

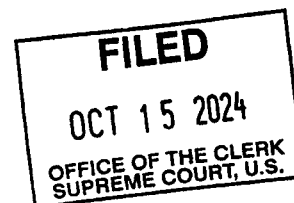
No.

24-5832

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



DARREN JOHNSON

— PETITIONER

(Your Name)

vs.

JEFF HOWARD

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

MICHIGAN SUPREME COURT

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

PETITION FOR WRIT OF CERTIORARI

Darren Johnson

(Your Name)

4533 W. Industrial Park Drive

(Address)

Kincheloe, MI 49788

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

I WHETHER PETITIONER'S DUE PROCESS CLAUSE WHERE VIOLATED UNDER THE FOURTEENTH AMENDMENT WHERE WHERE THE PROSECUTION SUPPRESSED AND FAILED TO DISCLOSE EXCULPATORY AND CRITICAL PHYSICAL EVIDENCE THAT PREJUDICED THE PETITIONER ENTITLING HIM TO A NEW TRIAL

II WHETHER PETITIONER'S SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WAS VIOLATED WHERE APPELLATE COUNSEL FAILED TO CONDUCT A INVESTIGATION OF THE PROSECUTOR'S FILE, WHICH PREJUDICED THE PETITIONER

LIST OF PARTIES

☒ 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

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Brady v. Maryland, 373 US 83, 43 S.Ct 1194, 10 LEd 2d 541 (1963)	5
House v. Bell, 507 US 518, 537	5
Kyles v. Whitley, 514 US 419, 432 (1995)	5
McFarland v. Yukins, 386 F.3d 688, 698 (6th Cir. 2004)	5
Schirer v. Delo, 513 US 291, 321	5
Strickland v. Washington, 466 US 667, 691 (1984)	5
United States v. Besley, 473 US 667, 682 (1985)	6
Wissner v. Smith, 539 US 510, 531 (2002)	5
People v. Chervak, 495 Mich. 142, 150, 845 NW2d 731 (2004)	5
People v. Jackson, 292 Mich. App. 583, 536, 808 NW2d 541 (2011)	5
United States v. Barber, 259 US App. DC 111, 413 F.2d 1232, 1234 (1971)	5
Jones v. Baruch, 403 US 745, 756-764, 103 S.Ct 3308, 3312-3314, 73 LEd 2d 997 (1983)	5
STATUTES AND RULES	
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OTHER

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

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

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

The opinion of the United States district court appears at Appendix _____ to the petition and is

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

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

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

The opinion of the Michigan Court of Appeals 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.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- I The Fourteenth Amendment to the United States Constitution
- II The Sixth Amendment to the United States Constitution

STATEMENT OF THE CASE

The 17th Circuit Court, Michigan Court of Appeals, and Michigan Supreme Court all failed to review Petitioner's legal issues. Petitioner's now brings his legal issues to be reviewed de novo after granting of Certiorari. Petitioner diligently tried to obtain an evidentiary hearing but was not afforded the opportunity.

The exculpatory and critical physical evidence of (PPO) order, and documents has an exculpatory connection to the complaint testimony concerning the matter. The (PPO) denial order would have painted a different picture at trial. It would have should that the defendant was the actual victim who tried to get help from being victimized, but due to Petitioner being on Federal Probation he was forced to stay at that apartment. This would have convinced the Jury for a not guilty verdict because the Jury was not yet convinced that the petitioner was guilty and was looking for some type of evidence to view and make a determination on. See trial transcripts (RT) Volume IV of V December 10, 2009 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 lining you up. Could you subpoena, or could you get additional evidence, and the answer to that, clearly is no." Petitioner was denied a fair trial and where miscarriage of justice took place where Petitioner is actually innocent and would have been proven but for the Constitutional violation, which Petitioner asks that all Procedural hurdle to yield and allow him the Gateways So his merits can be heard Schirer v Delo, 513 US 298, 321; House v Bell, 547 US 518, 537 (First although "L+J")

be credible" a gateway claim requires "new reliable evidence - whether it be exculpatory scientific evidence, trust worthy eye witness accounts, or critical physical evidence -- that was not presented at trial", as show herein this instant case Id.

2) Petitioner was denied effective assistance of appellate counsel where appellate counsel failed to investigate the prosecutor file which was not a matter of sound strategy, which prejudiced the petitioner. There is a reasonable probability if appellate counsel would have investigated the prosecutor file appellate counsel would have newly discovered the (PPO) order showing with the documents that petitioner was the victim who tried to get help which would have painted a different picture and tipped the scale in petitioner favor and would have changed the result of the appeal. *McFarland v. Yukins*, 356 F.3d 688, 699 (6th Cir. 2004); *Strickland v. Washington*, 466 US 688, 691 (1984) (The sixth Amendment requires investigation and preparation, not to retortiate, but also to secure and protect the rights of the accused such constitutional rights are granted to the innocent and guilty alike, and failure to investigate and file appropriate motion is ineffective), which has happened in this instant case, which after filing appropriate pleadings, would have filed a motion to remand.

Basic investigation is a prerequisite to the exercising of sound trial strategy. Where such investigation is not done, there courts have decline to grant Counsel the high measure of deference ordinarily afforded to appellate Counsel. *United States v. Barbour*, 259 US App DC 111, 813 F.2d 1232, 1234 (1987) ("only when reasonable investigation has been performed is Counsel in a position to make informed tactical decision. It is especially important Counsel adequately investigate the case in order that at the very least he can provide minimally competent professional representation"). *Jones v. Barnes*, 463 US 745, 756-784, 103 S.Ct 3307, 3312-3314, 77 L Ed 2d 987 (1983) Cf Admin Order 1981-7, 53 Sid 7 (imposing an ethical duty on all appointed appellate attorneys to raise all issues of reversible merit).