

OCT 17 2023

OFFICE OF THE CLERK

No. 23-6088

IN THE  
SUPREME COURT OF THE UNITED STATES

Alpheus E. Hamilton — PETITIONER  
(Your Name)

vs.

Arizona — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Arizona Court of Appeals  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Alpheus E. Hamilton  
(Your Name)

AZ DOC ASPC Eyman Meadows Unit P.O. Box 3300  
(Address)

Florence, Az. 85132  
(City, State, Zip Code)

(Phone Number)

**ORIGINAL**

Question(s) Presented

Did the State of Arizona violate the Due Process Clause when its prosecutor presented knowing use of false evidence to the jury as in Miller v. Pate, 386 U.S. 1?

Was the 5<sup>th</sup> and 14<sup>th</sup> Amendment violated by the State of Arizona prosecutor, by knowingly consistently and repeatedly misrepresenting DNA evidence as in Miller v. Pate, 386 U.S. 1?

The United States Supreme Court has ruled that the Due Process principles of the ~~14<sup>th</sup>~~ 14<sup>th</sup> Amendment can not tolerate a State criminal conviction obtained by the knowing use of false evidence, Does the same apply to this case as in Miller v. Pate, 386 U.S. 1?

List of Parties

[ X ] All parties appear in the captions of the case on the cover page.

**Related Cases**

**No Related Cases**

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## TABLE OF AUTHORITIES CITED

### CASES

CASES	PAGE NUMBER
Miller v. Pate, 386 U.S. 1 (Feb. 13, 1967)	(4-5)
Giglo, 405 U.S. at 150 (Feb. 24, 1972)	(5)
Mooney v. Holoh, 294 U.S. 103, 112, 55 S.Ct. 340, 79 L.Ed. 791 (1935)	(5)

### STATUTES AND RULES

Due Process Clause  
5<sup>th</sup> Amendment  
14<sup>th</sup> Amendment

### 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 is unpublished.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 is unpublished.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.

The opinion of the State trial and Appeals court appears at Appendix A&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 10/10/23.  
A copy of that decision appears at Appendix C.

A timely petition for rehearing was thereafter denied 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. § 1257(a).

### Constitutional and Statutory Provisions Involved

In cases involving the alleged presentation of false evidence, the Supreme Court has held that it is the “deliberate deception of a court and jurors by the presentation of known false evidence” that is “incompatible with rudimentary demands of justice.” Giglio, 405 U.S. at 153 (quoting Mooney v. Holohan, 294 U.S. 103, 112, 55 S. Ct. 340, 79 L. Ed. 791 (1935). See Miller v. Pate, 386 U.S. 1, 6, 87 S. Ct. 785, 17 L. Ed. 2d 690 (1967) (“The prosecution deliberately misrepresented the truth.”)

### **Violation of the 5<sup>th</sup> and 14<sup>th</sup> amendment Due Process Clause**

### Statement of The Case

Petitioner Alpheus Hamilton was accused and convicted of sexual conduct with a minor and molestation charges after police responded to the home on a domestic violence call. TH who was Hamilton's 17-year-old stepdaughter at the time of the allegation testified to cleaning herself and Hamilton off with a towel underneath the family bathroom sink after sex. TH mother testified to wiping Hamilton off with a towel after sex with her. No physical exam was done. Hamilton had no prior criminal record and vehemently denies all allegations and maintains his innocence. There was no testimony from any witness that any of these allegation was true. It was Hamilton's word against TH. TH admitted Hamilton was a strict disciplinarian that wouldn't allow her to date a boy she like. TH also testified to being a published creative writer. On cross examination TH was exposed for making up a fictitious teacher, school nurse, emails, hate letters and text messages. The only thing that gave this case life was the DNA towel. In opening (1/20/16 p. 41) the state told the jury TH and Hamilton's DNA was mixed on the towel together. The state presented an overhead projection of a DNA chart and told the jury TH was the minor contributor to the DNA on the towel. In closing(2/3/16 p. 192 – 193) the state told the jury to " Use your common sense it all matches the kid," notwithstanding TH DNA was not on the towel( 2/2/16 p. 166 – 167). The jury asked one question at the end of the trial and it was about the towel. The towel formed a vital component to the states case.

### Reason Relied on For Allowance of the Writ

The United States Supreme Court has already held the Due Process principles cannot tolerate a state criminal conviction obtained by the knowing use of false evidence ( Miller v. Pate, 386 U.S. 1.) The United States Supreme Court also held it is the “deliberate deception of a court and jurors by the presentation of know false evidence “that is incompatible with rudimentary demands of justice.” Giglio, 405 U.S. at 153 (quoting Mooney v. Holohan, 294 U.S. 103, 112, 55 s. ct. 340, 79 L. Ed. 791 (1935). The mischaracterization of the DNA evidence in the case raises a substantial federal question. The states comments in Opening, Closing and an overhead projection presentation was prejudicial. On Dec. 2, and 5, 2014 a hearing was held because the state wanted Hamilton to waive time to explore exculpatory DNA factors, against Hamilton protest, time was waived. The state knew then TH DNA was not on the towel and the towel was inconclusive. The state still misrepresented the towel to the jury to get their conviction. The state of Arizona blatantly violates the Constitutional rights of people because it is rare for this court to step in and answer the federal questions, presented by Petitioners. The State of Arizona knowingly misrepresented DNA evidence and its appeal courts turned a blind eye but not fixing the constitutional violation and granting relief. Petitioner humbly ask this court to answer these important federal questions decided by the State Court of last resort, as his 5th and 14th Amendment was violated, Due to the consistent and repeated misrepresentation of DNA evidence.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Alphonse E. Hamilton

Date: 10/16/23