

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

MALVERN L. LEWIS PETITIONER
(Your Name)

vs.

CHARLES E. WARREN RESPONDENT(S)
et. al.

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals For the Third Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

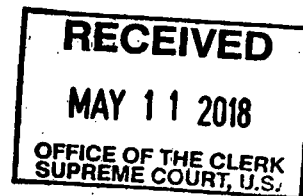
PETITION FOR WRIT OF CERTIORARI

Malvern L. Lewis
(Your Name)

P.O. Box 861
(Address)

Trenton, N.J. 08625
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

Introductory Statement:

This Case arose out of A Warrantless Arrest in Ewing Township, New Jersey based on A Radio Communication with the Trenton Police dispatcher, that A Warrant to arrest Mr. Lewis, for Murder existed. The Lead detective John Schroeder, on the case testified at the suppression hearing that he Never appeared before A Magistrate with Mr. Lewis, and Swore on oath.

The Prosecutor Thomas Meidt, withheld exculpatory DNA excluding petitioner 390 quadrillion, and overcharged first degree Murder, knowing petitioner did not know the deceased even existed excluding element of Premeditation to the Grand Jury.

The Trial Prosecutor Kimberley Lachen, introduced A domestic violence restraining order, two t-shirts seized without search warrants, A doctored-up Statement made by Lead detective John Schroeder.

Trial Judge Paul T. Hoening, ruled at Miranda/ suppression Hearing, that Ewing police probable cause to arrest does not evaporate, and at Trial the Judge Tampered with the Jury by reseating an already excused Juror # 14 Mr. Douglas Rhinehart, who had been replaced by Mr. Allen Hyman. Mr. Lewis, was then sentenced 30 yrs - Life without the aggravating factors being Presented to the Jury.

QUESTIONS PRESENTED

- (1.) Can the N.J. Superior Court Judgment of Conviction that Lacks Subject-Matter Jurisdiction / Personal Jurisdiction, and the State's Lack of standing be Constitutional?
- (2.) Can the federal Courts Timebar A Habeas Corpus Petition filed by Affidavit of Intent as A "SEND" under the Uniform Commercial Code §1-201:38 and default judgment?
- (3.) Can the federal Courts act to Timebar A Mixed Petition of (A) Jury Tampering, (B) Mental Incompetence?
- (4.) Can the federal Courts Timebar A Habeas Corpus Petition that Lacks A Final Judgment from any State court of Competent authority?
- (5.) Can the U.S. Court of Appeals For The Third Circuit stand by the decision of the District Court and require A C.O.A. to review or reexamining without final Judgment?
- (6.) Can the State use at Trial A N.J. State Police Sergeant as A Blood Spatter Expert in A Homicide Case?
- (7.) Can the State use at Trial A Domestic Violence restraining order that denied right of Confrontation under A preponderance of evidence standard?
- (8.) Can the N.J. Trial Court Sentence Petitioner To 30 yrs To Life without the Juries determination of the aggravating factors?

Foot Note: @ (2) Affidavit of Intent by Paralegal Trevon Neals, of Prison Inmate Legal Association, was dated 29th April, 2013 and filed with Dist. Court in Trenton.

QUESTIONS PRESENTED

- (9.) Can the federal Courts disregard Petitioners' Notice of Appeal of PCR To Office of Public Defenders' Appellate Section, Deposit Date 29th May, 2009, Certified Mail for AEDPA Statute of Limitations?
- (10.) Can the Trenton Police sign the "Jurat" on the Complaint CDR-1 Form doctored-up To appear as A CDR-2 Complaint-Warrant Form, And Then have The "OATH" administered by A, 2 B: 12-21 police docketing officer?
- (11.) Can the U.S. District Court disregard the "Law of the Case doctrine," When the State "Conceded," That the petition was timely filed, Pg. 9 Last Para. Last Line of Answer To the petition?
- (12.) Can the federal Courts refuse to readjust the original Judgment of Conviction Date To comply with the extention of Time filings by the Attorneys of the Public Defenders' Office Appeals Section?
- (13.) Can the State of New Jersey withhold DNA Reports from N.J.S. Police forensic Laboratory that exculpates petitioner, from Grand Jury?
- (14.) Can the State use evidence from Murder scene House, at Trial without A Search Warrant, Particularly A White Bloody T-Shirt?
- (15.) Can the State of N.J. seized Black T-Shirt worn by Petitioner at Police Station in Trenton, When arrested, without A Body Search Warrant And use this evidence at Trial?

QUESTIONS PRESENTED

- (16.) Can the State of N.J. Overcharge first Degree Murder in the Indictment in the absence of the element of premeditation, Since Mr. Lewis did not know of the existence of the deceased?
- (17.) Can the State Prison (NJSP) Lock-down for over A Week in June, 2013 Causing the Law-Library to be closed, Pg. Twenty-eight of Habeas Petition be exempt from equatable tolling?
- (18.) Can the petitioner receive Equatable Tolling for the period from May 19th, 2009 PCR order of Denial, to around June 28th, 2009 when the order was received at the Prison?
- (19.) Can the U.S. District Court and U.S. Court of Appeals apply the 1-yr statute of Limitations and grant the N.J. Court Judgment of Conviction, full faith and Credit absent any N.J. Court of Competent Authority?
- (20.) Can A Judgment of Conviction resulting from A Grand Jury Indictment based on fraud, Created When prosecutor Capitalized Petitioner's Christian Name be Constitutional?

F.N.: Petitioner filed his Appeal of PCR On the 29th May, 2009 With Appellate Section of Public Defenders' office, Certified Mail.

QUESTIONS PRESENTED

Pg. (iiii)
v

- (21.) Can both The District Court and The U.S. Court of Appeals For The Third Circuit, disregard The New Jersey State Prisons' Mental Illness Treatment Review Committee Diagnosis, That Mr. Lewis, is Paranoid, delusionary, and Schizophrenia, and prescribed Neuroleptic Medications/psychotropics To treat his Illnesses, Since December 2010, be disregarded as, (Mr. Lewis, is Legally Cognizant)? Mr. Lewis, is presently Taken Haloperidol. Primary Psychiatrist is Doctor Baum. Mr. Lewis, was denied the opportunity To be evaluated by A Mental ILLNESS professional, by The Trial Judge Paul T. Ihoenig, And The PCA Court denied A Motion by Counsel for an Evidentiary Hearing To determining the Mental Competency of Mr. Lewis, To Stand Trial. see Tr. 31 Pg. 39 L9-15, Tr. 31 Pg. 20 L4-20, Tr. 8 Pg. 133 L6-18; Included in this packet is the N.J.S.P. Treatment Review Committee Diagnosis; MR-053 = 2 Pgs, And MR-054 = 5 Pgs = 7 Total.
- F.N.

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:

MALVERN L. LEWIS,

ADMINISTRATOR New Jersey State Prison,

ATTORNEY GENERAL OF NEW JERSEY.

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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 D.N.J. Civ. No. 3-13-CV-03705; 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 3:13CV-03705-BRM LEWIS, V. WARREN et al.; 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 State v. Lewis

☒ reported at 389 N.J. Super, 409 App. Div. 2007; or, Jan. 11th
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the N.J. Supreme court appears at Appendix D to the petition and is

☒ reported at State v. Lewis, 210 N.J. 480 (2012) June 21st; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

(2)

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 1st, 2018.

☒ 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: N/A, and a copy of the order denying rehearing appears at Appendix N/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 1/11th/2007.
A copy of that decision appears at Appendix C.

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

☒ An extension of time to file the petition for a writ of certiorari was granted to and including 3/22nd/2012 (date) on 2/29th/2012 (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

(3)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

2B:12-21 (N.J.S.). Pg. iii

Uniform Commercial Code §1-201: 38. Pg. ii

Holland v. Florida, 126 S.Ct. 1790 (2006).

Lombardi v. Masso, 25 A.3d 1080-92 N.J. (2011).

Boyer v. County of Washington, MO. 8th Cir. 971 F.2d 100 (1992).

Whiteley v. Warden, Wyoming Pen., 91 S.Ct. 1031 (1971).
90 S.Ct. 1505 (1970).

Mapp v. Ohio, 81 S.Ct. 1684, 84 ALR 2d 933 (1961).

Giordenello v. U.S., 78 S.Ct. 1245 (1958).

McCray v. Illinois, 87 S.Ct. 1056 (1967).

Houston v. Lacks, 487 U.S. 266 (1988).

McQuiggin v. Perkins, 133 S.Ct. 1924, 185 L.Ed (2013).

Davis v. North Carolina, 86 S.Ct. 1761 (1966).

Boylkin v. Alabama, 89 S.Ct. 1709 (1969).

Gerstein v. Pugh, 95 S.Ct. 869, 43 L.Ed.2d (1975).

Mincey v. Arizona, 437 U.S. 385 (1978).

Jimenez v. Quarterman, 129 S.Ct. 681 (2009).

Wall v. Kholi, 131 S.Ct. 1278 (2011).

Harbison v. Bell, 556 U.S. 180, 173 L.Ed.2d 347 (2009).

Rhines v. Weber, 544 U.S. 269, 78, 161 L.Ed.2d 440 (2005).

Rose v. Lundy, 455 U.S. 509, 510, 71 L.Ed.2d 379 (1982).

Mallory v. U.S., 77 S.Ct. 1356 (1957).

Kyle v. Peterson, 196 F.3d 695 (1999) Lexis 29490
NO. 97-2873 April 21.

United States Constitution, 4th, 5th, 6th, 8th, 14th Amendments

STATEMENT OF THE CASE

This case demonstrates the Willful disobedience of Law. Mr. Lewis, Was arrested without an arrest Warrant, by the Ewing Township Police based on A radio Communication with the Trenton Police Dispatcher. Mr. Lewis, Was then Transferred To the Trenton Police Headquarters and Turned over To the Custody of Homicide Detective John Schroeder, who Immediately placed him in an interrogation room, and without first Mirandizing, as Mr. Lewis

Tr. 8 Pg. 119 L 18-21.
Q. Are you going to tell me what happened Last Night?
Tr. 2 Pg. 91 L 19-25. And 2 Tr. Pg. 75 L 11-25.
A. Mr. Lewis, did not respond. However det. Schroeder

doctored-up A statement, "No one Can help Me Now," which was entered into the Trial after both the Public Defenders' office, and the Prosecutors' office, said the interrogation was not recorded. Detective Schroeder, Testify that he, "Never Presented himself or Mr. Lewis, before any Judicial Officer,"

Tr. 8 Pg. 112 L 9-25, and Tr. 8 L 8-20 Pg 113.

The Complaint used to Charge Mr. Lewis, was A Cdr-1 doctored-up to appear to be A CDR-2 complaint Warrant form, and the Jurat was signed with A Police officers' Name,

Sgt. Tramantana, who the State could not even Proof did in fact sign the Jurat, Tr. 4 Pg. 105 L 3-25.

STATEMENT OF THE CASE

(5)

Ewing Police;

Sgt. Greg Smith, Radio Check with Trenton Police Dispatcher to Verify at Time of arrest. once Transferred to the Trenton Police Department Mr. Lewis, clothes was seized without A Body search Warrant for his Black T-Shirt, Tr. 8 Pg. 123 L18-25. This evidence was then illegally introduced at the Trial, along with A White T-Shirt seized at the Crime Scene 118 North Overbrook Avenue, Trenton, New Jersey, without A Search Warrant.

During the course of Mr. Lewis, arraignment in the Municipal Court at the City of Trenton. Judge Carmen Garcia, said, "I have no legal authority to set Bail." Tr. 6 Pg. 6 L23-25 and Pg. 7 L1. The Judge then asked the police Bailiff, "Do you know who set the Bail?"

Tr. 6 Pg. 8 L6. The Complainant Det. Schroeder on the Jurat of the Complaint, Detective Schroeder, swore and signed the CDR-1 Form and Sgt. Tramontana, signed the Jurat as the Witness; Tr. 4 Pg 105 L3-25 and Tr. 4 Pg. ~~105~~⁴⁸ L1-8.

STATEMENT OF THE CASE

(6)

During the initial arrest by the Ewing Twp. Police Mr. Lewis, was Mirandized at their Police Headquarters in Ewing Township and signed the Rights Form, but did not waive his right to remain silent refusing to sign the Waiver Portion of the Form; Tr. 8 Pg. 119 L4-8.

Detective Schroeders' Doctored-up Statement Must be suppressed under State v. Hartley,

103 N.J. I.d. 267, 511 A.2d 80, which required the reMirandization of Mr. Lewis, by the Trenton Police before interrogation.

Furthermore, Wong Sun v. U.S., 371 U.S. 471 (1963) fruit of the poisonous Tree doctrine requires suppression of all evidence

resulting from an illegal Detention, in accordance with Mallory v. U.S. (1957).

No Probable Cause found in this case by Magistrate and No Search Warrant or Arrest Warrant was ever ISSUED by A Judge in this case; Tr. 4

Pg. 107 L9-11, Tr. 7 Pg. 3-8. January 28th, 2003.

Note: Mr. Lewis, appeared before A Judge Carmen Garcia, on 5/10/2000 in Municipal Court in Trenton on 5/10/2000 A Tuesday for his first time before any Judge.

STATEMENT OF THE CASE

(7)

Bail Was Set before Complaints Charging Mr. Lewis, were Typed-Up; Tr. 4 Pg. 147 L 16-19, And Tr. 4 Pg. 142 L 12-25; Tr. 4 Pg. 143 L 1-12. Tr. 4 Pg. 107 L 9-11, Tr. 4 Pg. 146 L 1-25, Tr. 5 Pg. 53 L 11-18, Tr. 4 Pg. 148 L 1-8. There was no Warrants Existing / Issued

by the Trenton Municipal Court or the Mercer County Superior Court at that Point in Time of Mr. Lewis, arrest; Tr. 8 Pg. 110 L 19-20. Therefore, the Ewing Police Made a Warrantless Arrest for reasonable Cause, which evaporated / dissipated once Mr. Lewis, was Taken into Custody; Tr. 8 Pg. 108 L 23-25. See Gerstein v. Pugh, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975) and Whiteley v. Warden of Wyoming State Penitentiary, 91 S. Ct. 1031, 28 L. Ed. 2d 306 (1971).

Detective John Schroeder, said, "I Never appeared in Court to Swore an OATH on a probable Cause Affidavit"; Tr. 8 Pg. 89 L 1-25, and Tr. 8 Pg. 90 L 1-2. A. 3:2-3 requires an OATH by a Judicial officer given to the Police/Complainant; Tr. 8 Pg. 92 L 1-25.

STATEMENT OF THE CASE

(8)

The Government then argue that at Petitioners arraignment in the Trenton Municipal Court on 5/10th/00 that Judge Carmen Garcia, found Probable Cause and signed the Warrant Portion, of the fake CDR-2, which was actually A CDR-1 Form altered by the Government and signed by the Government.

This is A Case of Clear forgery and fraud.

Note: Mr. Lewis, was arrested on 5/07th/00 SAT.

Mr. Lewis, was not accompanied by any Police officer and particularly Detective John Schroeder, before the Judge Tr. 4 Pg 148 L 1-8, and This

was the first Judicial officer Mr. Lewis, was presented before in violation of the

12 Hour Rule of State v. Tucker 137 Supra

N.J. (1994), and Gerstein v. Pugh, 95 S.Ct.

869, 43 L.Ed. 2d 71-72 (1975) establishing

Promptness Standard; see also R.3:2-3 and

77 Mallory v. United States, (1957).

77 Mallory v. U.S. 1356 (1957); see also

Tr. 4 Pg. 147 L 20-25 / Tr. 4 Pg. 147 L 1-8.

STATEMENT OF THE CASE

(9)

During the Course OF The Trial Mr. Lewis, ^{Tr. 31 Pg. 27 L. 19} observed A Juror No. 14 Mr. Douglas Rhinehart, Was removed and reappeared after the Jurors were SWORN and given A fifteen Minute recess. Mr. Rhinehart, was replaced by Mr. Allen Hyman, This was obviously Jury Tampering by the Trial Judge and orchestrated by his Chief Bailiff C. J. Williams, who accompanied the Jury To their recess. Tr. 32 Pg. 4-6 And Da 91, 92, 93 Exhibits. ALSO The A.C.J.C. Advisory Committee on Judicial Conduct, file NO. 2003-152; This Committee is in the N.J. Supreme Court. Petitioner attempted to get the video of the Tampering on 2/11/03 AM And PM Sessions at the Trial and the Minutes and Investigatory files of the A.C.J.C. Subpoenaed by his PCR-Attorney Mr. Paul Michael, but he testified that his Bosses at the Public Defenders' office that hired him as A Pool Attorney Told him, "do not subpoena that file." The Trial Judge Name is Paul T. Hoening.

F.N. Mr. Lewis Made A written request To the A.C.J.C. And Was Told NO, The file is Confidential. 2003-152.

STATEMENT OF THE CASE (10)

Mr. Lewis, Was EXCLUDED by DNA!

However, The State used A N.J. S. P. Sgt. AS A Bloodsplatter/Spatter Expert, This State Police Sergeant had Never Testify as an EXPert in Bloodspatter/Blood Splatter Analysis in any previous Trials. However, Judge Koenig, Saw fit To qualify him for the first Time as Such an Expert for the purposes of getting A Conviction in My Trial.

An EXPert in this field of Cast-off-Pattern would be A Serologist/Pathologist, both hold

Dr. Degrees, 3 Tr. Pg. 32 L 12-25.

The State Withheld the DNA Results from the Grand Jury. Tr. 26 Pg. 163 L 18-19,

Tr. 26 Pg. 94 L 1-9, Tr. 26 Pg. 95 L 22,

Tr. 26 Pg. 97 L 23. Tr. 26 Pg 165 L 19-20,

Tr. 26 Pg 179 L 5-11.

STATEMENT OF THE CASE

~~At~~ the point of Arrest by the Ewing Police, Mr. Lewis, was never read his Miranda Rights.

Tr. 5 Pg. 77 L 13-17. Nor was Mr. Lewis read the Waiver Rights. Tr. 2 Pg. 28 L 23-25. And Tr. 2 Pg. 28 L 25 And Tr. 2 Pg. 29 L 1-17.

Mr. Lewis, was questioned in violation of Gerstein v. Pugh, 420 U.S. 103, 95 S.Ct. 834, 43 L.Ed. 2d 54 (1975); The Suspect Must be advised of the Waiver.

The Petitioner's Sixth Amendment Rights of Confrontation, And Proof beyond A Reasonable Doubt Were Violated, When the State introduced A Domestic Violence Restraining at Trial in violation of Giles v. California, (2008)

And Contrary To N.J. Precedent State v. Chenique-Puey, 145 N.J. 334, 340 (1996), Chenique-Puey, supra at 341, Citing state v. Pitts, 116 N.J. 580, 601-02 (1989). And State v. Lozada, 357 N.J. Super. 468 (App. Div. 2003).

STATEMENT OF THE CASE

The Petitioners Due process Right under the fourteenth Amendment U.S. Constitution, was violated along with his sixth Amendment U.S. Constitutional Right, When the State introduced A Final Restraining Order into his Trial, see 29 Tr. Pg. 168 LG-16 / Final Restraining Order FV-11-1562-00 Violating his Right to Confrontation, and the Burden of proof that established the Domestic violence order was A "Preponderance of the evidence" in family court, which was clearly A Lower standard than required at the Trial Court. see Giles v. California, (2008), And Pointer v. Texas (1965,) establishes A ban on out-of-court testimony in Criminal Trials. The State here decision was Contrary to federal Precedents and the N.J. Supreme Court Precedent; State v. Chenique-Puey, 145 N.J. 334, 678A.2d 694 (1996), And State v. Lozada, 357 N.J. Super, 468, 815A.2d 1002 (App. Div. 2003).

REASONS FOR GRANTING THE PETITION

In This State of New Jersey, and Particularly In The City of Trenton, Mercer County. There is A belief and A Practice by the police, prosecutors and even some of The Superior Court Judges, actually aided by The Public Defenders Office. That Black defendants are not entitled To Due Process of Law, and not entitled To Equal protection of Law. Therefore, There is No Rule of Law in this State. The Government here has employed A racist agenda, Through A Subterfuge whereby A CDR-1 Complaint-Warrant is Manufactured by alteration of the real CDR-1 form, which is a Complaint Summons form that has been Doctored-up, To allow A 2B-12-21 Officer A Docteting Sgt. or Lieutenant at The Police Station, To act as A Magistrate and Administer oaths and sign the Jurat Issuing Warrants. The CDR-2 Form is The Authorized Official Document of The Court used for Indictable Superior Court Matters requiring An Arrest Warrant, Warrant Affidavit be Sworn To in the presence of The Magistrate by the Complainant Police officer, who presents The defendant in A Warrantless Arrest To the Judge.

REASONS FOR GRANTING THE PETITION

This PreJudicial and Bias discriminatory Process also Violates The defendant's fourth Amendment of The U.S. Constitutional Right, To A determination of Probable Cause by A Neutral and detached Magistrate. The Trenton Municipal Court Administrator, Mrs. Maria Cosme, Testified at The Suppression Hearing, "That They had been using The Wrong process When Issuing Arrest Warrants over The past Twenty years." Tr. 5 Pg. 39 L1-25, Tr. 5 Pg. 40 L1-25, Tr. 5 Pg. 41 L1-25, Tr. 5 Pg. 42 L1-25. This acknowledgement was made in Feb. 2003, yet Todate The City of Trenton still employ These Illegal Tactics, with the Supervisors acquiescence of the Mercer County Prosecutors and The Superior Court of Mercer County. These actions resulted in the Lack of both Subject-Matter Jurisdiction and Personal Jurisdiction in the absence of Process of Service and Standing by The Government, Creating A Court That Lacks Competent Authority. Therefore, It is impossible That The U.S. District Court and The Third Circuit U.S. Court of Appeals Can grant full faith and Credit To The Judgment of Conviction in this Case.

REASONS FOR GRANTING THE PETITION

Please take Judicial Notice That There are errors in The Trial Transcripts as Stated by The Prosecution, such as The date Mr. Lewis, appeared before The Municipal Court Judge in The City of Trenton, N.J. . Please Note That Mr. Lewis, was Arrested on Saturday May 7th, 2000/seventh of May, Two-Thousand, but was not brought before A Judge for The first Time until Tuesday May 10th, 2000, for The procedure after The filing of A Complaint To be arraigned only.

Mr. Lewis, was kidnapped, is still being held as A hostage by the state, because The State has never Met its burden and obligation to present Testimony by A Complainant before A Magistrate, nor has The State presented any documentary proof of A Written Assurance, which Must be recorded Contemporaneously as required by Frank vs. Delaware, 98 S.Ct. @ 2684-85, 57 Led. 2d @ 681, -82 (1978), Aguila vs. Texas, 84 S.Ct. 1509, 1513-14, 12 L. Ed. 723 (1964), State vs. Fariello, 71 N.J. 553 (1976), State vs. Novembrino, 105 N.J. @ 128, 519 A.2d 820 (1987). Neither was Mr. Lewis, presented before A Magistrate within Twelve Hours (12) Hrs as required by State vs. Tucker, 137 N.J. (1994).

(14)

REASONS FOR GRANTING THE PETITION

The Assistant Prosecutor Thomas Meidt, Presented The Cause To A Grand Jury and The defendants' Trial Attorney Gerald Baswell, was A Seated Member of That Grand Jury Which returned an Indictment. Furthermore, Mr. Meidt, Withheld EXCULPATORY Evidence-DNA, That excluded Mr. Lewis; See Tr. 26 Pg. 100 L 13-25, Tr. 26 Pg. 101 L 17-25, Tr. 26 Pg. 102 L 21-25, Tr. 26 Pg. 102 L 3-20, Tr. 26 Pg. 103 L 15-25. At his Trial Mr. Lewis, was denied A fair and IMPARTIAL Jury, When The Trial Judge Paul T. Hoenig, Tampered With The petit Jury by replacing an already excused Juror back on the petit Jury. This action deprived The defendant of Sixth Amendment U.S. Constitution Right.

Moreover, The County Prosecutor Conceded That Mr. Lewis, Habeas Corpus petition was Timely filed, in Their Answer To Their petition on Pg. 9 Last Two lines of Their Brief, abdicating argument. Mr. Lewis, Presented A Mixed-Petition on Habeas Corpus; Since his Jury Tampering And Mental Competency ISSUES were not exhausted in any of The State Courts of N.J. Therefore, The federal Courts were barred from acting To Install A Time bar. Additionally, The N.J. Supreme Court Never ISSUED A Final Judgment resulting in A Waiver To The AE DPA 1-yr statute of Limitation. (150)

REASONS FOR GRANTING THE PETITION

The Federal courts in Jenkins, 705 F.3d@ 87, Stated: "We Consider A State Court's Practise of accepting an application an important indication That the Pleading is properly filed," in the instant Case, That is the Post Conviction Relief - PCR Review. The U.S. District Court and The U.S. Court of Appeals For The Third Circuit used The Wrong date in January 2010, when filed in the Court under N.J. Ct. Rule 1:5-6(b)(2), The Notice of Appeal of The PCR-Denied. However, The Properly filed Date is 29th May, 2009, Applying the Prison Mail Box Rule, of Houston v. Lack, 487 U.S. 266 (1988). Because A Petitioner Must Make any request for affirmative relief from Court through his attorney App. 163. See Thompson v. Warden, No. 14-3460 (3rd Cir.) filed 6/23/17. Therefore, The federal Courts decisions resulted in an unreasonable determination of the facts in light of the evidence presented in the State Court proceedings. And were Contrary To and an unreasonable application of federal Law.

REASONS FOR GRANTING THE PETITION

Please Take Judicial Notice That There Exist an actual bias and actual PreJudice in this Case against The Plaintiff - Mr. Lewis, as Clearly demonstrated by the U.S. District Court in delaying an order To Time-bar Petitioner, Lasting four years without addressing any of his Claims in the Petition. The Third Circuit Court of Appeals U.S. deliberated without given Petitioner A decision addressing the Merits of his Appeal or of Claims set forth in the Petition. This Court also Purposely Mess-up The Caption incorrectly Naming (E.J.S.P.) East Jersey State Prison as The Respondent, in Stead of (N.J.S.P.) New Jersey State Prison. I informed the Court of The Error, However, They did not correct it.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Malvern D. Lewis

Date: 4th May, 2018