exculpatory. And the OCCA agreed. The Federal District Court likewise recognized that the trial record is sufficient to demonstrate that the evidence was withheld from the defense. However, The Federal District Court and now the Tenth Circuit Court as well have also been duped in to believing that letter ["number one"] which is in the possession of the defendant, is letter number two because they both mention suicide. Opinion and Order at II.¶2;

> The first letter was turned over to defense counsel, but the second letter, not addressed to anyone and referencing A.N.M.'s wanting to hurt herself, was given to her parents, so they could address the mental health issues A.N.M. was facing.
>
> ***See Letter number one now in Petitioner's possession, attached as Exhibit E.***

This is what the courts think because this is what the prosecution said at the very beginning and somehow this false statement has made its way all the way to the habeas proceedings; that the 2nd letter was given to the parents because of mental health concerns. That doesn't

make any sense. *Both* letters say that A.N.M. wanted to hurt herself. All evidence is going to be turned over to the DA. The prosecution got caught in a lie because if they gave the letter to the parents then why did the ADA say he lost it when a Motion for Discovery was filed specifically asking for it at trial. ***See Motion for Discovery (Trial), attached as Exhibit F. See Defendant's Amended Supplemental Witness List as Exhibit G,*** for Judge Bill Baze on exculpatory evidence (letter number two), ***See Motion to Quash as Exhibit H*** subpoena for Judge Baze for testimony of exculpatory evidence (letter number two), ***See Response to Motion to Quash as Exhibit I*** filed by Petitioner/Defendant, and ***See Second Amended supplemental Witness List as Exhibit J for Deputy Larry Hendrix on existence and/or disappearance of exculpatory evidence.***

They keep getting around *Brady* and the exculpatory evidence by saying that the ex-ADA, Bill Baze, Deputy *Larry Hendrix* and the prosecution team didn't lose the evidence, and that it was given to the family when the ex-ADA admitted that it existed by saying that he lost it. It was not presented to the defense. How many more lies from the prosecution do I have to bring up until this deceitful activity is actually dealt with?

Janie Melton a respected member of the community and friend of the sheriff, who was closely involved in this case under sworn testimony stated that:

> "The DA's office admitted to loss of a letter from the "victim" that was received by the sheriff's office and turned over to the DA. No one testified to the content of the letter, and with it being "lost' it wasn't used in the trial. This was an obvious prosecutorial mistake that could very well have cost the defendant his freedom". ***See Sworn Affidavit of Janie Melton, attached as Exhibit K.***

Then on post-conviction there was another motion for discovery filed for the same specific piece of evidence (the 2nd letter), but it was *totally ignored.* ***See Petitioner's Motion for Discovery (post-conviction), attached as Exhibit L.***

They were never going to let the defense have it (Brady Violation). They know that this information corroborates with the medical report done on ANM and their conviction for the biggest portion of the sentence will be revealed to be in violation of "Constitutional Error". The 2 letters are being used like a slight of hand magic trick. The letter that counts (admits it's all a lie) keeps being devalued like it's the *other* letter that truly does not have much evidentiary value (both letters speak of suicide therefore are being used interchangeably to keep the exculpatory letter off the record). And satisfy the court. ***See first letter mentioned above as exhibit F.***

The Standard of Review for the United States Court of Appeals for the Tenth Circuit in order to obtain a COA is a jurisdictional prerequisite to appealing the denial of Federal Habeas Relief. See *Miller-El v. Cockrell,* 537 U.S. 322, 336 (2003). *We may issue a COA only upon "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Under AEDPA when a state court has adjudicated a federal claim on the merits, relief is available if the applicant establishes that the state-court decision "was contrary to, or involved an unreasonable application of, clearly established Federal Law, as determined by the Supreme Court of the United States," or "was based on an Unreasonable determination of the facts in light of the evidence presented in the State Court Proceeding." 28 U.S.C. § 2254(d).*

...A Prisoner seeking a COA need only demonstrate a "substantial showing of the denial of a constitutional right". A Petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the District Court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further. Id. 123 S.Ct. at 1304, citing Slack v. McDaniel, 529 U.S. 473, 484, 120 S.Ct 1595, 146 L.Ed. 2d 542 (2000). Reduced to its essentials, the test is met where Petitioner makes a showing "the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve

encouragement to proceed further'." Id at 1309; citing Barefoot v. Estelle, 463 U.S. 880, 103 S.Ct. 3383, 77 L.Ed. 2d 1090 (1983).

In the Tenth Circuit Court's denial of my Application for a COA the Standard of Review that was used by the Court was "A Court may issue a COA "only if the applicant has made a substantial showing of the denial of a constitutional right" and that this standard requires the applicant to show "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further."

Clearly, this Court can see and determine that by the facts presented above a substantial showing of a due process constitutional right was denied by the State Court in withholding the exculpatory evidence favorable to me, the Defendant. In the application for Post-Conviction Relief these claims were all raised solely on their merits, however, the lower State Court refused to hear the claims in an evidentiary hearing, again denying a due process constitutional right. Any reasonable jurists would have resolved the petition in a different manner and determined that the claims were adequate to deserve encouragement to proceed further if the case would have been reversed and remanded for new trial because of the unlawful actions of the prosecution and the juror's misconduct, not to mention the Intimidation of a Defense Witness in preventing her to testify and all the Ineffective Assistance of Trial Counsel.

The Tenth Circuit also assesses the restrictions on relief imposed by the AEDPA in its decision to grant the COA that the Act provides that when a claim has been adjudicated on the merits in a state court, the federal court can grant relief only if the applicant establishes that the state court decision was "contrary to, or involved an unreasonable application of, clearly established Federal Law, as determined by the Supreme Court of the United States of America," "OR" was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding." The Tenth Circuit applies all standards for review when *a Prisoner seeking a COA need*

only demonstrate a "substantial showing of the denial of a constitutional right". A Petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the District Court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further. Id. 123 S.Ct. at 1304, citing *Slack v. McDaniel,* 529 U.S. 473, 484, 120 S.Ct 1595, 146 L.Ed. 2d 542 (2000).

Again this Court can see and determine that the State Court's decision was contrary to and involved an unreasonable application, of clearly established Federal Law, as determined by the Supreme Court of the United States of America when applying *Brady v. Maryland,* 373 U.S. 83, 87 (1963), and was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceeding when the exculpatory evidence was suppressed and the juror erroneously committed the misconduct by speaking to the alleged victim's family outside the courtroom.

In its ground-breaking decision in *Brady v. Maryland,* 373 U.S. 83, 87 (1963), SCOTUS held that a State violates due process if it withholds "material" evidence favorable to the accused. The Court successively clarified that "evidence is 'material' within the meaning of *Brady* when there is a reasonable probability that, had the evidence been disclosed, the result of the proceeding would have been different." *Cone v. Bell,* 556 U.S. 449, 469-70 (2009). Unfortunately, the decision from the lower State District Court, the Oklahoma Court of Criminal Appeals, and Federal District Court for the Eastern District of Oklahoma and the Tenth Circuit Court of Appeals are nothing new. For years, these courts have been attempting to raise the threshold for materiality under the *Brady* doctrine, and this Court has repeatedly found it necessary to intervene to ensure that *Brady* remains a meaningful protection against prosecutorial overreach. This case represents yet another attempt by the prosecution and the courts to depart from *Brady's* constitutional requirement by heightening up the materiality standard. The outcome in this case should be the same as in many previous cases in which this Court has reversed.

Brady violations are difficult to detect, defendants must show that prosecutors withheld material evidence, which by definition requires defendants to discover that which has been concealed from them. Furthermore, in light of the absolute immunity enjoyed by prosecutors for claims brought under 42 U.S.C. § 1983, a vigorous application of the *Brady* doctrine is the only meaningful check against the unconstitutional withholding of exculpatory evidence. The lower Courts heightened materiality standard for evidence of "how the crime occurred and/or if it occurred" encourages prosecutors to err on the side of withholding exculpatory evidence when *Brady* and its progeny would otherwise require disclosure. In all proceedings, *Brady* seeks more than just outcomes; its primary function is to expose the truth! The lower Courts deviated form that principle and their decision made it far more difficult to detect and root out prosecutorial misconduct.

In *Brady v. Maryland*, 373 U.S. 83, 87 (1963), SCOTUS held that "the suppression by the prosecution of evidence favorable to the accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." This Court has since instructed that favorable evidence "is material" for *Brady* purposes "if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." *U.S. v. Bagley*, 473 U.S. 667, 682, (1985). In this regard, a defendant seeking relief under *Brady* need not show that he "more likely than not" would have been acquitted had the withheld evidence been disclosed. *Smith v. Cain*, 565 U.S. 73, 75 (2012). Instead, the defendant must show "only that the withheld evidence undermines confidence in the outcome of the trial." *Kyles v. Whitley*, 514 U.S. 419, 434 (1995).

The decision from the lower courts state a drastic change to that seemingly settled doctrine by applying a standard set forth in *Kyles* ("undermines confidence in the outcome of the trial") According to the D.C. Court of Appeals, when withheld evidence undermines "the basic structure of

how the crime occurred or if it even occurred, a showing of materiality under *Brady* requires a reasonable probability that such evidence would have led the jury to doubt virtually everything that the State's witnesses said about the crime. *Turner v. U.S.* 116 A.3d 894 at 926.

What is Jury Misconduct?

Concerning Jury Misconduct: Is it jury misconduct when jury members talk to the alleged victim's family? *Remmer v. United States*, 347 U.S. 227, 74 S.Ct. 450, 98 L.Ed. 654. In a criminal case, any private communication, contact, or tampering, directly or indirectly, with a juror during trial about the matter pending before jury is presumptively prejudicial, if not made in pursuance of known rules of court and instructions and directions of the court made during trial, with full knowledge of the parties. Would Jury Misconduct be a Due Process violation under the 5th and 14th Amendments when a juror, specifically the jury foreman, speaks to anyone during recess before reaching a verdict? Is not one of the Grounds for a New Trial under Oklahoma Statute 22 § 952 state that after the jury retiring to deliberate on their verdict, and before delivering or sealing the same, If it be sealed, or have been guilty of any misconduct, by which a fair and due consideration of the case has been prevented?

A juror's violation of the court's charge or the law, committed either during trial or in deliberations after trial, such as (1) communicating about the case with outsiders, witnesses, attorneys, bailiffs, or judges, (2) bringing in to the jury room information relating to the case but not in evidence, (3) conducting experiments regarding theories of the case outside the court's presence. And a violation of the 5th and 14th Amendments to the U.S. Constitution.

Jury misconduct; Jurors are not allowed to talk to anyone once they are sequestrated for trial.

At the end of trial the day of sentencing, there was a recess for deliberations before the verdict. At that time Amanda Siniga, Ms. Janie Melton and Cailyn Wallace were there on my behalf standing outside of the Courthouse in the front parking lot and saw the jury foreman (juror number six)

talking to Ashley Mill's family (grandparents, mother, father and mother-in-law),"Ms. Siniga went and told Alan Perry but he did nothing because he had told Amanda to not bother him with little things. And because he had other personal plans to throw the case. This wasn't a little thing because this could have automatically given me a New Trial. This is the only proposition that was heard at the evidentiary hearing after the D.A. and former A.D.A. Bill Baze now judge, deceitfully filed the court minute stating that there was no need to hear the other propositions except for the jury misconduct.

Argument:

"Regardless" of it being considered a vague statement by Petitioner's attorney, and that Ms. Siniga and Ms. Janie Melton didn't hear the conversation or aware of the substance of the conversation, it is still "Jury Misconduct" to even have any contact with any alleged victim's family or friends.

The court believes the mother's testimony disputing Ms. Siniga's and Ms. Janie's testimony that she did not have any contact with any juror when Ms. Siniga, Cailyn Wallace and Ms. Melton saw Cindy Mills mother, Robert Mills Father, Ashley's grandmother and her sister, Cindy Mills' mother-in-law and Kailee Callahan having contact with the juror. They said that the juror was talking to Ashley Mill's family, "grandparents and aunts" who they recognized outside the courthouse before deliberations. But the court doesn't believe two eye witnesses and a third that could not make it to the hearing because of being out of state (Oregon). My trial attorney, Alan Perry stated that he did not recall who told him about the jury misconduct when in "Fact" he knew that Amanda Siniga was my fiancé and Ms. Janie Melton was my Business Manager who worked at the gym. ***See Evidentiary Hearing Transcript page 5 attached as Exhibit M.*** Mr. Perry knew them from a long time before. Attorney, Alan Perry, an official, lied on the stand at the Evidentiary Hearing being an officer of the law. If pictures and video was needed as proof of the juror speaking to the alleged victim's family, then why isn't it needed to prove the false allegations stated by ANM's and her father and convict

the Petitioner? The only logical explanation and reason that the juror was talking to Ashley's family is because they knew each other and were discussing the outcome of the case and sentencing.

The Bailiff, Ms. Edna Casey failed to comply with her duty to sequestrate the jury during recess before deliberations. *How does this happen?*

My trial attorney, failed to put me and the court on notice after he was approached and contacted by my fiancé Amanda Siniga and Ms. Janie Melton letting him know that the jury foreman committed misconduct by speaking to the alleged victim's family outside the courthouse on the day of the jury's verdict decision. (***Again, See Sworn Affidavit of Ms. Janie Melton as Exhibit L.*** When the Evidentiary Hearing was held on this proposition in which I brought up in my Post-Conviction Appeal, Mr. Perry stated during the hearing, ***"It was a vague statement, but I didn't believe that it was a problem". See Evidentiary Hearing Transcript page 6 attached as Exhibit N.*** Not only should Mr. Perry have brought up the juror misconduct regardless of how vague it was, to the court during trial immediately after Petitioner's fiancé and Ms. Melton informed him, but should have communicated the error to me as his client, and then abided by my decision.

The federal district court cites, *Wilson v. Simmons*, 536 F.3d 1064, 1120 (10th Cir. 2008), concerning, "the jury should make decisions based on the strength of the evidence and not a raw emotion..." *Wilson v. Workman,* 577 F.3d 1284 (10th Cir. 2009), If the Tenth Circuit presumes that when a jury is instructed not to let sympathy or sentiment enter its deliberations, and the instruction is followed, then why was the jury foreman allowed to speak to Ashley's family and bring sympathy and sentiment into deliberations? The jury foreman was very well instructed not to do either one, but did it anyway undermining the court's jury instructions.

I, Mr. Ramos is entitled to relief because factually misconduct "did" occur by the jury foreman, suffered prejudice due to the court not recognizing the truth of this matter and reasonable jurists would find it debatable based on an unreasonable determination of the facts in light of the evidence

presented in the State Court Proceedings 28 U.S.C. § 2254(d). ***See Evidentiary Hearing Transcript on Amanda Siniga, pages 8-12 attached as Exhibit O and Ms. Janie Melton pages 15-17, attached as Exhibit P.***

Ineffective Assistance of Counsel:

Concerning Ineffective Assistance of Counsel: Is it a violation of the U.S. Constitution under the 6th Amendment for Appellate Counsel on Direct Appeal to not communicate with her client when the client asks his appellate attorney to raise a substantial and legitimate claim of exculpatory evidence, Intimidation of a Witness, and Jury Misconduct? Is a Petitioner prejudiced because of the result of a life sentence due to Counsel's inefficiency?

The jury misconduct was not the only claim that I told my Appellate Attorney Rana Hill to raise on Direct Appeal, I asked her to raise the exculpatory evidence, the intimidation of a defense witness as well as the jury misconduct. I explained everything that happened at trial and what was not done right according to what I knew and experienced. The Jury Misconduct was construed as Ineffective Assistance of Appellate Counsel claim by the Tenth Circuit in its order denying COA because that is how it was raised by my Appeal Attorney Debra Hampton, on the habeas petition. However, I raised those claims, including the jury misconduct solely on their merits in my Application for Post-Conviction Relief since my Appellate Attorney refused to do so on Direct Appeal.

Legal Standard for Ineffective Assistance of Counsel:

A defendant must demonstrate that trial counsel's performance fell below an objective standard of reasonableness and that he was prejudiced by the deficient performance. *Strickland v. Washington*, 466 U.S. 668, 687, 690 (1984). "To establish prejudice, a defendant must show a reasonable probability that, but for trial counsel's errors, the result of his trial would have been different." *Humphreys v. State*, 1997 OK CR 59, at ¶ 40, 947 P.2d at 578. "A reasonable probability is a

probability sufficient to undermine confidence in the outcome." *Strickland v. Washington*, 466 U.S. 668, 694, 104 S.Ct. 2052, 2068, 80 L.Ed. 2d 674 (1984).

Unreasonable Performance would include (1) failing to conduct a reasonable amount of legal research to determine that the defendant was being charged illegally for a crime he didn't commit. (2) Counsel's failure to investigate that the prosecution withheld information of reliable evidence was fatal to my defense. The duty to investigate is universally recognized. Inadequate defense investigation, including the failure to investigate *all plausible lines of defense*, constitutes ineffective representation. *Osborne v. Schillinger,* 861 F.2d 612, 627 (10th Cir. 1988). The failure to investigate cannot be considered strategic or objectively reasonable:

> Ineffectiveness is generally clear in the context of complete failure to investigate because counsel can hardly be said to have made a strategic choice against pursuing a certain line of investigation when he or she has not yet obtained the facts on which such a decision could be made.

Emergency legislation concerning criminal law, for instance, ***lays across*** the beaten path for a criminal defense attorney. Following the law *just a little* would have led my counsel to the discovery of the medical records and advising his client that he had an absolute defense to the crimes alleged.

<u>Counsel's Deficient Representation Prejudiced Mr. Ramos:</u>

<u>Argument:</u>

Search, Find, Disclose

What must a defense lawyer do to require the prosecution to fulfill its obligations under *Brady*? "Do nothing" is the wrong answer. The defense lawyer cannot sit back and expect the prosecutor to fulfill his or her obligations. A specific *Brady* motion must be filed and calendared for hearing.

Specific areas must be listed for the prosecutor to search and report back on each area. Reasoning behind the filing of a specific motion can be found in *United States v. Bagley,* 473 U.S. 667, 105 S.Ct. 3375. And the more specifically the defense requests certain evidence, thus putting the prosecutor on notice of its value, the more reasonable it is for the defense to assume from the nondisclosure that the evidence does not exist.

State Appointed Appellate Counsel, Rana Hill of the OIDS in Norman OK failed to fully investigate the facts of my case and raising the *Brady* Issue on Direct Appeal, she had a predetermination that even though I had orally discussed with her the missing exculpatory evidence and other claims raised in my post-conviction application, she felt that her proposed substantive claims had more factual merit than those of what I asked her to raise, whom was privy to the facts of the case and her blinders produced an ineffective appeal. I requested that Ms. Rana Hill Appellate Counsel raise the claim of the missing exculpatory evidence, jury misconduct, and intimidation of a defense witness, but she refused.

The Court should consider the cumulative errors of counsel in assessing prejudice. *Cargle v. Mullin,* 317 F.3d 1196, 1212 (10th Cir. 2003) ("[A] decision to grant relief on ineffective assistance grounds is a function of the prejudice flowing from all of counsel's deficient performance...". Counsel's performance caused actual prejudice to me in my case because undoubtedly I "would not have been charged and convicted under the State of Oklahoma, had trial counsel presented, submitted and utilized the DNA results and Medical Records that were of exculpatory nature. If it had been done the outcome would have been different. And Appellate Counsel's negligence on Direct Appeal for not raising the essential claims that would have brought out the truth where I would have been exonerated. Trial Counsel's deficiency and incompetency caused severe consequences to me the Defendant due to his ignorance and negligence. It was trial counsel's duty, to investigate the reason

why the prosecution suppressed the exculpatory evidence. "[C]ause' under the cause and prejudice test must be something external to the petitioner, something that cannot fairly be attributed to him." *Coleman*, 501 U.S. at 753. To show prejudice, "a petitioner must demonstrate actual prejudice resulting from the alleged constitutional violation" of which he complains. *Johnson v. Champion*, 288 F.3d 1215, 1227 (10th Cir. 2002) In this case it was the prosecutions (withholding) "losing" and possibly "destroying" the letter in question. This is external to me as the Petitioner and cannot fairly be attributed to me. This federal violation of law (Brady) resulted in a life sentence (prejudice). *Magar v. Parker*, 490 F.3d 816. 820 (10th Cir. 2007). (The fundamental miscarriage of justice exception, "is a markedly narrow one, implicated only in extraordinary cases where a constitutional violation has probably resulted in the conviction of one who is actually innocent"). Importantly, the life sentence was attributed to the specific act of "intercourse" (the ct.1 rape charge); the medical reports indicate that intercourse did not happen. The constitutional violation (Brady Claim) lies in the corroborating exculpatory evidence that was withheld by the prosecution (a letter written by the victim that it was all a made up lie). This corroboration of evidence supports greatly that I am innocent of the rape (intercourse) which I got a life sentence for. Therefore the miscarriage of justice exception can also be applied here. The evidence (2nd letter) is actually "new" because it was confused with the other letter and my claims have not been ruled on with this evidence present or considered and is why my case should be remanded back for a New Trial or I should be acquitted in light of the exculpatory evidence withheld and the exam evidence that concludes that I did not commit the crimes.

I, as the Defendant, must be "acquitted on the basis of all the evidence which exposes the truth." *United States v. Leon*, 468 U.S. 897, 900-01,104 S.Ct. 3405, 82 L.Ed.2d 677 (1984) (quoting *Alderman v. United States*, 394 U.S. 165, 89 S.Ct. 961, 22 L.Ed.2d 176 (1969). Furthermore, I argue that the State learned about the exculpatory evidence not disputed, that it clearly suppressed that evidence willfully and maliciously and lied about it. "[T]he suppression by the prosecution of

evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Wearry v. Cain,* 577 U.S. 385, 392, 136 S.Ct. 1002, 194 L.Ed.2d 78 (2016) (quoting *Brady v. Maryland*). The "rule stated in *Brady* applies to evidence undermining witness credibility." *Id.* (citing *Giglio v. United States*, 405 U.S. 150, 153-54, 92 S.Ct. 763, 31 L.Ed.2d 104 (1972). Favorable undisclosed evidence includes both "exculpatory and impeaching." *Milke v. Ryan*, 711 F.3d 998, 1012 (9th Cir. 2013) (citations omitted). "Evidence qualifies as material when there is any reasonable likelihood" it could have "affected the judgment of the jury." *Wearry*, 577 U.S. at 392 (quoting *Giglio,* 405 U.S. at 154 (quoting *Napue v. Illinois*, 360 U.S. 264, 271, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959). Trial error does not require that the undisclosed evidence actually affected the verdict. *Id.* & n. 6. But in the case at bar, no reasonable trier of fact would have found me guilty. This is a violation of the 6th Amendment to the U.S. Constitution.

REASONS FOR GRANTING THE GREAT WRIT

Malfeasance in office, impropriety, corruption and conspiracy committed by the prosecution in withholding the exculpatory evidence that has cost me, the defendant 10 years of my life so far and freedom, conspiring to use false evidence and lying to the jury, the public and the court, intimidating and preventing the defense witness from giving testimony, permitting the jury foreman to commit the misconduct, and misinterpreting evidence to make me look guilty is abominable on the States behalf.

"The phrase 'misconduct' in office includes any willful malfeasance, misfeasance, or nonfeasance *in office." State v. Young,* 20 Okl.CR. 397, 203 P. 489, 490 (1922) (emphasis added). "Bishop" substantially defines "misconduct in office in its penal sense as any act or omission in breach of a duty of public concern by one who has accepted public office, provided his or her act is willful and

corrupt, and not judicial." See *State v. Young*, 20 Okl.CR. 397, 203 P. 489, 490 (1922); Bishop's New Crim. Law ¶¶ 459 to 60.

What better reasons for granting the Great Writ than these? How can this Great Country's Government and the Supreme Court of the United States allow this to happen to so many people, especially people that are actually innocent and are put in prison anyway because State Officials are permitted to do what they do without being held accountable?

See what is happening at this time in McCurtain County Idabel, Oklahoma and in that whole Southeast District where the truth of the corruption and illegal activity by State Officials and Community Leaders has finally come to light. State Government pretends that this is something new, but everyone knows that it has been going on forever. That is why there are so many wrongful convictions in Oklahoma. They continue to obtain and secure wrongful convictions having tunnel vision not caring and being conscience of the true facts and circumstances of the case. All they want is the conviction, no matter the consequences. Does this Honorable Court know how many of us have lost their lives, liberty, property and loved ones because of these wrongful convictions? Does it even cross your minds? This Court has the knowledge and power to correct all of these illegal actions occurring in the State of Oklahoma, specifically the Southeastern corner of the State which is District 2.

The State must not do indirectly what the law absolutely forbids it to do directly, i.e. *"dress up a witness with false indicia of credibility, withhold favorable evidence to the accused and lie about it, intimidate a defense witness so the truth won't come out, and let a juror not follow instructions that the Bailiff failed to sequester,"* which is exactly what has happened in this case. This contradicts a system of justice that expects integrity from prosecutors, not cheap tricks designed to skirt clear responsibilities. Winning at any cost is not synonymous with pursuing justice. *Strickler v. Greene,* 527 U.S. 263, 281, 119 S.Ct. 1936, 144 L.Ed.2d 286 (1999) (there is a special role played by the

American prosecutor in the search for truth in criminal trials."). "Few things are more repugnant to the constitutional expectations of our criminal justice system than... perjury that flows from a concerted effort by rewarded criminals to frame a defendant. The ultimate mission of the system upon which we rely to protect the liberty of the accused as well as the welfare of society is to ascertain the factual truth, and to do so in a manner that comports with due process of law as defined by our Constitution. This important mission is entirely derailed by unchecked lying witnesses and by law enforcement officers and prosecutors who find it tactically advantageous to turn a blind eye to the manifest potential for malevolent disinformation." *N. Mariana Islands v. Bowie*, 243 F.3d 1109, 1114 (9th Cir. 2001) (Trott, J.)[1].

It is important for all defendants that State Officials, Police Officers, Peace Officers, Prosecutors and Community Leaders be held liable for false arrests, imprisonment, or malicious prosecution as affected by a claim of suppression, failure to disclose, or failure to investigate exculpatory evidence in cases where it is known, apparent, or readily ascertainable to the officers when they arrest or charge a defendant. 81 A.L.R. 4th 1031.

There is an imbalance in the Oklahoma Judicial System concerning Prosecutorial Misconduct, they have too much power in their hands and the system is unjust. Getting away with suppressing exculpatory evidence, intimidating witnesses so they don't testify, they have the community so terrified that they hide and prefer to not tell the truth so nothing bad happens to them, and they put innocent people with kids and families in prison and give them a life sentence because they can and the government lets them do it. They weaponize the law and the system to commit a crime using minors and everyone turns a blind eye to the truth because it is convenient for them.

[1] The Honorable Stephen S. Trott sits on the United States Court of Appeals. Before being appointed to the bench by President Ronald Reagan, he was a lifelong prosecutor: a Deputy District Attorney for Los Angeles County, California for fifteen years (the Chief Deputy District Attorney for four years); the United States Attorney in Los Angeles; the Assistant Attorney General for the United States Department of Justice Criminal Division; and the Associate Attorney General.

See Oklahoma News Report on OETA dated Sunday April 21, 2023 where Geoff Bennett calls for resignation of county officials and Deon Osborne of the Black Wall Street speaks on these issues as Exhibit Q and on May 14, 2023, Doctor Phil speaking regarding the Glossip case on OETA.

This Honorable Court has issued a stay in *Glossip's* case due to the false evidence, withholding of evidence and the confession of error by the Oklahoma Attorney General. *Glossip v. State of Oklahoma,* 2023 WL 3203157, This Court has long held that "the prosecutors role transcends that of an adversary: he 'is the representative not of an ordinary party to a controversy, but of a sovereignty... whose interest... in a criminal prosecution is not that it shall win a case, but that justice shall be done.'" *United States v. Bagley,* 473 U.S. 667, 675 n.6 (1985) *(quoting Berger v. United States,* 295 U.S. 78, 88 (1935)). As Solicitor General Fredrick Lehmann famously put the point, the government "wins its point whenever justice is done [to] its citizens in the courts." *Brady v. Maryland,* 373 U.S. 83, 87 (1963) (quoting Solicitor General Lehmann).....

The importance of my case is not only to me, but it would be a National importance to have the U.S. Supreme Court decide the questions involved since it is important that these things stop happening to so many people that have lost everything due to the negligence of the justice system in Oklahoma and possibly many other States. I think that this Court would agree that if the public knew what has happened here it would shock their conscience. The State should not base its prosecution on the "manifestly unreliable, poisonous testimony and actions of witnesses with history of lying to secure a conviction. "This should not occur in a rational, humane justice system that prides itself on integrity. No enlightened society should impose its ultimate sanction based on false, perjurious testimony and evidence. Our people are too great and the State of Oklahoma is too enlightened, to allow that awful, ultimate offense to be carried out..." Pet. For Exec. For Clemency (California), Michael A. Morales, Jan. 17, 2006 (Counsel Kenneth W. Starr, Esq.). It is just as constitutionally unacceptable for the government to put a guilty person in prison based on false evidence as it is to have an innocent person suffer the same fate.

Taking into consideration the existence in conflict and discrepancy between the decisions in which the lower courts have with the Brady Rule regarding in which review is sought, I ask this Honorable Court to resolve disagreements among lower courts about these specific legal questions raised above because of the importance it would be for the public and the incarcerated alike[2].

For these reasons I ask this Honorable Court to review my case and come up with its own conclusion after an independent examination of the record and to Grant this Great Writ of Certiorari in order for everyone to be able to succeed in proving their innocence. I would believe that the public would rather be with their loved ones than knowing he or she is innocent and wrongly convicted. Due to the questions presented above, the issues of importance, and the Misconduct by the Prosecution, specifically, Deputy Larry Hendrix, Judge Bill Baze, ADA Emily Herron, OSBI agent Sonny Stewart, and the complete prosecution team in Withholding Exculpatory Evidence that corroborates with the Medical Exam, the Jury Misconduct, the Intimidation of a Defense Eye Witness and the Ineffectiveness of Trial Counsel and Appellate Counsel, which are all in violation of the 5th, 6th, and 14th Amendments of the U.S. Constitution and the case law provided, I ask and pray that this Honorable Court Reverse the conviction and Remand with instructions for New Trial with a Change of Venue or issue an order to exonerate due to innocence in the interest of justice and the public.

[2] To be known, I didn't kill or even hurt anyone, I should not have received an excessive sentence of life when there is proof I didn't commit the crimes. The prosecution's abuse of power and retaliation for me wanting to go to trial is unacceptable. A life sentence in Oklahoma is an unconstitutional death sentence where you are kept incarcerated even after completing the 85% and even the 45 years a life sentence is based on. I understand that Sex Offenses are a big deal and a problem in this country at this time, but where is the justice in charging and convicting an innocent man who didn't even commit the crime or hurt anyone.

CONCLUSION

I ask that this Petition for a Writ of Certiorari be Granted.

Respectfully Submitted,

Sandro Ramos Date 6-28-2023

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares, (or certifies, or verifies, or states), under penalty of perjury that he is the Appellant in the above complaint action, that he has read the above complaint and that the information contained therein is true and correct. **28 U.S.C. § 1746** and **18 U.S.C. § 1621.**

Executed at the Oklahoma State Reformatory, on the 28 day of June, 2023.

Respectfully Submitted,

/S/ Sandro Ramos