

No. _____

ORIGINAL

23-6586

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Derrick R. Guil

— PETITIONER

(Your Name)

vs.

Jason S. Miyares, Attorney General

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court Of Appeals Of Virginia

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Derrick Ragutan Guil #1191680

(Your Name)

Wallers Ridge State Prison, P.O. Box 759

(Address)

Big Stone Gap, Virginia

(City, State, Zip Code)

(Phone Number)

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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☐ is unpublished.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☐ is unpublished.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☒ is unpublished.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 _____ court 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☒ is unpublished.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1) The Petitioner was completely denied his constitutional right counsel under Gideon at trial by the trial courts appointment of Christopher Bradshaw and Thomas P. Barbour both of whom were disqualified by an actual conflict of interest. Mr. Bradshaw and Mr. Barbour were in the same firm. Prior to representing the Petitioner at trial Thomas P. Barbour was employed by the Commonwealth Attorneys Office in the city of Richmond as an Assistant Commonwealth Attorney. As an Assistant Commonwealth Attorney Thomas P. Barbour prosecuted a Jaime Phillips and the Petitioner on charges relating to the homicide of Davon Daniels and assisted the lead Homicide Detective with aspects of her investigation in the Homicide of Davon Daniels; such as Volunteering to direct and indict Jaime Phillips in circuit court on a Firearm case so he would not be released from custody while Detective Amira B. Sleem was investigating him for any involvement in the homicide of Davon Daniels, and awaiting the determination from the Forensic Lab as to whether the weapon Mr. Phillips was apprehended with was the murder weapon that was used in the Homicide of Davon Daniels. Thomas Barbour even sought to use one of Amira B. Sleem witnesses from her investigation into the Homicide of Davon Daniels.

Thomas Barbour's Former Employment by the Commonwealth Attorney Office and prosecution of Jaime Phillips and the Petitioner relating to the Homicide of Davon Daniels, then coupled with his representation of the Petitioner on charges of First Degree Murder of Davon Daniels in the same matter placed him in the position of having to serve two masters and be thus charged with a private vengeance to convict his own client. See *Cantrell v. Commonwealth* 229 Va. 387 (1985.) See *Strickland v. Washington*, 466 U.S. 668

Thomas P. Barbour's actual conflict adversely affected his performance at trial. For Example, the Commonwealth Christine A. Cestaro informed the trial court that there were emails from Thomas P. Barbour As an Assistant Commonwealth Attorney to Homicide Detective Amira B. Sleem that related to the Homicide of Davon Daniels, but she did not disclose ~~that~~ the emails or that she herself was a part of the emails. And Thomas P. Barbour did not seek disclosure of the emails because to do so would have been to improperly seek disclosure of confidential communications of the attorneys client and would have imposed the virtually impossible task of assessing the impact of a conflict of interest on an Attorneys options, tactics, and decisions. *Holloway v. Arkansas*, 435 U.S. 475. The Emails were exculpatory evidence, favorable to the Petitioners defense, and could have been used for effective cross examination but Thomas P. Barbour would have been unable to use them because he obtained the information through confidential communications with the witness Homicide Detective Amira B. Sleem. See *Holloway v. Arkansas* 435 U.S. 475, *Culley v. Sullivan*, and *Wood v. Georgia*. Absent error there is a reasonable probability that the outcome of the Petitioner's trial would have been different, and a reasonable probability that is sufficient to undermine confidence in the Verdict. It is likely that Thomas P. Barbour and Christopher Bradshaw had a private vengeance against the Petitioner and failed to hire experts to challenge the Commonwealth altered 911 call, failed to object to the Commonwealth's improper opening and closing arguments, failed to object the Commonwealth's improper vouching for the credibility of their witnesses, and failed to lay a proper foundation to impeach Davon Daniels with prior felony convictions because they were intentionally aiding the Commonwealth to convict their own client. It could not be said the Petitioner received a fair trial and that violates the Petitioners right to due Process guaranteed by the Fourteenth Amendment.

REASONS FOR GRANTING THE PETITION

I am innocent and I did not do the crime. I am thirty five years old and I have been sentenced to spend the rest of my life in jail for something that I did not do. At trial I was completely denied my right to counsel and on direct appeal too. Both of my Attorneys labored under an actual conflict of interest that was prohibited by Law and the Rules of this Court, and the American Bar Association.

The trial court allowed statements purportedly the decedent to be admitted into evidence from a digitally altered 911 recording; where no such statements can be heard on the original at all. And then Denied the Petitioner's Counsel Motion to impeach a hearsay declarant with a prior criminal conviction of moral turpitude, which violated the Petitioner's Sixth Amendment Right to Confrontation and Effective Cross Examination.

In the Petitioner's case the Commonwealth Tampered with Evidence by altering the original 911 call, Suppressed Exculpatory Evidence, allowed false evidence and testimonies to go Uncorrected, Reached for the credibility of their own witnesses, and made improper opening and closing arguments even though the argument were not supported by evidence. Lastly, my Court Appointed Appellate Lawyer Maureen L. White did not take my Appeal in Good faith and was ineffective for failing to find at least one issue to support a merits brief. And left the Petitioner to shift the record for himself without help from Counsel.