No. 23-7084 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

GREGORY S. KUDLA — PETITIONER
(Your Name)

vs.

KENNETH BLACK, WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Gregory S. Kudla, A663-388
(Your Name)

Richland Correctional Inst.
P.O. Box 8107
(Address)

Mansfield, OH 44901
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Is the undefined, non-specific, ambiguous language used in Ohio's App.R.26(B)(2)(c) that results in arbitrary, inconsistent, and discriminatory enforcement unconstitutionally vague in violation of a defendant's right to Due Process under the Fourteenth Amendment and effective assistance of counsel as a first appeal of right as guaranteed by the Sixth Amendment?

2. Does the persistent misrepresentation of the facts, actual arguments presented, and proper standard of review to be used in a petitioner's actual innocence claim as a gateway to defaulted claims violate their Due Process rights under the Fourteenth Amendment?

LIST OF PARTIES

[X] 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

1. Kudla v. Black, No.23-3539, United States Court of Appeals for the Sixth Circuit, Judgment entered Nov. 22, 2023.

2. Kudla v. Black, No.5:21-cv-349, United States District Court for the Northern District of Ohio, Eastern Division, Judgment entered May 30, 2023.

3. Kudla v. Black, No.5:21-cv-349, United States District Court for the Northern District of Ohio, Eastern Division, Judgment entered Jan. 31, 2023 (R&R).

4. State v. Kudla, No.2020-0827, Supreme Court of Ohio, Judgment entered Sep. 15, 2020 (Discretionary appeal not allowed).

5. State v. Kudla, No.2018-0694, Supreme Court of Ohio, Judgment entered Jul. 5, 2018 (Discretionary appeal not allowed).

6. State v. Kudla, No.2016-1386, Supreme Court of Ohio, Judgment entered Feb. 22, 2017 (Discretionary appeal not allowed).

7. State v. Kudla, No.27652, Ohio Court of Appeals for the Ninth District, Summit County, Judgment entered Jan. 27, 2017; vacated and reissued Apr. 8, 2020 (Application to reopen pursuant to App.R.26(B)).

8. State v. Kudla, No.27652, Ohio Court of Appeals for the Ninth District, Summit County, Judgment entered Aug. 3, 2016.

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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

[x] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[x] reported at Kudla v. Black, 2023 U.S. App. LEXIS 31171; 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 B to the petition and is

[x] reported at Kudla v. Black, 2023 U.S. Dist. LEXIS 94010; 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 _____ 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 _____ to the petition and is

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

JURISDICTION

[x] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 22, 2023.

[x] 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 _____. A copy of that decision appears at Appendix _____.

[ ] 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

1. The Fourteenth Amendment of the United States Constitution, specifically the Due Process Clause.

2. The Sixth Amendment of the United States Constitution, specifically the right to effective assistance of counsel.

3. Ohio's App.R.26(B) specifically divisions (B)(2)(c), (B)(2)(d), (B)(2)(e) and (B)(4) which was incorrectly identified in the Ninth District Court of Appeals decision denying the App.R.26(B) application as (B)(3).

- App.R.26(B)(2) states in relevant part that an application shall contain:

  (c) One or more assignments of error or arguments in support of assignments of error that previously were not considered on the merits in the case by any appellate court or that were considered on an incomplete record because of appellate counsel's deficient representation;

  (d) A sworn statement of the basis of the claim that appellate counsel's representation was deficient with respect to the the assignments of error or arguments raised pusuant to division (B)(2)(c) of this rule and the manner in which the deficiency prejudicially affected the outcome of the appeal, which may include citations to applicable autorities and references to the record;

  (e) Any parts of the record available to the applicant and all supplemental affidavits upon which the applicant relies.

- App.R.26(B)(4) states in relevant part that: An application for reopening and an opposing memorandum shall not exceed ten pages, exclusive affidavits and parts of the record.

4. Ohio's App.R.16(A) specifically divisions (A)(3) and (A)(7) which is being incorrectly applied to App.R.26(B)(2)(c) in the first stage of the 26(B) procedure. Compare to above.

- App.R.16(A) states in relevant part that an appellant shall include in its brief . . . all of the following:

  (3) A statement of the assignments of error to be presented for review, with reference to the place in the record where each error is reflected; and

  (7) An argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which the appellant relies.

STATEMENT OF THE CASE

In 2014, Petitioner was falsely accused and wrongfully convicted of crimes he did not commit in the Summit Count Court of Common Pleas; and subsequently sentenced to 42½ years in prison, 40 years designated as mandatory. The conviction was timely appealed to the Ninth District Court of Appeals but appellate counsel failed to properly winnow the issues, fully articulate or present two of the issues raised, or even include the two egregious instances of impermissible expert testimony as to the veracity of the alleged victim that was properly objected to at trial and part of the record. The appeal would eventually be denied. At the same time, though, Petitioner filed a pro se App.R.26(B) application also in the Ninth District where collateral post-conviction claims of ineffective assistance of appellate counsel are to be brought pursuant to Ohio law. The application would also eventually be denied for a "purported" procedural error without addressing the merits but the clerk failed to properly serve notice on Petitioner thus preventing him from seeking further review (i.e., exhaust his State remedies) with the Ohio Supreme Court.

After protracted litigation the judgment entry was vacated, reissued, and properly served allowing Petitioner to finally move forward and exhaust his State remedies. Petitioner then filed his 28 U.S.C. §2254 habeas petition in the U.S. District Court for the Northern District of Ohio, Eastern Division. The magistrate issued his report and recommendation that the petition be denied;

and despite painstakingly identifying in irrefutable detail substantive mistakes of both fact and law that were clearly erroneous, contrary to law, and/or a clear misapplication of law, not a single on of Petitioner's objections were sustained and the district court judge essentially "rubber-stamped" the R&R while at the same time further disingenuously misrepresenting the facts and substance of Petitioner's arguments by selectively cherry-picking portions, while completely ignoring other parts, taking out of context and misrepresenting Petitioner's position. The same would also happen when applying for a COA with the U.S. Court of Appeals for the Sixth Circuit making the denial of the application appear to be well-reasoned and sound. It is not.

Petitioner now respectfully comes before this Honorable Court in an attempt to try and set the record straight and hopefully correct some of these wrongs.

REASONS FOR GRANTING THE PETITION

The reason this Honorable Court should exercise the court's discretionary jurisdiction in this case is because the issue of wrongful convictions and criminal justice reform are both of national importance. Wrongful convictions happen all the time. Much more than people realize or are willing to admit. Because of the advances in DNA technology, though, many of the underlying causes of wrongful convictions are being exposed -- revealing a much larger and broader issue at hand. The public is often quick to call for defunding the police and criminal justice reform, but one of the biggest issues Petitioner has realized isn't that we necessarily need to overhaul the entire system or add yet more laws to the books, but rather properly enforce and uphold the existing laws we already have. There are numerous checks and balances already built into the system; and Petitioner still hesitantly believes in our system; the problem is that "people" try to contort, manipulate, and bend them to serve their own ideological or political purposes. When this happens they need to be called out for it, corrected, and held accountable. This case is one such case.

QUESTION NO. 1

> Is the undefined, non-specific, ambiguous language used in Ohio's App.R.26(B)(2)(c) that results in arbitrary, inconsistent, and discriminatory enforcement unconstitutionally vague in violation of a defendant's right to Due Process under the Fourteenth Amendment and effective assistance of counsel as a first appeal of right as guaranteed by the Sixth Amendment?

In the R&R the magistrate incorrectly stated that "[a]s an initial matter, Kudla raises his contention that Rule (B)(2)(c) is unconstitutionally vague for the first time in his petition and, thus, that claim has never been fairly presented before the Ohio Courts, precluding our ability to rule on it." (Appx.C, page 21.) This statement was objected to, proven to be categorically false (the argument presented in the habeas petition is a verbatim copy of the exact same argument presented to the Ohio Supreme Court in Petitioner's Memorandum in Support of Jurisdiction as Proposition of Law No.I (see N.D. Ohio, Kudla v. Black, Case No.5:21-cv-00349, St.Ct.Rec., Exhibit 54, Doc.6-2 at 544, 552-557)), and yet despite identifying in irrefutable detail this substantive mistake the district court judge simply "rubber-stamped" this clearly erroneous conclusion. (Appx.B, page 6.)

The Sixth Circuit Court of Appeals then selectively cherry-picked portions of the argument, ignored other parts, and took out of context completely misrepresenting the argument about Rule (B)(2)(c) being unconstitutionally vague. (Appx.A, pages 3-4.) In the meantime the merits of the actual argument have never been considered or addressed. This is only one of many examples of why Petitioner claims the facts and substance of his arguments are being disingenuously misrepresented, and why very few wrongful convictions ever get exposed and/or fixed. It's not supposed to be like this. And it's not just isolated to the State of Ohio.

To try and simplify a rather complex issue, Petitioner will attempt to summarize the argument as concisely as best he can despite not being an attorney. App.R.26(B) is not compelled by the U.S. Constitution, however, Ohio has chosen through App.R.26(B) to create an additional and collateral post conviction opportunity for raising ineffective-appellate-counsel claims after the appeal of right is finished. (Paraphased.) Morgan v. Eads, 2004-Ohio-6110, ¶8. "A system of appeal as of right is established precisely to assure that only those who are validly convicted have their freedom drastically curtailed. A State may not extiguish this right because another right of the appellant -- the right to effective assistance of counsel -- has been violated." Evitts v. Lucey, 469 U.S. 387, 399-400. In 1993, the Ohio Supreme Court adopted App.R.26(B), which established appellate courts as the venue in which defendants should bring . . . claims of ineffective assistance of appellate counsel. State v. Davis, 2008-Ohio-4608, ¶13.

Ohio App.R.26(B)(2)(c) states that an application shall contain "one or more assignments of error or arguments in support of assignments of error that previously were not considered on the merits in the case by any appellate court or that were considered on an incomplete record becuase of appellate counsel's deficient representation." The Ninth District Court of Appeals, however, is erroneously misinterpreting the rule because it's conflating the two different stages of the 26(B) procedure -- something they have been doing for some time now -- by incorrectly applying second

stage criteria to the first stage of the procedure and expecting an applicant to present these issues pursuant to both App.R.16(A)(3) and (A)(7), assignments of error and arguments in support of those assignments of error, all within the first ten pages of the application. See the court's journal entry explaining that Petitioner's application is being denied because "he fails to assert any specific assignments of error" when that's not what Rule (B)(2)(c) actually states or requires. (Appx.D, page 2.)

App.R.26(B)(2)(c) is unconstitutionally vague as was applied in these circumstances because the rule fails to provide guidelines that designate (i.e., fails to explicitly specify, define, or state) any "specific" criteria required to comply with the rule to avoid procedural default ("fair notice"). Additionally, because the rule is vague and fails to provide fair notice, it invites arbitrary and discriminatory enforcement. See Hill v. Colorado, 530 U.S. 703, 732, 120 S.Ct.2480, 147 L.Ed.2d 597 (2000). The Due Process Clause of the Fourteenth Amendment guarantees a defendant the right to effective assistance of counsel on his first appeal as of right. Evitts, 469 U.S. 387, paragraph two of the syllabus, pp.391-405. Due Process is not satisfied if a statute is unconstitutionally vague. Skilling v. United States, 561 U.S. 358, 130 S.Ct. 2896, 2928, 177 L.Ed.2d 619 (2010).

Furthermore, the Ninth District's decision is in conflict with other Ohio appellate courts that correctly identify that if sufficient argument is made to discern the proposed issues the

applicant sufficiently complied with Rule (B)(2)(c). See e.g., State v. Cobb, 2019-Ohio-2320 (8th Dist.). The Ninth District's decision is also in conflict with what the Ohio Supreme Court made explicitly clear in State v. Davis, 2008-Ohio-4608, that '[t]he appellate court's <mandate> in addressing a timely filed application for reopening is to determine whether a "genunine issue" [of ineffective assistance of appellate counsel] exists.' (Emphasis added.) Id. at ¶17. And, that, "[a] substantive review of the claim is an essential part of a timley filed App.R.26(B) application." Id. at ¶26. See also State v. Leyh, 2022-Ohio-292 (reversing the Ninth District Court of Appeals for erroneously conflating the two different stages of the 26(B) procedure and incorrectly applying second stage criteria pursuant to App.R.16 to the first stage).

In the Sixth Circuit's decision the court disingenuously misrepresents Petitioner's unconstitutionally vague argument by egregiously linking it to the Ninth District's false assertion that the application exceeded ten pages (Appx.D, page 2), and erroneously asserting that Petitioner's argument is "essentially that he misunderstood the requirements of Rule 26(B)); both of which are factually incorrect and categorically untrue. (Appx.A, pages 3-4.) It is the Ninth District that is misunderstanding the Rules of 26(B) because it has been improperly conflating the two different stages of the procedure and erroneously expecting second stage criteria subject to App.R.16 to be presented in the first stage

(see Leyh); which for complex issues such as the ones Petitioner is raising is impractical due to the ten page limit. (To try and present these issues into a ten-page application pusruant to App.R. 16, when a typical appellate brief is at least thirty pages, would dilute the arguments down to the point that it would render them incapable of being persuasive.)

As for the actual ten page limit (which had absolutely nothing to do with Petitioner's unconstitutionally vague argument) the Ninth District is improperly conflating Rules (B)(2)(c) with Rules (B)(2)(d) and (e), because the court has erroneously been conflating the two different stages of the 26(B) procedure. Again, see Leyh. The Ninth District has been doing so for years and is one of the reasons how wrongful convictions are kept from being overturned and exposed. To prove the point, App.R.26(B)(4) even explicitly states that an applicaton for reopening . . . shall not exceed ten pages, exclusive affidavits and parts of the record. The exhibits submitted as part of the affidavit with respect to the arguments raised pursuant to division (B)(2)(c), that the court is erroneously counting towards the ten page limit, are part of the affidavit pursuant to Rules (B)(2)(d) and (e) and, therefore, separate -- exclusive -- of the ten page limit. As is clearly stated in Rule (B)(4) itself. So any assertion that Petitioner's application exceeded the ten page limit and thus fails to comply with the Rules of 26(B) on those grounds simply isn't true.

App.R.26(B)(2)(d) and (e) require an applicant to attach items to the application "with respect to the assignments of error or arguments raised pursuant to division (B)(2)(c)." They do not count towards the ten page limit for the application but are submitted as evidence in support. See Morgan v. Eads, 2004-Ohio-6110, ¶¶11-13 (as a collateral post conviction proceeding App.R.26(B) requires an applicant to submit additional matter not in the record to support claims that appellate counsel was ineffective). The fact of the matter is that four "arguments in support of assignments of error" were presented by Petitioner in the actual ten page application as is required pursuant to Rule (B)(2)(c). Two of which were actually arguments in support of assignments of error previously raised in the direct appeal but not fully considered due to appellate counsel's deficient representation for inadequately presenting them, so there is no valid reason anyone can say Rule (B)(2)(c) was not complied with. This confirms for Petitioner that the Ninth District was erroneously expecting App.R.16 criteria to be presented in the first stage. (I.e., Rule (B)(2)(c) does not state that "specific assignment(s) of error" must be presented in the application. What the rule actually states is that assignments of error or arguments in support of assignments of error are to be included.)

To procedurally deny a timely filed application to reopen due to some undefined, non-specific, ambiguous criteria in the "first "stage" is fundamentally unfair and contrary to the very spirit, principle, and purpose of the App.R.26(B) procedure itself. It

is also contrary to the Ohio Supreme Court's recognition of the effective assistance of counsel as a right guaranteed to all defendants, Davis ¶27, and the Due Process Clause of the Fourteenth Amendment that guarantees a defendant the right to effective assistance of counsel on his first appeal as of right provided for by the Sixth Amendment, Evitts, 469 U.S. 387, paragraph two of the syllabus, pp.391-405. A system of appeal as of right is established precisely to assure that only those who are validly convicted have their freedom drastically curtailed. A State may not extiguish this right through use of an unconstitutionally vague rule that procedurally dismisses claims of ineffective assistance of counsel without addressing the merits. See Evitts, at 387, 399-400.

QUESTION NO. 2

> Does the persistent misrepresentation of the facts, actual arguments presented, and proper standard of review to be used in a petitioner's actual innocence claim as a gateway to defaulted claims violate their Due Process rights under the Fourteenth Amendment?

At every stage of Petitioner's habeas litigation the facts and actual arguments pertaining to Petitioner's actual innocence claim being asserted as a gateway to defaulted claims have been persistently misrepresented and not properly resolved under the appropriate standard in actual practice rather than just lip service. In the Sixth Circuit's decision the court continues to disingenuously misrepresent the facts and Petitioner's actual argument by selectively cherry-picking certain portions of the

argument while completely ignoring other key parts to make its' analysis to appear to be well-reasoned and sound -- just as the district court did. For example, the judge for the Sixth Circuit asserts that '[i]n support of his argument, Kudla cited a canceled invoice relating to sexually transmitted disease testing. He argued that this evidence "offers reasonable doubt to the jury" that Kudla gave chlamydia to the victim, which "supports his actual innocence claim because it is evidence of egregious prosecutorial misconduct." But this evidence would not make it "more likely than not that no reasonable juror would have convicted" Kudla of rape and sexual battery in light of the record as a whole.' (Appx.A, page 4.) This assertion however spins the facts, contorts Petitioner's actual argument presented, and "reframes" a complex issue taking it out of context disingenuously misrepresenting Petitioner's position.

Although properly identifying the correct standard of review and referencing "in light of the record as a whole," which makes it appear on the surface that a proper analysis is being used, Petitioner asserts that each of the courts' selective cherry-picking and manipulation of the facts and actual arguments being presented by Petitioner to support their flawed conclusions is all evidence to the fact that the proper analysis using the correct standard is not actually being used. In fact, based on what Petitioner sees he believes the courts' analysis being used is probably closer to the standard used in Jackson v. Virigina, 443 U.S. 307, which governs claims of insufficient evidence. Of course

the canceled STD test that is evidence indicative of prosecutorial misconduct would not by itself make it more likely than not that no reasonable juror would have convicted Petitioner. But that was never the entirity of Petitioner's actual innocence claim nor the only thing the STD evidence affected; and it's wholly disingenuous for these courts to continue to spin the facts and misrepresent Petitioner's position that is was. This needs to change.

The actual facts are this. It was brought out at trial that the alleged victim tested positive for the highly contagious STD Chlamydia. It was also stipulated though that Petitioner tested negative for any STDs on three different ocassions. Petitioner testified that he has never had any STD. The alleged victim conceded on cross-examination that she knew he didn't have any. And Petitioner's ex-girlfriend testified to the same. So the bottom line is that the alleged victim had a highly contagious STD and the defendant did not. Nurse Practioner Abbott testified as to some of the characteristics specific to this particular STD. That it can be present for a long time and until it's tested for that a person may not even know they have it. And it's possible to test positive even after you've been treated for it. So what this all proves is that the alleged victim's prior testimony on direct that there was unprotected sex between her and defendant, consensual or not, was a lie. That the "alleged" rapes did not happen. And just as importantly, it significantly undercuts the credibility of the alleged victim.

In an effort to try and save their case the State then had the alleged victim change her testimony about the alleged "last time" to corroborate evidence impermissibly introduced after the start of trial, the Crim.R.16(K) violation. This was done to try and negate or nullify the STD evidence in this case that proved Petitioner was being falsely accused and innocent, and where the online STD evidence comes into play. Between having the alleged victim change her testimony (from all other previous versions) and the Crim.R.16(K) evidence, the State railroaded and framed Petitioner to make it look like he knew he had chlamydia, ordered a test online for it, and subsequently treated and cured himself of the disease all before the stipulated negative STD test from his doctor. Which is why the canceled invoice for the online STD test is so important. Because it not only exposes the prosecutorial misconduct for presenting a false witness/witness tampering and dispels any possible inference that Petitioner ever had chlamydia -- and infected or got infected by the alleged victim through the alleged sexual assaults -- but also, again, significantly undercuts the credibility of the alleged victim.

The inquiry simply doesn't end there though. How this new evidence would have impacted all the other evidence also needs to be considered and it is apparent that neither of these courts did so. That is especially true for the credibility assessments impacting how other critical evidence would be viewed by the jury such as, but not limited to, the egregious misuse of improper

interrogation methods used on a suspected victim of abuse; the prosecutorial misconduct involving the Crim.R.16(K) violation, presentation of a false witness, and the witness tampering; the counter-intuitive nature of false confessions (i.e., why she would say it if it wasn't true -- because she was coerced into doing so); and how all this other impacted evidence would have impacted the credibility and testimony of other witnesses including the State's so-called experts and even the defendant. It shines a whole new light on everything. The habeas court must consider all the evidence . . . and the likely impact of the evidence on reasonable jurors. See House v. Bell, 547 U.S. 538-539 (relying on Schlup, 513 U.S. 298); also Cleveland v. Bradshaw, 693 F.3d 641-642 (6th Cir.2012).

The Sixth Circuit claims that 'this evidence would not make it "more likely than not that no reasonable juror would have convicted" Kudla of rape and sexual battery in light of the record as a whole.' (Appx.A, page 4.) But this claim makes clear that the court did not apply in practice the correct standard of review in properly analyzing the actual innocence claim, because if it did then how could they possibly say that no reasonable juror would have convicted Petitioner of rape when the alleged victim herself testified that her and the defendant had unprotected intercourse and the irrefutable facts that are part of the trial record <proves> she unknowingly had a highly contagious STD and Petitioner did not. Simply put, this in itself proves the alleged

victim was lying. And considering how such a relevation would significanlty undercut the alleged victim's credibility, this also calls into serious question the reliability of her other testimony that is the only direct evidence in support of any of the other allegations and charges. Therefore, how could the court possibly claim that any reasonable juror would not have reasonable doubts in regards to these other alleged offenses also? There is no logical rational explanation that can be offered to support such a ridiculous argument.

How does any reasonable person, court, juror, or anyone else for that matter explain and resolve that very significant conflict in the evidence and still find Petitioner guilty if not for the prosecutorial misconduct exposed by the by the canceled invoice for the online STD test? The alleged victim had a highly contagious STD, but the defendant did not. If there were actually sexual relations between the two as alleged, then wouldn't he have gotten infected as well? Of course he would have. Any argument to the contrary would have absolutely no merit whatsoever. Clearly the allegations were fabricated. And the inconvenient fact of the matter that nobody seems to want to admit is that an innocent man was falsely accused and wrongfully convicted of crimes he did not commit. Wrongful conviction happen all the time. It's an unfortunate reality of our criminal justice system.

That doesn't mean that they cannot be fixed or corrected, though, and there are multiple existing mechanisms in the law to

help with that. But they require our courts to have the courage, integrity, and strength to stand up and do the right thing. Not an easy thing to do in today's political and social climate. This is one such opportunity to do so though. And it is for these reasons that we pray this Honorable Court will accept this case for review. Not only because of the importance the issue of wrongful convictions and criminal justice reform are to the public; but also to set an example and provide some much needed guidance to the lower courts across the country, reminding them that their main obligation is to the constitution they swore to uphold and the citizens that it protects. Otherwise, then what's the point of any of it . . . ?

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Gregory S. Kudla

Date: February 16, 2024