

No.

23-7789

ORIGINAL

IN
SUPREME COURT OF THE UNITED STATES

FILED

JUN 20 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

In Re: GLENN A. HOLDER, Petitioner

EXTRAORDINARY WRIT OF HABEAS CORPUS

Mr. Glenn A. Holder, Pro-se

DOC# EA-7173

S.C.I. HOUTZDALE

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QUESTION(S) PRESENTED

1) HAS THE PETITIONER BEEN WRONGFULLY CONVICTED, DUE TO STRUCTURAL ERROR'S AT TRIAL, WHICH VIOLATED EVERY UNITED STATES CONSTITUTIONAL RIGHT HE HAD AS A DEFENDANT IN A CRIMINAL TRIAL?

SUGGESTIVE ANSWER: YES

2) DID PCRA COURT WILLFULLY IGNORE MERITORIOUS CLAIMS OF INEFFECTIVENESS OF TRIAL AND DIRECT COUNSEL'S IN RULING CONTRARY AND UNREASONABLE BY MIS-APPLICATION OF THE U.S. CONSTITUTION 6TH AMENDMENT IN STRICKLAND V. WASHINGTON?

SUGGESTIVE ANSWER: YES

3) DID PENNSYLVANIA APPELLATE COURT'S, INCLUDING THE 3RD CIRCUIT COURT, WILLFULLY MIS-APPLY PRECEDENT CASELAW AND AFFIRM STRUCTURAL ERROR'S AND DUE PROCESS VIOLATIONS OF TRIAL COURT?

SUGGESTIVE ANSWER: YES

4) DID PCRA COURT, STATE APPELLATE AND DISTRICT COURT'S ERROR IN REFUSING TO REVIEW, HEAR OR OTHERWISE SWORN/NOTARIZED, VERIFIABLE AFFIDAVIT'S FROM KNOW ALIBI WITNESSES AS WELL AS FROM THE CONVICTED: ELLIS ELLIOT RAMOS, THE TRUE CONFESSED PERPETRATOR, IGNORING PETITIONERS CLAIM OF ACTUAL INNOCENCE?

SUGGESTIVE ANSWER: YES

5) HAS PETITIONER BEEN DENIED FOR MORE THAN TWO DECADES A FAIR IMPARTIAL TRIAL AND APPELLATE REVIEW OF THIS MATTER?

SUGGESTIVE ANSWER: YES

LIST OF PARTIES INVOLVED

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 judgement is the subject of this petition is as follows:

1. York County Common Pleas Judge; Harry M. Ness,
2. York County District Attorney; James E. Zamkotwicz, Esq.
3. Pennsylvanis Superior Court,
4. Pennsylvania Supreme Court,
5. U.S. District Court for Third Circuit.

RELATED CASE

COMMONWEALTH OF PENNSYLVANIA V. ELLIS ELLIOT RAMOS

Trial Court No. CR-389-101

Pennsylvania Superior Court No. 1283 M.D.A. 2002

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EXHIBITS

- A- LETTERS WRITTEN BY [VA] AND BY DOROTHY ABRAMSON, WITHHELD FROM TRIAL,
- B- ARREST WARRANT OF ELLIS ELLIOT RAMOS/ POLICE COMPLAINT AND (2) NOTARIZED AFFIDAVITS BY ELLIS ELLIOT RAMOS,
- C- ARREST WARRANT OF THE PETITIONER AND STATEMENT/NOTARIZED AFFIDAVITS OF (6) KNOWN ALIBI WITNESSES, NEVER HEARD BY ANY COURT.

APPENDICES

- APPENDIX A: 1 Dec. 2004 U.S. DISTRICT COURT ORDER
- APPENDIX B: 13 Dec. 2004, U.S. DISTRICT COURT ORDER
- APPENDIX C: 28 July 2005, U.S. COURT OF APPEAL FOR THIRD CIR. ORDER
- APPENDIX D: 25 July 2018, U.S. DISTRICT COURT ORDER
- APPENDIX E: 27 March 2019 U.S. DISTRICT COURT ORDER
- APPENDIX E: 21 June 2023, PA SUPERIOR COURT ORDER
- APPENDIX G: 9 Jan. 2024, PA SUPREME COURT ORDER

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JURISDICTION

FEDERAL COURT

The date on which the United States District Court for the Middle District of Pennsylvania decided my case was: July 25th, 2018.

A timely petition for rehearing was denied by the United States District Court on the following date: March 27th, 2019. @ APPENDIX D AND E.

The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1)

STATE COURT

The date on which the highest state court decided my case was on: Jan. 9th, 2024. A copy of this decision appears @ APPENDIX G.

The jurisdiction of this court is invoked under 28 U.S.C. 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Amendment V
United States Constitution Amendment VI
United States Constituion Amendment XIV

28 U.S.C.S. 2254

42 Pa. C.S.A. 9541 - 9546

Article 1 9

ORDERS

FEDERAL COURT

- 1- Denial of reconsideration, of denial of writ of habeas petition, in the United States District Court, Dated: 1 Dec. 2004 @ APPENDIX A.
 - 2- Denial of reconsideration of denial of motion seeking extraordinary relief, in the United States District Court, Dated: 13 Dec. 2004 @ APPENDIX B.
 - 3- Denial of Certificate of Appealability, in the United States Court of Appeals, Dated: 28 July 2005 @ APPENDIX C
 - 4- Denial of Fed. Civ. Rule 60 (b) (6) in the United States District Court, Dated: 25th July 2018 @ APPENDIX D.
 - 5- Denial of motion for reconsideration, of denial of Fed. Civ. Rule 60 (b) (6) in the United States District Court, Dated: 27th March, 2019 @ APPENDIX E.
- REPORTED @: HOLDER V. PATRICK, 2004 U.S. Dist LEXUS 33002 (M.D. Pa. Dec. 1, 2004) and HOLDER V. CURLEY, 2010 U.S. Dist. LEXIS 138682 (M.D. Pa. Nov. 22, 2010) [2018 U.S. Dist. LEXIS 1] Glynn A. Holder, pro-se.

STATE COURT

~~6-~~ Pennsylvania Superior Court Affirms denial of Petition of Actual Innocence Common Pleas Court, Dated: 21 June 2023 @ APPENDIX F.

7- Denial of Allowance of Appeal by Pennsylvania Supreme Court, Dated: 9 Jan. 2024 @ APPENDIX G.

UNPUBLISHED

STATEMENT OF CASE
& RULE 20.4 (A) STATEMENT

Petitioner was arrested, 28 July 1998, charged with committing offense of Rape, in York County, Pennsylvania, on 1 December 1997; Statutory Sexual Assault, on 1 February 1998 and Endangering Welfare of Children, on 1 March 1998.

During trial (6) additional sexual offenses were added, Petitioner was convicted of every count by jury on 3 March 1999 and on 24 May 1999, he was sentenced to 31½ to 63 years of incarceration.

Timely Direct Appeal was filed, and was denied 22 September 2000. Cmwlth. v. Holder, 766 A.2d 88 (Pa. Super. 2000). Timely PCRA was filed 10 January 2001; denied 6 April 2001; appealed and affirmed 10 September 2002. Cmwlth. v. Holder, 813 A.2d 903 (Pa. Super. 2002). Allowance of appeal was submitted, denied 22 April 2003. Cmwlth. v. Holder, 573 Pa. 689, 825 A.2d 637 (Pa. 2003).

On 6 October 2003, timely Writ of Habeas Petition submitted in U.S. District Court, 03-cv-1779 and denied 1 December 2004. Notice of Appeal submitted in Third Circuit Court of Appeal U.S.C.A. No. 04-4697 (3rd. Cir.) and on 28 July 2005, 3rd Circuit denied Certificate of Appealability.

Subsequent petitions were filed of Actual Innocence/Newly Discovered Evidence (Ramos Affidavit) in Lower and Appellate Courts; all were denied. Cmwlth. v. Holder, 924 A.2d 692 (Pa. Super. 2007): 593 Pa. 726, 928 A.2d 1289 (Pa. 2007).

Second and successive Habeas Petitions were filed with Memorandum in Support 19 November 2010 and were denied by U.S. Court of Appeals.

Subsequent petitions were submitted and denied in State Appellate Courts from 2012 thru 2017.

On 28 November 2017, Petitioner submitted Rule 60(b)(6) Motion in U.S. District Court, 1:10-cv-2236, citing claims of Actual Innocence and was denied 27 March 2019. Petition for Re-hearing was submitted and denied.

On 3 August 2022, subsequent petition was filed in State Court, citing Structural Errors/Actual Innocence and was denied 9 August 2022. Appealed @ 1219, 1220 MDA 2022, Denied 21 June 2023. Timely Allowance of Appeal, denied 9 January 2024 @ No. 413 MAL 2024.

Petitioner, respectfully submits this Writ of Habeas Corpus for Extraordinary Relief, due to Pennsylvania State Appellate and District Courts constant refusal to correctly apply United States Supreme Court Precedent Rulings, such as in, Strickland v. Washington, 466 U.S. 664 (1986); McQuiggin v. Perkins, 569 U.S. 383 (2013); Weaver v. Massachusetts, 582 U.S. ____ (2017); Schulp v. Delo, 513 U.S. 298 (1995); House v. Bell, 547 U.S. 518 (2006); Commonwealth v. Lawson, 549 A.2d 107 (1998) and Napue v. Illinois, 36 U.S. 264 (1959), etc, ignoring the blatant Constitutional Violations and Structural Errors that have deprived the petitioner from receiving a fair adjudication by the complete failure to adequately respond to the verifiable and reliable exculpatory evidence presented by the petitioner, that supports his Actual Innocence, preventing adequate relief to be obtained in any form, in any court.

REASONS WRIT SHOULD BE GRANTED

1. WHY ADEQUATE RELIEF CANNOT BE OBTAINED IN ANY OTHER FORM OR FROM ANY OTHER COURT, AS FOLLOWS:

a). The petitioner has on numerous occasions failed the claim of "actual innocence"; due to trial counsel's refusal/ineffectiveness, to present at trial a letter written by [VA], the alleged victim, where she wrote that she was raped by "that P.R.", [abbreviation for Puerto Rican]. Note: The petitioner by no means can be misidentified as Hispanic nor Puerto Rican. Also in Discovery, was a letter written by Dorothy Abramson, [VA's] Mother, to trial counsel, where she identified the person who raped [VA] as a drug dealer called Dred aka: "E". (SEE EXHIBIT "A").

March of 2002, Dred aka: "E" was found and identified as Ellis Elliot Ramos. He was tried and convicted of, not only the rape of [VA], but also of her friend [NM]. Ramos was given a sentence of 13½ to 27 years in prison. (SEE EXHIBIT B).

During Ramos' incarceration, he forwarded, to the petitioner, (2) two separate signed/notarized and verifiable affidavits, taking sole responsibility for the rape of [VA], further stating, that the petitioner had absolutely nothing to do with the rape of [VA], and he is willing to testify to these facts. (SEE EXHIBIT B). Ramos was paroled October 2014.

The petitioner has raised this claim of Actual Innocence multiple times, over a two decade period, in PCRA Court, PA Superior and PA Supreme Courts and have filed a Federal Civil Rule 60 (B)(6) as well as a motion for reconsideration in the PA District Court, and have continually been denied as untimely and no merit. APPENDIX D AND E).

These denials/ruling contrary to CASIAS V. UNITED STATES, 337 F.2d 354 (10th Cir. 1964)(A confession by another party to a crime for which the petitioner has been tried and convicted, if discovered after trial, is grounds for a new trial based upon Newly Discovered Evidence); Also, contrary to REEVES, that it is well established that a claim of "actual innocence" is never barred nor waived from presenting claim; to qualify for Actual Innocence Exception, the petitioner must present "New Reliable Evidence" not presented at trial, showing it is more likely than not that no reasonable juror would have voted to convict. REEVES V. FAYETTE, SCI, 897 F.3d 154: 2018 U.S. App. LEXIS 20364; citing: SCHULP V. DELO,

513 U.S. 298, 314, 115 S.Ct. 85, 130 L.Ed.2d 808 (1995); citing: MCQUIGGINS V. PERKINS, 569 U.S. 383, 133 S.Ct. 1924, 1928, 185 L.Ed.2d 1019 (2013).

Not only has the State Appellate Courts ruled contrary to precedent, the PA District Court ruled the Actual Innocence claim in the petitioners Federal Rule of Civil Procedure 60 (B)(6) was without merit.

For more than (2) two decades, this petitioner has petitioned the PA State Appellate Courts, as well as the PA District Court, with documented facts of Actual Innocence, Ineffectiveness of Counsel, Structural Errors as well as the Violations of Due Process, However, the State chooses to ignore United States Supreme Court Precedent, as well as the United States Constitution and apply the Law as they choose.

b). The petitioner has raised the claim of trial Counsels ineffectiveness as as well as PCRA Counsels ineffectiveness, in their failure to investigate, interview and subpoena the (6) six Known alibi witnesses they were advised of, who were willing and available to testify of their own personal knowledge, that the petitioner could have not committed the offenses he was charged and convicted of. because they personally seen the petitioner in another place at the time of the crimes.

The petitioner has submitted statements, as well as Notarized, Signed and verifiable Affidavits of the (6) six known alibi witnesses, who's testimony would have given a clear alibi for the dates, ever changing, of which the petitioner was said to have committed the offenses convicted of. (SEE EXHIBIT C). The alibi witnesses affidavits and statements, establish their willingness, existence, availability and that absent their testimony prejudice occurred, due to the petitioners inability to be in two places at one time.

The York County Common Pleas Court denied this claim without ever hearing a single one of the known alibi witnesses, and the PA Superior, PA Supreme and the PA District Court have all affirmed the denial Contrary to COMMONWEALTH V. BRYANT, 855 A.2d 726, 746 (Pa. 2004) and the Standards of STRICKLAND V. WASHINGTON, 466 U.S. 692, 104 S.Ct. 2050, 80 L.Ed.2d 674 (1984).

c). The petitioner was arrested and convicted, based upon statements by [VA] that the petitioner moved in with the family on 1 December 1997 and started sexually assaulting her. NOTE: The petitioner was admitted to a Rehab in

Shippensburg, PA on 29 November 1997 and Discharged to WeCenter Ministries, in Harrisburg on 4 December 1997.

At trial, the prosecution allowed [VA] to testify that the very first time any sexual advances with the petitioner occurred was a week before March 13th, 1998. NOTE: The known Alibi Witness, (the petitioners Employer) would have testified that, the petitioner was working Double-Shifts in York Hospital that entire week of March 13th, 1998.

In Discovery was a letter, [VA] wrote stating, that she was raped by "that Puerto Rican". The prosecution did infact review this letter in discovery, Yet allowed [VA] to testify that the petitioner raped her, knowing well that her testimony was false, including their knowledge that the petitioner was "not" of Hispanic/Puerto Rican.

In Discovery, was a letter written by Dorothy Abramson, Mother of [VA], to defense counsel, where she offered to testify for the defense, due to her personal knowledge that her daughter was lying; because the petitioner did not live with them, nor was the petitioner in the state, he was in North Carolina picking up his car when [VA] was raped in York, PA. Evenmoreso, She identified the person who raped her daughter, [VA], as a drug dealer called Dred aka: "E". The prosecution was aware of these things, Yet, at trial, Dorothy Abramson was allowed to give false testimony, known by the prosecution, testifying that, the petitioner did live with them and did rape [VA]. This false testimony was given as a plea deal to be released from jail.

Prosecution made no attempt to correct, either of the known false testimony given by [VA] and Dorothy Abramson. The petitioners conviction was sealed by this known false/perjured testimony.

In NAPUE V. ILLINOIS, 360 U.S. 264, 269, 79 S.Ct. 1173. 2 L.Ed.2d 1217 (1959) the United States Supreme Court confirmed the principle, that "a state may not knowingly use false evidence, including false testimony to obtain a tainted conviction". It is , an established principle that a conviction obtained through the knowing use of materially false testimony may not stand; a prosecuting attorney has an affirmative duty to correct testimony of a witness he knows to be false. COMMONWEALTH V. CARPENTER, 472 Pa. 510, 372 A.2d 806, 810 (1977).

The petitioner has raised this claim in the York County Common Plea Court,

PA Superior, PA Supreme Court and the PA District Court for more than (2) two decades and though the facts are evident within legal documents, the claims are continually denied as no merit, contrary to NAPUE V. ILLINOIS.

2. REASON FOR NOT MAKING APPLICATION TO THE PENNSYLVANIA DISTRICT:

The Pennsylvania District Court, is of the belief, that the petitioner has a history of violence, of which cannot be found within the petitioners criminal record, held by the Pennsylvania State Police; with the exception of the said charges of which the petitioner has now been convicted.

a). The petitioner has filed with the PA District Court; Timely Habeas Corpus petition, denied as No Merit; A Motion for Evidentiary Hearing and Certificate of Appealability, Both denied. (APPENDIX A)

b). The petitioner filed a Motion Seeking Extraordinary Relief, with Supporting Brief and Exhibits. Matter was denied and the Clerk was ordered to close this case. (APPENDIX B).

c). The petitioner filed with the PA District Court a Federal Rule of Civil Procedure Rule 60 (b)(6) petition with claim of Actual Innocence, including all Supporting Documentation and Exhibits. Was denied as Without Merit.

This ~~prose~~ petitioner, has come to the understanding, that regardless of ~~legal~~ Documented and presented facts of Ineffectiveness, Due Process, BRADY, Structural Errors and of Actual Innocence, the Pennsylvania State Appellate and Pennsylvania District Courts will continue to rule contrary to United States Supreme Court Precedent Rulings as well as Precedent rulings set for Actual Innocence Claims.

3. HOW THE WRIT WILL BE IN AIDE OF THE UNITED STATES SUPREME COURTS APPELLATE JURISDICTION:

This petitioners writ, if granted, could/would set a precedent, putting Pennsylvania State Courts on Notice, that their willful practice of disrespect and ignoring the United States Supreme Courts Precedent, and choosing to subject chosen United States Citizens to exact their desired punishment will not be tolerated. Legal Authority must be respected and ALL Courts Must follow the Precedent of the Supreme Court of the United States.

4. EXCEPTIONAL CIRCUMSTANCES WHICH WARRANTS THE EXERCISE OF THE COURTS DISCRETIONARY POWERS.

Exceptional circumstances exist that warrant the exercise of this Court's discretionary powers, in that the petitioner has valid and reliable factual based evidence to support his innocence and that adequate relief cannot be obtained in any other form or from any other court. Petitioner is procedurally defaulted from presenting any future claims in any state court, including federal courts.

It is clear that all court's have not followed the precedent of the United States Supreme Court. It is evident that the standards of Precedent Case Law have been completely ignored by the lower state court's and in appellate review.

Legal authority must be respected; not because it is venerable with age, but because it is important that the Court and Lawyers and their Clients, may know what the law is and order their affairs accordingly. MCELROY V. STATE, 703 NW. 2d 385, 394-395 (Iowa 2005).

CONCLUSION

WHEREFORE, the petitioner respectfully prays, that this Most Honorable Court will exercise its Supreme Jurisdictional Authority, for the reasons submitted here in, determine that a complete manifest injustice has occurred, and grant relief, in the reversal of all prior adjudications, release and discharge the petitioner with prejudice and/or in the alternative, vacate the sentence and the conviction, and order a new trial, free of structural errors to take place exercising all powers until otherwise provided by law.

Date:  2024

Respectfully Submitted,

Glenn A. Holder, pro-se