

CASE NO.

~~24 - 5078~~

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE: HASSAN WILLIAMS

PETITIONER

VS.

SUPERINTENDENT ROCKVIEW SCI

RESPONDENT

ON PETITION FOR WRIT OF HABEAS CORPUS TO
THE COMMON PLEAS COURT OF PHILADELPHIA COUNTY, PENNSYLVANIA

PETITION FOR WRIT OF HABEAS CORPUS

HASSAN WILLIAMS (PRO SE)

#HY-1037

1 ROCKVIEW PLACE, BOX A.,
BELLEFONTE, Pa. 16823-0820.

LIST OF PARTIES

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:

PHILADELPHIA COUNTY DISTRICT ATTORNEY
3 PENN SQUARE,
PHILADELPHIA, Pa. 19107, and

PENNSYLVANIA ATTORNEY GENERAL
STRAWBERRY SQUARE, 14th FLOOR,
HARRISBURG, Pa. 17110.

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DATED: APRIL 1, 2011

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DATED: MAY 27, 2015

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully prays that a writ of habeas corpus issue to review the judgment below.

OPINIONS BELOW

The opinion of the highest state court to review the merits appear at Appendix A., to the petition and, is reported at COMMONWEALTH V. WILLIAMS, No. 714 EDA 2009, 29 A.3d 821 (Pa. Super. April 1, 2011).

The opinion of the highest state court to review the merits appears at Appendix B., to the petition, and is reported at COMMONWEALTH V. WILLIAMS, 122 A.3d 457, (2015 Pa. Super. Unpub.), LEXIS 1506 WL 7193218 (Pa. Super. 2015).

The opinion of the Common Pleas Court of Philadelphia County, Pennsylvania, appears at Appendix C., to the petition, and is unpublished.

JURISDICTION

The date(s) on which the highest state court decided my case was April 1, 2011, and May 27, 2015. A copy of these decisions appear at Appendix A., and B.

The jurisdiction of this Court is invoked under 28 U.S.C. § 2241(a), 28 U.S.C. § 2242, and 28 U.S.C. § 2254 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

UNITED STATES CONSTITUTION ARTICLE XVI, Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. Section 2244.

FINALITY OF DETERMINATION

(a) No circuit or district judge shall be required to entertain an application for writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of a court

of the United States if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus, except as provided in section 2255.

(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

(2) a claim presented in a second or successive habeas corpus application shall be dismissed unless -

(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

(ii) the facts underlying the claim, if proven and viewed in the light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive

application shall be determined by a three judge panel of the court of appeals.

(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.

(c) In a habeas corpus proceeding brought in behalf of a person in custody pursuant to the judgment of a State court, a prior judgment of the Supreme Court of the United Staes on an appeal or review by a writ of certiorari at the instance of the prisoner of the decision of such State court, shall be conclusive as to all issues of fact or law with respect to an asserted denial of a Federal right which constitutes ground for discharge in a habeas corpus proceeding, actually adjudicated by the Supreme Court therein, unless the applicant for the writ of habeas corpus shall plead and the court shall find the existence

of a material and controlling fact which did not appear in the record of the proceeding in the Supreme Court and the court shall further find that the applicant for the writ of habeas corpus could not have caused such fact to appear in such record by the exercise of reasonable diligence.

(d)(1) A 1 - year period of limitation shall apply to an application for writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The time limitation period shall run from the latest of -

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

28 U.S.C. Section 2254.

(a) The Supreme Court, a justice thereof, a circuit judge, or a district court shall entertain an application for writ of habeas corpus in behalf of a person in custody pursuant to the judgement of a state court only on the grounds that he is in custody in violation of the Constitution or laws or treaties of the United States.

(b)(1) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that -

(A) the applicant has exhausted the remedies available in the courts of the State; or

(B)(i) there is an absence of available State corrective process; or

(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

(2) An application for a writ of habeas corpus may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

(3) A State shall not be deemed to have waived the exhaustion requirement unless the State, through counsel, expressly waives the requirement.

(c) An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question

presented.

(d) An application for writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim -

(1) resulted in a decision that was contrary to, or involved an unreasonable application of clearly established Federal law, as determined by the Supreme Court of the United States; or,

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.

(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a state court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that -

(A) the claim relies on -

(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

(B) the fact underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

(f) If the applicant challenges the sufficiency of the evidence adduced in such State court proceeding to support the State court's determination of a factual issue made therein, the applicant, if able, shall produce that part of the record pertinent to a determination of the sufficiency of the evidence to support such determination. If the applicant, because of indigency or other reason is unable to produce such part of the record, then the State shall produce such part of the record and the Federal court shall direct the State to do so by order directed to an appropriate State official. If the State cannot provide such pertinent part of the record, then the court shall determine under the existing facts and circumstances what weight shall be given to the state court's factual determination.

(g) A copy of the official record of the State court, duly certified by the clerk of such court to be true and correct copy of a finding, judicial opinion, or other reliable written indicia showing such a factual determination by the State court shall be admissible in the Federal court proceeding.

(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceeding on review, the court may appoint

counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.

REASON FOR NOT MAKING APPLICATION TO DISTRICT COURT

OF THE DISTRICT IN WHICH APPLICANT IS HELD

In the instant matter Petitioner, was denied permission to file a second or successive Petition for Writ of Habeas Corpus in the District Court by the Third Circuit Court of Appeals.

STATEMENT OF THE CASE

To comply with the Supreme Court Rule 20.2 which states "The petition shall be captioned "In re [name of petitioner]" and shall follow insofar as applicable, the form of a petition for writ of certiorari prescribed by Rule 14", and 20.4 (a) which states " If the relief sought is from the judgment of a state court, the petition shall set out specifically how and where the petitioner has exhausted available remedies in the state courts or otherwise comes within the provisions of 28 U.S.C. § 2254(b)." Petitioner is using the format on a district court habeas corpus form for this statement.

The Petitioner is challenging the judgment and conviction of the Court of Common Pleas of Philadelphia County, Pennsylvania, at 1301 Filbert Street, Philadelphia, Pennsylvania, 19107.

The Criminal docket of the case is CP-51-CR-0010973-2007.

The date of the judgment of conviction was December 5, 2008.

The Date of sentencing was February 23, 2009.

The Petitioner was sentenced to life plus 10 to 20 years incarceration.

Petitioner was convicted of the following crimes: 1. Murder of the First Degree; 2. Robbery; 3. Criminal Conspiracy; and 4. Possessing an Instrument of Crime.

Petitioner plead not guilty to the crimes.

Petitioner received a jury trial. The Petitioner, did not testify at any hearing, and did appeal from his judgement of conviction.

Petitioner filed a direct appeal to the Superior Court of Pennsylvania for the Eastern District, docketed at 714 EDA 2009 (cited at 29 A.3d 821 (Pa. Super. 2011)). Petitioner raised the following grounds for relief:

- "1. Was the evidence insufficient to support the convictions for murder, robbery, criminal conspiracy, and possession of an instrument of crime, particularly since the Appellant produced an alibi defense ?;
2. Did Judge Temin err when stating the issues were waived in the amended 1925 (b) statement when Mr. Strettton, on behalf of Mr. Williams, specifically asked permission in the original 1925 (b) statement to raise additional issues once the notes of testimony were transcribed and he received them ?;
3. Did Judge Temin, err in allowing the jury to hear the inflammatory 911 telephone call of the victim after he was shot ad dying ? Did the call have no evidentiary value, since it consisted of a dying victim screaming in tremendous pain, yelling that animals shot him, and with continuous, incoherent screaming and crying ? Was the introduction of this tape highly prejudicial, particularly since it had no probative value as to who committed the crime ? Did this highly emotional tape taint the jury and deny Mr. Williams a fair trial ?; and
4. Did Judge Temin, improperly allow reference to the jury of Mr. Williams' post arrest refusal to give a written statement, thereby commenting on his right to remain silent and thus tainting the jury ? Did this reference violate the Fifth and Fourteenth

Amendments of the United States Constitution and Article I, Section 9, of the Pennsylvania Constitution ?"

On April 1, 2011, the Superior Court although holding that Petitioner's issues raised in his amended 1925 (b) statement were not waived, affirmed the lower court's judgment of sentence.

Petitioner, then sought review by the Supreme Court of Pennsylvania, for the Eastern District, by filing a timely Petition for Allowance of Appeal docket at 232 EDA 2011 (cited at 27 A.3d 2011 (Pa. 2011)). Petitioner raised the following grounds for relief:

"1. Did the Superior Court err in finding the evidence was sufficient to support convictions for murder, robbery, criminal conspiracy, and possession of an instrument of crime, particularly since the Appellant produced a alibi defense ?;

2. Did the Superior Court err when it found Judge Temin, did not err in allowing the jury to hear the inflammatory 911 telephone call of the victim after he was shot and dying ? The call had evidentiary value, where it consisted of a dying victim screaming in tremendous pain, yelling that animals shot him, and with continuous, incoherent screaming and crying ? The introduction of this tape was not highly prejudicial, particularly since it had no probative value as to who committed the crime ? This highly emotional tape did not taint the jury and deny Mr. Williams, a fair trial ?; and

3. Did the Superior Court err in finding Judge Temin, did not improperly allow reference to the jury of Mr. Williams' post arrest refusal to give a written statement, thereby commenting on his right to remain silent and this tainting the jury ?

Finding this reference did not violate the Fifth and Fourteenth Amendments of the United States Constitution, and Article I, Section 9, of the Pennsylvania Constitution ?"

On August 30, 2011, the Court denied allowance of appeal.

The Petitioner did not file a Petition for Writ of Certiorari in this Court. After the Petitioner, exhausted his direct appeals he challenged his judgment of conviction in the following post conviction proceedings:

The Petitioner, filed a timely Petition for Post Conviction Collateral Relief (hereinafter PCRA) in The Court of Common Pleas of Philadelphia County, Pennsylvania, docketed at CP-51-CR-0010937-2007 on January 20, 2012. The Petitioner, raised the following grounds for relief:

"1. Was trial/appellant counsel constitutionally ineffective under the Sixth Amendment for failing to object to a judge who was unfamiliar with the case charging the jury resulting in a confusing, misleading, and inaccurate charge ?;

2. Was trial counsel constitutionally ineffective under the Sixth Amendment for failing to ensure that the jury was given a complete curative instruction after the Commonwealth elicited testimony from Irene Walker, that she didn't coopetate/speak with investigators ?;

3. Was Appellant denied his rights under Article I Section 9 of the Constitution of the Commonwealth of Pennsylvania and Sixth Amendment to the Constitution of the United States of America to effective assistance of counsel for failing to include all potential basis for suppression in his motion to suppress and for failing to allege on direct appeal

that the trial court abused it's discretion in denying Appellant's motion to suppress ?;

4. Was Appellant denied his rights under Article I Section 9 of the Constitution of the Commonwealth of Pennsylvania and Sixth Amendment to the Constitution of the United States of America to effective assistance of counsel when trial/appellate counsel failed to timely file post sentence motion challenge to the weight of the evidence thereby waiving this claim ?;

5. Was appellate counsel constitutionally ineffective under the Sixth Amendment for failing to properly 'federalize' all claims ?;

6. Was Appellant denied his rights under Article I section 9, of the Constitution of the Commonwealth of Pennsylvania and the Sixth Amendment of the Constitution of the United States of America to effective assistance of counsel when trial/appellate counsel failed to make application for or receive leave of court to file amended Pa. R.A.P. 1925 (b), statement thereby waiving otherwise meritorious claims ?; and

7. Were Appellant's right under the Eight Amendment, art. 5 of the Universal Declaration of Human Rights and Art. 1 Sec. 13 of the Pennsylvania Constitution violated by the court's imposition of mandatory life imprisonment without the possibility of parole for Appellant who is an individual over 17 but under the age of 25 ?"

The court dismissed this petition as meritless without a hearing on July 11, 2014.

The Petitioner on July 11, 2014, filed an appeal to the Superior Court of Pennsylvania for the Eastern District, docketed at 2029 EDA 2014 (cited at 122 A.3d 457 (Pa. Super. 2015)). The

Petitioner, raised the following issues for review:

1. Was trial/appellate counsel constitutionally ineffective under the Sixth Amendment for failing to object to a judge who was unfamiliar with the case charging the jury resulting in a confusing, misleading, and inaccurate charge ?
2. Was trial counsel constitutionally ineffective under the Sixth Amendment for failing to ensure that the jury was given a complete curative instruction after the Commonwealth elicited testimony from Irene Walker, that she didn't cooperate/speak with investigators ?
3. Was Appellant denied his rights under Article I, Section 9, of the Constitution of the Commonwealth of Pennsylvania, and the Sixth Amendment of the Constitution of the United States of America to effective assistance of counsel for trial/appellate counsel failing to include all potential basis for suppression in his motion to suppress and for failing to allege on direct appeal that the trial court abused it's discretion in denying Petitioner's motion to suppress ?
4. Was Appellant denied his rights under Article I, Section 9, of the Constitution of the Commonwealth of Pennsylvania, and the Sixth Amendment of the Constitution of the United States of America to effective assistance of counsel when trial/appellate counsel failed to timely file post sentence motion challenge to the weight of the evidence thereby waiving the claim ?
5. Was appellate counsel constitutionally ineffective under the Sixth Amendment for failing to properly 'federalize' all the claims on direct appeal ?
6. Was Appellant denied his rights under Article I, Section 9, of the Constitution of the Commonwealth

of Pennsylvania, and the Sixth Amendment of the Constitution of the United States of America to effective assistance of counsel when trial/appellate counsel failed to file application or receive leave of court to file amended Pa. R.A.P. Rule 1925 (b) statement thereby waiving otherwise meritorious claims ?, and

7. Were Appellant's rights under the Eight Amendment, Art. 5 of the Universal Declaration of Human Rights, and Art. 1 Sec. 13, of the Pa. Constitution have been violated by the court's imposition of mandatory life without possibility of parole, for Petitioner who is an individual over 17 but under the age of 25 ?"

On May 27, 2015, the Superior Court affirmed the lower court's decision holding Petitioner's claims lacked merit. The Petitioner, did not seek review in the Pennsylvania Supreme Court.

Seeking further review Petitioner file a timely pro se federal petition for writ of habeas corpus on November 9, 2015 in the United States District Court for the Eastern District of Pennsylvania, docketed at Civil Action No. 15-6066. Petitioner raised the following issues for review:

"1. MIRANDA VIOLATIONS. Miranda Warnings were not read at the time of arrest nor any other time ... also at trial, the court had brought up that Petitioner had refused to have coerced statement taped after the invocation of asking for counsel.

2. COERCED STATEMENT. The manufacture of statement was coerced by threat, physical violence, and intimidation ...

3. INEFFECTIVE ASSISTANCE OF COUNSEL. The

ineffectiveness of trial counsel for not inquiring from prosecutors evidence other then written statement from detective that was produced into evidence. trial counsel, appellate counsel, was also ineffective for not doing investigation into assumption of defendant, and co-defendant going to a gas station after 'supposed" shooting, robbery, and asking for tape conforming that.

4. FALSE IDENTIFICATION. Identification of Petitioner was truly ascertained by grainy video evidence retrieved at the crime scene, surviving victim could not make a positive identification from video, nor could the detective from same video. Also witness could not make Id. after being shown many photographs of other persons. Even after saying he could identify, but being forced to make some Id. of accused. Informed detective he was under influence of meds.

5. There was no sufficient evidence tying Petitioner to the crime. After searching the Petitioner's residence, no weapon, no ammunition, no identifying clothing, placing the accused at the crime scene. The only evidence shown was a "statement" that was fictionalized by lead detective which was not sufficient enough to obtain conviction.

6. The judge showed prejudice by allowing non-probative evidence to be heard (victim call to 911) by jury. Which had no note worthy evidence tied to the crime. No identification of the accused, not any other identifying remarks, only to prejudice the jury into a more pertained verdict.

7. The charge of the judge who did not hear the entire trial and jury instruction was not complete and biased to the accused.

8. Juvenile life without parole was rendered in this case. Not taking into facts that this has been found

to be cruel and unusual punishment by the U.S. Supreme Court.

9. The supposed robbery was also not substantiated in that the victim's cell phone, and money, were still present at the scene. That would give due cause that the Petitioner, was not "critically" involved or was even present at this crime.

On March 4, 2019, the district court dismissed Petitioner's habeas petition, and denied certificate of appealability. Petitioner did not seek further review in the Federal Court System.

Finally Petitioner again sought review of his conviction in state court based upon newly discovered evidence by filing a second PCRA petition in the Common Pleas Court of Philadelphia County, Pennsylvania, on June 13, 2019, docketed at CP-51-CR-0010937-2007, and raised the following grounds for relief:

"1. The trial court in refusing to grant a mistrial after a Commonwealth referred to Appellant's post arrest silence.

2. Trial counsel had been ineffective for not challenging witness testimony identifying Appellant as the perpetrator of the underlying crime.

3. The trial court should have suppressed an incriminating statement he made to police "as product of unnecessary delay between arrest and arraignment".

4. The trial court erred in allowing the jury to hear a recording of the victim's 911 call."

On April 22, 2022, the court dismissed Petitioner's second PCRA petition as untimely. Petitioner sought no further review in the state courts.

Petitioner in a final attempt to have this newly discover evidence issue raised and litigated on November 13, 2023, filed an Application Under 28 U.S.C. § 2244, For Order Authorizing District Court To Consider Second Or Successive Application For Relief Under 28 U.S.C. § 2254, with the Third Circuit Court of Appeals, docketed at 23-3070. Which the court denied on January 8, 2024.

GROUND FOR RELIEF

GROUND ONE: PETITIONER OBTAINED NEWLY DISCOVERED EVIDENCE OF POLICE CORRUPTION AND MISCONDUCT, AND PROSECUTOR MISCONDUCT, BY POLICE AND PROSECUTORS INVOLVED IN HIS CASE, WHICH RESULTED IN THE CONVICTION BEING OBTAINED IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMNETS.

(a) SUPPORTING FACTS: Years after Petitioner's 2008 conviction he received information about the known pattern and practice of not only Detective Joseph Bamberski (tampering with witnesses), but the whole of the Philadelphia Police's Homicide Unit, that was withheld and suppressed by the Philadelphia County District Attorney's Office. Petitioner first received a copy of an article released by the Philadelphia Daily News on June 6, 2019, (Ex. D) that outlines how Detective Bamberski, coerced, and fed information to a suspect to piece together a false confession. Denied said suspect an attorney upon repeated requests for such, and giving perjured testimony, in short doing or testifying to whatever he has to do, to secure a conviction guilt or innocence of the accused be damned.

Petitioner, then received information from the Police Transparency project website, about Homicide Detectives including Det. Bamberski, that shows a pattern and practice of corruption and misconduct by Homicide Detectives that span years before and after Petitioner's conviction. (Ex. E) In regard to Det. Bamberski, this information establishes a pattern and practice of

his targetting of the vulnerable, keeping witnesses isolation for extended periods of time, threatening witnesses, using physical abuse/force against witnesses, and supplying material information to witnesses, that span from 2001 to 2012.

Instantly Mr. Liu, the only person who identified Petitioner, as one of the perpetrators of these crimes, first stated that he did not get a good look at the perpetrators of the crimes. Then after being questioned by Detective Bammerski, changed his story and identified Petitioner. In testimony saturated with inconsistencies which would more then bring Bammerski's testimony. statements, and interrogation techniques into question.

Mr Liu, testified at Petitioner's preliminary hearing that he couldn't identify the defendant because his bulletproof plexiglass was dirty. (Preliminary Hearing testimony @ 18, hereinafter P.H.T.) Then became very evasive with his answers during trial. When confronted about the bulletproof glass, Mr. Liu, claimed "if I moved toward the bulletproof glass, I could see very well, it wasn't really far." (Trial Transcript @ 58, hereinafter T.T.) Contradicting his previous preliminary hearing testimony. Only later Mr. liu, claimed he reviewed the video tape with the police officer (Detective Bammerski) and was able to identify Petitioner. Although with the evidenced of Bammerski's history of coercing, and/or tampering with witnesses, and giving false testimony, being withheld from the defense. Petitioner did not know to call Detective Bammerski, as a witness and/or cross examine him and present this evidence that would cast doubt on

the identification of Petitioner.

However, when Detective Hagan, was questioned by Petitioner's attorney about the video of the crime he testified "the video was cloudy." (P.H.T. @ 47) During the Motion to Suppress Hearing when Detective Hagan, was asked if he could identify the defendant in the video, he testified the video was too hazy and cloudy to make a positive identification of the defendant. Hagan, further testified that he wasn't sure which police officer was present with Mr. Liu, when they reviewed the video, and wasn't even sure if Mr. Liu, actually viewed the video. Id. @ 77.

Petitioner, also received new articles which show that both the lead prosecutor (Bribget Kirn) and assistance prosecutor (Hugh Burns) in Petitioner's case were fired from the Philadelphia County District Attorney's Office, for a practice and pattern of corruption and misconduct. Along with evidence released that shows as far back as 1991, Kirn's participated in acts of prosecutor misconduct such as not only presenting false testimony during trial, but also failing to correct this known false testimony, and feeding information to police so they could adjust their testimony to favor the prosecution. (Ex. F) This later evidence caused the termination of Kirn, from the Montgomery County District Attorney's Office.

Petitioner, raised this issue through a PCRA petition in the Court of Common Pleas of Philadelphia County, Pennsylvania, on June, 13 2019, in the case captioned COMMONWEALTH OF

PENNSYLVANIA V. HASSAN WILLIAMS, docketed at CP-51-CR-0010937. On April 22, 2022 the court dismissed the petition without a hearing as untimely. Petitioner sought no further review in the state courts.

Petitioner then on November 13, 2023, sought permission from the the United States Court of Appeals for the Third Circuit to file a second or successive habeas petition in the United States District Court for the Eastern District of Pennsylvania, in the case captioned IN RE: HASSAN WILLIAMS, docketed at 23-3070. The Third Circuit Court denied petitioner request on January 8, 2024.

REASONS FOR GRANTING THE PETITION

Petitioner, respectfully submits to this Honorable Court that the writ should be granted in the instant case, where he can meet the standard of review for a miscarriage of justice claim prescribed in SCHLUUP V. DELO, 513 U.S. 298 (1995), to allow the filing a second or successive habeas Petition.

In order to show a miscarriage of justice this Court requires a petitioner to demonstrate that "a constitutional violation has probably resulted in the conviction of one who is actually innocence." SCHLUUP, @ 321. Under this standard a Petitioner must support his allegation of constitutional error with new reliable evidence whether it be exculpatory scientific evidence, trustworthy eyewitness accounts, or critical physical evidence, that was not presented at trial." Id. @ 324. Once such evidence is presented a petitioner must show that "it is more likely then not that no reasonable juror would have convicted him in light of the new evidence. Id. @ 327. Presently in advancing his miscarriage of justice clam Petitioner relies on the evidence contained herein at exhibits C & D, which outlines a pattern and practice of corruption of Detective Joseph Bamberski, (and majority of the Philadelphia Police Department's Homicide Unit). In particular this evidence outlines how Det. Bamberski, fed information to a suspect to piece together a false confession, denied said suspect an attorney upon repeated requests for such, and gave perjured testimony, targeted the vunerable, kept witnesses in isolation for extended periods of time, threatened

witnesses, used physical abuse/force against witnesses, and supplied material information to witnesses, and/or stood by and allowed such by other detectives, that span from at least 2001 to at least 2012. Both before and after the Petitioner's conviction. All of this evidence was suppressed by the Philadelphia District Attorney's Office and withheld from the Petitioner.

Petitioner also relies on the evidence contained in exhibit F, which shows that both the lead prosecutor (Bridget Kirn), and assistance prosecutor (Hugh Burns) in Petitioner's case were fired from the Philadelphia District Attorney's office for a pattern and practice of corruption and prosecutor misconduct, once a new District Attorney took office. Along with the evidence released that shows as far back as 1991, (prior to Petitioner's case) Kirn's participated in acts of prosecutor misconduct such as not only presenting false testimony during trial, but also failing to correct known false testimony, and feeding information to police so they could adjust their testimony to favor the prosecution.

As part of the reliability assessment of the first step of the SCHLUP, standard the Court "may consider how the timing of [the Petitioner's] submission and the likely credibility of the witness bear on the probable reliability of the evidence," as well as the surrounding the evidence and supporting corroboration." HOUSE V. BELL, 547 U.S. 518,537, (2006).

Petitioner submits that when this Court considers the timing and delay in raising this miscarriage of justice claim, and advancing the present evidence. It should not be considered

against the merits of his claim. Where it was only after, outside investigations, and the leadership change in the Philadelphia County District Attorney's Office, and Philadelphia Police Department, occurred that replaced the corrupt officials running those agencies. Did the present evidence and other evidence of years of corruption and misconduct by these agencies come to light that was previously hidden from the public by unscrupulous, racist, and communist city officials.

Petitioner, would also ask this Court to place adequate consideration on the facts that he is housed in a prison (2) to (3) hours away from Philadelphia. Making it difficult to receive local news, and does not have access to public records. Along with the facts that the prison does all it can to hide news of corruption and misconduct of any government agency, and that it has been more then proven over the last few years that the Philadelphia Police, and District Attorney's Office have run on a pattern and practice of corruption and misconduct for years both prior to and after Petitioner's Conviction.

In evaluation the second step whether it is more likely then not no reasonable juror would have convicted the petitioner the Court "must consider all evidence old and new" incriminating and exculpatory, without regard to whether it would necessarily be admitted under the rules of admissibility that would govern at trial." HOUSE, @ 538. In SCHLUP, This Court observed:

"The meaning of actual innocence as formulated by SWAYER, and CARRIER, (SWAYER V. WHITLEY, 505 U.S. 333 (1992); MURRAY V. CARRIER, 477 U.S. 478 (1986)), does not merely require a showing of reasonable doubt exists in light of the new evidence, but rather that no juror would have found him guilty

... Rather the standard requires the district court to make a probabilistic determination about what reasonable properly instructed jurors would do ... We note finally that the CARRIER, standards requires a petitioner to show that it is more likely then not that "no reasonable juror" would have convicted him. The word "reasonable" in that formulation is not without meaning. It must be presumed that a reasonable juror would consider fairly all evidence presented. It must also be presumed that such a juror would conscientiously obey the instructions of the trial court requiring proof beyond a reasonable doubt." Id. @ 115.

Thus Petitioner, submits that with these principles in mind that if the evidence of Det. Bammerski's, corruption and misconduct been presented to the jury in regards to his pattern and practice of coercing and feeding information to witnesses, denying suspects attorneys and giving false testimony to obtain convictions. Under the circumstances of this case where the only witness being able to identify Petitioner as the perpetrator of these crimes could not identify Petitioner until after being questioned by Det. Bammerski. At which time he changed his story to identify Petitioner, while under the influence of narcotics. In testimony as noted above saturated with inconsistencies, and reliance on a video of such low quality it can only be described as a step above worthless. It would be inconceivable to find that no reasonable juror would have Mr. Liu's, Det. Bammerski's, or any law enforcement officer's testimony credible.

Combined this with the evidence being presented that both ADA Kirn and Burns, who prosecuted this case were both fired from the Philadelphia County District Attorney's Office (Kirn's was also fired from the Montgomery County District Attorney's Office) for a pattern and practice of corruption and misconduct. Along

with the evidence that shows as far back as 1991, Kirn's participated in acts of corruption and misconduct. Such as presenting, and failing to correct known false testimony, and feeding information to Philadelphia Police, so they could adjust their testimony to, or out right lie on the witness stand for their testimony to favor the prosecution, to keep an innocence man in prison for a crime they knew he did not commit. It would not be inconceivable to find that no reasonable juror would have believed any testimony by anyone from the Philadelphia Police department. Along with finding that no evidence presented by the prosecution could be trusted or believed. Resulting in it being more likely then not that no reasonable properly instructed juror would have convicted Petitioner of these crimes. Especially, if it is presumed that a reasonable juror would consider fairly all evidence presented, and conscientiously obey the instruction of the trial court requiring proof beyond a reasonable doubt.

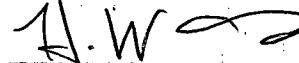
Moreover, Petitioner submits that these facts clearly establishes a violation of the Fourteenth Amendment. Where under these circumstances where known corrupt prosecutors were permitted to try the case, and suppress evidence of police corruption and misconduct. To deny the Petitioner, his ability to present a complete defense, and properly cross examine law enforcement witnesses in violation of the Sixth Amendment. It would be impossible for Petitioner to receive a fair trial.

CONCLUSION

Therefore, for all the forgoing reasons set forth herein Petitioner asks this court to vacate the Petitioner's convictions and sentences, dismiss all charges against him, and/or grant him a new trial, or any and all other relief to which the Petitioner may be entitled.

DATE: 7-8-2024

RESPECTFULLY SUBMITTED,



HASSAN WILLIAMS.