

23-5343
No. _____

Supreme Court, U.S.
FILED

JUL 03 2023

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

SCOTT HALFHILL — PETITIONER
(Your Name)

vs.

STATE OF WASHINGTON — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Washington State Court of Appeals, Division I
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Scott Halfhill

(Your Name)

Airway Heights Corrections Center
P.O. Box 2049

(Address)

Airway Heights, WA 99001-2049

(City, State, Zip Code)

(none)

(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- (1) Should this Court grant Certiorari when Halfhill was convicted of killing a man with intent upon nothing more than being one of many people in the victim's orbit, when police had a primary suspect who'd made inculpatory statements but died before being charged, and in violation of the Fourteenth Amendment's protection against conviction but upon evidence beyond a reasonable doubt?

- (2) Should this Court grant Certiorari when trial counsel failed to raise the other primary suspect, the one police collected DNA from but never sent it to the crime lab because the suspect died, and thereafter the DNA the victim scraped off the perpetrator remained unmatched to the primary suspect who made inculpatory statements to police, in violation of the Sixth Amendment right to effective assistance of counsel?

LIST OF PARTIES

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

RELATED CASES

Petitioner is not aware of any related cases.

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	10
CONCLUSION	13

INDEX TO APPENDICES

APPENDIX A - State Court of Appeals Decision, 9-06-2022

APPENDIX B - State Supreme Court Denial of Review, 12-23-2022

APPENDIX C - State Supreme Court denial of Modification
of Commissioner's 12-23-2022 Ruling, 4-05-2023

APPENDIX D - Pro Se Brief with facts/exhibits, 3-27-2020

APPENDIX E - Subsequently assigned Attorney's Supplemental
Brief with facts/exhibits, 9-13-2021

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Aldrich v. Wainright,</u> 479 U.S. 918, 107 S.Ct. 324, 93 L.Ed.2d 297 (1986)	12
<u>Bailey v. Alabama,</u> 217 U.S. 219, 31 S.Ct. 145, 55 L.Ed. 191 (1911)	10
<u>In re Winship,</u> 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970)	10
<u>Jackson v. Virginia,</u> 443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979)	10
<u>Leary v. United States,</u> 395 U.S. 6, 89 S.Ct. 1532, 23 L.Ed.2d 57 (1969)	10
<u>Southern Union Co. v. United States,</u> 567 U.S. 343, 132 S.Ct. 2344, 183 L.Ed.2d 318 (2012)	10
<u>Strickland v. Washington,</u> 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)	11,12

STATUTES AND RULES

Fourteenth Amendment, United States Constitution	10
Revised Code of Washington (RCW) 9A.32.050	10
Rule 10, United States Supreme Court Rules	11
Sixth Amendment, United States Constitution	12

OTHER

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 _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

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

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

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

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished. 2022 Wash.App. Lexis 1763, No. 81305-6-I (2022)

The opinion of the Washington Supreme court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished. No. 101347-7

JURISDICTION

☐ For cases from **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.

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

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

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was 12-23-2022.
A copy of that decision appears at Appendix B.

☒ A timely petition for rehearing was thereafter denied on the following date: 4-05-2023, and a copy of the order denying rehearing appears at Appendix C.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Sixth Amendment to the United States Constitution provides in relevant part: "In all criminal prosecutions, the accused shall enjoy the right...to have the Assistance of Counsel for his defense."

The Fourteenth Amendment to the United States Constitution provides in relevant part: "No state shall...deprive any person of life, liberty, or property, without due process of law; nor to deny to any person within its jurisdiction the equal protection of the laws."

The Revised Code of Washington (RCW) 9A.32.050 provides in relevant part: "A person is guilty of murder in the second degree when: With intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person;"

STATEMENT OF THE CASE

Petitioner maintained his innocence throughout a trial on second degree murder charges stemming from the death and dismemberment of Donald Meyer, a drug dealer in poor health whose apartment also boarded a number of other renters who were also drug users.

The following narrative finds its evidentiary basis in petitioner's State Court of Appeals brief, herein attached as Appendix D (with exhibits).

Petitioner Halfhill lived in his van while parked in Meyer's driveway, while the police's primary suspect, Brian Raymond, paid Meyer \$750 a month to live in the apartment with Meyer. Raymond subsequently used the pretext of drug activity in the apartment to move out early, and thereafter lived under Seattle's Ship Canal Bridge, where Meyer's body parts were eventually found in trashbags Raymond admitted he procured. Raymond felt Meyer owed him the \$750 in rent since he left before the month was out.

While petitioner had no criminal history, Raymond had a violent criminal past with convictions in Minnesota, Oregon, and Alaska, and a psych evaluation that said he "acts without thinking," is "impulsive," has an "inferiority complex," and "emotional coldness," and aggressive tendencies.

Police had two interrogations of primary suspect Raymond, on 12-14-2011, and a year later on 12-14-2012. Raymond made numerous damning statements. At the first interview he said Meyer's head was bashed in with a baseball bat, a fact the police had not yet learned because they hadn't yet recovered the head. At the second interrogation detectives noted, "You told us stuff about Don [Meyer's] murder that we didn't know about. You told us he had a skull fracture and that his head had been beaten with a baseball bat, do you remember

that?" Raymond claimed he didn't, and detectives said, "Well you did. We have you recorded, just like we are now." Raymond said he heard it from someone else, the identified person of which police tracked down and discovered it was a lie.

Later in the same interrogation the following exchange occurred:

Detective Duffy: "But you know things that nobody else knew like the baseball bat."

Brian Raymond: "I didn't know about the baseball bat."

Detective Duffy: "You told us about the baseball bat."

Brian Raymond: "No, I said he had a baseball bat."

Detective Duffy: "No, you said you heard that Don Meyer died from a baseball bat blow to the head."

Raymond realized he'd made a serious admission of culpability and said, "I want a lawyer."

Raymond also told police the black plastic bags in which Meyer's body was found were ones he procured from the Parks Department, and that he stashed things in these black plastic bags at the Ship Canal Bridge (where the body parts were found). Detectives asked, "is there any reason why we'd find your DNA on some of the bags that we're interested in [with the body parts]?" Raymond answered, "Yeah, I cut myself all the time, you know..."

Detectives took a DNA sample from Raymond, but never sent it to the crime lab to match against the blood under Meyer's fingernails because Raymond subsequently died from drug-related health issues.

Deprived of their primary suspect, police picked another one of the people in Meyer's orbit who could be fitted to the crime, and built a weak circumstantial case against petitioner Halfhill using mere proximity as proof of intent to murder Meyer.

Police suggested 7 spots of blood matching Meyer's DNA profile landed on

top of paint that Halfhill had painted in one of Meyer's filthy rooms, and alleged that Halfhill painted to cover up the blood. Facially this was absurd, in that the miniscule blood was found on top of the paint, and witnesses described Halfhill's work on the apartment (including the tearing out of rotten carpet) when Meyer was still alive.

Small amounts of blood found under paint on the floor matched

an unknown individual, but excluded Meyer.

Police alleged that the discovery of Meyer's torso at the CDL Recycling Center in Seattle, (traced back to a recycling bin from a demolished house a half block from Meyer's apartment), was evidence of Halfhill's guilt.

Other parts of Meyer's body were found in black plastic bags under the Ship Canal Bridge, and the fact that two months after the murder Halfhill's van was towed from Eastlake Avenue East nearby, was touted as evidence of Halfhill's guilt. However, when the van was towed, evidence showed Halfhill was in Florida where he went after his mother died. This fact was admitted by Raymond, who had the keys to the van while Halfhill was gone.

A witness testified that on 6-17-2011 Halfhill answered the door at Meyer's apartment, and indicated Meyer was not available and saying, "He's probably not going to make it."

Halfhill's DNA was matched to small amounts of blood in Meyer's hallway and closet where Halfhill had been doing renovation labor, held up as evidence he committed murder.

Halfhill owned a storage unit in Elma, and an exhaustive search of all the junk there included a TicTac container of the style Meyer used to store and sell methadone pills. Numerous witnesses testified Meyer kept many TicTac containers with methadone all over the apartment. The discovery of the TicTac

container at the storage unit was used as evidence Halfhill murdered Meyer, even though a slew of Meyer's other 'friends' testified to taking Meyer's property from the apartment after his death. The TicTac container had three DNA profiles taken from it, matching Meyer and two other unknown people; Halfhill was excluded. Raymond had access to the storage unit, where he stored tools, and he admitted he went to the storage unit.

A neighbor testified she once heard Meyer and Halfhill arguing, held up as proof Halfhill murdered Meyer, even though her testimony conflicted with earlier statements she made that there was no disturbances at the apartment in the past month. The court ruled her testimony was unreliable, and held it wouldn't come into trial, but was nevertheless given to the jury, and cited as evidence of murder. (The Court of Appeals would later lean on this stricken testimony to bolster its denial of relief).

A neighbor said Halfhill could be heard playing with a taser, which was used as evidence Halfhill murdered Meyer. No taser marks were ever found on the victim by the medical examiners.

The State in trial talked about a circular and reciprocating saw found in Halfhill's storage unit, implying those might have been used to cut up Meyer's body, even after forensics could not find one bit of Meyer's DNA on the filthy (uncleaned) saws.

The following facts are referenced in petitioner's attorney's briefing, attached in Appendix E.

In contrast to the mere proximity case brought against Halfhill when police could no longer charge Raymond due to his death, Meyer's personal health was tenuous. He was addicted to heroin and used methadone, was a heavy smoker, and rarely left his apartment. Meyer's roommate, Mark Johnston, died 4-06-2011

from a drug overdose. Other drug customers who were routinely at Meyer's apartment included Matthew Dehart, Katie Marshall, Josh Marshall, and Eric Martin, some of whom testified to essentially stealing Meyer's major property after he was dead. Interactions with Meyer repeatedly suggested his drug habits, poor health, and reclusiveness would end the same way as Mark Johnston, in a drug overdose or incidental death.

Despite the significant evidence demonstrating Raymond as a prime suspect, petitioner's trial counsel inexplicably went after another 'alternate culprit,' Ron Varney. Like Halfhill, there's nothing substantially linking Varney to the crime but proximity to Meyer. Unlike Varney, Raymond admitted to police numerous damning statements of his connection to the crime, prime among them that the trashbags were his, would have his DNA, and knowledge of how Meyer was killed before police discovered the head and confirmed it.

Petitioner raised this ineffective counsel issue and was told by the Court of Appeals "Halfhill fails to show the absence of a legitimate strategic or tactical reasons [sic] why defense counsel would attempt to introduce Varney as an other suspect and not Raymond." Appendix A, p.8. The Court then engaged in a disingenuous effort to downplay Raymond's connections to the crime by failing to note any of the facts he admitted to police, and said, "The proffered evidence for Raymond is even weaker." Id. at 10. The court used this obfuscation to excuse counsel's failure to raise as an alternate suspect the man whose admissions to police put him at the scene of where the body was found, with knowledge of how Meyer was killed, and an actual motivation for killing him (anger over his \$750 rent payment).

Where matching the DNA from under Meyer's fingernails to Raymond's would substantially prove Halfhill's innocence, (particularly where the fingernail

DNA already didn't match Halfhill's), the court made no effort to consider the briefed argument on a decade's worth of advancements in DNA testing since the crime, and simply parroted the State's argument that "no comparisons were possible." Id., at 13. The court also said "Halfhill does not explain why the DNA evidence is material to the identity of the perpetrator," conspicuously ignoring the fact that primary suspect Raymond's DNA sample was never given to the crime lab after he died. If Raymond's DNA was matched to the DNA scraped off Meyer's fingernails from his assailant (using modern DNA testing), the case is over. Halfhill's consistent protestations of innocence would be validated.

Despite complete absence of any showing of intent (a necessary element of second degree murder), the court also rejected petitioner's insufficiency of evidence claim by falsely claiming it was the same error previously raised. Id. at 14-15.

An innocent man merely in the orbit of the victim was sent to prison for second degree murder, when no evidence linked him to the crime, and no evidence showed he had any intent to kill Meyer. Meyer was a sickly drug addict who just as easily died on his own, and if the many people who relied on him for drugs (of whom Halfhill was not one) decided to hide his body to perpetuate use of meyer's drugs or theft of his property, there is not one scintilla of evidence to say otherwise.

Unless Raymond's admissions to police are considered, that he knew the head was smashed with a baseball bat (before police knew), that his DNA was in the trashbags with the body, that he stashed stuff in those trashbags under the Ship Canal Bridge where the body parts were found and where Raymond was living. All evidence Halfhill's trial counsel neglected to raise in defense.

REASONS FOR GRANTING THE PETITION

1. Insufficient evidence of murder or intent contravenes the Due Process clause of the Fourteenth Amendment

The Supreme Court has repeatedly held that sufficient proof beyond a reasonable doubt must be proffered to convict on every element of an offense. Jackson v. Virginia, 443 U.S. 307, 316, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); In re Winship, 397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970); Southern Union Co. v. United States, 567 U.S. 343, 348, 132 S.Ct. 2344, 183 L.Ed.2d 318 (2012). Surmise and arbitrary assumptions do not stand in for logical inferences. Bailey v. Alabama, 217 U.S. 219, 232, 31 S.Ct. 145, 55 L.Ed. 191 (1911); Leary v. United States, 395 U.S. 6, 36, 89 S.Ct. 1532, 23 L.Ed.2d 57 (1969).

Washington's second degree murder statute has the following elements:

"With intent to cause the death of another person but without premeditation, he or she causes the death of such person or of a third person."

RCW 9A.32.050(1)(a) (emphasis added).

The State made no effort to prove petitioner had any intent to kill Meyer, or that he caused his death. Rather, the State injected all manner of prejudicial suggestions, such as raising that petitioner's storage locker had saws that even the forensic analysts admitted had no DNA or evidence of use to cut up Meyer—and not because they were cleaned: the saws were filthy.

Halfhill was clearly doing maintenance work for Meyer. Little specks of his or Meyer's blood anywhere in the apartment isn't evidence of dismemberment of a body. That the specks were on top of paint doesn't evidence paint used

to cover up a crime. Halfhill's ownership of a taser when no taser marks were found on the victim is indicative of how speciously the State tried to make inferences out of nothing.

An innocent man was sent to prison for a murder no one had evidence he had anything to do with, while the police's primary suspect died and police withheld his DNA from the crime lab to thwart matching it to any of the "unidentified" DNA profiles like the one Meyer scraped with his fingernails off the assailant.

Rule 10 of the Supreme Court countenances review when the state court of appeals has answered a federal question in a way that directly conflicts with Supreme Court precedent. Halfhill's case presents compelling grounds for restoring the authority of this Supreme Court on what "beyond a reasonable doubt" means, not just in terms of the crime itself, but on often ignored elements like "intent." Without this assertion of law, Washington courts remain free to disregard the Supreme Court, and uphold false convictions of innocents like Halfhill without evidence of involvement or intent in a murder. Absence of this Court's intercessory authority promotes police such as Seattle's to pick any citizen to pin a murder on when their suspect has the bad taste to die before he's charged.

Petitioner asks that Writ of Certiorari be granted to protect the innocent and restore the beyond-a-reasonable-doubt standard.

2. Petitioner's trial counsel was ineffective for failing to raise Raymond as an alternate suspect

The right to effective assistance of counsel is significant and guaranteed. Strickland v. Washington, 466 U.S. 668, 685-86, 104 S.Ct. 2052,

80 L.Ed.2d 674 (1984); U.S. Const. Amendment VI. Strickland's 2-prong analysis asks if the attorney's performance was deficient, and if but for that deficiency the jury might still have convicted the defendant. 466 U.S. at 687. In a dissent Justice Marshall felt Strickland should pave the way for granting certiorari in a similar case, writing, "in fashioning the prejudice standard, 'a verdict or conclusion only weakly supported by the record is more likely to have been affected by errors than one with overwhelming support.'" Aldrich v. Wainright, 479 U.S. 918, 921, 107 S.Ct. 324, 93 L.Ed.2d 297 (1986) (quoting Strickland, at 696).

Aldrich epitomizes the error committed against Halfhill, noting a record that the "only direct evidence implicating Aldrich was testimony from a convicted felon who had violated the terms of his parole and lied to police investigators, and who was the other most likely suspect in the crime." Aldrich, 479 U.S. at 922 (Justice Marshall believing counsel was ineffective for failing to investigate these credibilities between alternate suspects).

In contrast to Aldrich, petitioner Halfhill didn't even have testimony directly implicating him in the crime. His counsel chased after Varney as an alternate suspect when Varney was (like Halfhill) merely in the same orbit as victim Meyer. Meanwhile, counsel knew from police interrogations the police were focused on Raymond, that Raymond repeatedly lied to police, and that Raymond had made numerous inculpatory statements to police before he died. A jury hearing these facts not only would have had doubt about Halfhill's relevance to this prosecution, they would have almost certainly found him innocent as Halfhill consistently maintained. The prejudice was acute, and there was no legitimate tactical reason for ignoring such evidence of other-suspect Raymond.

A nation that allows innocent men to be put in prison because their attorney doesn't bother to raise that police had already gleaned inculpatory statements from a primary suspect who inconveniently died cannot be tolerated, and petitioner asks this Court grant Certiorari to restore some semblance of state obedience to the Court's longstanding precedents on ineffective assistance of counsel.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Scott L. Halfhill
Scott Halfhill - Petitioner

Date: July 3 , 2023