

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

BOBBY LEE TAYLOR — PETITIONER
(Your Name)

vs.

SHANE JACKSON - WARDEN — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

US DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

BOBBY LEE TAYLOR
(Your Name)
CARSON CITY CORRECTIONAL FACILITY
10274 BOYER RD.
(Address)

CARSON CITY, MI 48811
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. MR. TAYLOR UNEQUIVOCALLY REQUESTED COUNSEL. HIS FIFTH AND FOURTEENTH AMENDMENT RIGHTS WERE VIOLATED WHEN POLICE FAILED SCRUPULOUSLY HONOR THAT REQUEST. THE TRIAL COURT ERRED IN FAILING TO SUPPRESS THE ENTIRETY OF HIS STATEMENT.
2. PETITIONER WAS DENIED HIS CONSTITUTIONAL RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE U.S. CONST. AM VI.
3. PETITIONER WAS DENIED A FAIR TRIAL WHEN THE CIRCUIT COURT EXCLUDED THE STATEMENT OF AN UNAVAILABLE THIRD PARTY THAT HE WAS THE PERSON WHO MURDERED MS. LEE. THE EVIDENCE WAS ADMISSIBLE AS A STATEMENT AGAINST INTEREST. MRE 804(b)(3), OR THE "CATCH-ALL" EXCEPTION, MRE 803(24).
4. PETITIONER'S CONVICTIONS FAIL THE SUFFICIENCY OF EVIDENCE TEST AND SHOULD BE SET ASIDE AND VACATED. U.S. CONST. AM XIV.
5. THE PROSECUTION VIOLATED MRE 603 BY REFERENCING THE "PENIS IMAGE". THE TRIAL COURT ERRED IN DENYING A MISTRIAL. A NEW TRIAL IS WARRANTED.

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:

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

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix 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☐ is unpublished.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 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☐ is unpublished.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 C 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 COURT OF APPEALS court appears at Appendix D 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 14, 2017.

☐ 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: FEBRUARY 23, 2018, and a copy of the order denying rehearing appears at Appendix E.

☐ 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 MARCH 8, 2016 ~~MARCH 8, 2016~~.
A copy of that decision appears at Appendix C.

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

☐ 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

PETITIONER WAS DENIED HIS VI, XIV AMENDMENT RIGHTS (PG#1) WHEN INTERROGATION OFFICERS DENIED HIM THE RIGHT TO COUNSEL AFTER HE UNEDUOVACALLY INVOKED HIS RIGHT TO COUNSEL AND THE STATEMENT WAS GIVEN TO THE JURY.

PETITIONER WAS DENIED HIS VI AMENDMENT RIGHT (PG#2) TO THE EFFECTIVE ASSISTANCE OF COUNSEL WHEN TRIAL COUNSEL FAILED TO MOVE FOR SUPPRESSION OF THE POLICE ~~STATEMENT~~ STATEMENT IN ITS ENTIRETY.

PETITIONER WAS DENIED HIS VI, XIV AMENDMENT RIGHTS (PG#3) AS GUARANTEED IN THE DUE PROCESS CLAUSE CRIMINAL DEFENDANTS A MEANINGFUL OPPORTUNITY TO PRESENT A DEFENSE.

PETITIONER WAS DENIED HIS XIV AMENDMENT RIGHT (PG#4) WHEN HIS CONVICTIONS FAIL THE SUFFICIENCY OF EVIDENCE TEST.

PETITIONER RIGHT WAS VIOLATED UNDER FRE 403 WHEN THE PROSECUTION INTRODUCED HIGHLY PREJUDICIAL EVIDENCE BEFORE THE JURY (PG#5).

STATEMENT OF THE CASE

PETITIONER, BOBBY L. TAYLOR, APPEARED BEFORE THE OAKLAND COUNTY CIRCUIT COURT CHARGED WITH PREMEDITATED MURDER, FELONY MURDER, AND FIRST DEGREE CRIMINAL SEXUAL CONDUCT IN THE DEATH OF ROSALINE LEE. ON MAY 26, 2013, LEE WAS FOUND DECEASED ON THE SHORE OF TERRY LAKE IN OAKLAND COUNTY. MR. TAYLOR DENIED ANY INVOLVEMENT IN LEE'S DEATH. ON DECEMBER 11, 2013, HE WAS FOUND GUILTY OF SECOND-DEGREE MURDER, FELONY MURDER, AND FIRST-DEGREE CRIMINAL SEXUAL CONDUCT.

ON JUNE 5, 2013, TAYLOR WAS TAKEN INTO CUSTODY AND QUESTIONED. HE INVOKED HIS RIGHTS TO SILENCE AND TO COUNSEL BUT THE INTERROGATION CONTINUED. ON JUNE 20, 2013, HE WAS ARRESTED IN THE MATTER AND RE-INTERROGATED. ON NOVEMBER 26, 2013, THE COURT RULED THAT TAYLOR'S STATEMENTS AT THE JUNE 5, 2013 INTERROGATION WOULD BE ADMITTED UP TO WHEN HE LATER STATED HE WAS DONE TALKING AT PAGE 50 OF THE EDITED TRANSCRIPT. THE COURT RULED THAT THE STATEMENTS AT THE JUNE 20, 2013 INTERROGATION WOULD BE ADMITTED UP TO PAGE 1 OF THE EDITED TRANSCRIPT.

POLICE FOUND THREE PRESCRIPTION BOTTLES IN AND AROUND THE VICTIM'S VAN. NO USEABLE PRINTS WERE FOUND. WITH THE EXCEPTION OF A CHIP BAG, BUT THAT PRINT DID NOT BELONG TO TAYLOR. CAFFEY TESTIFIED HE SPOKE WITH LEE BY PHONE WHO AGREED TO MEET HER OUTSIDE HIS OFFICE BUILDING TO GIVE HER MONEY. BUT WHEN CAFFEY WENT OUTSIDE TO MEET LEE, HE SAW THE VAN BACK AWAY AND, HE BELIEVED, HE SAW SOMEONE IN THE VAN WITH LEE.

STATEMENT OF THE CASE

JAMAR CARTER TESTIFIED, THAT HE MET TAYLOR AND TOTH DOWNTOWN, AND THAT HE LIVED ON BASSETT STREET IN PONTIAC. HE INVITED TOTH AND TAYLOR TO HIS HOME TO WATCH THEM HAVE SEX. THE THREE WENT BY SMART BUS TO CARTER'S HOME. THE BUS DRIVER, PATRICIA VUOCOLA, RECALLED SEEING THEM ON THE BUS. VUOCOLA TESTIFIED THAT SHE GAVE TAYLOR HER PHONE NUMBER TO MEET TOGETHER OVER COFFEE. LATER THEY COMMUNICATED OVER THE PHONE AND TAYLOR, THE PROSECUTION PUT BEFORE THE JURY, SENT TO VUOCOLA AN IMAGE OF HIS PENIS AND THEN HIS FACE.

TAYLOR DESCRIBED THE THREE REACHING HIS HOME WHERE TAYLOR HELPED CARTER MOVE A BED INTO THE BASEMENT. TAYLOR AND TOTH WENT INTO THE BASEMENT WHILE CARTER REMAINED UPSTAIRS WITH HIS DOONEY BURKE BAG, PILLS IN THE LIVING ROOM ON THE TABLE.

REASONS FOR GRANTING THE PETITION

EVERY ASPECT OF PETITIONER'S TRIAL, CONSTITUTIONAL RIGHTS, WERE CLEARLY VIOLATED! EVEN PRIOR TO TRIAL, POLICE FAILED TO SCRUPULOUSLY HONOR PETITIONER'S REQUEST WHEN HE UNEQUIVOCALLY REQUEST COUNSEL.

COMPELLING REASONS EXIST FOR THE EXERCISE OF THIS COURT'S DISCRETIONARY JURISDICTION. THE STATE COURT AND THE UNITED STATES DISTRICT/COURT OF APPEAL COURTS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT. PARTICULARLY, ISSUE ONE, THE STATE COURT INTRODUCED A POLICE STATEMENT INTO EVIDENCE AFTER PETITIONER HAD UNEQUIVOCALLY INVOKED HIS RIGHT TO COUNSEL.

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ISSUE ONE

MR. TAYLOR UNEDUICALLY REQUESTED COUNSEL.
HIS FIFTH AND FOURTEENTH AMENDMENT RIGHTS
WERE VIOLATED WHEN THE POLICE FAILED TO
SCRUPULOUSLY HONOR THAT REQUEST. THE TRIAL
COURT ERRED IN FAILING TO SUPPRESS THE
ENTIRETY OF HIS STATEMENT.

ON JUNE 05, 2013, TAYLOR WAS TAKEN INTO POLICE CUSTODY AND
QUESTIONED IN THIS HOMICIDE INVESTIGATION. MIRANDA WARNINGS WERE
GIVEN AND TAYLOR AGREED TO SPEAK, BUT THEN INVOKED HIS RIGHTS TO
SILENCE AND HIS RIGHT TO COUNSEL SAYING: "I WOULD RATHER STOP. TALK
TO A LAWYER." (PEOPLES EXHIBIT 100 AT PAGES 7-9). THE DETECTIVES CONTINUED
TO QUESTION TAYLOR FOR OVER 40 TRANSCRIPT PAGES, THEN LEFT FOR SERGEANT
TRON TO CONTINUE THE INTERVIEW. DETECTIVES CONDUCTED AND RECORDED
THE INTERVIEW AND LATER IT WAS TRANSCRIBED AND MADE PART OF THE
CIRCUIT COURT FILE ("WALKER 18-12; PEOPLES EXHIBIT 100").

THE FIFTH AMENDMENT, WHICH APPLIES TO THE STATES BY VIRTUE OF
THE FOURTEENTH AMENDMENT MALLORY V HOAGAN, 378 US 1, 84 S Ct 1489, 12
LED 21 653 (1964), PROVIDES THAT "NO PERSON SHALL BE COMPELLED IN ANY CRIMINAL
CASE TO BE A WITNESS AGAINST HIMSELF." U.S. CONST. AM V. IN MIRANDA V
ARIZONA, 384 US 436, 86 S Ct 1602, 16 LED 21 694 (1966), THE UNITED STATES
SUPREME COURT HELD THAT "THE PROSECUTION MAY NOT USE STATEMENTS WHETHER
EXCULPATORY OR INCULPATORY, STEMMING FROM CUSTODIAL INTERROGATION OF A

DEFENDANT UNLESS IT DEMONSTRATES THE USE OF PROCEDURAL SAFEGUARDS EFFECTIVE TO SECURE THE PRIVILEGE AGAINST SELF-INCRIMINATION". IF A SUSPECT SAYS HE WANTS AN ATTORNEY, INTERROGATION MUST STOP. *Id.*, 384 US at 473-74. INTERROGATION "REFERS NOT ONLY TO EXPRESS QUESTIONING, BUT ALSO TO ANY WORDS OR ACTIONS ON THE PART OF THE POLICE (OTHER THAN THOSE NORMALLY ATTENDANT TO ARREST AND CUSTODY) THAT THE POLICE SHOULD KNOW ARE REASONABLY LIKELY TO ELICIT AN INCRIMINATING RESPONSE FROM THE SUSPECT. *RHODE ISLAND V INNIS*, 446 US 291, 301; 100 Sct 1082; 64 LEd2d 297 (1980).

ON JUNE 19, 2013, A WARRANT WAS ISSUED FOR TAYLOR'S ARREST IN THE DEATH OF MS. LEE AND THE POLICE DECIDE TO RE-INTERVIEW HIM ON JUNE 20, 2013 WITHOUT THE ASSISTANCE OF AN ATTORNEY. AT TRIAL, THE PORTION OF THE INTERVIEWS ALLOWED BY THE COURT'S PRE-TRIAL RULING WERE GIVEN TO THE JURY.

BINDING PRECEDENT IS CLEAR: ONCE A SUSPECT REQUEST COUNSEL, ALL INTERROGATION MUST STOP UNTIL AN ATTORNEY IS PROVIDED OR THE SUSPECT REINITIATES CONVERSATION.

DAVIS V UNITED STATES, 512 US 452, 458; 114 Sct 2350, 129 LEd2d 362 (1994);

SEE ALSO, *MARYLAND V SHATZER*, 130 Sct 1213, 1219, 175 LEd2d 1045 (2010);

EDWARDS V ARIZONA, 451 US at 485-487; 101 Sct 1880; 68 LEd2d 878 (1981);

MIRANDA V ARIZONA, 384 US at 474; 86 Sct 1602, 16 LEd2d 694 (1966).

FURTHERMORE, WHILE A SUSPECT MAY WAIVE HIS MIRANDA RIGHTS, THE PROSECUTION MUST SHOW THAT THE WAIVER WAS KNOWING, INTELLIGENT AND VOLUNTARY UNDER *JOHNSON V ZERBST*, 304 US 458 (1938).

ISSUE TWO

PETITIONER WAS DENIED HIS CONSTITUTIONAL
RIGHT TO THE EFFECTIVE ASSISTANCE OF
COUNSEL AS GAURANTEED BY THE US CONST. Am VI

ON OCTOBER 30, 2013, THE TRIAL COURT CONDUCTED A "WALKER HEARING" TO
DETERMINE THE ADMISSIBILITY OF PETITIONER'S INVOLUNTARY STATEMENTS MADE
TO POLICE ON JUNE 05, 2013. PETITIONER WAS READ HIS MIRANDA WARNINGS.
TAYLOR AGREED TO SPEAK, BUT THEN UNEQUIVOCALLY INVOKED HIS MIRANDA
RIGHTS TO SILENCE AND TO COUNSEL AT THE OUTSET OF THE INTERVIEW.
DEFENSE COUNSEL MOVED TO CHALLENGE SUPPRESSION OF PETITIONER'S LATTER
INVOCATION AT PAGE 52. THE UNITED STATES SUPREME COURT STATED THAT COUNSEL
WILL STILL BE FOUND INEFFECTIVE ON THE BASIS OF A STRATEGIC DECISION IF
THAT DECISION EMPLOYED WAS NOT A "SOUND OR UNREASONABLE ONE".
STRICKLAND V WASHINGTON, 466 US 668 (1984). NO REASONABLE ATTORNEY
WOULD HAVE PURSUED THE SAME COURSE OF ACTION UNDER THE CIRCUMSTANCES.
SPECIFICALLY, BECAUSE SUCH EVIDENCE WEIGHED HEAVILY AGAINST PETITIONER AND
COUNSEL SHOULD HAVE REALIZED THAT THE USE OF THE STATEMENT VIOLATED HIS
HIS RIGHT AGAINST SELF-INCRIMINATION, OR, AT LEAST, THAT IT WAS MORE PREJUDICIAL
THAN PROBATIVE UNDER THE RULES OF EVIDENCE.

ISSUE THREE

PETITIONER WAS DENIED A FAIR TRIAL WHEN THE CIRCUIT
COURT EXCLUDED THE STATEMENT OF AN UNAVAILABLE
THIRD-PARTY THAT HE WAS THE PERSON WHO MURDERED
MS. LEE. THIS EVIDENCE WAS ADMISSIBLE AS A STATE-
MENT AGAINST INTEREST, MRE 804 (b)(3), OR THE "CATCH-
ALL" EXCEPTION, MRE 803 (24).

THE DEFENSE ATTEMPTED TO CALL ROBERT COMBS TO TESTIFY THAT HE HEARD A BERNARD KIMBLE CONFESS TO MS. LEE'S MURDER. COMBS TESTIFIED THAT HE SPOKE WITH THE TWO LEAD INVESTIGATORS IN THIS CASE ABOUT HEARING, BERNARD KIMBLE WHO WAS INITIALLY A SUSPECT IN MS. LEE'S DEATH, CONFESS ABOUT KILLING A GIRL THE POLICE FOUND AND PUTTING HER IN A RIVER. COMBS FURTHER TESTIFIED HE DID NOT INITIALLY KNOW THE MAN'S NAME, THE MAN WAS SOMEONE HE OCCASIONALLY SAW IN DOWNTOWN PONTIAC, BUT THEN RECOGNIZED HIM IN A PHOTO OF BERNARD KIMBLE. THE FACT THAT COMBS HAD NO IDEA THAT AN INVESTIGATION SURROUNDING KIMBLE INVOLVING MS. LEE'S MURDER SHOULD HAVE GIVEN THE STATEMENT RELIABILITY TO ALLOW ITS ADMISSION, UNDER HOLMES V SOUTH CAROLINA, 547 US 319, 324; 126 S Ct 1727; 164 L Ed 2d 503 (2006). EVEN HEARSAY IS ADMISSIBLE WHEN CRITICAL TO A DEFENSE. CHAMBERS V MISSISSIPPI, 410 US 284, 302; 93 S Ct 1038; 33 L Ed 2d 291 (1973).

ISSUE FOUR

PETITIONER'S CONVICTIONS FAIL THE SUFFICIENCY OF EVIDENCE TEST AND SHOULD BE SET ASIDE AND VACATED. US CONST AM XIV.

THE DUE PROCESS CLAUSE OF THE UNITED STATES CONSTITUTION REQUIRES THE PROSECUTION TO ESTABLISH THE ESSENTIAL ELEMENTS OF THE CHARGE BEYOND A REASONABLE DOUBT. IN RE WINSHIP, 397 US 358, 361; 90 S Ct 1068; 25 L Ed 368 (1970). ^{THERE} ~~THAT~~ EXIST NO REASONABLE INFERENCE INDEPENDENTLY SUPPORTED BY ESTABLISHED FACT THAT PETITIONER STOLE, POSSESSED MR. JAMAR CARTER PRESCRIPTION MEDICATION, WENT BACK INTO THE

DOWNTOWN AREA WHERE HE SUBSEQUENTLY APPREHENDED MS. LEE BEFORE SEXUALLY ASSAULTING HER AND KILLING HER THEN DUMPING HER BODY IN A LAKE. JACKSON V VIRGINIA. 449 US 307, 318 (1979).

ISSUE FIVE

THE PROSECUTION VIOLATED MIRE 403 BY REFERENCING THE "PENIS IMAGE". THE TRIAL COURT ERRED IN DENYING A MISTRIAL. A NEW TRIAL IS WARRANTED.

MICHIGAN RULE OF EVIDENCE IS IDENTICAL TO THE FEDERAL RULE OF EVIDENCE 403. FOR THAT REASON, ANY PERCEIVED VIOLATION OF THIS RULE CONSTITUTE A VIOLATION OF DUE PROCESS. ABSOLUTELY NO SUBSTANTIAL EVIDENCE WAS PROFFERED THAT THE PENIS TEXT SUBSEQUENT THE ALLEGED OFFENSE COULD COMPORT WITH THE PROSECUTION THEORY THAT PETITIONER'S INTERACTION WITH VUDCOLD. ON THE NIGHT MS. LEE WAS MURDERED, WAS SEXUALLY MOTIVATED. MS. VUDCOLD TESTIFIED THAT JUST HOURS BEFORE MS. LEE WAS MURDERED HER INTERACTION WITH TAYLOR WAS CASUAL, MISTURAL AND RESPECTFUL, AND THAT NOTHING ABOUT THE INTERACTION WAS OUT OF THE ORDINARY. THAT SHE GAVE TAYLOR HER PHONE NUMBER - TO GET TOGETHER OVER COFFEE.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Bobby Lee Taylor

Date: 4-04-18