

IN THE
SUPREME COURT OF THE UNITED STATES

No. 19-_____

In re: LEE HALL, *Petitioner*

ORIGINAL PETITION FOR
WRIT OF HABEAS CORPUS

THIS IS A CAPITAL CASE
EXECUTION SET FOR DECEMBER 5, 2019, at 7:00 PM (CST)

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Question Presented

As a young woman, Juror A was the victim of repeated rape and domestic violence at the hands of her first husband. After this man committed suicide on Christmas day, Juror A “buried” this past. She remarried happily and moved on with her life. When she was called for jury duty in Lee Hall’s capital case, where issues of domestic violence and stalking would be central to the proof of first degree murder, Juror A again “buried” her past and gave false answers to questions posed in the jury selection process. She was selected to be on the jury. When Mr. Hall testified about his actions at the time of the offense, she put herself in the victim’s shoes and she “hated” him because her own experiences “flooded back.” Juror A and the other jurors deliberated, found Mr. Hall guilty, and sentenced him to death.

After maintaining her silence for many years, Juror A finally spoke about her past and her feelings toward Mr. Hall with his legal team just two months before his execution date. The legal team immediately sought relief in state court. When the state trial courts had dismissed his pleadings, he turned to federal court arguing that the structural error of a biased juror in a capital case merited habeas review. However, because he could not meet the requirements of 28 U.S.C. 2244(b)(2)(B)(ii), he has not been allowed to present his claims in federal court.

The question now presented is:

1. Whether the structural error of service of by biased juror in a capital case, discovered on the eve of execution, presents extraordinary circumstances warranting intervention by this Court through its original jurisdiction, in order to provide a forum for this claim to be heard?

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ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Lee Hall respectfully requests that the Court review this Original Petition for Writ of Habeas Corpus and grant relief from his unconstitutional convictions and sentence of death. Petitioner further requests that this Court stay his imminent execution and that it transfer for hearing and determination his application for habeas corpus to the district court in accordance with its authority under 28 U.S. C. § 2241(b). In support of his petition, Mr. Hall sets forth the following:

Statement of the Basis for Jurisdiction

The Court has jurisdiction to entertain this original petition under 28 U.S.C. §§ 2241(a), 2241(c)(3), and 2254(a). *See also Felker v. Turpin*, 518 U.S. 651, 658-62 (1996).

Required Statement under 28 U.S.C. § 2242: reasons for not making application to the district court of the district in which the applicant is held

Petitioner has asserted that he is about to be executed under a death sentence rendered by a jury tainted by the participation of a biased juror in violation of the Sixth, Eighth, and Fourteenth Amendments. However, he was not allowed to make an application about this claim to the federal district court of the district in which he is held because that court found it could not consider it. In fact, after Mr. Hall presented his habeas petition to the district court, that court transferred it to the Sixth Circuit Court of Appeals after finding that it had no jurisdiction to consider it. (Appendix I, Order, *Hall v. Mays*, No. 1:19-cv-341 (E.D. Tenn. Dec. 3, 2019). The Sixth Circuit did not authorize the petition's consideration

and that decision is not appealable. (Appendix J, *Hall v. Mays*, No. 19-6349 (6th Cir. Dec. 4, 2019). 28 U.S.C § 2244(b)(3)(E).

The restrictions on second or successive habeas corpus applications contained in 28 U.S.C. § 2244(b)(1) and (2), which “inform [this Court’s] consideration of original habeas petitions,” *Felker*, 518 U.S. at 662-63, do not bar consideration of the claims raised herein. Petitioner was not authorized to make this application initially in district court, *see* 28 U.S.C. § 2242, and Supreme Court Rule 20.4. Relief cannot be had in that court in light of the strict requirements of 28 U.S.C. §§ 2244(b) and 2253. Despite the fact that Petitioner can show “the factual predicate for the claim could not have been discovered previously through the exercise of due diligence,” 28 U.S.C. § 2244(b)(2)(B)(i), he cannot show “the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense” as required by 28 U.S.C. § 2244(b)(2)(B)(ii). This case thus presents an exceptional circumstance which warrants the exercise of this Court’s discretionary powers. The relief from this structural error can be obtained only from this Court where that power is “informed,” but not necessarily limited by these statutory restrictions. *See Felker, supra.*

Constitutional Provisions Involved

The Sixth Amendment to the United States Constitution states, in relevant part: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and

public trial, by an impartial jury . . . and to have the assistance of counsel for his defense.” U.S. Const. amend. VI.

The Eighth Amendment to the United States Constitution states: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” U.S. Const. amend. VIII.

The Fourteenth Amendment states, in relevant part: “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.” U.S. Const. amend. XIV.

Parties to the Proceedings Below

This petition stems from a habeas corpus proceeding in which petitioner, Lee Hall, was the movant before the United States Court of Appeals for the Sixth Circuit. Mr. Hall is a prisoner sentenced to death and in the custody of Tony Mays, Warden of Riverbend Maximum Security Prison in Nashville, Tennessee.

Statement of the Case

I. Procedural History

Lee Hall was tried in Tennessee Criminal Court on charges of first-degree murder and aggravated arson in the death of his estranged girlfriend, Traci Crozier, in March of 1992. (*State v. Hall*, Hamilton Co. Crim. Ct. Nos. 188000 and 188001). Because the case involved allegations of stalking and domestic violence, potential jurors completed jury questionnaires and were asked questions regarding domestic violence and crime victimization as part of the process of selection. The jurors

selected to serve, including Juror A, convicted Mr. Hall of arson and first-degree murder and sentenced him to death.

The Tennessee Court of Criminal Appeals and the Tennessee Supreme Court affirmed Mr. Hall's convictions and sentence on direct appeal. *State v. Hall*, No. 03C01-9303-CR-00065, 1996 WL 740822 (Tenn. Crim. App. Dec. 30, 1996); *State v. Hall*, 958 S.W.2d 679 (Tenn. 1997). A Petition for Writ of Certiorari was filed in the Supreme Court of the United States and denied on June 22, 1998. *Hall v. Tennessee*, 118 S. Ct. 2348 (1998).

In 1998, Mr. Hall filed a *pro se* petition for post-conviction relief that was subsequently amended. After holding an evidentiary hearing, the post-conviction court issued an order denying relief on January 26, 2004. (State Court Record, Add. 5, PC Tech. Rec. Vol. 1 at 111-28)¹ (order was entered on March 4, 2004, *nunc pro tunc* for January 26, 2004). The Tennessee Court of Criminal Appeals subsequently affirmed the denial of relief. *Hall v. State*, No. E2004-01635-CCA-R3-PD, 2005 WL 2008176 (Tenn. Crim. App. Aug. 22, 2005).

On October 18, 2006, Mr. Hall filed his first Petition for Writ of Habeas Corpus. (Habeas Petition, R.12, *Hall v. Bell*, No. 2:06-cv-56 (E.D. Tenn. Oct. 18, 2006). These proceedings were disposed of and dismissed by order entered September 22, 2011, in the United States District Court for the Eastern District of

¹ The State manually filed the state court record in Petitioner's initial habeas case, *Hall v. Bell*, No. 2:06-cv-56 (E.D. Tenn. Jul. 12, 2006).

Tennessee. *Hall v. Bell*, No. 2:06-cv-56, 2011 WL 4431100 (E.D. Tenn. Sept. 22, 2011). Mr. Hall did not appeal the petition's dismissal.

On October 17, 2019, Mr. Hall filed a Petition for Writ of Error Coram Nobis (Appendix A); Motion to Reopen Petition for Post-Conviction Relief (Appendix B); and a Second Petition for Post-Conviction Relief in *Hall v. State*, Hamilton County, Tennessee Criminal Court. (Appendix C). All of these pleadings were filed based on the newly discovered evidence, as of September 26, 2019, of a biased juror. On November 6, 2019, the court dismissed the Coram Nobis petition and the Motion to Reopen the Post-Conviction Petition on purely procedural grounds. (Order at 13, *Hall v. State*, Nos. 222931, 308968, 308969 (Hamilton Co. Crim. Ct. Nov. 6, 2019)) (Appendix D).

The court scheduled a hearing on the Second Post-Conviction Petition for November 14, 2019. At that hearing, Juror A testified consistently with the declaration she had given, on October 7, 2019, that supported all of Mr. Hall's state court filings. In fact, she testified that if she were asked the same questions, she would give substantially the same answers and that nothing in her declaration was untrue. (Hearing Transcript at 29, *Hall v. State*, No. 308968 (Hamilton Co. Crim. Ct. Nov. 14, 2019)) (Appendix E).

Nonetheless, the state court dismissed the petition on November 19, 2019 finding it lacked jurisdiction to consider the claim. (Order Dismissing Petition for Post-Conviction Relief, No. 308968 (Hamilton Co. Crim. Ct. Nov. 19, 2019)) (Appendix F). Mr. Hall's motion for reconsideration in that case was denied and, on

the same day, a Notice of Appeal was filed on November 26, 2019. *Hall v. State*, No. E2019-02094-CCA-R3-PD (appeal of right under state law). Hall's appeal on his Petition for Writ of Error Coram Nobis is pending. *Hall v. State*, No. E2019-01978-CCA-R3-ECN (appeal of right under state law). The record in the case was filed on December 2, 2019. *Id.* Hall's initial Application for Permission to Appeal the Denial of the Motion to Reopen was dismissed on procedural deficiency grounds but was timely refiled. *Hall v. State*, E2019-02120-CCA-R28-PD. All three of these matters remain pending in state court.

In order to pursue his appeals in this matter, given his imminent execution date, Mr. Hall also filed a Motion for Stay of Execution in the Tennessee Supreme Court, the only state court in Tennessee with authority to issue a Stay. (Motion for Stay, *Hall v. State*, No. E1997-00344-SC-DDT-DD) (Appendix G). However, that court denied Mr. Hall's motion in an order entered late afternoon December 3, 2019. (Order and dissent, *Hall v. State*, No. E1997-00344-SC-DDT-DD) (Appendix H). Justice Lee dissented. Mr. Hall also invoked the original jurisdiction of the Tennessee Supreme Court to recall its mandate upon direct appeal of the case in a motion filed December 3, 2019, prior to denial of the stay motion. *See Hall v. State*, Case No. E1997-00344-SC-DDT-DD. The motion to recall was denied by order entered December 4, 2019. *Id.*

On December 2, 2019, Mr. Hall filed a Second Petition for Writ of Habeas Corpus in the district court for the Eastern District of Tennessee. *Hall v. Mays*, No. 1:19-cv-341, R.1 (E.D. Tenn. Dec. 2, 2019). He also filed a Motion for Stay of

Execution. *Hall v. Mays*, No. 1:19-cv-341, R.6 (E.D. Tenn. Dec. 2, 2019). On December 3, 2019, the district court transferred the petition to the Circuit Court of Appeals for the Sixth Circuit for an order authorizing the district court to consider the application under 28 U.S.C. § 2244(b)(3)(A). *Hall v. Mays*, No. 1:19-cv-341, R.15 (E.D. Tenn. Dec. 3, 2019) (Appendix I). Even though the district court transferred Mr. Hall's petition, it recognized that his second habeas petition would not qualify as "abuse of the writ." (Appendix I, Order at 4-5 fn1). The circuit court denied the authorization. (Order, *Hall v. Mays*, No. 19-6349 (6th Cir. Dec. 4, 2019)) (Appendix J). Because "the grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari[.]" 28 U.S.C. § 2244(b)(3)(E), petitioner cannot seek further review of that ruling. For these reasons, the only venue available for review of this claim is this Court through this present Petition for Writ of Habeas Corpus.

Lee Hall is scheduled to be executed at 7:00 p.m. CST on December 5, 2019. *See* Order, *State v. Hall*, No. E1997-00344-SC-DDT-DD (Tenn. Sup. Ct. Nov. 16, 2016). Unless this Court intervenes, no court will have given plenary consideration to his credible and factually-supported allegation of juror bias that infected his capital trial with structural error—denial of the foundational right to fair and impartial tribunal.

II. Statement of Facts Regarding the Newly Discovered Evidence

A. After being raped, Juror A entered into an abusive and traumatic marriage.

Juror A dated a man who would later become her first husband when she was in high school in the late 1960's. (Appendix E, Hearing Transcript at 11). Before she left for college, he raped her. Juror A recalls: "[H]e forced himself on me and a pregnancy resulted from that." (Appendix E, Hearing Transcript at 11). Thus, rather than going away to college, Juror A married her rapist in 1969. (Appendix E, Hearing Transcript at 11). As if this change in circumstances were not bad enough, Juror A's first husband was "a heavy drinker," who "got mean when he was drinking." (Appendix E, Hearing Transcript at 12). She remembers that he "was the worst when he was drunk. He would get very mean and hateful toward me." (Sealed Attachment A, *October 7, 2019 Declaration of Juror A*, at 1)². Although at first, his violence was mostly toward objects "throwing things and breaking stuff," he eventually punched her in the face, giving her a "black eye and bloody nose." (Appendix E, Hearing Transcript at 14). Juror A's husband continued to forcefully rape her after they were married. (Appendix E, Hearing Transcript at 31-32). Juror A also described her first husband's stalking of her: "[H]e kept up with everywhere I went. He called me constantly at work." (Appendix E, Hearing Transcript at 13).

² All of the sealed Attachments are the Sealed Attachments to the Second Petition of Writ of Habeas Corpus filed in the District Court for the Eastern District of Tennessee. *Hall v. Mays*, No. 1:19-cv-341.

In 1975, Juror A finally called her father for help during an especially violent attack by her husband. (Appendix E, Hearing Transcript at 14). Juror A recalled: Her husband took the rifle stored at one end of their trailer home, loaded it with the bullets from the other end and “poked holes in the ceiling with it and bent” the barrel in half. (Appendix E, Hearing Transcript at 17). She “figured he probably had planned to shoot me and himself (Appendix E, Hearing Transcript at 17). Her husband fled to Florida. (Appendix E, Hearing Transcript at 17). Within a couple of weeks of her husband’s return from Florida, Juror A, her husband, and son went to her parents’ house for Christmas Day. (Appendix E, Hearing Transcript at 19). There, she testified, “he went upstairs and blew his brains out.” (Appendix E, Hearing Transcript at 19). At that point, Juror A, says she experienced “every negative emotion that’s possible for a human being to have, I think I had that then: Horror, anger, fear, disbelief.” (Appendix E, Hearing Transcript at 19).

Juror A remarried in 1981 and had a happy marriage. (Appendix E, Hearing Transcript at 20). However, she never told her second husband about the abuse and violence in her first marriage. (Appendix E, Hearing Transcript at 21). It was only after going through therapy between 2007 and 2009 to help with the grieving process after her second husband’s death, that she finally began to talk about her experiences. (Appendix E, Hearing Transcript at 25-26). However, her family members still don’t know many details, and neither does her son. (Sealed Attachment A, *October 7, 2019 Declaration of Juror A*, at 3).

B. Juror A concealed the story of her abusive marriage during jury selection for Mr. Hall's capital trial.

In 1992, Juror A received a summons to appear as a potential juror in the case of *State v. Hall*. The State sought convictions for felony murder, premeditated murder, and aggravated arson and also sought the death penalty. *State v. Hall*, 958 S.W.2d 679 (Tenn. 1997).

Juror A filled out a questionnaire that was provided by the court to all the potential jurors to assist the parties in selecting an impartial jury. See Sealed Attachment C, *March 1992 Juror Questionnaire completed by Juror A*. The juror questionnaire for Mr. Hall's capital trial included the question: "Have you ever been a victim o[f] a crime? If yes please explain." (Sealed Att. C, Question 39). Juror A handwrote the answer "no."

38. Have you ever been a victim or a crime? If yes, please explain.
No

Question 40 asked: "Have you, your spouse, friend or relative or any family member ever been charged with or convicted of a criminal offense?" Juror A checked the option of "No." (Sealed Att. C, Question 40).

40. Have you, your spouse, friend or relative or any family member ever been charged with or convicted of a criminal offense? Yes ____
No . If yes, please explain. _____

Question 41 asked: "Have you or any member of your family had occasion to call the police concerning any problem, domestic or criminal?" Juror A checked the option of "No." (Sealed Att. C, Question 41).

41. Have you or any member of your family had occasion to call the police concerning any problem, domestic or criminal?
Yes, No
If yes, please give when and circumstances: _____

These answers were false.

During the group voir dire, the potential jurors were brought into the courtroom and told they would be questioned. The court also reassured them that if anything private arose it could be addressed outside the presence of other jurors. (*State v. Hall*, Trial Vol. 5 at 608 (Appendix K)). The court also reminded all of the jurors that, while questions were directed at jurors in the jury box, they applied to all of the potential jurors who would have to respond when they were seated in the jury box. (Appendix K, Trial Vol. 5 at 609). Shortly thereafter, defense counsel William Heck asked the following question:

Now, another thing that I need to ask about—and I'm not asking for a response right now. Of course, I'm addressing this only to you ladies and gentlemen here. One of the things that I'm curious about—and if there is something in your background or someone close to you in that background that you are aware of that would in any way possibly affect you, I'd ask you just to raise your hand, and we'll take it up at a later time. That has to do with domestic violence. **Has anyone on this prospective jury had any kind of occasion or experience with domestic violence, either with a spouse, a girlfriend, a boyfriend, or anything of that nature that would in any way possibly affect or influence you to the point where it would maybe compromise you to be able to render a fair and impartial verdict?** If there's anyone like that, please let me know by just showing a hand and we can talk about that at some other time. Okay?

(Appendix K, Trial Vol. 5 at 673-74).

Once Juror A was in the box, she failed to answer material questions related to her past. She remained silent. Juror A never disclosed her experiences of rape

and domestic violence from her first marriage. (Appendix K, Trial Vol. 5 at 720-40). Because of that silence, she was not challenged for cause and was, in fact, chosen to sit on the jury. She deliberated with the other jurors and found Hall guilty of first degree murder and then after the penalty phase presentation, she voted to sentence Hall to death.

C. In September 2019, Juror A finally disclosed her experiences from her first marriage and how it affected her during Lee Hall's capital trial.

Juror A was interviewed by Mr. Hall's legal team in 2014. Representatives from the Office of the Post-Conviction Defender visited Juror A in 2014, but she did not disclose the evidence at that time. Even though she had two years of therapy in 2007-09, she still was not able to talk about the abuse she had suffered from during first marriage. Although Petitioner was making diligent efforts, the evidence was not available.

On September 26, 2019, and again on October 7, 2019, Juror A was again interviewed by members of the Office of the Post-Conviction Defender. (Sealed Att. B, *October 10, 2019 Affidavit of Jeffery Vittatoe*). During these interviews, for the very first time, Juror A shared her experiences from her first marriage with anyone associated with Mr. Hall's case. She also related for the first time how her experiences affected her during Mr. Hall's trial. (Sealed Att. B, *October 10, 2019 Affidavit of Jeffery Vittatoe*). She discussed how much Mr. Hall and his trial reminded her of what she went through:

Lee Hall reminded me of [my first husband]. He was a mean drunk as well and didn't want to let his girlfriend go. [My husband] did the same thing to me—he wouldn't let me leave and said he would find me and

harass me and take our son away. He was always paranoid about what I was doing and calling my work constantly to check what I was doing and accusing me of cheating. [My husband] was such a bad drunk that he would leave our son in a car while he'd go drinking at his friend's house. In fact, I called police on him once when he was drunk driving.

(Sealed Att. A, *October 7, 2019 Declaration of Juror A*, at 2). Serving as a juror and hearing the proof in Mr. Hall's case took Juror A back, emotionally, to the time of her first marriage:

All these memories flooded back to me during the trial. I could put myself in Traci C[rozier]'s shoes, given what happened to me. I hated Lee for what he did to that girl. It really triggered all the trauma I had gone through with [my first husband] and I was biased against Lee.

(Sealed Att. A, *October 7, 2019 Declaration of Juror A*, at 2-3).

After Mr. Hall's legal team learned that Juror A had concealed material information during jury selection and she harbored real bias toward Lee Hall, they filed their Second Post-Conviction Petition. The Hamilton County Criminal Court allowed a limited hearing, during which Juror A was questioned and she testified to the information contained in her Declaration.

REASONS FOR GRANTING WRIT OF HABEAS CORPUS

I. The Exceptional Circumstances of this Case, Particularly the Absence of Any Other Remedy for a Clear Case of Structural Error Due to Juror Bias, Warrant the Exercise of this Court's Jurisdiction.

This Court's power to grant an extraordinary writ is very broad but reserved for exceptional cases in which "appeal is a clearly inadequate remedy." *Ex parte Fahey*, 332 U.S. 258, 260 (1947). Although this Court may not review the court of appeals' order denying Petitioner leave to file a second habeas petition by petitioning for certiorari, the court retains authority to consider Petitioner's claim

through an original habeas petition. *Felker v. Turpin*, 518 U.S. 651, 660 (1996). The Court also has authority to transfer “the application for hearing and determination by the district court.” 28 U.S.C. § 2241(b).

Rule 20 of this Court requires a petitioner seeking a writ of habeas corpus demonstrate that (1) “adequate relief cannot be obtained in any other form or in any other court;” (2) “exceptional circumstances warrant the exercise of this power;” and (3) “the writ will be in aid of the Court’s appellate jurisdiction.” Petitioner will set forth arguments that show he meets those standards. Further, this Court’s authority to grant relief is limited by 28 U.S.C. § 2254, and any considerations of a second petition must be “inform[ed]” by 28 U.S.C. § 2244(b). *See Felker*, 518 U.S. at 662-63.

A. Because this evidence of juror bias was previously unavailable, procedural bars in both state and federal court now prevent any reviewing court from providing adequate relief.

Mr. Hall’s death sentence was tainted by the service of a biased juror. Until September 26 of this year, he had no way of knowing that. Since learning of it, he has tirelessly sought relief in the state and federal courts—through three different state trial court procedural remedies, four intermediate court filings, and the only potential remedies available for a stay or substantive relief in Tennessee’s highest court. Yet, the Tennessee Supreme Court slammed shut the doors to the state courts, finding that Mr. Hall “failed to establish a likelihood of success on the merits of his claim for juror bias under any existing procedural vehicle. Likewise, Mr. Hall has failed to demonstrate that this Court should create a new, previously unrecognized procedure based on the facts of this case.” (Appendix H, *State v. Hall*,

Order, “NOT TO BE PUBLISHED,” December 3, 2019, No. E1997-00344-SC-DDT-DD),³

The only way he could know that Juror A had been raped and abused was if she would tell him. Until just over two months ago, she was unable to do this.⁴ She was also unable to provide any explanation for why she was suddenly able to talk about it to Hall’s legal team even though she continued to conceal from others close to her. Regardless of the reason, her non-disclosure of critical, disqualifying information renders illegitimate and unreliable the jury’s assessment of Mr. Hall’s moral culpability.

1. This evidence of juror bias could not have been previously discovered.

Juror A’s disclosures constitute newly discovered evidence because, in her own words, “not until very recently,” did she share her history as the victim of rape, assault, and psychological abuse by her rapist–husband with people outside of the circle of her therapists and closest friends. (Sealed Att. A, *October 7, 2019 Declaration of Juror A*, at 3). In fact, prior to therapy that concluded in 2009, she

³ The dissenting judge would “grant Mr. Hall’s motion to stay his December 5 electrocution and allow him the opportunity for appellate review of his compelling constitutional claims.” Lee, J., dissenting (Appendix H, dissent at 2).

⁴ The Tennessee courts refused to consider as substantive evidence the Declaration of Dr. Linda Manning, a trauma expert. Dr. Manning reviewed the testimony of Juror A and other documents, which should have provided Tennessee courts important context to the circumstances of Juror A’s late disclosure. *Hall v. State*, No. 308968 Motion to Reconsider Judgment Entered November 19, 2019 (Hamilton Co. Crim. Ct. Nov. 25, 2019) (with attached Declaration of Linda Manning, Ph.D. and curriculum vitae) (Appendix L).

was not able to speak to others about the details of her traumatic first marriage. (Sealed Att. A, *October 7, 2019 Declaration of Juror A*, at 3). Representatives from the Office of the Post-Conviction Defender visited Juror A in 2014, but she did not disclose the evidence at that time.⁵ It was only two months ago that she told anyone connected to Mr. Hall's trial and appeals that she was subjected to severe domestic violence prior to her service in this capital murder trial and stated that she was actually biased against Mr. Hall. Given the highly sensitive nature of Juror A's experiences and how traumatic it was for her, Mr. Hall was not able to discover this information sooner. It was only once Juror A became able to speak about her past that she was willing to disclose the details to Mr. Hall's legal team. (Sealed Att. A, *October 7, 2019 Declaration of Juror A*, at 3).

This newly discovered information has become the basis for Mr. Hall's second habeas petition, that his 1992 trial was compromised by a structural constitutional defect—the service of a juror who has admitted bias toward and hatred of Mr. Hall at the time she sat in judgment and delivered a guilty verdict and death sentence upon him.

This newly discovered evidence could not have been discovered sooner, including at the time of Mr. Hall's original federal habeas corpus proceedings, even with the exercise of reasonable diligence. She was simply too traumatized to talk about it. Because of Juror A's refusal or inability to divulge the factual basis for Mr.

⁵ Juror A was interviewed in 2014 by investigator Larry Gidcomb and attorney Sophia Bernhardt, both former employees of the Office of the Post-Conviction Defender. (Affidavit of Sophia F. Bernhardt, Appendix M).

Hall's second petition, the claim could not have been raised earlier.

2. Procedural bars in both State and Federal courts have prevented any review of this compelling claim of structural error in a death penalty case.

Since this evidence was uncovered, Petitioner Hall's legal team has worked to find a forum to present his claim of juror bias for plenary consideration. He has filed a series of motions in the Tennessee Courts and has asked the Tennessee Supreme Court for a Stay of Execution, which was denied by Order entered December 3, 2019. (Appendix H, Order and dissent).

In federal court, Petitioner Hall has filed a Second Petition for Writ of Habeas Corpus in the district court and has sought to have his execution stayed in district court and circuit court. However, even though he could not have found the factual predicate for this claim earlier, 28 U.S.C. § 2244(b)(2)(B)(ii) forbids the consideration of any claim unless "the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense." Thus, even claims of structural error, involving the service of a biased juror are ineligible for consideration.

This is true despite the fact that this claim would have been reviewable under the "abuse of the writ" doctrine. *See McClesky v. Zant*, 499 U.S. 467 (1991). Under that doctrine, Mr. Hall could show that he had cause for the late filing because the "factual or legal basis for [the] claim was not reasonably available to counsel," and he was actually prejudiced because it resulted in the service of a

biased juror. *McClesky*, 499 U.S. at 494. The district court recognized this fact. (Appendix I, Order at 4-5 fn.1). The standard from § 2244(b)(2)(b)(ii) applies regardless of the reasons the factual basis was not available or the seriousness of the prejudice resulting from the error, even to the point of allowing structural error to go unchecked. This is an extraordinary circumstance that warrants this Court's intervention.

Mr. Hall's efforts demonstrate that "adequate relief cannot be obtained in any other form or in any other court." *Felker*, 518 U.S. at 665 (quoting Sup. Ct. R. 20.4(a)). Everywhere he turns, the courthouse door is shut before him and procedural locks prevent its opening. The district court recognized this fact when it found: "there is no suggestion of abandonment, inexcusable neglect, or vexatious or abusive litigation tactics in Petitioner's request, and the record demonstrates that Petitioner has not yet ha[d] an opportunity to raise the relevant claims of juror bias in the district court." (Appendix I, Order at 4-5 fn.1). Mr. Hall has been left with absolutely no other forum, but this one, to plead his cause. This Court is literally his last hope.

B. This Court must consider this petition that strikes at the heart of the integrity of our legal system because no other forum is available to give plenary review of this claim of juror bias that was concealed due to the stigma and shame of sexual and domestic abuse.

1. Petitioner Hall's claim meets the standards for habeas relief under 28 U.S.C. § 2254.

Clearly established case law from this Court applies to the review of the issue of Juror A's bias. Under *McDonough Power Equipment, Inc. v. Greenwood*, 464 U.S.

548, 556 (1984), Mr. Hall “must first demonstrate that a juror failed to answer honestly a material question on *voir dire*, and then further show that a correct response would have provided a valid basis for a challenge for cause.” Because Juror A clearly did not provide honest answers to the questions addressed to her, and because she would have been subject to a challenge for cause, this Court must find that he has made a prima facie showing of relief in this case. The Court may then send his case to the district court for a full evidentiary hearing.

First, the record amply demonstrates that Juror A gave false answers to the questions propounded to her in *voir dire*. As her affidavit and testimony showed in state court proceedings, she was the victim of rape and domestic violence: “[H]e forced himself on me and a pregnancy resulted from that.” (Appendix E, Hearing Transcript at 11). Although her husband was not physically violent with her during the beginning of their marriage, this changed: “[H]e ended up socking me in the eye, black eye and bloody nose.” (Appendix E, Hearing Transcript at 14). Thus, the record plainly demonstrates that when she answered falsely when she wrote “no” to the question, “Have you ever been a victim o[f] a crime?” (Sealed Att. C, Question 38).

Juror A now says that she believed that answer to be truthful at the time she gave it. She said that, “there was really no such thing, that I knew of, of date rape, especially since I’d been dating him for so long. And I didn’t consider – I didn’t even know the term ‘domestic abuse’ at the time.” (Appendix E, Hearing Transcript at 22). Nonetheless, she should have known that her answers were false because she

knew that she could call the police in response to domestic issues, because she testified that she had done exactly that at one point: “I did call [the police] that time and they came to the house but they didn’t go try to find him or anything” (Appendix E, Hearing Transcript at 31). This demonstrates the absolute falsity of her answer to Question 41 of the questionnaire which asked: “Have you or any member of your family had occasion to call the police concerning any problem, domestic or criminal?” (Sealed Att. C, Question 41).

Despite Juror A’s testimony that she believed that all of the answers she gave were truthful at the time, she also gave indications that her outlook on this may have changed well before Mr. Hall’s trial took place in 1992. She recalled that before she remarried in 1981, “they started talking about it like on talk shows on TV, like Phil Donahue would start, and that’s the first time I’d ever heard the term [domestic violence].” (Appendix E, Hearing Transcript at 39). Thus in 1992, by her own testimony, she had a reason to know that her answer to that question on the jury questionnaire was false.

Even more striking is her answer to Question 40 of the questionnaire: “Have you, your spouse, friend or relative or any family member ever been charged with or convicted of a criminal offense?” To this question, Juror A checked “No.” As illustrated in her state court testimony, this answer was false:

A: . . . He’d gotten caught once for drunk driving.

Q: How did he get caught for drunk driving?

A: Oh, he was on the interstate heading to Chattanooga and got caught for speeding and they realized he was drunk.

Q: Was he arrested?

A: Yes, he ended up having to have special insurance to cover him and—because of his—he was allowed to drive but he was restricted some, I think, to where he could drive. And cost us a lot of money. We had to borrow money to pay the lawyer.

(Appendix E, Hearing Transcript at 14-15). The vividness of Juror A's recollection of these events demonstrates that her answer on the questionnaire was false and that she should have talked about her first husband's arrest and charges. It is likely that any discussion of these events would also have led to questions about her first marriage and the circumstances surrounding it. It would have also led to a re-examination of her answer to Question 38.

In addition to the questionnaire, Juror A also failed to respond when defense counsel asked about domestic violence in voir dire. Defense counsel asked:

One of the things that I'm curious about—and if there is something in your background or someone close to you in that background that you are aware of that *would in any way possibly* affect you, I'd ask you just to raise your hand, and we'll take it up at a later time. *That has to do with domestic violence.* Has anyone on this prospective jury had any kind of occasion or experience with domestic violence, either with a spouse, a girlfriend, a boyfriend, or anything of that nature *that would in any way possibly* affect or influence you to the point where it would maybe compromise you to be able to render a fair and impartial verdict?

(Appendix K, Trial Vol. 5 at 673-74) (emphasis added).

This failure to respond gave the parties a material false impression that Juror A had no experience with domestic violence and abuse. Based on her recent testimony, this impression was patently false.

2. The reasons for Juror A's concealment of the circumstances of her first marriage were material

because they affected her ability to be impartial in Lee Hall's case.

The state court unreasonably found that Juror A's nondisclosure of the domestic violence she suffered before and during her first marriage was not "the result from the juror's intentional nondisclosure or attempt to deceive the Court or attorneys." (Appendix F, Order Dismissing Petition at 25). The state court's conclusion ignores the fact that Juror A had been intentionally concealing the circumstances of her first marriage for many years at the time she went through jury selection. When asked if she had talked with her family about her first husband's behavior, she responded: "No, not at all, ever." (Appendix E, Hearing Transcript at 13). When asked if she ever told her second husband about the details of her first marriage, she answered, "No." (Appendix E, Hearing Transcript at 21). In her declaration, she said that she had never told her son about his father. (Sealed Att. A, *October 7, 2019 Declaration of Juror A*, at 3). This concealment was, and is, intentional.

The record amply demonstrates that Juror A chose to deliberately conceal the circumstances of her first marriage from almost everyone. "I mean I really, seriously, had put it away." (Appendix E, Hearing Transcript at 22-23). "I'd totally blocked out all that previous." (Appendix E, Hearing Transcript at 26). Nonetheless, during the course of the trial, the memories came back: "It was bringing up memories I had buried." (Appendix E, Hearing Transcript at 23). Yet, she said nothing.

And, by Juror A's own testimony, her memories were traumatic. When she was talking to a counselor after her second husband's death, "it came up I had been widowed twice and he talked with me and realized I was in pretty bad shape." (Appendix E, Hearing Transcript at 25-26). At the time of her first husband's suicide, she described her emotions as "every negative emotion that's possible for a human being to have, I think I had that then: Horror, anger, fear, disbelief." (Appendix E, Hearing Transcript at 19). Nonetheless, even at the time of the recent state court hearing, she described how she downplayed those emotions at the time of Lee Hall's trial: "It was something that was just, you know, a fact of life that had happened to me way in the past." (Appendix E, Hearing Transcript at 24).

Although she concealed the traumatic impact the circumstances of her first marriage had on her, those circumstances resurfaced when she heard Lee Hall testify during his capital trial: "Not until he got on the stand and started testifying and admitting everything. He did remind me of my first husband, but – it was kind of a surprise. It was bringing up memories I had buried." (Appendix E, Hearing Transcript at 23). She admitted that she was especially struck by when Hall "was describing how he was stalking his ex-girlfriend and I know that my first husband had threatened to follow me and never leave me alone, but at the time, there was no such word that I knew as stalking. I thought I was the only person in the world that had ever been married to somebody that mean." (Appendix E, Hearing Transcript at 24).

These memories that came to her as Mr. Hall was testifying provoked strong feelings. In her declaration, she said “[a]ll these memories flooded during the trial. I could put myself in Traci C[rozier]’s shoes, given what happened to me. I hated Lee for what he did to that girl.” (Sealed Att. A, *October 7, 2019 Declaration of Juror A*, at 2-3). When she testified before the post-conviction court, she described this feeling as “fleeting,” but again admitted this strong emotion of hatred. (Appendix E, Hearing Transcript at 24). Thus because of her own experiences, she identified strongly with the victim in this case and “hated” the perpetrator, Lee Hall.

This testimony makes clear that the reasons for Juror A’s concealment of the circumstances of her first marriage, in her answers to her questions in court and from everyone in her family, were that those circumstances were traumatic. And, that same trauma is what prompted such a virulent emotional reaction from her: She hated Lee Hall and was biased against him. This is true despite the fact that she again attempted to minimize the impact of her own emotions: “I wasn’t dwelling on it or anything, it was a life experience that came up.” (Appendix E, Hearing Transcript at 24-25).

Clearly established case law from this Court requires reviewing courts to consider the reasons for the concealment because “only those reasons that affect a juror’s impartiality can truly be said to affect the fairness of a trial.” *McDonough Power Equipment, Inc.*, 464 U.S. at 556. Here, the reason for Juror A’s concealment was the traumatic impact the concealed events had on her. By her own admission,

that trauma caused her to be biased against Lee Hall, because she *hated* him based on what she had experienced in her first marriage.

Juror A gave false answers to the questions she was asked in voir dire. This was the result of her pattern of deliberate concealment of the events of her first marriage. However, the memory of those events affected her consideration of the evidence at Lee Hall's trial. "If a juror is found to have deliberately concealed material information, bias *may* be inferred. If, however, information is *not* concealed deliberately, the movant must show *actual bias*." *Zerka v. Green*, 49 F.3d 1181, 1186 (6th Cir. 1995) (quoting *United States v. Patrick*, 965 F.2d 1390, 1399 (6th Cir. 1992)). The evidence here shows both deliberate concealment and bias. If given a full evidentiary hearing in the district court, he will certainly be able to demonstrate his right to relief.

3. The factual findings of the state post-conviction court from its limited hearing were unreasonable in light of the state court records. 28 U.S.C. § 2254(d)(2).

The state post-conviction court was unreasonable when it found that Juror A's concealment was not deliberate and that she was not biased against Mr. Hall. The state court further unreasonably found that the questions in jury selection were not designed to elicit the information that Juror A concealed. The court also unreasonably credited Juror A's testimony that her past experiences did not affect her impartiality when her answers were, at best, contradictory. The state court record, created in a very limited and rushed hearing, contains findings that were unreasonable and cannot be relied upon to deny habeas relief.

Despite a trial record from Mr. Hall's jury selection which includes questions from trial counsel that specifically asked for information about potential jurors' experiences with domestic violence, the state post-conviction court unreasonably found that "questions asked of Juror A during voir dire may not have been reasonably calculated to elicit an answer in which the juror would have disclosed her past abuse." (Appendix F, Order Dismissing Petition at 26). This assessment is not borne out by the record. Further, it ignores the practical facts of jury selection: the trial court distributed a questionnaire to jurors to assess certain facts to help the court and counsel for the parties select, *and deselect*, potential jurors. Everyone—the trial court, counsel for Mr. Hall, and counsel for the State of Tennessee—thereafter operated from the assumption that the jurors truthfully answered the screening questions on the court's questionnaire.

After that winnowing process, during group voir dire, defense counsel asked a very broad question concerning the issue of domestic violence that was reasonably calculated to elicit answers about the potential jurors' past experiences with domestic abuse. Defense counsel asked:

One of the things that I'm curious about—and if there is something in your background or someone close to you in that background that you are aware of that *would in any way possibly* affect you, I'd ask you just to raise your hand, and we'll take it up at a later time. *That has to do with domestic violence.* Has anyone on this prospective jury had any kind of occasion or experience with domestic violence, either with a spouse, a girlfriend, a boyfriend, or anything of that nature *that would in any way possibly* affect or influence you to the point where it would maybe compromise you to be able to render a fair and impartial verdict?

(Appendix K, Trial Vol. 5 at 673-74) (emphasis added). Although the question was couched in terms of how it might affect potential jurors, it was broadly stated to elicit even minor or insignificant possible effects. In other words, it asked potential jurors to think about all of their experiences with domestic abuse. Given Juror A's significant experience with domestic abuse, even if she believed it would not affect her ability to be fair, an honest response would have been to raise her hand at that point. Rather than thinking she had no valid response to this question, it is much more reasonable to believe that her longstanding pattern of concealment of her abuse took over and led her to not respond to this question. This is especially so given the patently false answers Juror A gave on the questionnaire.

In the same way, the state post-conviction court's assessment of Juror A's credibility about her own impartiality at the post-conviction hearing is unreasonable. The state court credited her testimony that "she did not think of herself as a victim at the time of Petitioner's trial and that her past experiences did not render her prejudiced against Mr. Hall at the time of jury selection." (Appendix F, Order Dismissing Petition at 25-26). The court went on to conclude that "[n]o evidence has been put before the Court of no criminal record or anything else which would call Juror A's credibility into question." (Appendix F, Order Dismissing Petition at 27).

The state court's conclusion ignores Juror A's own testimony that she has concealed her history of abuse from almost everyone, even her own family. She testified that she had told no one beside a couple of very close friends and her

therapist about the abuse she endured. (Appendix E, Hearing Transcript at 25-26). Furthermore, the court's conclusion that there was nothing "which would call Juror A's credibility into question," (Appendix F, Order Dismissing Petition at 27), ignores the fact that she had vivid memories of her first husband's charges of driving while intoxicated, and yet swore that no one in her family had ever been charged with a criminal offense. This demonstrated lack of truthfulness when any issue about her first marriage was brought into focus would certainly call her credibility on those issues into question. Furthermore, her lack of candor with her own family, while understandable, must call into question her candor when faced with questions from strangers about a past she had "buried." (Appendix E, Hearing Transcript at 23).

While the trial court may well have reasonably harbored sympathies for the reasons Juror A chose to cover up the particulars of her abuse from her family, the same sympathies cannot obscure review of her obligation to be forthcoming and honest as a potential juror. She was asked to stand in moral judgment of a man accused of stalking and murdering his girlfriend by setting her on fire. The state trial court's acceptance of Juror A's representation that her first abusive marriage left a "relatively small impact . . . on her ability to serve as a juror," (Appendix F, Order Dismissing at 26), is unreasonable in light of the difficult task put upon her and unreasonable in the factually and scientifically assumption that a happy second marriage ameliorates the effects of an earlier violent and traumatic relationship. See Appendix L, Dr. Linda Manning Declaration. At the very least, her testimony of more than forty years of concealing a painful period of abuse cannot be ignored. And

her present-day protestations that she was a fair and unbiased juror, and that her “hatred” for Mr. Hall was “fleeting” must be viewed in the light of this concealment and the available—but ignored by Tennessee courts—expert psychological evidence that this self-assessment was unreliable and characteristic of a traumatized person. See Appendix L, Dr. Linda Manning Declaration; Appendix F, Order Dismissing at 26. Because of the totality of the evidence in the post-conviction record, the state trial court’s finding that Juror A was not presumptively or actually biased was unreasonable.

Furthermore, the abuse Juror A suffered and the fact that it caused her, while hearing the proof at trial, prior to deliberations, to “put herself into [the deceased’s] shoes” is material in a death penalty trial where the jury must determine the “moral culpability” of the defendant. (Sealed Att. A, *October 7, 2019 Declaration of Juror A*, at 3). The decision to impose the death penalty involves “the individualized assessment of the appropriateness of the death penalty [and must be] a moral inquiry into the culpability of the defendant[.]” *Saffle v. Parks*, 494 U.S. 484, 492-93 (1990) (quoting *California v. Brown*, 479 U.S. 538, 545 (1987)). Here, that assessment of Lee Hall’s moral culpability was necessarily influenced by Juror A’s own experiences of domestic abuse.

The state post-conviction court unreasonably accepted Juror A’s testimony that she,

did not feel any hatred, bias, or prejudice toward the Petitioner until she heard Petitioner testify at trial. While the testimony about Petitioner’s actions may have reminded Juror A about the stalking and other abuse she suffered at the hands of her first husband, Juror A stated any

'hatred' she may have had toward the Petitioner was fleeting and did not affect her going forward.

(Appendix F, Order Dismissing at 26). The state trial court found that the prior abuse had "relatively small impact" on her ability to serve as a juror. (Appendix F, Order Dismissing at 26). The court accepted that Juror A "was unaffected by such abuse at trial based in large part on the happy and fulfilling marriage in which she had been involved over a decade as of trial" (Appendix F, Order Dismissing at 28). The court accepted this testimony as truthful despite the fact that Juror A still keeps the details of her traumatic first marriage hidden from almost everyone, including her family, and that her grief counselor determined she "was in pretty bad shape" when details of her first marriage surfaced during counseling. (Appendix E, Hearing Transcript at 25-26). Her credibility is also belied by her testimony that she remembered "hating" Lee Hall when she realized his behavior was very similar to her first husband's. (Appendix E, Hearing Transcript at 24). It also ignores the life-long impact of a young woman being raped just before she was to leave for college, finding out she was pregnant, and then being forced to marry her rapist. It is further noteworthy to consider the many similarities between Juror A's past and the evidence presented in Hall's case: Both involved young people living in a trailer, involved in a volatile relationship where the man was "mean" when intoxicated. (Appendix E, Hearing Transcript at 12). In addition, both men "stalk[ed]" their partners. (Appendix E, Hearing Transcript at 24). Based on this totality of circumstances, all contained in the state court record reviewed by the trial court, that court's conclusions are objectively unreasonable.

4. Because of her bias at the time of Lee Hall's trial, Juror A would have been subject to a challenge for cause. Her service led to structural error.

Juror A would have been subject to a challenge for cause under federal and state law. She concealed her history of domestic abuse because that abuse was so traumatic to her. Defense counsel sought to uncover any juror's history of domestic abuse because they knew that domestic abuse would be an issue in the upcoming trial. A juror who had been a victim of domestic abuse, particularly domestic abuse that was similar to the evidence to be presented in the upcoming trial had a strong potential for bias and was therefore subject to a challenge for cause.

Under Tennessee law, "litigants have the right to lodge a 'propter affectum' challenge for cause to a potential juror on the basis that he or she is biased or prejudiced for or against one of the parties." *State v. Hugueley*, 185 S.W.3d 356, 378 (Tenn. 2006) (citing *Toombs v. State*, 270 S.W.2d 649, 650 (Tenn. 1954)). Here, Juror A's history of abuse would have disqualified her for service because of the strong potential for bias, a bias she in fact admitted to. Similarly, in *Faulkner v. State*, No. W2012-00612-CCA-R3-PD, 2104 WL 4267460, at *82 (Tenn. Ct. Crim. App. Aug. 29, 2014), the court found that the service of a juror who was the victim of domestic violence, but failed to disclose this on her questionnaire and at trial, denied the accused on trial for the murder of his domestic partner the right to a fair and impartial juror. The situation in the case at bar is very similar to the facts in the case at bar. *Faulkner*, 2104 WL 4267460.

In the present case, Petitioner Hall has presented evidence of actual bias: Juror A stated that she "hated" Hall when he was testifying about actions that were

similar to those of her first husband. Even before considering this testimony, there would have been a presumption of bias due to the nature of the charges against Mr. Hall. A finding of implied bias is appropriate only “where the relationship between a prospective juror and some aspect of the litigation is such that it is highly unlikely that the average person could remain impartial in his deliberations under the circumstances.” *Johnson v. Luoma*, 425 F.3d 318, 326 (6th Cir. 2005) (quoting *Person v. Miller*, 854 F.2d 656, 664 (4th Cir. 1988)). Due to the similarities between Mr. Hall’s case and the circumstances of Juror A’s first marriage, it was highly unlikely she could remain impartial. This proved to be true when she listened to Mr. Hall’s testimony. She would have been subject to a challenge for cause.

Petitioner Hall has demonstrated that Juror A failed to honestly answer material questions about her history of domestic violence and abuse. Honest answers to the court’s and counsel’s questions would have led Hall’s defense team to challenge her for cause. *See McDonough Power Equipment, Inc.*, 464 U.S. at 556. Because Hall is able to meet the standards for relief under clearly established federal law, habeas relief is required. At the very least, he must be afforded the opportunity to present his claims after a full evidentiary hearing.

II. Execution Of Mr. Hall Without An Evidentiary Hearing On This Issue Would Raise Serious Questions The Sixth Amendment’s Guarantee Of An Impartial Jury.

The absolute importance of the Sixth Amendment right to an impartial jury is beyond question. This Court has reaffirmed in *Peña-Rodriguez* that “[t]he jury is a central foundation of our justice system and our democracy.” *Peña-Rodriguez v. Colorado*, 580 U.S. ___, 137 S. Ct. 855, 857 (2017). The presence of even a single

biased juror deprives a defendant of his right to an impartial jury. *Morgan v. Illinois*, 504 U.S. at 719, 729 (1992). Structural errors “necessarily render a criminal trial fundamentally unfair or an unreliable vehicle for determining guilt or innocence.” *Neder v. United States*, 527 U.S. 1, 9 (1999).

Here, the State of Tennessee is poised to execute the death sentence on Lee Hall despite his recent discovery of compelling evidence that shows that a member of his jury gave false answers to questions that would have shown her bias against him and caused her to be excused for cause. Mr. Hall has presented compelling proof of this juror’s bias. At the same time, Mr. Hall has, to no avail in the state courts, attempted to present expert evidence to show that the trauma Juror A suffered explains her inability to speak up about this bias before now. The Tennessee courts have refused to consider that evidence and are rushing to execute Mr. Hall without careful consideration of his foundational constitutional claim of denial of a fair and impartial jury. The lower federal courts have similarly concluded they lack the jurisdiction to review Mr. Hall’s claim.

With Mr. Hall’s execution imminent, every court in which he has sought redress thus far has elevated procedure over the real injury that this juror’s service has caused. He has shown an egregious harm to the foundational right to a fair and impartial tribunal and, yet, has found the courthouse doors slammed shut to consideration of the merits of his claim.

Because the state court record demonstrates Juror A's bias against Mr. Hall, this Court must remand this case to the district for a full and fair hearing so that Mr. has a plenary opportunity to show that he was never tried by an impartial jury.

Conclusion and Prayer for Relief

This Court should grant this petition, stay Petitioner Hall's execution and send this matter back to the district court for a full evidentiary hearing on this issue.

Dated: December 4, 2019

Respectfully submitted,



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