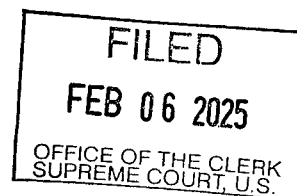


24-7179

No. USCA 11



NO. 24-13533

IN THE
SUPREME COURT OF THE UNITED STATES

JORDASH TANKSLEY^{Prose} — PETITIONER
(Your Name)

vs.

Augusta Smp Warden^{"Etal."} — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JORDASH TANKSLEY
(Your Name)

3001 Gordon Hwy.
(Address)

Grovetown, ga 30813
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Whether The Due Process Rights OF U.S. CONSTITUTION 5th, 6th, 8th and 14th Amendment; ALSO Ga. CONSTITUTION Article I, Section 1, Paragraph(S) 1, 11, XI, XII, XIII, XIV, XV, XVII, XVIII, XX, XXII, XXIX; violated The Petitioner when the Trial court admitted hearsay testimony from State witnesses Derrell McNair and Megan McClendon Testimonies which was initiated influenced by law enforcement RSCO Investigator Brandon Beckman who conducted Initial interview(s), at which time Investigator initially Implicated Petitioner Jordosh Tonksley to witnesses specifically and suggested Petitioner involvement in the crime.
2. Whether the compelled testimony of a codefendant, under a grant of immunity violates the Petitioner's Sixth Amendment right to confront witnesses against them, and CONST. Confrontation clause, and Due process violation under The 5th Amendment (Due process clause) against, Inadequate evidence, prosecutorial misconduct, Bias procedural violations, Self-incrimination, The Investigator, and State court's and lower court's conduct in these proceedings in said case, also suggesting The petitioner's involvement by investigator constitutes a violation of these protections and why isn't The Due Process of Law ensured.
3. Whether Petitioner Demand For Speedy Trial was violated; and Denied Right to a Fair Trial, and was Trial Counselor as well as Post conviction Appellate counselors ineffective assistance of counsel(s). When Defense Counsel's Performance was deficient and prejudiced in Petitioner Trial, and Post-convictions Appeal Proceedings, Failure to present exculpatory evidence, Inadequate cross examination, allowance of void sentence as well as A wrongful conviction, Does this violates petitions and Petitioner U.S. CONST.; Ga. CONST 5th, 6th, 8th, and 14th Amendment, statutes & Rules of GA Appeal Courts.

Petitioner Conviction is flawed, in which The Supreme Court held that a conviction must be overturned if, after viewing the evidence in the light most favorable to the prosecution, no rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. If the evidence in the petitioner armed robbery case was insufficient or the prosecution engaged in misconduct, the conviction violates due process and must be overturned. Does the Eleventh circuit's decision conflict with established Supreme Court precedent, specifically concerning due process and the confrontation clause.

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

Tanksley v. State, 323 Ga. App. 299, 305-306 (3) (743 SE2d 585) (2013).
Tanksley, 323 Ga. App. at 299-300.
Tanksley, 323 Ga. App. at 305 (3).
Tanksley, 323 Ga. App. at 306 (3).
Tanksley v. State, 362 Ga. App. 767, 870 S.E.2d 92 (2022)

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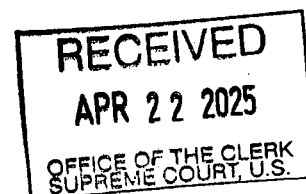


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OTHER

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 B 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 B to the petition and is

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

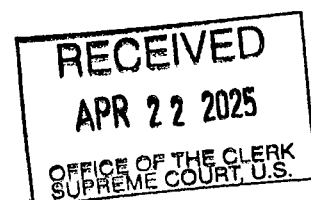
☒ For cases from **state courts**:

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 ~~The United States court of appeals for the 11th Cir.~~ 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 December 23, 2024.

☐ 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: January 24, 2025, and a copy of the order denying rehearing appears at Appendix B.

☐ 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).

The Judgment of U.S. State courts of Appeal of The Eleventh circuit was Entered: January 24, 2025.

☒ For cases from **state courts**:

The date on which the highest state court decided my case was February 24, 2022. 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

O.C.G.A. 16-7-1 Burglary The requisite intent to commit a felony of theft upon unlawful entry. This omission potentially allowed the Jury to convict the Petitioner based on mere presence or subsequent actions, rather than the required Premeditated intent. O.C.G.A. 16-8-41 Armed robbery When, with intent to commit theft, he or she takes property of another from the person or the immediate presence of another by use of an offensive weapon, or any replica, article, or device of a Deadly weapon. Armed Robbery failed to adequately define the elements of the offense, particularly the requirement that the defendant possessed a weapon during the commission of the robbery, the instructions were ambiguous and did not clearly convey to the Jury that the prosecution needed to prove beyond a reasonable doubt that the defendant was armed and that the weapon was used in a manner intended to intimidate or threaten the victim. This deficiency confused the Jury and lowered the prosecution's burden of proof, thereby violating the petitioner's due process rights. ^(Tanksley v. State, 351 Ga. App. 877, 833 SE2d 575, 2019)

O.C.G.A. 16-5-21 Aggravated assault The assault requirement of aggravated assault is the same as the taking by use of an offensive weapon requirement of Armed robbery; The aggravated assault is flawed conviction, The court did not sufficiently explain the distinction between simple assault and aggravated assault particularly the element of intent to cause serious injury or used a weapon in a manner that was likely to produce serious bodily harm. This lack of clarity could have led the Jury to convict the Petitioner based on a lesser standard of proof than required by law; where the same act or transaction constitutes a violation of two distinct statutory provisions, the test to be applied ^{to determine} where the same whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not. Under O.C.G.A. 16-1-6, a crime is included in another when it is established by proof of the same or less than all the facts or a less culpable mental state than is required to establish the commission of the crime charged. Alleged merger errors in sentencing may be raised for the first time, (O.C.G.A. 9-14-40) in habeas or instead must be raised as part of a claim of ineffective assistance of appellate counsel. "a conviction that merges with another conviction is void a nullity and a sentence imposed on such a void conviction is illegal."

3.

"Nazario v. State, 293 Ga. 480, 488 (746 SE2d 109) (2013). Thus, merger claims... are a species of void-conviction claim," *id.*, and challenges, to void convictions and illegal sentences have never been subject to general waiver rules," *id.* at 487. See also O.C.G.A. 9-14-48(d). and while "a merger claim must come before the court in a type of proceeding in which criminal convictions may be challenged," such proceedings include "a petition for habeas corpus, see O.C.G.A. 9-14-40. "Nazario, 293 Ga. at 488; see also Chambers v. Hall, 305 Ga. 363, 365 (825 SE2d 162) (2019). Correcting merger error in habeas; Johnson v. Williams, 304 Ga. 771, 773 (822 SE2d 264) (2018) (same). O.C.G.A. 17-10-7(a) and (c); (ACCA Act) O.C.G.A. 17-10-7(a) and (c) could be read together so that the former recidivist statute applies where the defendant has one or two prior felony convictions and the latter provision applies when the defendant has at least three prior felony convictions. ACCA's Act element clause The Armed Career Criminal Act (ACCA) does not qualify as violent felony predicates for purposes of the recidivist enhancement and because defendant did not have three qualifying predicate convictions, The ACCA enhancement can not stand. An Appellate court reviews de novo whether a prior conviction qualifies as a violent felony offense under the Armed Career Criminal Act. To do so, the court employs a Particular Framework known as the categorical approach. The categorical approach focuses solely on the elements of the statute of conviction, not the defendant's underlying conduct (i.e., the facts). When examining whether a conviction qualifies as a violent felony under the elements clause, the categorical approach requires that courts focus only on the statutory elements and presume that the conviction rested upon the least of the acts criminalized by the statute. If the least of the acts criminalized by the statute of conviction has an element requiring the use, attempted use, or threatened use of physical force against the person of another, then the offense categorically qualifies as a violent felony under the Armed Career Criminal Act's element clause. SEE United States v. Smith, 2023 U.S. App. LEXIS 3183 (2023) O.C.G.A. 16-11-106 Possession of a firearm during the commission of a crime The States failure to prove the predicate felony, requires reversal of conviction for Possessing a Firearm during commission of crime. See O.C.G.A. 16-11-106 (b) (4); See Jackson v. State, 309 Ga. App. 24, 29 (1)(b) (709 SE2d 44) (2011); Blue v. State, 350 Ga. App. 702 (2019).

U.S. Const.

Amendment V: Rights of Accused in criminal Proceedings. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. VI: Right to Speedy Trial, Witnesses, etc. 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 and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

U.S. Const. Amendment VIII: Bails, fines, punishments. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. Const. Amendment XIV, Section 1: Citizenship Rights not to be abridged by states. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of 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.

Ga. CONST. Article I, Section I, Paragraphs I. Life, Liberty and Property. No Person shall be deprived of life, liberty, or Property except by Due process of Law.

Ga. CONST. Article I, Section I, Paragraph II. Protection to Persons and Property; Equal Protection. Protection to Person and Property is the Paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws.

Ga. CONST. Article I, Section I, Paragraph XI. Right to trial by Jury; number of Jurors selection and compensation of Jurors. (a) The right to trial by Jury shall remain inviolate, except that the court shall render judgment without the verdict of a Jury in all civil cases where no issuable defense is filed and where a Jury is not demanded in writing by either Party. In criminal cases, the defendant shall have a public and speedy trial by an impartial Jury; and The Jury shall be the judges of The Law and The facts. (b) A Trial shall consist of 12 Persons; but the General Assembly may prescribe any number, not less than six, to constitute a trial Jury in courts of limited jurisdiction and in Superior courts in misdemeanor cases. (c) The General Assembly shall provide by law for the selection and compensation of persons to serve as grand Jurors and Trial Jurors.

Ga. CONST. Article I, Section I, Paragraph XII. Right to the courts. No person shall be deprived of the right to Prosecute or defend, either in person or by an Attorney that person's own cause in any of the courts of this State.

Ga. CONST. Article I, Section I, Paragraph XIII. Searches, Seizures, and Warrants. The right of the People to be secure in their Persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated. and No warrant shall issue except upon Probable cause supported by Oath or affirmation Particularity describing the Place or places to be searched and the persons or Things to be seized.

Ga. CONST. Article I, Section I, Paragraph XIV. Benefit of Counsel; accusation; list of witnesses; compulsory Process. Every Person charged with an offense against the laws of this state shall have the Privilege and benefit of counsel; shall be furnished with a copy of the accusation or indictment and, on demand, with a list of the witnesses on whose testimony such charge is founded; shall have compulsory process to obtain the testimony of that person's own witnesses; and shall be confronted with the witnesses testifying against such Person.

Ga. CONST. Article I, Section I, Paragraph XV. Habeas Corpus. The Writ of Habeas corpus shall not be suspended unless, in case of rebellion or invasion, the Public Safety may require it.

Ga. CONST. Article I, Section I, Paragraph XVI. Self-incrimination. No Person shall be compelled to give testimony tending in any manner to be self-incriminating.

Ga. CONST. Article I, Section I, Paragraph XVII. Bail; Fines; Punishment; arrest, abuse of Prisoners. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual Punishments inflicted, nor shall any Person be abused in being arrested, while under arrest, or in Prison.

Ga. CONST. Article I, Section I, Paragraph XVIII. Jeopardy of life or liberty more than once Forbidden. No person shall be put in jeopardy of life or liberty more than once for the same offense except when a new trial has been granted after conviction or in case of mistrial.

Ga. CONST. Article I, Section I, Paragraph XX. Conviction, effect of. No Conviction shall work corruption of Blood or Forfeiture of estate.

Ga. CONST. Article I, Section I, Paragraph XXII. Involuntary servitude. There shall be no involuntary servitude within the State of Georgia except as a punishment for crime after legal conviction thereof or for contempt of court.

Ga. CONST. Article I, Section I, Paragraph XXIX. Enumeration of rights not denial of others. The enumeration of rights herein contained as a part of this Constitution shall not be construed to deny to the people any inherent rights, which they may have ~~hitherto~~ ^{7.} _{ENJOYED.}

STATEMENT OF THE CASE

Petitioner Jordash Tanksley, is charged in a five-count indictment arising from a burglary, aggravated assault, Armed robbery, possession of a Fire arm, and possession of a firearm by convicted Felon occurring in Richmond county on July 30, 2007. at store, call FAME. Petitioner was arrested and remained in the Richmond county Jail since August 1, 2007. Petitioner was indicted on October 2, 2007 and pled not guilty at arraignment on October 12, 2007. The Petitioner filed a Pro Se Demand For Speedy Trial in a timely fashion, but that demand was imperfect per statutory requirements.

Attorney for Petitioner, MR. J. Pete Theodocian Pursuant to O.C.G.A Section 17-7-170 Files Motion for leave to Speedy Trial Demand June 3, 2008; Demand For Speedy Trial Under O.C.G.A 17-7-171 Pursuant to permission granted in open court on June 10, 2008 by Judge Duncan D. Wheale. Petitioner demands that he be tried in either the current or two subsequent terms of court pursuant to that code section. Filed by petitioner Attorney July 14, 2008, and Granted by Hon. Judge Duncan D. wheale.

Said Demand was filed by the end of the current term (the may term, which ends July 18, 2008), then the state would be forced to bring petitioner to trial by September, 12, 2008; The District Attorney will not be unduly prejudiced by the granting of this motion. and The Defendant (petitioner) right to a fair and Speedy trial under both the United States and Georgia Constitutions mandates that this case be promptly tried. Petitioner Trial began September 23, 2008, petitioner was convicted on September 24, 2008 on all counts in charged indictment 2007RCCR1404 and sentenced same date. ON September 23-24, 2008, a Richmond county Jury found Petitioner Jordash Tanksley guilty of Burglary, Armed robbery, aggravated assault, and possession of a firearm during the commission of a felony. The Superior court sentenced Petitioner as a Recidivist to Life Plus 45 yrs life without possibility parole. imprisonment.

During the early morning hours of July 30, 2007, Tanksley and his father (Allegedly), clarence Tanksley, along with Derrell Mcnair and Megan McClendon, drove to a clothing store clarence Tanksley (Allegedly) broke the store window clarence Tanksley and

Derrell mcnair (Allegedly) entered the store through the broken window.

(Allegedly) The store owner and his girlfriend were asleep in the store's office at the time, and they were awakened by the sound. The owner "Rdheim Bodger" yelled loudly so that the intruder would know that someone was in the store. After hearing several gunshots, the owner returned fire by shooting through the office wall. McNair was struck by a bullet. (Allegedly) Jordash Tanksley, who was in the driver's seat of the car parked outside the store, fired two or three shots. The intruder left after taking some clothing, a television, and a computer (Allegedly).

which Petitioner Did Plead not guilty and was tried By Jury on said crimes:

The relevant facts are undisputed. The evidence presented is undisputed facts of Tanksley being NOT guilty; Under Georgia law, Only voluntary incriminating statements are admissible against the accused at trial. When not made freely and voluntarily, a confession is presumed to be legally false and cannot be the underlying basis of a conviction. To make a confession admissible, it must have been made voluntarily, i.e., without being induced by another by the slightest hope of benefit or remotest fear of injury. The State bears the burden of demonstrating the voluntariness of a confession by a preponderance of the evidence.

Jordash Tanksley Petitioner, co-defendant Derrell mcnair and state witness Megan McClendon never implicated petitioner name until prompted By Richmond county Sheriff office Lead criminal Investigator-Brandon Beckman, whom conducted initial interview of state's witnesses Derrell mcnair and Megan McClendon, Investigator Brandon Beckman for The RCSO Testified at petitioner trial September 24, 2008 - Read verbatim Pg 27:3-11 "Pg 26:15-17" McNair never states or implicate petition name to Investigator Beckman Pg 26:15-17; Pg 27:3-11 "She wouldn't give names or anything but she did say that McNair was there. I started to ask her because I knew of past calls in reference to the McNair family and The Tanksley family, I asked her if Jordash was involved and she shook her head and asked how much

I knew about the-- this incident here. I told her I didn't know a whole lot, just the past incidents involving the Tanksley Family and The Mcnair Family." Evidence in this case reveals that neither the co-defendant Derrell Mcnair nor the State witness Megan McClendon, nor The victim's Roheim Badger and Trameka Jones-Badger ever indicated Petitioner name during Their initial interview "Statements conducted by RCSI Investigator's" as having Any involvement in the Allege crimes. It was Investigator Brandon Beckman who initially introduced and implicated Tanksley's name and suggested Tanksley involvement in this case. This critical piece of information during trial, significantly undermines the integrity of the investigation and subsequent conviction. It was only after RCSI Investigator Brandon Beckman mentioned The Petitioner's name that the individuals Mcnair and McClendon identified Petitioner as being involved in the crime and is The sole evidence of The Petitioner guilty conviction, Mcnair and McClendon influenced testimony admitted as evidence at petitioner trial: is hearsay and is inadmissible statements. ON Appeal motion of new trial was Denied, The Appeal court's Affirmed Petitioner conviction, but vacated and remanded for resentencing because certified copies of Petitioner conviction were never entered into The record. Petitioner then Appealed From denial of his amended motion for new trial following resentencing. For the reasons set forth infra, The Appeal courts Affirm petitioner Judgement ON February 24, 2022. Petitioner Filed a Petition Pursuant to 28 U.S.C. 2254 Challenging the constitutionality of the state court's adoption order and subsequent Judgement. The District court vacated the adoption order but overruled the Plaintiff's objections, adopting the Magistrate Judge's report and recommendation, and Denied a certificate of Appealability and leave to Appeal In forma pauperis. The 11th Cir. Court of Appeals Affirmed The District court's Judgement, effectively closing the case. Under 28 U.S.C. 2253(c), a COA should issue when a Petitioner makes a substantial showing of the denial of a constitutional right. The denial of a COA effectively deprives the petitioner of Appellate review, violating the fundamental principles of Due Process.

REASONS FOR GRANTING THE PETITION

Petitioner Jordash Tanksley, conviction was fundamentally flawed by Biased, malice and Prejudiced Prosecution, Due to Abjudication due to Constitutional of US constitutional violations under The 5th, 6th, 8th, 14th Amendments of the US. Constitution as well as relevant Provisions of the Georgia State Constitution. The Petitioner argued that due process rights were violated when the co-defendant McNair, who invoked the fifth Amendment right against self-incrimination, Inadequate evidence and prosecutorial misconduct, was nonetheless compelled to testify after being granted immunity, Petitioner contends that this compelled testimony, despite the grant of immunity, compromised the fairness of the Petitioner Trial and infringed upon Constitutional Protections. The Due Process clause of The Fourteenth Amendment ensures that every Defendant receives a fair Trial. Forcing a co-defendant to testify under the threat of contempt (perjury), even after granting immunity, can create Undue Pressure and Influence the provided testimony(s). The Coerced Testimony(s) was Unreliable and Prejudicial, thereby compromising the fairness of the trial and the Integrity of The Judicial Process. Precedent and legal standards The Supreme court has established in cases, compelling testimony violates constitutional Protections. The lower court's failed to adequately protect Established Supreme court Precedent, specifically concerning Due Process and The Confrontation clause. These rights are fundamental components of Confrontation clause under The Sixth Amendment, Due Process under the Fourteenth Amendment.

In The Present case, The co-defendant McNair invoked The Fifth Amendment by his Attorney Mike Arrington (McNair, "Juvenile 15 yrs of age") at time of petitioner trial refusing to testify on the grounds that his testimony might incriminate him; SEE Davis v. Alaska, 415 U.S. 308; The court holds that, in the circumstances of this case, the sixth and fourteenth Amendments conferred the right to cross-examine a particular prosecution witness about his delinquency adjudication for burglary and his status as a probationer. Such cross-examination was necessary in this case in order "to

of other properly admitted evidence or when the evidence against the defendant is overwhelming. [351 Ga. App. 882] The State has failed to prove beyond a reasonable doubt that the erroneous admission of Tanksley's custodial statement did not contribute to the guilty verdicts, and Tanksley is entitled to a new trial.

Testimony at Petitioner Trial by state witnesses Mcnair and McClendon testifying statements were characterized as hearsay, lacking the necessary reliability and Trustworthiness required by the confrontation clause. "compelled testimony under a Grant of immunity does not satisfy the requirements of the confrontation clause" The grant of immunity and subsequent compulsion of the co-defendant Mcnair testimony does not cure the constitutional infirmities associated with hearsay evidence. The Supreme Court has recognized that the reliability of evidence is critical to ensuring a fair trial (Ohio v. Roberts, 448 U.S. 56, 1980); Mesarosh v. UNITED STATES, 352 U.S. 1; Pointer v. Texas, 380 U.S. 400 (1965); Blue v. State, 350 Ga. App. 702 (2019). When a witness is compelled to testify under a grant of immunity their testimony may be influenced by the desire to avoid prosecution, rather than a committed commitment to truth-telling. Moreover, the use of such testimony undermines the Petitioner's ability to cross-examine the "Greatest legal Engine ever invented for the discovery of Truth" (California v. Green, 399 U.S. 149, 158, 1970). "The state's evidence, and witnesses testimonys is inherently suspect and unreliable, and undermines the fairness of the criminal justice system" The Eleventh circuit's decision permits the use of coerced & tainted testimonys, undermining the integrity of the criminal justice system. The Right to a fair Trial is a cornerstone of America Jurisprudence, and Due Process demands that evidence admitted in criminal trials be both reliable and subjected to rigorous cross-examination. Allowing hearsay testimony from Petitioners co-defendant and state witness who admitted their testimonys are tainted & coerced, who has been compelled to testify erodes these fundamental protections. It creates a precedent whereby the state can circumvent the confrontation clause by compelling testimony through influenced coercion & immunity grant, thereby undermining the fairness of trials and the due process rights of Petitioner.

Upon petitioner's constitutional rights and access to Justice.
~~XXXXXXXXXXXXXXXXXXXX~~ - Petitioner Filed a habeas corpus petition under 28 U.S.C 2254, challenging the state court's decision to vacate an adoption order and Judgment.

The district court adopted the magistrate Judge's report and recommendation, overruled petitioner's objections, and denied the petition. The district court further denied a certificate of appealability and leave to appeal in forma pauperis. The Eleventh Circuit this decision without adequately addressing the substantial due process and constitutional issues raised by Petitioner. Argument - A. Due process violation

The Eleventh Circuit's decision implicates significant due process concerns. The Fourteenth Amendment guarantees that no State shall "deprive any person of life, liberty, or property, without due process of law."

In this case, the district court's decision to vacate the adoption order and subsequent denial of petitioner's objections deprived Petitioner of a vested legal right without adequate procedural safeguards. Specifically, Petitioner was not afforded a meaningful opportunity to be heard or to present evidence in support of maintaining the adoption order. Moreover, the district court's summary adoption of the magistrate Judge's report and recommendation, without a thorough and independent review of the record, further undermines the fundamental principles of due process. This court has consistently held that due process requires a fair and legal arguments presented by both parties (Mathews v. Eldridge, 424 U.S. 319, 333 (1976).

B. Constitutional Right to Effective Assistance of Counsel
Petitioner's claim also encompasses, the right to effective assistance of counsel, as guaranteed by the Sixth Amendment and applicable to the states through the Fourteenth Amendment. The denial of petitioner's habeas corpus petition was, in part, predicated on the ineffective assistance of counsel during the state court proceedings. The district court failed to adequately address this claim, thereby denying petitioner a fair opportunity to challenge the underlying state court judgment. C. Denial of Certificate of Appealability and In forma pauperis status

The district court's denial of a certificate of Appealability and leave to appeal in forma pauperis status. The district court's denial of a certificate of Appealability and leave to appeal in forma pauperis imposes an unconstitutional barrier to petitioner's access to appellate review. The certificate of appealability is intended to ensure that habeas petitioners have the opportunity to seek meaningful appellate review

of constitutional claims (*Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). By denying this certificate, the district court effectively precluded petitioner from obtaining judicial redress for substantial constitutional grievances. Furthermore, denying petitioner leave to Appeal in forma pauperis exacerbates the denial of access to Justice.

The right to proceed in forma pauperis is a critical safeguard for indigent litigants, ensuring that financial constraints do not impede their ability to seek appellate review (*Adkins v. E.I. DuPont de Nemours and Co.*, 335 U.S. 331, 342 (1948)).

Constitutional violation and misapplication of Law:

The state court's adoption order and subsequent Judgment involve significant constitutional violations, particularly under the Fourteenth Amendment's Due process Clause. The state court failed to provide adequate procedural protections, rendering the adoption order unconstitutional. The District Court's subsequent dismissal of the petitioner's objections and the denial of habeas relief overlooked these critical constitutional issues, contrary to established Supreme Court precedents. 2. Denial of Due Process. The District court's refusal to grant a certificate of Appealability further perpetuates the due process process violations.

Under 28 U.S.C. 2253(c), a COA should issue when a petitioner makes a substantial showing of the denial of a constitutional right. The petitioner has demonstrated that reasonable Jurists could debate whether the petition should have been resolved differently or that the issues presented were adequate to deserve encouragement to proceed further. The denial of a COA effectively deprives the petitioner of appellate review, violating the fundamental principles of due process. 3. Importance of uniformity in Federal Law. The Eleventh circuit's decision creates a conflict with other circuit courts regarding the standards for procedural due process in state adoption proceedings and issuance of COA's in Habeas corpus cases. Uniformity in these matters is essential to ensure consistent protection of constitutional rights across Jurisdictions.

The Supreme court's intervention is necessary to resolve these inconsistencies and uphold the integrity of federal law

4. Exceptional importance, as it involves fundamental parental rights and the procedural safeguards required in state adoption proceedings. The issues presented in this case are of paramount importance as they implicate the fundamental due process rights guaranteed by the constitution. The district court's actions not only affect the petitioner but also set a troubling precedent for future cases involving constitutional claims under 28 U.S.C. 2254. The Supreme Court's intervention is necessary to ensure that lower courts adhere to constitutional principles and provide meaningful review of habeas corpus petitions. Additionally, the denial of a certificate of appealability and leave to Appeal in forma pauperis raises broader concerns about **access to Justice**. The Supreme Court has repeatedly emphasized the importance of access to the courts, particularly for indigent petitioners raising constitutional claims. Granting certiorari in this case would reaffirm the court's commitment to protecting the due process rights of all individuals, regardless of their financial status. The outcome of this case will have far-reaching implications for similar cases nationwide, warranting the Supreme court's review to set clear and consistent standards for lower courts. (Kaufman v. United States, 394 U.S. 217 (1969); Johnson v. Williams, 304 Ga. 771 (2018)).

Tanksley v. The STATE 351 Ga.App. 877 833 S.E.2d 575 (2019)
[351 Ga.App. 877] After a jury trial, Samoney Tanksley, who was 15 years old at the time of the alleged offenses, was convicted of armed robbery, aggravated assault, burglary in the first degree, and possession of a firearm during the commission of a crime. Tanksley filed a motion for new trial, which the trial court denied. On appeal, Tanksley contends that the trial court erred by admitting her statement to law enforcement into evidence because the legal requirements for a Juvenile Miranda-waiver were not met. We agree and reverse.
[351 Ga.App. 878]

In her sole enumeration, Tanksley contends that the trial court erred by admitting her statement to law enforcement into evidence because the legal requirements for a Juvenile Waiver were not met. We agree.

[833 S.E. 2d 577]

Under Georgia law, Only voluntary incriminating statements are admissible against the accused at trial. When not made freely and voluntarily, a confession is presumed to be legally raised and cannot be the underlying basis of a conviction. To make a confession admissible, it must have been made voluntarily, i.e., without being induced by another by the slightest hope of benefit or remotest fear of injury. The STATE bears the burden of demonstrating

The voluntariness of a confession by a preponderance of the evidence.

Riley v. State, 237 Ga. 124, 128, 226 S.E. 2d 922 (1976) (Citations and punctuation omitted). "A parent's presence, although not required, is a significant factor in support of a finding of waiver." Norris v. State, 282 Ga. 430, 431 (2), 651 S.E. 2d 410 (2007), Davis v. Alaska, 415 U.S. 308, MESAROSH V. UNITED STATES, 352 U.S. 1.

The Newly Discovered evidence in this case reveals that neither the codefendant (Darrell McNair)

who was 14 yrs old, nor the witness (Megan McClendon), the victims Rahim Badger and Trameka Badger, none did not initially implicate the petitioner Jordash Tanksley, in general, to no criminal investigator or police officer was the petitioner name, was not stated, of having any involvement or knowledge of said allegations in said indictment 2007RCCR404 until prompted by an law enforcement officer lead criminal investigator Brandon Beckman for Richmond County Sheriff Office, it was investigator Brandon Beckman who initially indicated petitioner name and suggested petitioner Jordash Tanksley involvement in the crime. This critical piece of information was not available during my trial and significantly undermines the integrity of the investigation and subsequent conviction.

Elmore v. Ozmint (4th Cir. 2011) NO DNA FROM GBI Forensic Investigation, Evidence from any recovered evidence used at trial against petitioner, was not warrant any of petitioner DNA.

Petitioner Seeks a Writ of Certiorari From THE SUPREME COURT OF THE UNITED STATES to Review The Decision OF The lower courts. This case presents Significant Questions regarding Due process and Constitutional Rights under The Sixth, Eighth, and Fourteenth Amendments to the United States Constitution. Ground 1. Petitioner contends that, Petitioner 6th Amendment Right was violated. Petitioner filed for a Demand for Speedy trial pro se on January 11, 2008 and on February 26, 2008. On June 3rd a motion for leave to file a speedy trial was filed by Petitioner Attorney Pete Theodocian.

In response the state said that if another Demand for speedy trial was filed before the end of term (term ended July 18, 2008) Then it would be ordered / Demanded for trial to take place on or Before September 12, 2008. Another Demand for Speedy trial was filed on July 14th, 2008. Petitioner's trial began on September 23, 2008, which ~~is~~ **is** Plain violation of Petitioner 6th Amendment.

The Trial Court Decision to start trial two weeks after the Speedy trial Demand expired constitutes a serious violation of these constitutional protections.

Background- Petitioner, Jordash Tanksley was charged with Armed Robbery, Burglary, Aggravated Assault and Possession of a Firearm during the commission of a crime. The Petitioner Made a formal Demand For a speedy trial, which was granted by The Trial Judge, and a specific date was set for the trial to commence. U.S. V. Rushin, 642 F.3d 1299, 1306-09 (10th Cir. 2011).

U.S. v Jones, 601 F.3d 1247, 1256-57 (11th Cir. 2010); U.S. v. Ramirez, 788 F.3d 732, 736-37 (7th Cir. 2015); U.S. v. Larson, 627 F.3d 1198, 1207 (10th Cir. 2011)

Despite this, The trial court failed to begin proceedings until two weeks after the Expiration of The Speedy Trial Demand time. Violations of constitutional Rights; 6th Amendment Right to a Speedy Trial. The Supreme Court has Emphasized the importance of this Right in cases such as Barker v. Wingo, 407 U.S. 514 (1972), which established a Four-Factor test to determine whether a petitioner's right to a Speedy trial has been violated: (1) Length of delay, (2) Reason for delay, (3) petitioner's assertion of the Right, and (4) prejudice to the petitioner.

Length of Delay: The Delay of Two weeks beyond The Speedy trial Demand is significant and should be weighed against the prosecution. Reason for Delay: The Trial court provided No Justifiable reason for the delay, suggesting neglect or Administrative inefficiency.

Assertion of Right: The Petitioner Timely asserted their right to a Speedy trial, which was initially acknowledged by The Court. Prejudice to Defendant:

The delay caused substantial prejudice to the Petitioner, including prolonged anxiety, impairment of Defense, and potential loss of evidence. U.S. v Rushin, 642 F.3d 1299, 1306-09 (10th Cir. 2011)

8th Amendment: Cruel and Unusual Punishment; The Eighth Amendment Prohibits cruel and Unusual Punishment.

While traditionally Applied to the conditions of confinement and Sentencing, an unjustified delay in trial can lead to undue psychological and emotional suffering, effectively constituting cruel and Unusual Punishment. The stress and uncertainty experienced by The Petitioner's due to the delay are Pertinent considerations under this Amendment.

14th Amendment: The Fourteenth Amendment guarantee Due Process and Equal protection under The Law.

The trial court's Failure to commence the Trial on The agreed date constitutes a denial of Due Process.

In Klopfer v. North Carolina, 386 U.S. 213 (1967),

The SUPREME COURT Held that The Right To a Speedy Trial is "Fundamental" and applicable to the STATES through the Due Process clause of the 14th Amendment.

The COURT'S Arbitrary delay undermines the Fundamental Fairness required in criminal proceedings and Violates The Petitioner's Due process Rights.

Grand 2.

Argument for constitutional violation:

Coerced Testimony's and Lack of Evidence-

Petitioner contends That Petitioner Constitutional Rights Under the 5th, 6th, 8th, and 14th Amendments to The UNITED STATES CONSTITUTION, AS well as corresponding Provisions of The Georgia State Constitution have been violated.

The Evidence Presented will demonstrate that the Petitioner was not involved in The crimes of Armed Robbery, burglary, aggravated assault, and possession of a firearm, as The Co-defendant Mcnair, and witness McClendon never mentioned Petitioner name until Prompted by Investigator Brandon Beckman.

This case at hand involving a conviction in a Georgia Trial Court, epitomizes a grave constitutional violation. Strickland v. Washington, 466 U.S. 668 (1984)

Lujan v. Garcia 734 F. 3d 917, 931, 934 (9th Cir. 2013)

TANKSLEY V. STATE 351 Ga. App. 877 833 S.E.2d 575 (11th Cir. 2019)

The conviction was based solely on the coerced testimony of state witness Megan McClendon and co-defendant Derrell Mcnair who were compelled by the state to testify under threat and granted immunity, with no other evidence presented at trial. The Eleventh circuit's Denial of the Petition for a writ of certiorari further perpetuates this miscarriage of Justice.

The evidence consists of statements from the co-defendant and witness, both of whom did NOT initially implicate the petitioner. It was only after the investigator mentioned the petitioner's name that these individuals identified, Petitioner as being involved in the crimes. Investigator Brandon Beckman took a 14 yr old Derrell Mcnair statement without a Juvenile miranda rights statement (voluntarily consent form, nor his/ Derrell Mcnair legal guardian was not present and did not authorize consent to the investigator, whom also received a coerced statement from state witness McClendon". Jackson v. Conway (2d Cir 2014)

Investigator stated under oath, During petitioner Trial
PETITIONER Exhibit - Investigator Brandon Beckman testimony pg 27

"She wouldn't at first. She started, you know, telling me you know, she wouldn't give names or anything but she did say that Mcnair was there. I started to ask her because I knew of past calls in reference to the Mcnair family and the Tanksley family, I asked her if Jordash was involved and she shook her head and asked how much I knew about the-- this incident here. I told her I didn't know a whole lot, just the past incidents involving The Tanksley Family and the Mcnair family."

This evidence could not have been discovered with due diligence prior to or during the trial.

Violation of 5th Amendment Right - The 5th Amendment Guarantees protection against self-incrimination and Ensures Due process of Law. The investigator's conduct in suggesting the petitioner's involvement constitutes a violation of these protections, as it may lead to coerced or fabricated testimony. Supporting case law; *Miranda v. Arizona*, 384 U.S. 436 (1966) Establishes the necessity of protecting individuals from coercive interrogation tactics. *Brady v. Maryland*, 373 U.S. 83 (1963) mandates disclosure of exculpatory evidence by the prosecution. Due Process of Law, In this case The Investigator Beckman Introduction of Petitioner name and subsequent suggestive Questioning violated The Petitioner right to a fair and impartial Investigation. The Due Process clause requires that convictions be based on reliable evidence, not coerced or suggested testimonies. In *Jackson v. Denno* 378 U.S. 368 (1964), The Supreme Court held that a Defendant is entitled to a fair hearing regarding the voluntariness of their statements, which extends to the reliability of witness testimonies influenced by law enforcement. *Smiley v. Thurmon*, 542 F.3d 574, 583 (7th Cir. 2008) However, The State coerced witnesses Testimony by Threatening legal consequences and The offering of immunity to state witness. This coercion invalidates the voluntariness of witnesses testimony and violates the Petitioner 5th Amendment Rights, and The state's witness 5th Amendment Right.

A Fair Trial necessitates that the evidence against the accused be reliable and that the proceedings be just.

In this case, The State's reliance on coerced testimony from state witness Derrell Mcnair and Megan Mcclendon, who initially was coerced into fabricated statements; and Mcnair who initially invoked his 5th Amendment right against self incrimination, undermines The Integrity of the Trial. The witnesses testimonies, obtained under Duress and with The promise of immunity is inherently unreliable and prejudicial. This contravenes the principle that a conviction must be based on credible evidence, The use of such testimony against the Petitioner further Taints the fairness of the Trial, Thus Denying The Defendant a Fair Trial.

Ray v. Boatwright, 592 F.3d 793, 798 (7th Cir. 2010) Due process violated because inadmissible hearsay statements violated confrontation clause and seriously affected Fairness of proceedings. Strickland v. Washington, 466 U.S. 668 (1984).

Inadequate evidence and prosecutorial misconducts violated due process rights. Jackson v. Virginia, 443 U.S. 307 (1979) In Jackson v. Virginia, The Supreme Court held that a conviction must be overturned if, after viewing the evidence in the light most favorable to the prosecution, no rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. If the evidence in the armed robbery case was insufficient or the prosecution engaged in misconduct, The conviction Violates Due process and must Be over Turned.

The Trial court improperly instructed a State's witness to repeat his previous testimony or be charged with perjury. During Proceedings outside the presence of the Jury, The Prosecutor informed the Trial court of its intention to call Mcnair as a witness for the state and that the State anticipated eliciting the same responses from Mcnair testimony that Mcnair had given in his previous trial. Mcnair's attorney announced that Mcnair intended to exercise his Fifth Amendment right not to testify, but that he Mr. Arrington (Mcnair's Attorney) had explained to his client that if the State afforded him immunity under then OCGA 24-9-28; "Petitioner Exhibit Pg 8, Mr. Arrington" "Judge, initially there was the position of the State that they would only allow this immunity to be use immunity. I believe they have expanded it today. I And basically Section 24-9-28 requires that the request be made in writing, -- but no testimony or other evidence may be used against the person in any proceedings or prosecution for a crime or offense concerning which he testified or produced evidence under court order." So as long he's dependent on that, I've explained that to him and I -- as of this morning I have discussed with him in the past and he indicated at that time that he (Derrell Mcnair) did not wish to testify. I've discussed with him also the -- Prospects of prosecution for perjury and false swearing if he did testify and testified untruthfully. He does have the 5th Amendment right not to testify based on the fact that he has not been sentenced yet. He still has Appellate rights and he's invoking it if that immunity is not sufficiently broad enough to cover it."

That the trial court could compel Mcnair to testify. Mcnair's counsel further represented that he testified and did so untruthfully. After the prosecutor confirmed that the state has requested immunity, The trial court ordered that Mcnair testify, but that he be granted immunity for his testimony. The trial court then warned Mcnair that if he gave testimony "That's not true to the transcript from, Mcnair's previously trial," if you say something opposite and the district attorney shows it to you so you can read it and refresh your memory - if you lie - that's what we're talking about - if you lie today in your testimony, you'll be in trouble."

First, there is much ambiguity in the prosecution statement that if Mcnair gave testimony "that's not true to the Transcript of his testimony from his trial, if you say something opposite "This statement can be interpreted as you must say the same thing you said previously at your trial or face consequences. Furthermore, the prosecutor/Judge continued saying "The district attorney shows you, your testimony from your Trial transcript, so read it and refresh your memory" is an implication of coercion. This can be implied that the state wanted Mcnair to remember exactly what Mcnair said previously at his trial testimony so that he could say the exact same thing again. Consequently, Mcnair was allowed a moment during Petitioner trial to be excused so that he could read his prior testimony from his trial transcript.

Another concern is that the transcript that Mcnair was Allowed to read to "refresh his memory" was never submitted into evidence.

"Through exercise of due diligence as required by circuit precedent. *Rivas v. Fischer*, 780 F.3d 529, 550-52 (2d cir. 2015) habeas relief granted because petitioner produced credible and compelling evidence which called into serious doubt evidence linking petitioner to crime and Counsel's deficient performance prejudiced defendant.

However, when the petitioner predicates his claim of actual innocence on an asserted constitutional error at trial to avoid a state procedural bar, The miscarriage of Justice inquiry is governed by the standard of *Murray v. Carrier*, 477 U.S. 478 (1986):

which made it impossible for the Petitioner Attorney to cross-examine on this said testimony from Mcnair Trial Transcript, as it never been reviewed by petitioner or petitioner's Attorney til the day of petitioner trial and state witness was forced to testify, as the state used Mcnair testimony from his previous trial, as evidence against petitioner during petitioner trial. Also, the transcript from Mcnair's trial the state was using was testimony from Mcnair's trial that was less than 35 days old at the time of petitioner's trial.

The state to refresh Mcnair's memory of a statement that he had given merely 1 month prior clearly indicates coercion. on 9/24/2008 Mcnair was ordered to testify due to immunity that he was given in Petitioner Trial.

However Mcnair was already tried convicted and sentenced on one count of Burglary and Acquitted of Armed Robbery, Aggravated assault and possession of a Firearm in said case. Thus the immunity was invalid, the state witness Mcnair did not need immunity at the time of petitioner trial because of

Under Blockburger V. United States

Double Jeopardy rule. The Order to Compell State witness to testify against Petitioner at Petitioner trial, Under 24-9-28 was Unconstitutional and Denied Petitioner of Due process.

The fact that Defense counsel had already stated that Mcnair intended to invoke his 5th amendment rights, but refused to do so only after the State's warning, strongly suggests the State's comments were the cause of Mcnair's refusal to invoke his 5th amendment rights.

The substantial interference inquiry is extremely specific fact. Among the factors courts consider in determining the coercive impact of perjury warnings are the manner in which the Prosecutor or Judges raises the issue, the language of the warnings, and the prosecutor's or Judge basis in the record for believing the witness might lie.

See, e.g., Davis, 974 F.2d at 187-88;

There was no clear indication that the witness might lie.

In fact the witness had implied to his counsel that he had no intention on speaking at all (invoking his 5th Amendment rights)

Thus it can be assumed that the state threat of perjury was more of a threat than for informational purposes.

Refusing to speak is not the same thing as lying under oath.

Refusing to speak can not be considered Perjury under law.

Thus the state remark's about perjury should be considered as a threat. See Webb vs Texas; counsel nor Petitioner had an fair opportunity to review Mcnair ^{Transcript} before petitioner Trial began. The Testimony of Mcnair trial Transcript was never submitted by the state as evidence til petitioner trial

The coerced testimony violated petitioner's right to due process as guaranteed by the Fifth Amendment. The court's compulsion of testimony from a witness who had invoked their Fifth amendment rights undermines the fairness of the trial "Malloy v. Hogan, 378 U.S. 1 (1964).

The compulsion of state's witnesses to testify under immunity despite witness invocation of the 5th Amendment, constitute a violation of Petitioner right's to due process. (See chambers v. mississippi, 410 U.S. 284 (1973), The SUPREME COURT held that the exclusion of reliable evidence and the denial of a fair opportunity to defend against the state's accusations violated the Petitioner's due process.

violation of 6th Amendment Rights: The 6th Amendment guarantees The Right to a Fair Trial, which includes the right to confront witnesses and obtain favorable testimony. The Investigator's actions compromised the integrity of the witness testimony, thus infringing upon Petitioner's right to a Fair Trial; Crawford v. Washington, 541 U.S. 36 (2004) Reinforces the importance of cross-examination in ensuring the reliability of witness testimony (U.S. v. Walker 7th Cir. 2012) The 8th Amendment prohibits cruel and unusual Punishment convicting and sentencing, Petitioner based on unreliable and suggested evidence constitutes a gross miscarriage of Justice falling under the scope of cruel and unusual punishment. The Punishment should fit not only the crime but also the reliability of the conviction process, as emphasized in Solem v. Helm, 463 U.S. 277 (1983); Furman v. Georgia, 408 U.S. 238 (1972) Highlights the need for fairness and reliability in the administration of Justice to

Prevent cruel and unusual Punishment.

The 14th Amendment guarantees equal protection under the law and Due Process. The Investigator's conduct in suggesting the Petitioner's involvement to the State's witnesses "Megan McClendon and Derrell Mcnair" violates these fundamental protections by creating a Biased and Prejudicial narrative against Petitioner; UNITED STATES V. AGURS, 427 U.S. 97 (1976); Giglio V. UNITED STATES, 405 U.S. 150 (1972) Emphasizes the impact of false testimony on a Defendant's right to a fair Trial.

The GEORGIA STATE CONSTITUTION Provides similar protection to those found in THE U.S. Constitution. Specifically, Article 1, Section 1, Paragraphs I, XI, and XVII guarantee due process, The right to A Fair trial, and Protection against cruel and unusual Punishment. The actions of Law enforcement in this case violated these Provisions, The Investigator's actions violate these STATE constitutional rights by Introducing Biased and Unreliable testimony, as The Conviction was based on unreliable, suggested evidence rather than independent, corroborated testimonies.

The STATE and Eleventh Circuit Court's Decision raises substantial questions regarding the constitutional right to Due process under The 14th amendment and the admissibility of hearsay testimony under the 6th Amendment confrontation clause. U.S. Glass, 128 F.3d 1398, 1402-03 (10th Cir. 1997); U.S. V. Parks, 285 F3d 1133, 1139 (9th Cir. 2002). Specifically, the issue arises from the 11th Cir. denial of the petition regarding the admission of hearsay testimony by

State witnesses who's testimonies are frivolous and untruthful, was granted immunity and compelled to testify after invoking the 5th Amendment. Questions Presented (1.) Whether the Due process rights of the Petitioner were violated when the trial court admitted hearsay testimony from petitioner co-defendant who was compelled to testify under a grant of immunity, after invoking the 5th amendment.

(2.) Whether compelled testimony of a Petitioner, co-defendant under a grant of immunity, violates the Petitioner's 6th Amendment right to confront state witness testimony against petitioner.

Argument: The 11th Cir. Decision conflicts with established Supreme Court precedent, specifically concerning Due process and the confrontation clause. The court has long held that the 6th amendment guarantee's the right of an accused in a criminal Prosecution "to be confronted with the witnesses against him" Stanford V. Parker, 266 F.3d 442, 457 (6th Cir. 2001); U.S. v. Mejia, 545 F.3d 179, 199 (2d Cir. 2008)

This right is a fundamental component of Due process under the 14th amendment. In the present case, the co-defendant invoked the 5th amendment, refusing to testify on the grounds that his testimony might incriminate him.

However, the State granted McChair immunity and compelled him to testify, His testimony included statements that were characterized as hearsay, lacking the necessary reliability and Trustworthiness required by the confrontation clause. "compelled Testimony under a grant of immunity Doe's not satisfy the requirements of the confrontation clause" The grant of immunity and subsequent compulsion of the Petitioner co-defendant testimony does NOT

cure the constitutional infirmities associated with hearsay evidence. The Supreme Court has recognized that the reliability of evidence is critical to ensuring a fair trial (Ohio v. Roberts, 448 U.S. 56, (1980)). Whenever a witness is compelled to testify under a grant of immunity their testimony may be influenced by the desire to avoid prosecution, rather than a commitment truth-telling. moreover, the use of such testimony undermines the Petitioner's ability to cross-examine "The Greatest Legal ENGINE ever invented for the Discovery of Truth" (California v. Green, 399, U.S. 149, 158, 1970). The compelled testimony of a co-defendant, especially one who has been granted immunity is inherently suspect and unreliable. The 11th Cir. decision permits the use of coerced testimony, undermining the integrity of the criminal justice system. The Right to a Fair Trial is a cornerstone of American JURISPRUDENCE, and Due process Demands that evidence admitted in criminal trials be both reliable and subjected to rigorous cross-examination. Allowing hearsay testimony from a co-defendant who has been granted immunity and compelled to testify erodes these fundamental protections. It creates a precedent whereby the State can circumvent the confrontation clause by compelling testimony through immunity grants, thereby undermining the fairness of trials and the Due Process rights of Defendant (Petitioner). The compulsion clause has been interpreted to mean that a witness cannot be forced to testify if doing so would incriminate them even with a grant of immunity unless the immunity is coextensive with the privilege against self-incrimination.

GROUND 3.

Argument For Jury Instruction:

The Trial Court erred in charging The Jury in armed robbery, Aggravated Assault, and Burglary and possession of a Firearm. The Petitioner respectfully seeks a writ of certiorari from The Supreme Court of The United States to review the Judgment of the appellate court's and District Court affirming the trial court's decision in a case involving charges of Armed Robbery, aggravated assault, Burglary and possession of a Firearm. The Trial court's errors in the charging The Jury on these counts warrant the Supreme court's Intervention to ensure that Justice is served and that The Constitutional rights of the Petitioner are upheld." *Fiore v. White*, 531 U.S. 225, 228-29 (2001) (per curiam); *Wansing v. Hargett*, 341 F.3d 1207, 1215 (10th cir. 2003); *Lynch v. Dolce* 789 F.3d 303, 319 (2d. cir 2015).

Jury instructions are a critical component of a fair trial. They guide the Jury's deliberations and ensure that the Jury understands the legal standards applicable to the charges. Erroneous Jury instructions can lead to unjust conviction, undermine the integrity of the judicial process, and violate the defendant's constitutional rights to due process and a fair Trial.

Due Process and Fair notice under the Due Process clause of the 14th amendment, Petitioner's are entitled to fair notice of the charges against them and the elements that the Prosecution must prove," see *In re Winship*, 397 U.S. 358 (1970); *U.S. v. Gaudin* 515 U.S. 506, 522-23 (1995); *Grant v. Lockett*, 709 F.3d 224, 238, 240 (3d cir. 2013); *U.S. v. Bonner*, 648 F.3d 209, 219 (4th cir. 2011)". Jury Instructions that

Include guidance on the value of the property taken are essential for upholding this constitutional guarantee.

Without such instructions, Jurors may be left to speculate on critical elements of the offense, leading to arbitrary and Potentially unjust verdict. The role of Jury Instructions in preventing miscarriages of justice by guiding Jurors in Their deliberations and ensuring they understand the legal standards they must Apply.

Errors in charging the Jury (A.) Armed Robbery. The trial court's instructions on armed robbery failed to adequately define the elements of the offense, particularly the requirement that the defendant possessed a weapon during the commission of the robbery. The instructions were ambiguous and did not clearly convey to the Jury that the prosecution needed to prove beyond a reasonable doubt that the Petitioner was armed and that the weapon was used in a manner intended to intimidate or threaten the victim. This deficiency likely confused the Jury and lowered the Prosecution's burden of proof, thereby violating

Petitioner's due Process rights. *Liggins v. Burger*, 442 F.3d 642 (8th Cir. 2007). In Armed robbery cases clarity and consistency in legal standards the Supreme Court has long emphasized the importance of clear and consistent legal standards to ensure fair trials (see generally *Patel v. State*, 282 Ga. 412, 651 S.E.2d 55 (2007)) "The standard of review for this issue is abuse of discretion". In armed Robbery cases, the value of the property ~~broken~~, which can result to the impact sentencing and the classification of the crime. For example, some statutes distinguish between

degrees of robbery based on the value of the property stolen, which can result in significantly different penalties. Providing Jurors with clear instructions on how to assess and consider the value of the Property ensures they apply the law accurately and uniformly. In the context of Armed Robbery, The value of the property taken can be a contentious and pivotal issue. Instructing the Jury on how to consider and determine this value helps prevent confusion and ensures that verdicts are based on a proper understanding of the law and facts. Precedent supporting the inclusion of value in Jury instructions. Several state courts have recognized the importance of including property value in Jury instructions for robbery cases. See, The Supreme Court of California in *People v. Marshall*, 13 Cal. 4th 799 (1996), held that precise Jury instructions on the value of property were necessary to uphold the integrity of the judicial process. This approach aligns with the broader principles of justice and fairness that this court has consistently upheld.

(B.) The Trial court's instruction on aggravated assault were similarly flawed. The court did not sufficiently explain the distinction between simple assault and aggravated assault. Particularly the element of intent to cause serious bodily harm or the use of a deadly weapon. The Jury was not properly informed that the defendant acted with the specific intent to cause serious injury or used a weapon in a manner that was likely to produce serious bodily harm. This lack of clarity could have led the Jury to convict the Petitioner based on a lesser standard of proof than required by law. *Dow v. Virga*, 729 F.3d 1041, 1050 (9th Cir. 2013)

(C.) Burglary - Regarding the Burglary charge, The trial court erred in its explanation of the requisite intent to commit a felony or theft upon unlawful entry. This omission potentially allowed the Jury to convict the petitioner based on mere presence or subsequent actions, rather than the required premeditated intent. (D.) Possession of a Firearm "when a defendant is charged under this statute, the evidence is insufficient to sustain a conviction; see Jackson v. State, 309 Ga. App. 24, 29 (1) (b) (709 SE 2d 44 (2011)); Blue v. State, 350 GA App. 702 (2019).

Prejudicial impact of The ERRORS: The cumulative effect of these instructional errors was prejudicial to the Petitioner's defense. The ambiguous and incomplete instructions likely confused the Jury about the legal standard they were to apply, thereby undermining the reliability of the verdicts. Given the gravity of the charges and the severe penalties associated with them, it is imperative that the Jury's determinations were based on a clear and accurate understanding of the law.

The Trial court's errors in charging the Jury violated the Petitioner's constitutional rights under the 6th and 14th Amendments.; Botstick v. Stevenson, 589 F.3d 160, 166-67 (4th Cir. 2009); Cudjo v. Ayers, 698 F.3d 752, 766 (9th Cir. 2012).

The 6th amendment guarantees the right to a fair trial, which includes the right to a properly instructed Jury. The 14th amendment ensure due process, which requires that criminal conviction be based on proof beyond a reasonable doubt. By failing to provide clear and accurate instructions, The trial court compromised these fundamental rights.

Ground 4. Petitioner contends that the double Jeopardy clause was violated, and no resentencing was necessary making *Railey Vs. State* inapplicable to this scenario.

It was undisputed on appeal that certified copies of Petitioner's three alleged convictions were never entered in the record. At the resentencing hearing, the prosecutor proffered three certified copies of prior felony convictions. The court "allowed admission of the three certified copies of convictions." The resentencing court found that the convictions were three separate felonies for the purpose of sentencing as a recidivist. The court imposed a sentence of life imprisonment plus 45 years, noting that it was without the possibility of parole; Life without parole for count 1 Armed robbery count 2. Aggravated assault 20 yrs 3. count Burglary 20 yrs count 4. possession of A Firearm. All counts run consecutive.

The court erred in determining that there were three prior separate felony convictions.

O.C.G.A. 17-10-7 section D says that conviction of two or more crimes charged on separate counts of one indictment or accusation, or in two or more indictments or accusation consolidated for trial. shall be deemed to be only one conviction. *Davis v. Alaska*, 415 U.S. 308; *McNair v. State* 326 Ga. App. 516

Two of the Prior Felony convictions were in fact not separate Case number 2005 RCCR 00670 and 2005 RCCR 00671 were both charged on 3 / 11 / 2005 and both disposed on 12 / 12 / 2005. Both cases were charged either on the same indictment or consolidated. Thus, making this only one

Prior conviction rather than two. Hence, making the resentencing under "17-10-7 section C" unnecessary and unconstitutional, as this would be considered double jeopardy which again rises the claim that petitioner contends that the resentencing violated the rule of lenity because there is an ambiguity between application of D.C.G.A. 17-10-7 (a) and (c) the sentence thus should not have been enhanced. Because Tanksley had only had two prior convictions under 17-10-7 instead of two the court improperly sentenced Tanksley (petitioner) to life imprisonment without parole on petitioner's armed robbery conviction, when in fact it had said that section A and section C "can be read in harmony so there is no ambiguity" however there is ambiguity which means the rule of lenity should have applied. In context of a criminal conviction, "a sentence is void if the court imposes punishment that the law does not allow." The maximum penalty for the crimes was not life without Parole and life without Parole was allowed under the 17-10-7 only in section C, not A.

In Nordahl v. State the trial court ruled that Nordahl was a recidivist under D.C.G.A. 17-10-7 (a) and (c).

Accordingly, the trial court imposed a sentence of 20 years with 10 yrs to serve and the balance suspended, on the burglary charges in counts 1 through 3; 10 years to serve on the criminal attempt to commit burglary charge in count 4; and 25 years, with 10 to serve and the balance suspended, on the first-degree burglary charges in counts 5 through 8.

Thus, Proving that a resentencing was not necessary for Petitioner case. Also, because the post-conviction attorney never had enough time to review or requested to review the three prior Alleged Felony convictions submitted by the state to enhance Petitioner sentence, It is actually undisputed that there was not actually three prior separate felonies, and that the prior felonies ^{didn't} meet the ACCA's element clause; IF there is no ambiguity in 17-10-7 (a) and (c) then Petitioner recidivist sentence under ACCA enhancement could not stand; see e.g. United States v. Smith, 2023 U.S. App. LEXIS 3183 (2023). This Prove that 17-10-7(a) and (c) cannot be read in harmony and The petitioner sentence is illegal and IS Void, and The disputed Facts in this Petition regarding The Petitioner U.S. Constitution rights and Georgia CONST. rights is evident The Petitioner U.S. CONST. 5th, 6th, 8th, 14th ~~amendment~~ amendment(s) has been violated, Also petitioner Ga CONST. Rights Article I, Section I, Paragraphs) I, II, XI, XII, XIII, XIV, XV, XVII, XVIII, XX, XXII, XXIX.

For the foregoing reasons, This case presents significant Questions of constitutional law violations, that merit The Supreme Court's review. The Eleventh Circuits decision conflicts with established Supreme Court precedent and undermines the Fundamental rights guaranteed By The Due Process and Confrontation clauses.

Show the existence of possible bias and prejudice...., "ante, at 317.

Tanksley v. The STATE, 351 Ga. App. 877 833 S.E.2d 575 (2019)" In resolving this issue, it is the duty of The State Superior Court to independently review the evidence to determine whether the state has carried its burden of proving the admissibility of [Tanksley's statement] by a preponderance of the evidence." Id. at 515(1), 543, S.E.2d 725. [351 Ga. App. 881] Considering the totality of the circumstances. The State did not meet its burden of showing that Tanksley's statement was made voluntarily after a knowing and intelligent waiver of her rights. Thus, the trial court erred by admitting Tanksley's statement as evidence at her trial. Although the error is one of constitutional magnitude, it can be harmless error if the state can prove beyond a reasonable doubt that the error did not contribute to the verdict, such as when the evidence at issue is cumulative

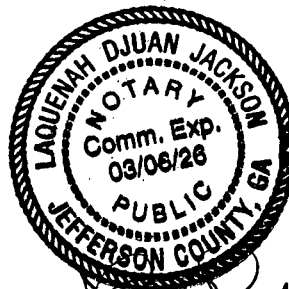
CONCLUSION

Granting, The writ of certiorari will afford this court the opportunity to rectify the misapplication of constitutional protections, constitutional principles and ensure that due process is upheld by by addressing these critical issues. The supreme court can reaffirm its commitment to safeguarding the rights enshrined in the constitution of the U.S. and prevent similar injustices from occurring in future cases. I pray, The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tanksley, JORDAN H

Date: APRIL 7, 2025



[Handwritten signature]