

No. \_\_\_\_\_

---

IN THE  
SUPREME COURT OF THE UNITED STATES

---

LAWRENCE WILLIAMS

VS.

STATE OF LOUISIANA

W. SANDY McCain

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

ON PETITION FOR A WRIT OF CERTIORARI

Lawrence Williams #98782

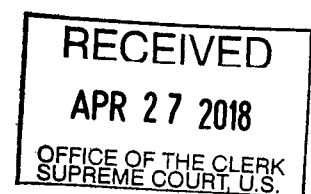
Cajun 2 B2

1630 Prison Road

Cottonport, La. 71327

---

*Phone*



## QUESTION(S) PRESENTED

1. Whether the U.S. 5<sup>th</sup> Circuit Court of Appeal” erred as a matter of federal law in treating petitioner Williams Rule 60(b) Motion for Relief from Judgment based upon fraud upon the Court by the “State of Louisiana” as a “Successive Writ” needing “Authorization” under 28 U.S.C. § 2244 (b) (3) (A)?

## **LIST OF PARTIES**

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

[X] 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

**Leon Cannizzaro-District Attorney**  
**Parish of Orleans**  
**619 South Street**  
**New Orleans, La. 70119**

**Jeff Landry- La. Attorney General**  
**P.O. Box 94004**  
**Baton Rouge, La. 70804**  
**Phone: 225-342-0991**  
**Fax: 225-342-7099**

**Clerk of Court**  
**Criminal District Court**  
**Parish of Orleans**  
**2700 Tulane Ave.**  
**New Orleans, La. 70779**

## TABLE OF CONTENTS

|                                                    |  |
|----------------------------------------------------|--|
| <u>TABLE OF CONTENTS</u> .....                     |  |
| <u>INDEX TO APPENDICES</u> .....                   |  |
| <u>TABLE OF AUTHORITIES CITED</u> .....            |  |
| <u>DISCUSSIONS</u> .....                           |  |
| <u>MOTION FOR RELIEF FROM JUDGMENT</u> .....       |  |
| <u>TRANSFER ORDER TO THE APPELLATE COURT</u> ..... |  |
| <u>JUDGMENT OF THE APPELLATE COURT</u> .....       |  |

## INDEX TO APPENDICES

|    |                                                                                                   |                   |
|----|---------------------------------------------------------------------------------------------------|-------------------|
| 1. | <b>APPENDIX A U.S. FIFTH CIRCUIT’S<br/>JUDGMENT DENYING PETITIONER WILLIAMS<br/>COA . . . . .</b> | <b>1 to 5</b>     |
| 2. | <b>APPENDIX B APPLICATION FOR COA<br/>DENYING THE RULE 60(B) MOTION . . . . .</b>                 | <b>6 to 35</b>    |
| 3. | <b>APPENDIX C DENIAL OF RULE 60(B)<br/>MOTION AND COA BY THE TRIAL COURT . . . . .</b>            | <b>36 to 40</b>   |
| 4. | <b>APPENDIX D MOTION FOR RELIEF FROM JUDGMENT . . . . .</b>                                       | <b>41 to 59</b>   |
| 5. | <b>APPENDIX E 1<sup>ST</sup> FEDERAL HABEAS CORPUS . . . . .</b>                                  | <b>60 to 114</b>  |
| 6. | <b>APPENDIX F MAGISTRATE’S REPORT AND<br/>RECOMMENDATION . . . . .</b>                            | <b>115 to 139</b> |

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 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

☐ For cases from **state 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 court of Appeals 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

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was April 3, 2018. Williams v. McCain # 17-30408 [U.S. 5<sup>th</sup> Cir. 3/17/18]

☐ 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: March 7, 2018, and a copy of the order denying rehearing appears at Appendix A.

☐ 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 E.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 28, 2018, and a copy of the order denying rehearing appears at Appendix F.

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).

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

|                                                                                               |           |
|-----------------------------------------------------------------------------------------------|-----------|
| IN RE: LUCIOUS GORDON, 509 FED. APPX. 375, 2013                                               |           |
| U.S. APP. LEXIS 2016 [5 <sup>TH</sup> CIR. 2013].....                                         | <u>19</u> |
| GONZALES V. CROSBY, 162 L. ED. 2D 480, 545 U.S. 524, 125 S.CT. 2641 [2005].....               | <u>21</u> |
| IN RE: TONY EPPS, 127 F.3S 364, 1997 U.S. APP. LEXIS 29060 [5 <sup>TH</sup> CIR. 648 [1984].. | <u>19</u> |
| IN RE: CAIN, 137 F. 3D 234 [5 <sup>TH</sup> Cir. 1998] .....                                  | <u>19</u> |

## TABLE OF AUTHORITIES CITED

| <u>CASES</u>                                                                                                   | <u>PAGE NUMBER</u> |
|----------------------------------------------------------------------------------------------------------------|--------------------|
| Flordia v. Nixon, 543 U.S. 175, 187 2004.....                                                                  | <u>20</u>          |
| Bryant v. Scott, 28 F. 3d 1411 [5 <sup>th</sup> Cir. 1994].....                                                | <u>20</u>          |
| Henderson v. Sargent, 926 F. 2d 706 [8 <sup>th</sup> Cir. 1991]..                                              | <u>20</u>          |
| Mason v. Brathwaite, 432 U.S. 98 [1977].....                                                                   | <u>21</u>          |
| Simmons v. United States, 390 U.S. 377, 383-84 [1968].....                                                     | <u>21</u>          |
| Neil v. Biggers, 409 U.S. 188, 199 [1972].....                                                                 | <u>21</u>          |
| Breecht v. Abrahamson, 507 U.S. 619, 623-30 [1993] .....                                                       | <u>22</u>          |
| O’Neal v. Anninch, 513 U.S. 432 [1995].....                                                                    | <u>22</u>          |
| Robertson v. Cain, 324 F. 3d 297 [5 <sup>th</sup> Cir. 2003].....                                              | <u>22</u>          |
| Williams v. Taylor, 529 U.S. 362, 120 S. ct. 1995 [2000].....                                                  | <u>22</u>          |
| Martinez v. Ryan, 132 S ct. 1309 [2012].....                                                                   | <u>22</u>          |
| Trevino v. Thaler, ____ U.S. ____, 113 S.ct. 1911 [2013]... ..                                                 | <u>22</u>          |
| State v. Cambre, 05-888 at 27, 939 So. 2d at 461; and State v. Prudholm<br>446 So. 2d 729, 737 [La. 1984]..... | <u>22</u>          |
| United States v. Cronin, 466 U.S. 648 [1984].....                                                              | <u>20</u>          |
| Schneckloth v. Bustamonte, 42 U.S. 218.....                                                                    | <u>21</u>          |
| Frye v. Piller, 127 S. ct. 2321 [2007].....                                                                    | <u>22</u>          |

**STATUTES AND RULES**

28 U.S.C. § 2254(b) (c).....19

28 U.S.C. § 2254.....19

28 U.S.C. § 2244(b) (2)..... 19

Rule 60(b), Federal Rules Civil Procedure..... 21

Rule 60(b), Federal Rules Civil Procedure..... 9, 21

**CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED**

|                                    |           |
|------------------------------------|-----------|
| 28 U.S.C. § 2254 .....             | <u>19</u> |
| 28 U.S.C. § 2254 (b) (1) (A) ..... | <u>19</u> |
| 28 U.S.C. § 1254 (1) .....         | <u>13</u> |
| 28 U.S.C. § 2244 (b) (3) (E).....  | <u>19</u> |

## STATEMENT OF THE CASE

On the 23<sup>rd</sup> day of March 2017 I gave prison officials, a “Motion for Relief” from the 30<sup>th</sup> day of May 2014 judgment denying petitioner Williams “1<sup>st</sup> Federal Habeas Corpus pursuant to Houston v. Lack, 487 U.S. 266 [1988]. On the 3<sup>rd</sup> day of May 2017 the trial court dismissed without prejudice petitioner Williams Rule 60(b) “Motion due to lack of jurisdiction and transferred to the U.S. 5<sup>th</sup> Circuit for permission to file a “Successive Writ, on the 3<sup>rd</sup> day of April 2018 the U.S. 5<sup>th</sup> Circuit denied “Authorization to file a “Successive writ””.

## REASONS FOR GRANTING WRIT

### DISCUSSION

...An inmate seeking to file a successive Section 2254 application must first obtain an order for the relevant court of Appeals authorizing its filing in district court 28 U.S.C. § 2244 (b)(3)(A). If the application is successive, the appellate court may allow the claim to proceed if it relies on a new rule of constitutional law, make retroactive to cases on collateral review by the Supreme Court,” or the facts underlying the claim were previously undiscoverable and meet certain other requirements. § 2244 (b) (2). Those provisions do not apply if the petition is not actually successive. An application is successive “when it: 1) raises a claim challenging the petitioner’s conviction or sentence that was or could have been raised in an earlier petition; or 2) otherwise constitutes an abuse of the writ. In re Cain, 137 F.3d 234, 235 [5<sup>th</sup> Cir. 1998]. In Re; Lucious Gordon, 509 Fed. App. 375, 2013 U.S. App. Lexis 2116 [5<sup>th</sup> Cir. 2013]; and In re Tony Epps, 127 F.3d 364, 1997 U.S. App. Lexis 29060 [5<sup>th</sup> Cir. 1997].

Petitioner Williams avers that had defense Counsel called the initial officers who interviewed the victims on the date of the robberies concerning the descriptions they gave them which clearly impeached the description gave to Detective Baldwin over the months later petitioner Williams would have been allowed to give the same or similar jury instructions concerning perjury given in the O.J. Simpson's trial which resulted in the Not Guilty verdict by disregarding all Detective Firmin's testimony in light of his knowingly perjured testimony. The jury was denied to hear the initial officers testimony concerning the victims description for impeachment purpose due to counsel's failure to call them for trial...without notice and my consent for ineffective assistance of counsel purposes under Florida v. Nixon, 543 U.S. 175, 187 See also United States v. Cronin, 466 U.S. 648 [1984]; And Bryant v. Scott, 28 F. 3d 1411, 1419 [5<sup>th</sup> Cir. 1994] [citing Henderson v. Sargent, 926 F. 2d 706, 711 [8th Cir. 1991].

Rule 60(b), Federal Rules Civil Procedure. Provides that the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for any one of certain enumerated grounds, including mistake, mistake, inadvertence, surprise, excusable neglect; newly discovered evidence, fraud by an opposing party<sup>1</sup>, void judgment, release. And satisfaction, or "any other reason that justifies relief." *Davis v. Stephens*, No. 3:07-CV-167-B, 2014 U.S. Dist. lexis 115474, 2014 WL 4097631, at 2[N. D. Tex. Aug. 19, 2014] [quoting Fed. R. Civ. P. 60 (b) (1) (b)]. *Schneckloth v. Bustamonte*, 42 U.S. 218, 236-37.

This court in *GONZALES V. CROSBY*, 162 L. ED. 2D 480, 545 U.S. 524, 125 S.C.T. 2641 [2005] held that fraud on the court is grounds for relief from a judgment under Rule 60(b)(3) and under Rule 60(b)(6) whereas here there exist extraordinary circumstances as clearly set forth in petitioner Williams motion for Relief from Judgment.

In this petition the court cannot say what the jury verdict would have been if defense counsel would have called the initial officers who interviewed the victims of the armed robberies and questioned them concerning the description they gave him of the robbers which is substantially different to what they told Detective Baldwin over two month. Later in which petitioner Williams was denied appellate review of the photographic line-up due to the State's failure to produce the same in the Appellate records. Additionally the District Attorney: file as purchased by petitioner Williams do not contain any recognizable photocopy line-up for review under *Mason v. Brathwaite*, *Mason v. Brathwaite*, 432 U.S. 98 [1977]; *Simmons v. United States*, 390 U.S. 377, 383-84 [1968]; and *Neil v. Biggers*, 409 U.S. 188, 199 [1972].

---

<sup>1</sup> Fraudulent misrepresentation-a false statement that is known to be false or made recklessly without knowing or caring whether it's true or false and it's intended to induce a party to detrimentally rely on it. Also termed deceit

### Standard of Review

Brecht v. Abrahamson, 507 U.S. 619, 623-30 [1993] is still the current “Standard of Review” in assessing the prejudicial impact of Federal constitutional error in criminal trial in state courts. Frye v. Piller, 127 S. ct. 2321, 2327 [2007]. If the judge has “grave doubts meaning” the matter is so evenly balanced” as to whether the error had substantial and injurious effect, the judge must find in favor of petitioner. O’Neal v. Anninch, 513 U.S. 432 [1995]; Robertson v. Cain, 324 F. 3d 297 [5<sup>th</sup> Cir. 2003]

Petitioner Williams is actually innocent of these armed robberies as evident by Detective Hurst; Officer Williams, Branch, Cunningham and Castelin reports which impeaches Detective Baldwin’s and the victims photographic line-up and in-court identification which the jury never heard their testimony or read their initial reports of the description (s) of the robber gave to them by the victim. The officers’ testimony and report was crucial to petitioner Williams’s defense of innocence. Additionally petitioner suggestive photographic Line-up which the in-court identification was unduly suggested was not fairly resolved due to the State’s failure to produce it as part of the appellate records in order to determine this “Assignment of Error”.

Wherefore petitioner Williams prays this matter be remanded to Criminal District Court- Parish of Orleans for an Evidentiary Hearing with counsel<sup>2</sup> to determine petitioners constitutional claims including but not limited to ineffective trial counsel; appellate counsel; and denial of counsel on collateral review<sup>3</sup>

---

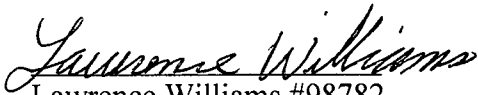
<sup>2</sup> William v. Taylor, 529 U.S. 362, 120 S. ct. 1995 [2000]; and Martinez v. Ryan, 132 S. ct. 1309 [2012].

<sup>3</sup> Martinez v. Ryan, 132 S. ct. 1309 [2012]; Trevino v. Thaler, \_\_\_\_ U.S. \_\_\_\_, 113 S.ct. 1911 [2013]; and State v. Cambre, 05-888 at 27, 939 So. 2d at 461 And State v. Prudholm 446 So. 2d 729, 737 [La. 1984]

### Conclusion

The petition for a Writ of Certiorari should be granted

Respectfully submitted,



Lawrence Williams #98782

Raymond Laborde Correctional Center

Cajun 2 B2

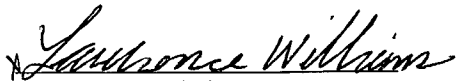
1630 Prison Road

Cottonport, La. 71327

### CERTIFICATE OF SERVICE

I, Lawrence Williams, do hereby state that I caused to be mailed and one copy of the foregoing to the Attorney General for the State of Louisiana at 1885 North 3<sup>rd</sup> Street, P.O. Box 94005, Baton Rouge, Louisiana 70804-9005 after having placed same under separate cover and attaching (pre-paid) sufficient first class postage, and causing same to be mailed on the date appearing, infra.

Dated this 23 day of April, 2018.



Lawrence Williams