

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Tre'Quan D. James — PETITIONER

28 U.S.C. § 2403(a)

VS.

COMMONWEALTH OF VIRGINIA & al. — RESPONDENT(S)

ON REHEARING PETITION FOR A WRIT
OF CERTIORARI TO

COURT OF APPEALS OF VIRGINIA

PETITION FOR WRIT OF CERTIORARI

Tre'Quan D. James (Pro Se)

WALLENS RIDGE STATE PRISON

P.O. Box 759 BIG STONE GAP

VIRGINIA, 24219

#1515048

QUESTIONS) PRESENTED

1. — Was the Petitioner's, Triquan Devonte James, Convictions obtained in violation of Virginia Law, as well as Fifth, Sixth and Fourteenth Amendment rights guaranteed by the U.S. Constitution, where Commonwealth re-litigated Factual issue(s) and element(s) from Triquan D. James's First trial?
2. — Did the Court of Appeals of Virginia, and the Supreme Court of Virginia Commit Reversible error Upholding Triquan D. James's Convictions despite Possible Constitutional Error?

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:

TreQuan D. James #1515048
Wallens Bridge State Prison
P.O. Box 759, Big Stone Gap,
Virginia, 24219

Office of The Attorney
General, 202 N. Ninth
Street, Richmond,
Virginia, 23219

RELATED CASES

Commonwealth of Virginia v. TreQuan Devonte James No. CB20F00545-01, Circuit Court of the County of Chesterfield, Chesterfield Circuit Court Building. Judgment entered on January 7, 2021.

Commonwealth of Virginia v. TreQuan Devonte James No. 19-F-3492-93, Circuit Court of the City of Richmond, John Marshall Circuit Courts Building. Judgment entered on March 25, 2021.

Commonwealth of Virginia v. TreQuan Devonte James No. 0896-21-2, Commonwealth of Virginia in the Court of Appeals of Virginia. Judgment entered on December 6, 2022.

Commonwealth of Virginia v. TreQuan Devonte James No. 230007, Commonwealth of Virginia in the Supreme Court of Virginia. Judgment entered on May 4, 2023.

TreQuan Devonte James v. Virginia No. 23-5356, Virginia in the United States Supreme Court. Judgment entered on October 2, 2023.

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- APPENDIX B — By an order entered on March 25, 2021, in the Circuit Court of the City of Richmond, John Marshall Circuit Courts Building, Trequan Devonte James was convicted of offense Va. Code Section 18.2-308.2(A), VCC: WPN-5296-F6 (Violent Prior) and 18.2-32, VCC: MUR-0925-F2 (First Degree). (Constitutional and Statutory Provisions referred on Pg. 3-5); (Portion of the record see Pg. 8);
- APPENDIX C — By an order entered on May 4, 2023, the Supreme Court of Virginia Denied review of Trequan Devonte James' Petition For Appeal. See: e.g., "Appendix C".
- APPENDIX D — By an order entered on October 2, 2023, the United States Supreme Court Denied Trequan Devonte James' Petition For Writ of Certiorari. See: e.g., "Appendix D".
- APPENDIX E — By an order entered on January 7, 2021, in the Circuit Court of the County of Chesterfield, Chesterfield Circuit Court Building, Trequan Devonte James was Acquitted of offense Va. Code Section 18.2-308.2, VCC: WPN-5296-F6 (Violent Prior). See: e.g., "Appendix E" #1 For the Portion of record referred.

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner RESPECTFULLY Prays that this Honorable Court will ISSUE A writ of Certiorari 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 C 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 John Marshall Circuit 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.

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 May 4, 2023. A copy of that decision 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 Fifth Amendment of the United States Constitution Provides:

"No Person shall be . . . deprived of Life, Liberty, or Property without due Process of Law; nor shall Private Property be taken for Public Use, without Just Compensation."

The United States Constitution Provides:

"Prior to trial, the Prosecution must turn over to the defense all exculpatory evidence in its actual or constructive possession. Failure to do so is a violation of Due Process Clauses of the Fifth and Fourteenth Amendments."

See: *Brady v. Maryland*, 373 U.S. 83 (1963);
Kyles v. Whitley, 514 U.S. 419 (1995);
Strickler v. Green, 527 U.S. 263 (1999);

The Definition of Fundamental Error Provides: Legally Defined;

"In order to qualify as a 'Fundamental Error', the error must be so 'blatant' of a violation of basic Principles rendering the trial unfair to Due Process rights of the defendant. The error must be so Prejudicial as to make a Fair trial impossible".

"The Silver Lining is, where Fundamental error is concerned, Counsel isn't required to make an objection in order to Preserve the error for Appeal. The Fundamental Doctrine Provides a vehicle for the review of error not Properly Preserved for Appeal".

The Definition of Harmless Error Provides: Legally Defined;

"An error that 'Does not' affect the Substantial Rights of a Party, given the errors 'Likely' impact on the Jury in light of the other evidence Presented trial".

The Definition of Abuse of Discretion Provides: Legally Defined;

" If a Judge allows evidence into a Courtroom (trial) over the objection of a trial attorney, where the Law Clearly Prohibits, it is considered an Abuse of Discretion."

" Unless it is Proven that the Judge ruling was Contrary to Law, (As in the Rules of Criminal Procedure), (Rules of Evidence), (United States Constitution Etc.), the higher Courts will not disturb the ruling. Must Show Prejudice, that absent the Abuse of discretion, the Outcome would have been different."

Virginia Law Provides: Collateral Estoppel

" The United States Supreme Court States, "[W]hen an issue of ultimate Fact has once been determined by a valid and final Judgment, that issue Cannot again be litigated between the Same Parties in any Future Lawsuit". See: "Ashe v. Swenson, 397 U.S. 436, 443 (1970);

" The Supreme Court of Virginia holds, "Collateral estoppel, as applied in Criminal Proceedings, becomes applicable only when the defendant's Prior acquittal necessarily resolved a Factual issue that the Commonwealth seeks to litigate again in a Subsequent Proceeding. See: "Commonwealth v. Leonard, 294 Va. 233, 239 (2017);

It is well-established Virginia Law that "the Commonwealth is barred from introducing evidence to Prove an offense for which a defendant has been Previously acquitted, even though the Facts necessarily resolved in the acquittal are not dispositive of an element of the offense charged in the Second trial. See:

"Simon v. Commonwealth, 258 S.E.2d 567, 220 Va. 412 (1979) (Citing "Ashe v. Swenson, 397 U.S. 436, 443 (1970));

" The Supreme Court of Virginia States, "the doctrine of Collateral estoppel is a Constitutional requirement embodied in the Fifth Amendment Protection against Double Jeopardy and is applicable to the States through the Fourteenth Amendment to the United States Constitution. See: "Simon v. Commonwealth, 220 Va. 412, 415 (1979) (Citing "Lee v. Commonwealth, 219 Va. - (1979));

In "Ashe v. Swenson, the United States Supreme Court "incorporated the doctrine of Collateral estoppel into the Fifth Amendment Prescription against Double Jeopardy. See: "Clod Felter v. Commonwealth, 218 Va. 98, 105 (1977), *revid* on other grounds, 218 Va. 619 (1977);

The Statute involved and under review is, Title 18, United States Code, Federal Rules of Criminal Procedure, Rule 11, which Provides:

- "where defendant did not claim a mere technical violation of Formal Provision of Rule of Criminal Procedure but, rather, error was of Constitutional Magnitude, defendant could Collateral attack Conviction under Statute to Vacate the Judgment of Conviction and Sentence. See: United States v. Mercer, 510 F.2d 343 (7th Cir. 1982);

Same Consideration Compel Finding that Petitioner's Claim Violates Due Process and results in a Miscarriage of Justice excusing "Cause" for Procedural default.

The Statutes involved and under review are, Virginia Evidence Rule and Trial Rule, which Provides:

- "At trial, the Commonwealth bears the burden of Proving the identity of the Accused as the Perpetrator beyond a reasonable doubt." See: Luffee v. Commonwealth, 61 Va. App. 353, 363, 735 S.E. 2d 693, 698 (2013);
- "To Convict of First Degree Murder, the Commonwealth must Prove that the killing was not only Malicious, but also willful, deliberate, and Premeditated". See: "Giarratano v. Commonwealth, 220 Va. 1064, 1074, 266 S.E. 2d 94, 100 (1980);
- "The admissibility of evidence is within the discretion of the trial Court, and the Decision to admit evidence is reviewed for abuse of discretion". See: Dalton v. Commonwealth, 64 Va. App. 512, 519, 769 S.E. 2d 698, 703 (2015);
- "The requirement of Authentication or identification as a Condition Precedent to admissibility is Satisfied by evidence Sufficient to Support a Finding that the thing in question is what its Proponent Claims". See: Virginia Rules of Evidence 2:901;
- "Pertinent text of Constitutional and Statutory Provisions involved are referred to "APPENDIX B", OF 'INDEX TO APPENDICES'.

STATEMENT OF THE CASE

On September 24, 2019, Chesterfield County Police Department were dispatched to the Hill Phoenix Plant of 1925 Buffin Mill Rd., South Chesterfield, Virginia, for a reported kidnapping and Abduction. The Call was made by alleged victim Crystal, Hinton. The Purposed Suspect was identified by Crystal, Hinton as being Traquan D. James, and was Considered to be armed. Chesterfield County Police Officers McDowell and Lucas made Contact with Traquan D. James while he was in Crystal, Hinton's Vehicle. Officers removed James From the Vehicle and Conducted a Search of the vehicle, where a Firearm was recovered. After hearing Statements From Crystal, Hinton and Traquan D. James, the Charges of kidnapping and Abduction were not issued. Traquan D. James was ultimately arrested for offense Va. Code Section 18.2-308.2, VCC: WPN-5296-F6 (Violent Prior). The Firearm was seized and sent to Department of Forensic Science for Possible results. See: Chesterfield County Police Department incident # (201909240039) of Chesterfield County Circuit Case No. (CR20F00545-01), COMMONWEALTH OF VIRGINIA V. TREQUAN DEVONTE JAMES, as well 2.9., "Appendix E" #2.

On September 24, 2019, at the Chesterfield County Police Department Precinct, an Detective of the City of Richmond Police Department notifies Officers that there were questions to be asked of Traquan D. James concerning an Homicide that took place in the City of Richmond on September 22, 2019. Detective informs Traquan D. James that such incident was reported by an Crystal, Hinton. Crystal, Hinton accused Traquan D. James as being the Suspect involved. After interrogation by both Jurisdictions of separate matters, James was transported to Chesterfield County Jail where he was Processed and held to await trial for offense Va. Code Section 18.2-308.2, VCC: WPN-5296-F6 (Violent Prior) See: Chesterfield County Investigative Summary Report and incident/ investigation Report of Police Department incident # (201909240039) of Chesterfield County Circuit Case No. (CR20F00545-01)

On December 18, 2019, a Multi-Jurisdiction Grand Jury, impaneled From the City of Richmond, and the Counties of Chesterfield, Hanover and Henrico returned a three Count indictment charging TreQuan D. James with the Following:

Va. Code Section 18.2-308.2(A), VCC: WPN-5296-F6 (Violent Prior),
Va. Code Section 18.2-32, VCC: MUR-0925-F2 (First Degree),
Va. Code Section 18.2-53.1, VCC: ASL-1319-F9.

TreQuan D. James, was ordered to appear before the John Marshall Circuit Courts Building, in the City of Richmond, for trial by Jury on March 23, 2021.

On January 3, 2020, and January 13, 2020, the Department of Forensic Science returned an Certificate of Analysis with results. There were NO DNA or any other type of biological evidence that linked TreQuan D. James to the Care or Custody of the Firearm Submitted by Chesterfield County Police Department. See: e.g., "Appendix E" #2, as well Certificate of Analysis by the Department of Forensic Science, FS Lab # C19-11967, Chesterfield County Police Department Case # (201909240039). See also: Transcript of Preliminary Hearing of Chesterfield County Circuit Case No. (CR20F00545-01), Chesterfield County Police Officer McDowell Statements of Results Pertaining to Department of Forensic Science Certificate of Analysis, FS Lab # C19-11967.

However, results did confirm that Casings Submitted by detective of the City of Richmond, recovered from the Crime Scene of Homicide dated September 22, 2019, were identified as having being fired from the Firearm Submitted by Chesterfield County Police Department. The Certificate was sent to the City of Richmond for Richmond City Circuit Case No. (19-F-3492-93). See: e.g., "Appendix E" #2.

On January 7, 2021, in the Chesterfield County Circuit Court, trial by Jury, TreQuan D. James was found 'NOT GUILTY' of offense Va. Code Section 18.2-308.2, VCC: WPN-5296-F6 (Violent Prior). The Acquittal was of Possession of the Firearm recovered by Chesterfield County Police on September 24, 2019, Submitted by Chesterfield County Police Department. See: Department of Forensic Science Certificate of Analysis, FS Lab # C19-11967, Chesterfield County Case # (201909240039) and Chesterfield County Circuit Case No. (CR20F00545-01). See also: e.g., "Appendix E" #1 and #2.

On March 23, 2019, in the John Marshall Circuit Courts Building, City of Richmond Circuit Case No. (19-F-3492-93), Counsel for Traquan D. James introduced to the Court an MOTION IN LIMINE, objecting to the introduction of a Firearm and the element(s) and issue(s) surrounding it, as evidence. The grounds were that 'Collateral Estoppel' applied because Traquan D. James was Acquitted of such Firearm and the element(s) and issue(s) surrounding it during his first trial of Chesterfield County Circuit Case No. (CR20F00545-01). See: e.g., "Appendix B" #2.

The Judge allowed the MOTION IN LIMINE to be made part of the record, then asks Counsel for the actual order of Acquittal. Counsel stated that the order was not in her possession, but that it was obtainable if give a Continuance. The Judge denied Counsel's request. The Commonwealth began to further introduce as evidence the Firearm, evidence pertaining to its possession and recovery, as well testimony from Chesterfield County Police Officers, all of which were sought from Traquan D. James's first trial. Counsel for Traquan D. James continued to object, as well moved to STRIKE AND DISMISS the Commonwealth's Case. The Judge denied Counsel's MOTION and Permitted the Commonwealth to Continue.

On March 25, 2021, the final day of Traquan D. James's three day jury trial, the jurors returned with an verdict of 'GUILTY' on all charges. See: Trial Transcripts of City of Richmond Circuit Case No. (19-F-3492-93).

On July 29, 2021, the trial Court conducted Sentencing Hearing, where Counsel for Traquan D. James renewed MOTIONS TO STRIKE AND DISMISS the Commonwealth's Case, as well introduced an MOTION TO SET ASIDE THE VERDICT. The Judge Denied Counsel's MOTIONS and Proceeded to Sentencing. Traquan D. James was sentenced to an active 34 years, as well 15 years, 4 month for a Probation Violation/Show Cause.

Traquan D. James appealed. By an order entered on December 6, 2022, the Court of Appeals of Virginia upheld the convictions.

(Court of Appeals of Virginia Official Opinion held See: e.g., "Appendix A") #1 and #2.

Traquan D. James appealed. By an order entered on May 4, 2023, the Supreme Court of Virginia denied review of Petition for Appeal.

(Supreme Court of Virginia Official Opinion held See: e.g., "Appendix C").

Traquan D. James appealed. The Petition was to the United States Supreme Court for a writ of Certiorari. By an order entered on October 2, 2023, the United States Supreme Court denied the Petition.

(United States Supreme Court Official Opinion held See: e.g., "Appendix D").

A Petition for Rehearing for Writ of Certiorari follows.

As well;

(Chesterfield County Circuit Court Official Opinion/Judgment held See: e.g., "Appendix E") #1.

REASONS FOR GRANTING THE PETITION

1. — The Court(s) below has decided an Federal question in conflict with **THIS COURT'S** applicable decision held. See: U.S.C. Rule 10, (b)(c).
2. — Double Jeopardy is defined by **THIS COURT'S** decision held in 'Blockburger v. United States, 284 U.S. 299, 304, 76 L. Ed 306, 52 S.Ct. 180 (1932).
See also: 'Grady v. Corbin, 495 U.S. 508 (1990);
'Ford v. Wainwright, 447, U.S. 399 (1983);
'Hewitt v. Helms, 59 U.S. 460 (1983).
"Two offenses are different, for purposes of Double Jeopardy, whenever each contains an element that the other does not. On the contrary, if either offense contains the same element that are EXACTLY THE SAME as the other offense, then Double Jeopardy exists."

Triquan D. James's Acquittal in the First trial, County of Chesterfield Circuit Case No. (CR20F00545-01) dated January 7, 2021, foreclosed Factual element(s) and issue(s) from being litigated again in the Second trial, City of Richmond Circuit Case No. (19-F-3492-93) dated March 23, 2021. The Factual element(s) and issue(s) are the following:

The Firearm, evidence pertaining to its possession and recovery, body worn camera footage and testimony from Chesterfield County Police Officers, Department of Forensic Science Certificates of Analysis, as well as the accuser Crystal Hunter.

APPLICATION

3. — "The Supreme Court of Virginia lists the following four requirements for the application of Collateral Estoppel, which are all satisfied in the matter sought for review. The four requirements are as follows:
(1). The Parties to the two Proceedings must be the same;
2. in both trials, the Parties involved are:
COMMONWEALTH OF VIRGINIA v. THEQUAN DEVONTE JAMES, along with Crystal Hunter, as the Accuser.
(2). The Factual issue sought to be litigated must have been actually litigated in the Prior Proceedings;

2. In the Second trial, CITY OF RICHMOND Circuit Case No. (19-F-3492-93), the Commonwealth sought and introduced as evidence the Firearm, of which was recovered by Chesterfield County Police on September 24, 2019, as well evidence Pertaining to its Possession and recovery etc., all of which was FULLY Litigated by an Valid and Final Judgment on January 7, 2021. County of Chesterfield Circuit Case No. (CH20F00545-01). See: Chesterfield County Police Department incident # (201909240039), Trial Transcripts of Chesterfield Circuit Case No. (CH20F00545-01), as well e.g., "Appendix E" #1.

(3). The Factual issue must have been essential to the Judgment rendered in the Prior Proceeding;

2. The Factual issue in the Second trial - Possession and use of the Firearm in Commission of Murder on September 22, 2019 - was essential to the Judgment rendered in the First trial - Possession of the Firearm on September 24, 2019, of which Triquan D. James was Found 'NOT GUILTY'. Therefore, the Factual issue of the Second trial was essential to the Judgment rendered in the First trial due to the Firearm being the EXACT SAME in both Proceedings, as well the evidence Surrounding it Pertaining to its Possession and recovery.

(4). The Prior Proceeding must have resulted in a valid, Final Judgment against the Party to whom the doctrine is sought to be applied;

2. The Final Judgment of the trial Court in the First trial was indeed Valid. See: e.g., "Appendix E" #1.

The Fact that the charges in the First trial (Possession of the Firearm in the County of Chesterfield) are not necessary elements of the charges in the Second trial (Possession of the Firearm and use in the Commission of Murder) does not matter - Collateral estoppel still applies Pursuant to Virginia and Supreme Court of Virginia, as well the United States Supreme Court Jurisprudence. See:

'Ashe v. Swenson, 397 U.S. 436 (1970); 'Commonwealth v. Leonard, 294 Va. 233, 239 (2017); 'Simon v. Commonwealth, 258 S.E.2d 567, 220 Va. 412 (1979); 'Lee v. Commonwealth, 219 Va. - (1979); 'Clodfelter v. Commonwealth, 218 Va. 98, 105 (1977) rev'd on other grounds, 218 Va. 619 (1977); 'Commonwealth v. Davis, 290 Va. 362, 368-69, 777 S.E. 2d 555 (2015).

4. — The Supreme Court of Virginia Provides:

"That a Felony Prosecution was barred by an misdemeanor Acquittal during a Combined misdemeanor trial and Felony Preliminary hearing because the misdemeanor Acquittal COMPLETELY ADJUDICATED necessary Facts in the defendant's Favor". See: 'Commonwealth v. Davis, 290 Va. 362, 368-69, 777 S.E. 2d 555 (2015).

TreQuan D. James Acquittal in the First trial COMPLETELY ADJUDICATED necessary Facts in his Favor in the Second trial. The Firearm TreQuan D. James was Acquitted of in the First trial was in Connection to an Homicide in the Second trial. The Firearm and the evidence regarding its Possession and recovery were the EXACT SAME in both trials. The Commonwealth in the Second trial sought and introduced this Firearm and evidence regarding its Possession and recovery from TreQuan D. James's First trial in order to convict him of Offense Va. Code Section 18.2-308.2(A), VCC: WPN-5296-F6 (Violent Prior) and Va. Code Section 18.2-32, VCC: MUR-0925-F2 (First Degree) in the Second trial. Such Prosecutorial Misconduct deprived TreQuan D. James of his right to a Fair trial. See: 'Darden v. Wainwright, 447 U.S. 168 (1986).

The Prosecution within the Second trial knew of TreQuan D. James's Acquittal in the First trial as the Prosecution within both trials act on behalf of the Government (Commonwealth/State).

The Suppression of such 'Exculpatory' evidence (The Order of Acquittal) was a violation of Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution. See:

'Brady v. Maryland, 373 U.S. 83 (1963); 'Hyles v. Whitley, 514 U.S. 419 (1995); 'Strickler v. Greene, 527 U.S. 263 (1999).

in 'Hyles v. Whitley, the United States Supreme Court, THIS COURT, explicitly Provides: "That the individual Prosecutor has the 'Affirmative Duty' to Learn of any Favorable evidence known to the other People and agencies acting on behalf of the Government on the Case, including the Police".

Hyles: "The question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict of confidence. A 'Reasonable Probability' of a different result is accordingly shown when the Government's evidentiary suppression 'undermines confidence in the outcome of the trial'."

5. — The Court of Appeals of Virginia decision in upholding the convictions, and the Supreme Court of Virginia denying review Terquan D. James's Petition For Appeal was in violation of Due Process Clause, and is thus in direct conflict with the applicable decision of **THIS COURT'S** Precedence in the aforementioned Virginia Law, Cases, Statutes and Provisions, as well Constitutional Rights to the United States Constitution. See also: 'Chapman v. California, 318 U.S. 18 (1967).
Even though Counsel objected to the introduction of foreclosed evidence by MOTION IN LIMINE during the first day of trial, thus preserving the objection for appeal, it is very well established that "where an fundamental error is concerned, Counsel is NOT required to make an objection in order to preserve the error for appeal. The Fundamental Doctrine Provides a vehicle for the review of error not properly preserved at trial for appeal". The error cannot be deemed an 'Harmless error' because it affected the substantial rights of a party, Terquan D. James, given its impact on the Juror's Verdict in light of the other evidence presented at trial. (Contrary to the Court of Appeals of Virginia official opinion held, see: e.g., "Appendix A") #1 and #2.

6. — Where Terquan D. James did not claim a mere technical error, or violation of formal provision of Criminal Procedure, but rather, error committed was of Constitutional Magnitude, Terquan D. James can and pursues to Collateral Attack convictions under STATUTE TO VACATE THE JUDGMENT OF conviction and Sentence. See: Rule 11, 18 U.S.C.A.; 28 U.S.C. § 2255. See also: 'United States v. Mercer, 510 F.2d 343 (7th Cir. 1982).

" Unless the motion and the Files and Records of the Case Conclusively Show that the Prisoner is entitled to no relief, the Court shall Cause notice to be Served upon the United States attorney, grant an Prompt hearing thereon, determine the issues and make Findings of Fact and Conclusions of Law with respect thereto. If the Courts Finds that the Judgment was rendered Without Jurisdiction, or that the Sentence imposed was not authorized by law or otherwise open to Collateral attack, or that there has been such an denial or infringement of the Constitutional rights of the Prisoner as to render the Judgment vulnerable to Collateral attack, the Court Shall vacate and set aside the Verdict and Judgment and Shall discharge the Prisoner or re-Sentence him or grant him an new trial or Correct the Sentence as may be appear appropriate."

Trequan D. James Respectfully urges that all aspects of the trial Court, the Court of Appeals of Virginia, and the Supreme Court of Virginia were Beyond erroneous and at an Variance with **THIS COURT'S** decisions as explained beforehand. James Convictions were obtained in violation of Constitutional Provision, which denied Fundamental rights Guaranteed by the Fifth, Sixth and Fourteenth Amendment of United States Constitution. It is acknowledged that certain Constitutional rights are so 'basic' to a Fair trial that their infraction Can never be treated as an harmless error. Trequan D. James seeks relief in **THIS COURT** to restore those rights Guaranteed to Him and the People of the United States. There Can be relief by no other Court. Trequan Devonte James has exhausted State Remedies.

CONCLUSION

Tre'Quan Devonte James, Pro Se, Petitions **THIS COURT**,
For Rehearing Upon Further Consideration.

In Conclusion with respect, Such Conduct of Constitutional
Error so undermined the Proper Functions of the
adversary Process that the trial was not relied upon as
having Produced an Just Result.

The result of the Particular Proceedings were Unreliable
because of an 'Breakdown' in the adversarial Process
that our system, and 'WE THE PEOPLE' OF the United
States, rely upon to Produce Just Results.

Tre'Quan Devonte James, Pleads this **HONORABLE
COURT** to exercise its Supervisory and Authoritive
Power to attain the ends of Justice, where
refusal to do so would result ultimately in an
Miscarriage of Justice.

Tre'Quan Devonte James, Asks **THIS COURT**, of
Last Resort, to Reverse the Judgment and to
Remand For An New Trial.

Petition For Rehearing For Writ of Certiorari
Shall be Granted.

Respectfully Submitted,

Tre'Quan D. James (Pro Se)



Date: November 21 20 23

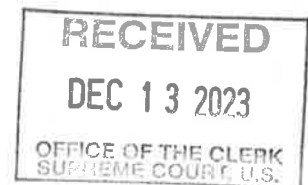
CERTIFICATE OF COMPLIANCE

I, TreQuan D. James, declare by Certificate that such ground in Petition are limited to intervening Circumstances of Substantial or Controlling effect Previously Presented, as defined by Rule 44 of the rules of this Court.

I hereby Certify that on this 21 day of November,
I, TreQuan D. James, Present such Petition in Good Faith and without Delay, as defined by Rule 44 of the rules of this Court, as well as U.S.C. § 6103.

EXECUTED ON November 21, 2023.


(Signature)





No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

A. Pym

10/24/23

TreQuan D James (Pro Se) - PETITIONER

VS.

Commonwealth of Virginia - RESPONDENTS

PROOF OF SERVICE

I, TreQuan D James, do swear or declare that on this date, NOVEMBER 28, 2023, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. The names and addresses of those served are as follows: Timothy J. Huffstutter, ESQ. (VSB No. 84911)
Attorney General, 202 N. Ninth Street Richmond, Virginia,
23219 The Solicitor General of the United States, Room
5616, Department of Justice, 950 Pennsylvania Ave., N.W.,
Washington, DC, 20530-0001. I declare under penalty of perjury that the foregoing is true and correct.
Executed on NOVEMBER 28, 2023

J. James
(Signature)

**Additional material
from this filing is
available in the
Clerk's Office.**