

24-6701

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

FEB 20 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

Pursuant Rule 13

Michael Guisto Cromey JR. — PETITIONER
(Your Name)

vs.

State of Texas — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Texas Court of Criminal Appeals

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

PETITION FOR WRIT OF CERTIORARI

Michael Guisto Cromey JR.
(Your Name)

Bradshaw State Jail, 3900 W. Loop 571N,
(Address) HENDERSON, TX. 75652

HENDERSON, TEXAS 75652
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

① Is There a statute of Limitations For a Wrongful convicted inmate To assert actual Innocence?

I want The court To decide, if a Prisoner is Time Barred From asserting actual Innocence; after a complainant Recanted Their statements

② IF, a complainant Recant Their complaint, and confess To giving perjured testimony during Trial; Is it grounds To Reverse conviction?

I want The court To decide, whether or not The complainant's signed sworn Affidavit is grounds To Reverse a Prisoner's conviction.

③ Is it constitutional error, For a Trial court To deny a witness The Right to testify; in Behalf of The defendant?

I want The court To determine, if a Trial court's Violation of The sixth Amendment - compulsory Process; Prejudiced a defendant's defense against The state's allegations, By denying his Material witness To Testify at Trial.

④ When The state convene a meeting with its witnesses Before Trial, To Review evidence, statements, and exhibits is it lawful according To Brady Protections?

I want The court To determine, if a defendant's Right To a fair Trial was damaged, By The state's Failure To disclose, STAR chambering Tactics on day of Trial.

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:

- ① Texas COURT OF CRIMINAL APPEALS,
- ② SMITH COUNTY PROSECUTOR'S OFFICE.

RELATED CASES

- ① EX PARTE CROMLEY, WR-91, 641-02, TEXAS COURT OF CRIMINAL APPEALS. Decision RENDERED ON, 01-21-2025 / JANUARY 21, 2025
- ② CROMLEY V. LUMPKIN, NO. 22-40318, 5TH CIRCUIT COURT OF APPEALS. JUDGEMENT ENTERED ON AUGUST 08, 2022.
- ③ CROMLEY V. DIR, TDCJ-CID, NO. 6:21-CV-00132-JDK, U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS.
- ④ EX PARTE CROMLEY, WR-91, 641-01, TEXAS COURT OF CRIMINAL APPEALS. DENIED ON, OCT. 14, 2020.
- ⑤ IN RE CROMLEY, PD-0016-19, TEXAS COURT OF CRIMINAL APPEALS. REFUSED ON MAY 01, 2019.
- ⑥ CROMLEY V. STATE, NO. 12-17-00132-CR, TWELFTH COURT OF TEXAS. JUDGEMENT ENTERED ON DECEMBER 12, 2018.
- ⑦ CROMLEY V. DIR, TDCJ-CID, NO. 5:21-CV-23, U.S. DISTRICT COURT FOR EASTERN DISTRICT OF TEXAS. DECIDED APRIL 07, 2021

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Appendix: A

EX parte,

Michael Guisto Cromeey JR.
T.D.C.J. # 02126938

Texas COURT OF CRIMINAL APPEALS, NO. WR-91,641-02
TRIAL COURT NO. 007-1667-16B. JUDGEMENT ENTERED ON;
12-11-2024

Question:

CAN a STATE lawFULLY Keep an inmate imprisoned after,
a complainant Recant his Allegations, and CONFESS
to giving PERJURED Testimony during TRIAL?

ON, NOVEMBER, 09, 2019, Complainant, Michael Guisto Cromeey SR.,
Recanted his Allegation Through a, SWORN AFFIDAVIT OF
FACTS, in The Presence of a Notary Public.

Appendix: B

Michael Guisto Cromeey JR., Petitioner
T.D.C.J. #02126938

v.

Dir., T.D.C.J. - CID

The Findings, conclusions, and Recommendation submitted
By The United States Magistrate Judge on, Dec. 21, 2021.

Question:

Can a defendant remain lawfully imprisoned, after a complainant recants his allegations, and admit to giving perjured testimony during trial? I was convicted as a result of complainant making false and untrue statements to investigating officers, and officer's testified based upon the erroneous complaint made against me.

APPENDIX: C

Michael Guisto Cromey JR.,
EX PARTE

TEXAS COURT OF CRIMINAL APPEALS, NO. WR-91,641-02,
MOTION FOR ENBANC RECONSIDERATION, DECISION ENTERED
ON, * 01-21-2025

QUESTION:

Is it a Due Process violation for the state of Texas
to keep me unlawfully imprisoned due to perjured
testimony?

The Texas Court of Criminal Appeals, refused, the
Re-cantation Affidavit, given by complainant as
credible evidence.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

McQuiggin v. Perkins,
United States v. Shepard
United States v. Gresham
Giglio v. United States
Strickland v. Washington
Cromey v. State

STATUTES AND RULES

Fed. R. Civ. P. 8(e)
USCS Fed. Rules App. Proc. Rule 23(a)
28 U.S.C. section 2254
28 U.S.C. section 2244
Tex. Penal Code section 1.07(a), (42), / 9.31/9.32
Tex. R. evidence 404(a)(3), 405(a)

OTHER

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 WR-91,641-02; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ 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.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A _____.

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

☒ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a). *I invoke Rule 13, To seek Review By, The supreme court,*

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Federal:

FOURTH AMENDMENT TO U.S. CONSTITUTION
FIFTH AMENDMENT TO U.S. CONSTITUTION
SIXTH AMENDMENT TO U.S. CONSTITUTION
EIGHTH AMENDMENT TO U.S. CONSTITUTION
FOURTEENTH AMENDMENT TO U.S. CONSTITUTION

State:

ARTICLE 1, SECTION 9 OF THE TEXAS CONSTITUTION
ARTICLE 1, SECTION 10 OF THE TEXAS CONSTITUTION
ARTICLE 1, SECTION 11A OF THE TEXAS CONSTITUTION
ARTICLE 1, SECTION 13 OF THE TEXAS CONSTITUTION
ARTICLE 1, SECTION 19 OF THE TEXAS CONSTITUTION

Statutory Provision:

State:

ART. 17.028, TEX. CODE CRIM. PROC. ANN.
ART. 44.181, TEX. CODE CRIM. PROC. ANN.
ART. 38.17, TEX. CODE CRIM. PROC. ANN.
ART. 38.18, TEX. CODE CRIM. PROC. ANN.
ART. 36.16, TEX. CODE CRIM. PROC. ANN.

Federal:

USCS Fed. Rules App. Proc. R. 23
USCS Fed. Rules App. Proc. R. 24

STATEMENT OF THE CASE

The Basis of My Conviction was Perjured Testimony, which was knowingly used By The Prosecuting Authorities in order to obtain the conviction and Both Police Officers and the Prosecutor deliberately suppressed evidence which would have impeached and Refuted all Testimony given against me during Trial. The Supreme Court has consistently held that "Due Process Prohibits deliberate deception of Court and Jury by Prosecution's knowing use of Perjured Testimony." see: Danforth v. Minnesota, 552 U.S. 264, 128 S.Ct. 1029, 169 L.ed 2d 859 (2008); and Mooney v. Holohan, 294 U.S. 103, 55 S.Ct. 340, 79 L.ed 791 (1935). The Testimony given By Complainant, Michael Guisto Cromey GR., during my Trial on, March 28, 2017, was Recanted By him through a signed Sworn Affidavit Before a Notary Public on, November 09, 2019. The State of Texas ERred in denying me Habeas Relief, due to False Testimony and Evidence used against me at and during Trial. The False Evidence and Testimony claims are ground For Relief in Habeas Action, Ex parte Christian, No. WR-39,987-04 (Tex. Crim. App. September 25, 2024), and Ex parte Keller, No. WR-36,232-02 (Tex. Crim App. May 20, 2015).

The Trial Court ERred in allowing Officers, April Molina, and Jeremy Thompson To give Testimony while in their employment uniform. The appearance of, Officers giving Testimony in their Police uniforms posed a threat For the jurors To feel implicit Pressure To Return a Verdict Favorable To Law Enforcement interests or sentiment. United States v. Johnson, 713 F. Supp. 2d 595 (5th Cir. 2010), Phillips v. State, 70 P.3d 1128 (Alaska Ct. App. 2003); and Powell v. State, 897 SW 2d 307 (Tex. - Crim. App. 1994). During Trial, The Officers were dressed in uniform To unduly Persuade the jury; That their Testimony was Bona Fide. The Officers uniform incited Unfair Passion of the Jurors, and Prejudiced me From having a Fair Trial Before an impartial Jury. Officer, April Molina testified that ("Her Video Recording was Not on at all Times"). Both Officers April

Statement of the Case (cont'd)

Molina and Jeremy Thompson, gave Testimony That Before Trial, they met in The District Attorneys Office; To Re-view Only The Video and Audio Recordings of Officer Molina's Recording devices, But I Believe The Meeting was actually conducted in The Judge's Chambers Before The Beginning of Trial.

The Trial Court Permitted Officer Thompson To Testify about The items Officer Molina Provided as Evidence, such as (1) Report, (2) Audio Recording, and (3) Video images; which was Not always Turned on, According To Officer Molina's own Testimony, Officer Thompson was Re-examined as a witness, after it was discovered That exculpatory Evidence was Withheld, By The Prosecutor For Not Providing defense with Exhibit #19, which is The investigation conducted By Officer Thompson. However, it conflicted with The investigation of Officer Molina's, Incident/Investigation Report, Case #16-021996 Labeled 000003, That indicates injury as Being Minor. Therefore, No serious Bodily injury was initiated against, Complainant, Michael Guisto Cromey SR., and The incident could Not have Resulted in death as alleged To The Testimony of Both Officer Molina and Officer Thompson, given during Trial. The False Testimony given By Officer April Molina and Jeremy Thompson, That death could have Resulted From The situation of a Minor injury, it was Conclusive By Non Medical Opinion and constitutes Reversible Error. Recantation By Michael Guisto Cromey SR. invalidates The Criminal Proceedings initiated against me That Resulted in my wrongful conviction. The omission of Exhibit No. 19, From Discovery, Violated The Brady claims Because (1) The Prosecution suppressed evidence, (2) The evidence was Favorable To The Petitioner; (3) The evidence was Material either To guilt or Punishment; and (4) Non-discovery of The allegedly Favorable evidence was Not The Result of lack of due diligence. Brady v. Maryland, 373 US 83, 10 L. ed. 2d 215, 83 S. Ct. 1194 (1963).

REASONS FOR GRANTING THE PETITION

The Dignity of The United States Government will Not Permit The Conviction of any Person on Tainted Testimony. MesaRosh v. United States, 352 U.S. 1, 77 S.Ct. 1, 1 L.Ed. 2d 1 (1956). I did not have a fair and impartial trial pursuant to Article 36.19, Tex. Code Crim. Proc. ANN. Because the trial court failed to instruct the jury that the Castle Doctrine Relieves a Person of the duty to Retreat when he is justified in using deadly Force against another if (1) he has a Right to Be Present at the location where the deadly Force is used (2) he has Not Provoked the Person against whom the deadly Force is used and (3) he is Not Engaged in Criminal activity at the time that the deadly Force is used. see: Tex. Penal Code ANN, Sec. 9.31, 9.32; Durden v. State, 659 SW3d 26 (Tex. App. 2021); and Almanza v. State, 686 SW2d 157 (Tex. Crim. App. 1985). A Person's Liberty interest is Protected From unlawful state deprivation By the Due Process clause of the Fourteenth Amendment. see: Davis v. Hall, 375 F.3d 703, 713 (8th Cir. 2004).

On the Night of September 11, 2016, I was physically and violently assaulted By my Father while i was in the kitchen cooking dinner for him and my wife. He gave False statements to investigating Officers, That he was Protecting my wife and dog from me, and That, "I hit him with a Bicycle Rack, While Trying to escape his choke hold and Bear hug hold, At No time was i able to Obtain anything to fend off the onslaught of ambushes That he engaged against me for not purchasing tires for his motorcycle. During the time of his attack, my wife was in the Bathroom taking a shower and stepped out to get dressed so she could intervene in the situation. However, she retreated to the Bedroom so she could Fully dress in order for us to leave, and Return after he had sobered up. While in the Bedroom my Father entered to resume his attacks against me and as he pulled my arm out of socket and attempting to break my leg with his foot, he threw me into the living room floor where he started to choke me from behind, as i attempted to get away

REASONS FOR GRANTING THE PETITION (contd)

OUT OF THE APARTMENT IN FEAR FOR MY LIFE, I LUNGED AT THE DOORWAY WHERE HE HIT HIS HEAD ON THE DOOR KNOB, WHILE I PUSHED UP AND OPENED THE DOOR TO THE STAIRWELL HE TRIED TO SHOVE ME DOWN, STILL CHOKING ME FROM BEHIND, I REARED UPWARD AND WENT BACKWARDS SHOVING HIM BACKWARDS IN THE WALL OF THE STAIRWELL, WE WERE MOMENTARILY LOOSE^{HE}NEED UP FROM THE HOLD TO TWO HANDS AROUND MY NECK AND CONTINUED TO CHOKE ME TILL I COULD HARDLY BREATHE. I COULD HEAR MY WIFE YELLING AT HIM TO LET GO BUT HE ONLY CHOKED HARDER, AND AS HE NUGGED ME TOWARDS THE STAIR I PULLED DOWN IN MY LAST ATTEMPT TO GET FREE OF HIM AND AS I PULLED DOWNWARD I FELT SOMETHING WET ON MY SHOULDERS, HE BUSTED THE TOP OF HIS HEAD ON THE DOOR KNOB IN THE HALLWAY AT THE TOP OF THE STAIRS AS I BROKE FREE I RAN DOWN THE STAIRS TO GET AWAY FROM HIS ASSAULTS AND I CALL 911 FOR AN AMBULANCE BUT NONE CAME FOR ALMOST AN HOUR AT LEAST AND THE HOSPITALS IN TYLER, TEXAS WERE ONLY 3 BLOCKS AWAY. THE PROSECUTION SECURED A CONVICTION THROUGH THE DELIBERATE AND INADVERTENT USE OF FALSE EVIDENCE. EX PARTE CHABOT, 300 SW 3d 268 (TEX. CRIM. APP. 2009), AND EX PARTE CARMONA, 185 SW 3d 492 (TEX. CRIM. APP. 2006).

I DID NOT STRIKE MY FATHER WITH A BIKE RACK NOR DID I DELIVER A BLOW TO HIM WITH A METAL PIPE, HE CONCEDED WITH A RECANTATION OF EVENTS THAT OCCURRED ON THE NIGHT THAT HE ATTACKED ME, BY SIGNING A SWORN AFFIDAVIT BEFORE A NOTARY OF PUBLIC, THAT THE LACERATION TO HIS HEAD WAS CAUSED BY A DOOR KNOB. IN LIGHT OF WHICH IT MAY BE SAID BY CLEAR AND CONVINCING EVIDENCE, THAT NO REASONABLE JURY WOULD HAVE CONVICTED ME, IF HE WOULD HAVE TESTIFIED TRUTHFULLY DURING TRIAL. SEE: EX PARTE TULEY, 109 SW 3d 388 (TEX. CRIM. APP. 2002); AND EX PARTE ELIZONDO, 947 SW 2d 202, (TEX. CRIM. APP. 1996). THE

Reasons For Granting The Petition (CONT'D)

Testimony given By, Michael Guisto Cromey SR., is UNCONTROVERTED. It is By clear and convincing evidence That he testified falsely during my TRIAL, and it was primarily upon the False Testimony given By him That Resulted in me Being Convicted. When False Testimony has Been given under such circumstances, The defendant is entitled to a New TRIAL unless There is No Reasonable Likelihood That the alleged False Testimony could have affected the outcome of the TRIAL. Giglio v. United States, 405 US 150, 31 L. Ed 2d 104, 92 S. Ct. 763 (1972). The Fourth Amendment governs The standard for Probable cause Necessary to effect a detention, as well as the minimum Constitutional standards and Procedures for detention. see: Gerstein v. Pugh, 420 US 103, 111, 95 S. Ct. 854, 43 L. Ed. 2d. 54 (1975). My CONVICTION was Based on False Testimony + Evidence.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Guisto Cromey Jr.

Date: ^{MS.} FEBRUARY 07, 2025

FEBRUARY 07, 2025 PREPARED
FEBRUARY 13, 2025 MAILED