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IN THE
SUPREME COURT OF THE UNITED STATES

SEBASTIAN PATRICK WILLIAMS - PETITIONER

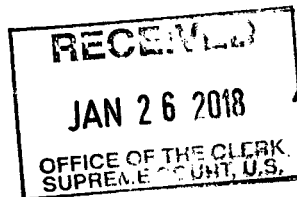
-VS-

SHANE JACKSON, WARDEN - RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

January 19, 2018



Sebastian P. Williams
Sebastian P. Williams #214991
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Muskegon, MI 49442-6240

QUESTION PRESENTED

IS PETITIONER ENTITLED TO EQUITABLE TOLLING, DESPITE DILIGENT EFFORTS, THAT NEWLY-DISCOVERED EVIDENCE WAS DISCOVER AFTER THE STATUTE OF LIMITATIONS PERIOD HAD EXPIRED, AND THE CERTIFICATE OF APPEALABILITY ANALYSIS WAS NOT APPLIED, IN VIOLATION PETITIONER'S RIGHT TO DUE PROCESS?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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STATUTES AND RULES

28 U.S.C. § 1254

28 U.S.C. § 2254(e)(2)

OTHER SOURCE

Sixth Amendment

Fourteenth Amendment

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner Sebastian Patrick Williams, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Sixth Circuit entered in the above-entitled cause on October 27, 2017.

I.

OPINION BELOW

The memorandum opinion of the United States Court of Appeals, 2017 U.S. App. LEXIS 21733, is attached as Appendix A. The memorandum opinion of the district court for the Eastern District of Michigan, 2017 U.S. Dist. LEXIS 31021, is attached as Appendix B. The memorandum opinion of the Michigan Supreme Court, 498 Mich. 949; 872 N.W.2d 452; 2015 Mich. LEXIS 2863, is attached as Appendix C, and the memorandum opinion of the Wayne County Circuit Court of Michigan is attached as Appendix D.

II.

JURISDICTION

The opinion of the Court of Appeals for the Sixth Circuit was filed on October 27, 2017 (2017 U.S. App. LEXIS 21733). Petition for rehearing was timely filed in this case. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254(1).

III.

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

The Sixth Amendment of the United States Constitution provides:

In all criminal prosecution, 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 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 defense.

[Emphasis added to pertinent section]

The Fourteenth Amendment of the United States Constitution provides:

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.

[Emphasis added to pertinent section]

IV.

STATEMENT OF THE CASE

On March 2, 1990, Tommie Lee Blanchard was shot and killed inside of his Detroit home. Shortly, thereafter, Sebastian Patrick Williams (Petitioner-Appellant) along with Joseph Ray Whitfield and Curtis Marcelis were arrested and charged with first-degree premeditated murder, first-degree felony murder, armed robbery and felony firearm during the commission of a felony. Following a two (2) day jury trial in Detroit Recorder's Court, before presiding Judge Michael J. Talbot. Mr. Whitfield was exonerated for insufficient of evidence. While Williams and Marcelis were found guilty as charged.

The material and primary issue at trial was whether the State proved the identity of Williams as one of the perpetrators of these offenses beyond a reasonable doubt or based on pure speculation. It is important to engage into a summary of the Preliminary Examination (Pre. Ex.) testimony, as well as the Trial testimony (T.T.) as it relates to the issues of identification in order to better comprehend how vital and relevant the new evidence have on the issue of Williams' identification and him being actual innocence of this offense.

Preliminary Examination

The complaint-witness to the armed robbery, Andre Lee Nelson testified that he was presented at Blanchard's resident on March 2, 1990, at or about 7:30 that evening, he was sitting in a chair in the living room nodding off to sleep when he heard a loud boom coming from the front door of the residence. Nelson's stated, 'I jump out of the chair and ran towards the kitchen to get

the rifle on the first boom, by the second loud boom the front door came open and five (5) masked intruders was inside, two of them went towards me and three towards Blanchard'. Nelson further stated, 'I was thrown down on the floor, a gun place in my face, I was tied up and knocked out. Once I regain consciousness I could only remember one of the intruders was wearing a long black coat'.

Nelson was asked, "Do you know Sebastian Williams?" His response was, "No, I don't". Nelson was than asked, "This gentleman I am pointing to here with the black leather jacket, you never seen him before?", once again Nelson's response was "No". Nelson could not recognize anything about the intruders other than the coat, ski masks and guns. (Appendix E, pp9-25)

Sammy Woods Junior supposedly identified Williams as being present on Blanchard's front porch the evening of March 2, 1990, as he was just as animate about Joseph Ray Whitfield, cause Woods point blank seen Whitfield's face. (Appendix F, p24). It is patently clear that Woods was not an eyewitness to the actual shooting of Blanchard, cause Blanchard was shot inside of his resident, while Woods was outside across the street some thirty (30) feet away from Blanchard's home, but standing two (2) house away from his (Blanchard) mom's house. (Id., p55).

Woods stated, 'I was walking by Blanchard's porch, light was on, and I happen to glance and saw a few faces. Williams had on something like a turquoise or green and white jacket'. Woods admits he was "blitz" on drugs, but the drugs do not affect his perception of things, they makes him more aware of things. (Id., pp53-57). Prior to trial Woods gave a very in depth interview to Mr. Whitfield's Attorney Che Karega on October 4, 1990, describing his drug addiction and the affects drugs have on his perception and memory. This statement was taken and transcribed by the Court Reporter Latresa

Adams. (Appendix G).

Trial

Mr. Nelson could not identify the person who ordered he on the ground. However, he recognized one of the intruders voice, it not a voice he has heard before, but doing the incident was the first time hearing the voice. Nelson don't know none of the defendants names, though he had seen them somewhere before, and believes that the voice he heard that evening belongs to Williams, by pointing at Williams at the defense table. Nelson thinks he recognize Williams' voice from an telephone answering machine recording tape that was played for him and Leroy Blanchard, for the purpose of identifying Williams' voice by prosecution's witness Chinall Taylor, (Appendix H, p91). Nelson does not know Williams' name, never met Williams, never had any conversation with Williams, or ever heard Williams speak, nor could Nelson identify Williams by any alias or street name he used. (Id., pp128-130, 134-140).

Mr. Woods admits that he had done some illegal drugs prior to getting near Blanchard's residence. Woods observed five guys on Blanchard's porch, some 30 feet away and out of the five guys Woods' for sure recognized two of them, Sebastian Williams and Curtis Marcelis, but Woods didn't recognize Mr. Whitfield. (Id., pp141-146).

Leroy Blanchard (victim's brother) said he was at his brother resident shortly after his brother death, he received an anonymous telephone call from a person who identified himself as Kango. It was a voice he has heard before and someone voice he recognized, and the caller said something to the effect that a BMW needed some work on it and something to the effect he was going to put one in me. Leroy Blanchard identified the voice as belonging to Williams. (Id., pp183-196).

On February 5, 1991, Petitioner-Appellant was convicted by a Michigan jury of first-degree premeditated murder, first-degree felony murder, armed robbery and felony firearm. Williams was sentenced on February 21, 1991, to life imprisonment for each of the murder convictions and the armed robbery conviction, and two years imprisonment for the felony firearm conviction.

Williams appealed as of right and raised, in the Michigan Court of Appeals, that his convictions for first-degree premeditated murder and first-degree felony murder violated the double jeopardy; insufficient evidence was presented to show premeditation and deliberation or to establish Williams' identity as one of the perpetrators; the trial court erred in failing to sua sponte instruct the jury with identification instruction; and improperly instructed the jury on reasonable doubt. The Michigan Court of Appeals vacated Williams' conviction and sentence for first-degree felony murder and affirmed the convictions in all other respect. *People v. Williams*, No. 141626 (Mich. Ct. App. Apr. 13, 1995). On December 27, 1995, the Michigan Supreme Court denied Williams' application for leave to appeal. *People v. Williams*, 450 Mich. 960 (1995).

During the course of Williams' incarceration he has collected several affidavits from people whom had either talk with prosecution witnesses or had knowledge of this crime such as Hubert Marshall, Duane Bell and Gregory Young-Bey. (Appendix I). In October or November of 2012, Petitioner-Appellant received three affidavits in the mail from an acquaintance of his co-defendant Curtis Marcelis. The affidavits was of Andre Nelson, Sammy Woods and Debbie Woods. (Appendix J). Unbeknown to Petitioner-Appellant that these people made these documents.

Based on these documents Williams' filed a postconviction motion for relief from judgement on March 6, 2013, in Wayne County Circuit Court of

Michigan raising the following claims: Actual innocence; Ineffective assistance of trial and appellate counsel; Prosecutorial misconduct and Denial of due process by the cumulative effects of trial errors. The trial court denied the motion on June 24, 2014. (Wayne Cty. Cir. Ct. No. 90-003526). Williams filed a delayed application for leave to appeal to the Michigan Court of Appeals, which was denied on February 26, 2015. *People v. Williams*, No. 325280 (Mich. Ct. App. Opinion). Williams sought relief in the Michigan Supreme Court, who also denied Williams' application for leave on December 22, 2015. *People v. Williams*, 498 Mich. 949 (Mich. Supreme Ct. Opinion).

On December 11, 2015, Williams filed his habeas petition in the Eastern District Court of Michigan raising the following claims: Actual innocence; Prosecutorial misconduct; Ineffective assistance of trial counsel and Cumulative effects of trial errors. On March 6, 2017, the District court issue its Opinion and Order granting Respondent's motion to dismiss the petition, and granting Williams an Certificate of Appealability. On March 20, 2017, Williams filed his Notice of Appeal with the District Court. On July 13, 2017, Williams submitted his brief in the Court of Appeals for the Sixth Circuit arguing entitlement to Equitable Tolling, which was denied on October 27, 2017, and a prompt notice for rehearing was filed on November 13, 2017.

V.

REASONS FOR GRANTING THE WRIT

A. THIS CASE PROVIDES THIS COURT WITH AN OPPORTUNITY TO DELINEATE THE BOUNDARIES AND STATUS OF AFFIDAVIT AS THEY RELATE TO NEWLY-DISCOVER EVIDENCE.

The Sixth Circuit has decided an important question of federal law that has not been, but should be, settled by this Court pertaining to newly-discover evidence in the form of witness affidavits by denying Petitioner of

his right to due process.

The District Court concluded that jurist of reason could find debatable whether the statute of limitations was equitably tolled? The question is whether the Petitioner has shown that jurists of reason could disagree with the district court's resolution of his claims, or that jurists could conclude that the issues presented are adequate to deserve encouragement to proceed further. *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

The only evidence of Petitioner guilt or involvement in this offense is the testimony statements of Andre Nelson and Sammy Woods linking Petitioner to this offense. This Court has held, where testimonial statements are involved, the Sixth Amendment's protection against the vagaries of the rules of evidence, and the amorphous notions of reliability. *Crawford v. Washington*, 541 U.S. 36, 61 (2004).

Reasonable jurist could debate if Petitioner has a clearly established right to impeach the credibility of an adverse witness using the witness's own inconsistent recant statements under the Confrontation Clause of the Sixth Amendment. The Supreme Court's Sixth Amendment jurisprudence leaves no question about Petitioner's right under the Confrontation Clause to impeach, i.e., discredit, the [state's] witness[es]. *Davis v. Alaska*, 415 U.S. 308, 316 (1974).

The newly-discovered recant evidence does more than merely impeach Woods/Nelson, it render their trial testimonies useless. The witness's recanting statements do not go to their credibility on collateral matter, nor do they involve impeachment using other witnesses' testimony, rather, they directly undermine the veracity of testimony using the recanting witnesses' own words. In eliminating Nelson/Woods' testimonial statements the remaining evidence against Williams is insufficient to support or warrant an conviction.

Reasonable jurists can debate that the Sixth Circuit credibility determination of the affiants is constitutionally deficient. The Sixth Circuit resolved their determination of the affiants credibility by impugned it without the benefit or the opportunity of an evidentiary hearing to observe the affiants' demeanors or hear them give testimony. Petitioner has a clearly established right as determined by the Supreme Court jurisprudence in *Marshall v. Lonberger*, 459 U.S. 422 (1983), which states in pertinent part: "Federal courts have no license to redetermine credibility of witness". *Id.*, at 434; *Jackson v. Virginia*, 443 U.S. 307 (1979) (The assessment of the credibility of witnesses is generally beyond the scope of [habeas] review).

Andre Nelson's affidavit raised a material issue of fact, and to resolve this question of material fact, the Sixth Circuit made a credibility determination, which consistent of "Nelson's affidavit does not meet the definition of a "trustworthy eyewitness account" of the crime to establish an extraordinary case of actual innocence". The Sixth Circuit only articulated reason to deny the appeal, that the sole complaining recanting witness is "in prison serving a life sentence", is not an sufficient basis for the denial.

Nelson stated that he testified falsely against the Petitioner because an agent for the Government was threatened him, this issue cannot be defeated on the merits without making a improper credibility determination and the Sixth Circuit concluded, "Nelson stated he was pressed into identifying another suspect because he, himself, was a suspect, he does not accuse Detective Ivy of pressuring him to identify Williams". Nelson only testified pertaining to Williams' identification, not co-defendant Marcelis.

Andre Nelson and Sammy Woods recantation undermines confidence in the outcome of Petitioner's trial, and its more than likely that the recantation would cause a reasonable juror to have reasonable doubt. *House v. Bell*, 547

U.S. 518, 538 (2006). The Schlup, inquiry requires a holistic judgment about "all the evidence", and its likely effect on reasonable jurors applying the reasonable-doubt standard. The inquiry does not turn on discrete findings regarding disputed points of fact, and "[i]t is not the court's independent judgment as to whether reasonable doubt exists that the standard addresses. Schlup v. Delo, 513 U.S. 298, 329 (1995).

The narrow exception for fundamental miscarriage of justice requires Williams to demonstrate that the alleged constitutional error resulted in the conviction of one who is actually innocent of the underlying offense. Dretke v. Haley, 541 U.S. 386, 388 (2004); Murray v. Carrier, 477 U.S. 478, 496 (1986). Williams has presented new evidence that was not presented at his trial. Schlup v. Delo, 513 U.S. 298, 324 (1995), which more likely than not would cause a reasonable juror to have a reasonable doubt about his guilt.

Petitioner's claims of innocence is not insufficient solely because the trial record contained sufficient evidence to support the jury verdict. Schlup, 513 U.S., at 331. The Sixth Circuit and the district court evaluated the record under an improper stand, further proceedings is necessary, and a horrible miscarriage of justice will occur as a result of this Court's failure to consider the merits of Williams' claim.

In *McQuiggin v. Perkins*, this Court's emphasized that the miscarriage of justice exception is routed in "the equitable discretion of habeas courts to see that federal constitutional errors do not result in the incarceration of an innocent person". 133 S.Ct. 1924, 1931. A evidentiary hearing is needed to resolve the complicated factual allegations relevant to Williams' innocence claim and to answer the Sixth Circuit questions pertaining to Nelson's delay of eighteen (18) years in producing his affidavit in regard to this case?

Petitioner cannot provide the Sixth Circuit with the answers he has no

knowledge of, and the only way to provide the Circuit Court with the answer they seek, and Petitioner with an opportunity for a full and fair hearing pursuant to 28 U.S.C. § 2254(e)(2).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

January 19, 2018

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