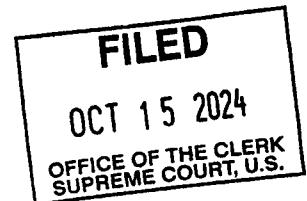


No. 24-5832

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 EXONERATORY 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 U.S. 83, 43 S.Ct. 1194; 10 L.Ed. 2d 541 (1963). ⁵	5
House v Bell, 567 U.S. 518, 537	5
Kyles v. Whitley, 514 U.S. 419, 432 (1995)	5
McFarland v Yuklins, 356 F.3d 688, 698 (6th Cir. 2004)	5
Schlueter v Deto, 513 U.S. 281, 291	5
Strickland v Washington, 466 U.S. 687, 691 (1984)	5
United States v Bassler, 473 U.S. 667, 682 (1985)	6
Wiggins v Smith, 539 U.S. 510, 531 (2002)	5
People v Cheneau, 495 Mich. 142, 150, 845 N.W.2d 731 (2009). ⁵	5
People v Jackson, 292 Mich. App. 583, 536, 808 N.W.2d 541 (2011). ⁵	5
United States v Birbaw, 259 U.S. App. D.C. 111, 113 F.3d 1232, 1234 (1997). ⁵	5
Jones v Bernal, 463 U.S. 745, 756-757	5
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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

- H The Fourteenth Amendment to the United States Constitution
- H 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 now brings his legal issues to be reviewed de novo after grants 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 showed 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 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, Clerk 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 gateway House v Bell, 547 US 518, 537 (First although "LIFO

be credible" - gateway claim requires "new reliable evidence - whether it be exculpatory scientific evidence, trust worthy eyewitness accounts, or critical physical evidence -- that was not presented at trial", as shown herein in 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 would have the victim who tried to set help which 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 U.S. 688, 691 (1984) (The Sixth Amendment requires investigation and preparation, not to exonerate, 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 extending of sound trial strategy. Where such investigation is not done, the Courts have decline to grant Counsel the high measure of deference ordinarily afforded to appellate Counsel. United States v. Barbour, 259 U.S. 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 decisions. 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 U.S. 745, 756-754, 103 S.Ct. 3308, 733 F.2d 3312-3314, 72 L.Ed.2d 987 (1983) (C.F. Admin. Order 1981-7, 53 S. 167 (imposing an ethical duty on all appointed appellate attorneys to take all issues of insurable merit)).