

NO. 23-7675

IN THE SUPREME COURT OF THE UNITED STATES

DARREW DEAN JOHNSON,

Petitioner,

v.

PEOPLE OF THE STATE OF MICHIGAN,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI TO
THE MICHIGAN SUPREME COURT

PETITION FOR REHEARING

TABLE OF CONTENTS

Table of Contents	i
Table of Authorities	ii
Petition for Rehearing	1
Statement of Facts	1
Reasons Meriting Rehearing	3
Suggestions in Support of Rehearing	4
Conclusion	6
Certificate of Good Faith	7
Appendix	
Order Denying Certification	A
Order of the Michigan Supreme Court	B
District Court letter with copy of residential lease agreement	C
Text messages	D
Petition for Certification	E

TABLE OF AUTHORITIES

Cleveland v Bradshaw, 693 F.3d 626, 638 (6th Cir. 2013).	2
Coleman v Thompson, 501 US 722, 750, 115 L. ed 2d 610, 111 S. ct 2546 (1991).	2
Tucker v Renick, 2004 US Dist Lexis 8697.	4, 5
Schlup, 513 US 327.	2
Souter, 395 F.3d at 595 n9.	2
Strickland v Washington, 466 US 608 (1984).	3, 4
Wissins v Smith, 539 US 510, 531 (2003).	2
Williams (Term), 529 US 362 (2000).	3
Armstrong, 490 Mich at 290-294.	4

PETITION FOR REHEARING AND SUGGESTIONS IN SUPPORT

Comes now Petitioner, Darren Deo Johnson, Pro se, and Prays this Court to Grant Rehearing Pursuant to Rule 44, and thereafter, grant him a writ of Certiorari to review the Opinion and Order of the Michigan Supreme Court. In support of Petition, Mr. Johnson States the Following.

STATEMENT OF FACTS

At trial, Darren Deo Johnson was convicted where miscarriage of Justice took place.

According to the State's Key witness, Darren Deo Johnson broke into her apartment and Sexually assaulted her.

Although the State of Michigan Presented much testimony regarding the events there was never no evidence in support. The only thing that was submitted was only the testimony of the State main witness.

Petitioner after his direct appeal, and Post-conviction motions Presents his actual Innocent claim through the State courts and requested an evidentiary hearing on his ineffective assistance of trial and appellate counsel claim but after diligently, was denied.

Petitioner Presented his actual Innocent claim and Presented Exculpatory and Critical physical evidence that was not Presented at trial which shows that it is more likely than not that no reasonable Jurors would have convicted him in light of the new evidence.

Actual Innocent Claim

Petitioner is charged with invading his own apartment where he was a resident at and was a leasee to the apartment and which the Federal Probation department and Western District Court is aware of. See *In Appellate C*. Also the text messages dispute the other charge because the complaining witness sent text messages to the petitioner stating that she love him and want to have sex with him which dispute both charges and elements and show that a reasonable doubt exist as to Petitioner guilt in light of the new or old evidence and further more shows that it is more likely than not that no reasonable jury would have convicted him in light of the new or old evidence. *Schlup*, 513 U.S. 327; *Cleveland v. Bradshaw*, 693 F.3d 626, 633 (6th Cir. 2012) (citing *Sutton*, 395 F.3d at 595 n.9). Which this Court should allow Petitioner innocence claim to pass through the gateway to have his actual innocence claim heard and bypass any procedural hurdles. Due to the blanket denials and the Michigan state courts failing to consider the legal issue Petitioner asks that this Court to review his ineffective assistance of trial counsel claim denova *Wiggins v. Smith*, 539 U.S. 510, 531 (2003), because denying this Petitioner will result in miscarriage of justice *Coleman v. Thompson*, 501 U.S. 722, 750, 115 L. Ed. 2d 610, 111 S. Ct. 2546 (1991).

Failing to Produce the Exculpatory and Critical Physical Evidence of residential lease agreement and text messages

The complaining witness testified at trial that Petitioner was on the cops of the lease, when the Prosecutor stopped her. Then after the alleged assault the complaining witness testified how Mr. Johnson and her went out to eat.

Trial counsel tried to submit the lease agreement but was not allowed in due to failing to comply with discovery rules. Trial counsel also tried to submit the text messages but due to him failing to comply with discovery rules the text messages was suppressed. The residential lease agreement would have refuted that a home invasion took place from the statement made from the complaining witness. The text messages would have refute the statements made from the complaining witness that Mr. Johnson assaulted her.

REASONS MERITING REHEARING

1. The Michigan state courts and the decision on the direct appeal in the Michigan Court of Appeals conflicts with *Strickland v. Washington*, 466 U.S. 668 (1984), and *Williams (Tenn)*, 529 U.S. 362 (2000), emphasizing that in determining *Strickland* prejudice, the court must examine both the trial testimony and the post-conviction evidence to determine whether, had the omitted evidence been

Presented, there is a reasonable probability of a different outcome in the state courts merely examined its own opinions which the facts therein favored the defendant and all contrary evidence. For example, the Michigan Supreme Court held that where counsel failed to produce text messages or the Cell Phone Record like in this instant case, trial counsel is ineffective. See *Armstrong*, 490 Mich. at 290-294, and Residential Lease agreement. See *Tucker v. Revico*, 2004 U.S. Dist. Lexis 8697 at 775-777.
SUGGESTIONS IN SUPPORT OF REHEARING

The Michigan State Courts, and the Michigan Court of Appeals or direct review decisions resulted in both an unreasonable determination of the facts in light of the evidence presented and an unreasonable application of *Strickland v. Washington*, because Counsel's failure to produce exculpatory and critical physical evidence of Residential Lease agreement and text messages which was not a matter of sound trial strategy due to failing to comply with discovery rules met the first prong of *Strickland*. See *Tucker v. Revico*, 2004 U.S. Dist. Lexis 8697 at 775-777. Which prejudice the Petitioner meeting the second prong of *Strickland*. See *Tucker v. Revico*, 2004 U.S. Dist. Lexis 8697. The question for this Court to answer is whether Johnson was prejudiced by Counsel's ineffectiveness. The state court held that Johnson was not prejudiced and have not demonstrated prejudice from the failure to produce the residential lease agreement and text messages.

This Court has an ethical duty by the United States Constitution to establish the law of the land and assure the Citizens of the United States of America that the lower Courts apply that law. When they do not, it is this Court's obligation to HOLD THAT COURT ACCOUNTABLE and see to it that Justice is administered fairly. This Court must hear this Case and hold that the Michigan Court of Appeals accountable for failing to properly apply the law of this Court and relief where relief is due. The Michigan Courts and Michigan Court of Appeals decision is clearly in direct conflict with Tucker v Revico, 2004 U.S. Dist LEXIS 9697, 4775-777, which Case is so strikingly similar, both legally and factually, that the same result reached in Tucker must also be reached in this Case. This Court must grant Rehearing and issue a writ of Certiorari because the failure to do so would allow the Michigan State Courts and Michigan Court of Appeals to continue to make decisions contrary to Strickland, and also apply the wrong standard in deciding the Prejudice Prong of ineffective assistance of counsel and deny Justice to those it is entitled to.

Had the Jury heard the testimony of the complaining witness along the exculpatory and critical physical evidence that was not presented had trial due to counsel at trial failing to comply with discovery rules, there is a

reasonable probability of a different outcome, because the
Jury was not convinced that Mr. Johnson was guilty and wanted
to subpoena the evidence but was denied see Jury transcripts
Vol IV of V Page 165 (The Court: A couple of issues, Ladies
and Gentlemen, my clerk informed me, and I've discussed this
with the attorneys, evidently there was a question by the Jury
as she was linking you up, could you subpoena, or could you
get additional evidence, and the answer to that, clearly
is no.)

CONCLUSION

For the reasons stated, this Court must grant Rehearing of its
Judgment entered on October 7, 2024, and issue a writ of
Certiorari to hold the Michigan Courts and Michigan Court of
Appeals accountable for failings to decide accordingly with
Strickland v. Washington, and/or failings to properly apply the law
of this Court and grant Mr. Johnson relief. Should Johnson's
Cry and not be heard" for whoever shut their ears to the
Cry of the poor will also cry themselves and not be heard!"
Proverbs 21:13.

Respectfully submitted,

 Dawn Deo-Johnson #753525
4533 W. Industrial Park Drive
KCF
Kincheloe, MI 49788
Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was mailed,
Postage Prepaid, this 18th day of October 2024, to: Dawn Deo, Attorney
General Department of Attorney General, P.O. Box 30217,
Lansing, MI 48909.


Petitioner

IN THE SUPREME COURT OF THE UNITED STATES

DARREN DEON JOHNSON, Petitioner,

v.

PEOPLE OF THE STATE OF MICHIGAN,
Respondent.

CERTIFICATE OF GOOD FAITH

Comes now Petitioner, Darren Deon Johnson, and makes Certification that his Petition for rehearing is presented to this Court in good faith pursuant to Rule 44. Mr. Johnson further states the following:

1. This Court entered its Judgment denying Petitioner a Writ of Certiorari on October 7, 2024, Petitioner believes that he present this Court with adequate grounds to justify the granting of rehearing in this Case and Said Petition is brought in good faith and not for delay. Furthermore, Petitioner believes that based upon the law of this Court and facts of this Case, Johnson is entitled to relief which has been unjustly denied him. He further believes that if the State Courts are continually allowed to make decisions contrary to clearly established law by this Court and decisions contrary to Strickland Standard a number of people will be denied their Constitutional right to due process.

The grounds are limited to intervening circumstances of substantial or controlling effect on to other substantial grounds not previously presented.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on this 17th day of October, 2024



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