No. 24-7007 ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

In Re Shaidon Blake — PETITIONER
(Your Name)

ON PETITION FOR A WRIT OF MANDAMUS

PETITION FOR WRIT OF MANDAMUS

Shaidon Blake #Y64906
(Your Name)

LCC 10930 Lawrence Rd
(Address)

Sumner, Illinois 62466
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Did the lower courts neglect its duties by its denial of Mandamus relief when requested to compel States Attorneys Conviction Integrity Unit to perform its duty of investigating a credable claim of falsified evidence, fraud on the court, and perjury committed by the prosecutor in the defendants case, when clear and undisputable evidence exists and was presented on the record with mandamus request?

2. Did the courts err in its procedural default ruling pursuant to MD. rule 4-331's time restraints and requirement to file for a new trial under newly discovered evidence, when evidence of gross misconduct; fraud on the court exist by the prosecutor and the failure to comply with MD. 4-331's requirements was due to ineffective assistance of counsel by a court appointed attorney? (Schlup v. Delo, Strickland v. Washington, Napue v. Illinois Glossip v. Oklahoma, Brady v. Maryland, & Crawford v. Washington, all cases are applied and are applicable)

3. Did Court of Special Appeals err in its denial of Actual Innocence based on newly discovered evidence, when its denial was based on failure to comply with MD. Rule 4-331's requirement to file for a new trial, and petitioner requested a new trial at end of initial trial but was denied?

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:

Lauren Lipscomb Conviction Integrity Unit
Brian Fish assistand States Attorney

RELATED CASES

Blake v. State of Maryland 106177028 & 029

Blake v. State of Maryland/Lipscomb & Fish Maryland Supreme Court Misc. No. 15 Sept. Term 2024

Post Conviction No: 10309

Court of Special appeals, MD. No. 1499 Sept. Term 2020

Appellate Court of Maryland No. 260 Sept. Term 2023

U.S Dist. MD. Civ# DLB-24-0697

4th cir. Court of Appeals No 23-258

U.S Dist. MD. Civ. # GLR-23-1666

TABLE OF AUTHORITIES CITED

STATUTES AND RULES

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully prays that a writ of mandamus issue.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix ______ to the petition and is

[ ] reported at ______; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix ______ to the petition and is

[ ] reported at ______; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits 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 Special Appeals court appears at Appendix B2 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 ____________________.

[ ] 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: ____________________, and a copy of the order denying rehearing appears at Appendix ______.

[ ] 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 12-25-24. A copy of that decision appears at Appendix ______.

[ ] A timely petition for rehearing was thereafter denied on the following date: ____________________, and a copy of the order denying rehearing appears at Appendix ______.

[ ] 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).

Did not get order till Jan. 2025
Transferal out of state, did change of address
but then transferred again.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. §1651(a)
28 U.S.C. §2403(b)
28 U.S.C. §451
28 U.S.C. §2253(c)(2)
6th amend. U.S.C.
14th amend. U.S.C.

STATEMENT OF THE CASE

* See Attached

STATEMENT OF CASE

Petitioner sought relief from the lower courts by finally filing a writ of Mandamus after a long pursuit of relief through every means possible. Petitioner seeks this Honorable Court to compel the lower courts to perform a ministreal duty that is not discretionary. Because vital evidence was withheld and then vital evidence was misrepresented intentionally at trial, the courts duty to review matters that present manifest injustice based on Brady, Crawford, and Napue is not discretionary, but "in the interest of justice" and the "ends of justice."

In Napue v. Illinois, 360 U.S. at 269, the Supreme Court made it clear that the state can not knowingly use false evidence to obtain a tainted conviction. (Quoted in Glossip v. Oklahoma, 604 U.S. ___ 2025) reversed on same grounds) If a witness gives false testimony which prosecutor knows is false but fails to correct, then a new trial is warranted if there is "any reasonable likelihood" that the false testimony could "have affected the judgement of the jury". Id. at 270-271. A Napue claim requires three elements; falsity, prosecutorial knowledge, and materiality.

In Petitioners case, the state allowed states witness, Detective Merrick to testify falsely when he stated under oath, he conducted a video recorded interview of a suspect in custody for an unrelated crime, who told detectives petitioners reason for being in Baltimore from California was to organize gangs and essentially act as a hitman, killing Baltimore Bloods. This video interview was never given to the petitioner in pretrial discovery that was requested in pre-trial motion for discovery. The state ambushed defense with this testimony of an out of court declarant in violation of Brady and Crawford, at trial. This video recorded interview is "work product" and subject to discovery rules, but the state never supplied the defense with this mysterious evidence, and never made the declarant available for any kind of examination by the defence.

Evidence vital to the out come of the trial was with held but through petitioners due dilligence, the Maryland Public Info. Act had the Lab & DNA reports Released Nov. 4, 2009, over 2 years after trial. (See). This issue was brought up in post conviction but denied, certiorari sought in Court of Special appeals and Court of appeals and both denied. Habeas Corpus filed in U.S. District Court was denied. Actual Innocence filed, but the basis for the appeals court denial is in question because pursuant to MD. Rule 4-331, a new trial is to be requested. My post conviction lawyer decided to go forward with the scheduled Post conviction proceeding instead of filing for a new trial. But immediately after trial, when the defense first knew discovery had been with held a request for a new trial was made by trial attorney and denied by trial judge with out reason. This request for a new trial should satisfy the requirement of MD. Rule 4-331, making the Court of Special appeals denial an abuse of discretion. The evidence with held was vital to the defense and material because of being not made available to discredit. The newly discovered evidence was; Lab report and DNA report. This was denied by the Circuit Court and appealed to the court of special appeals for Maryland, (See Appx. B), which was denied. Petitioner sought certiorari in the Maryland Court of Appeals, (see Appx C), which was denied, then appealed to the U.S District Court for Maryland which was denied ruled successive habeas Corpus. (See Appx. D)

Petitioner requested permission to file successive petition pursuant to 28 U.S.C. § 2244 (b)(3)(A) in the U.S. Court of Appeals for the fourth circuit, which was denied. (See Appx E). A timely motion for En Banc was filed Oct. 16, 2023 (see Appx F1), and denied Oct. 24, 2023, (See Appx F2). Petitioner utilized the federal courts for injunctive relief and was also denied relief. The issues presented warrented a comprehensive review due to the serious nature of the claims. Pursuant to 2253 (c)(2), certificate of appealability will only issue once a substantial showing of a denial of a constitutional right. Petitioner has presented to every lower court the constitutional violation of Brady, Crawford, Due process and Equal protection under the 14th amend, along with the intentional prosecutorial misconduct which occured when the state presented known false evidence to the jury and allowed false evidence to go uncorrected. These exact actions caused this Honorable Court to over turn the death row case of Glossip v. Oklahoma this year, granting a new trial.

Petitioner filed U.S. 42 § 1983 for violation of Civil rights due to the violation of due process and equal protection under the law, which happened with the intentional misrepresentation of vital Lab and DNA reports that were illegally withheld in violation of Brady, but the court dismissed under Heck v. Humphrey (Appx. J). Another preliminary injunction filed in feb. 2024 under 42 U.S.C. § 1985 but the U.S District Court construed it as a habeas petition under 28 U.S.C. § 2254 (Appx. I), and denied petition.

Relief in each appeal was due to lack of subject matter jurisdiction, Brady, ineffective assistance of Counsel, Crawford, misconduct by prosecutor, violation of due process and equal protection under the law, newly discovered evidence and actual innocence. Petition has made it clear to every court presented with a motion or brief requesting relief that the issues are of the constitutional magnitude. Misrepresented blood evidence with lab report that was withheld presented as proof along with trial transcripts, places exactly where the misrepresentation took place, and still no relief. The misrepresentation was very material because the State said blood found on the washing machine in a house the petitioner frequented, belonged to the victim, found in the alley. This evidence is scientific linkage of a murder victim from one crime scene to an alleged other, one linked to the petitioner. There is no other scientific linkage evidence connecting this victim to the petitioner making this a vital peice of evidence for the state, for this actual blood in question to really be "non human in origin" changes the states case and the verdict.

Petitioner after exhausting every legal means ordinarily used to no avail, the extraordinary writ and writ of mandamus was the only option to justice, undoing this manifest injustice. A mandamus was filed in the circuit court for Baltimore city which never was answered in Oct. 2024. A writ of mandamus was also filed in the Supreme Court of Maryland and denied Nov. 24, 2024 (Appx. A).

Petitioner also presents as evidence his constant burden of being transfered inter state corrections compact since 2010 which has always effected the appeals process negatively. Feb. 2010 petitioner was transfered to Kansas in the middle of appeal for post conviction. Post attorney given issues of Brady concerning lab reports, DNA reports and evidence not given in discovery and acknowledged receiving the evidence but instead of stopping post conviction and filing for a new trial as required by MD. Rule 4-331, she continued with post conviction and later stated she knew nothing about 4-331's requirement to file for a new trial. (See

) Petitioner contacted the public defender office because post attorney was appointed. They stated it was nothing they could do or would do. (See)

Petitioner returned to Maryland for post conviction hearing Feb. 11, 2011, and property didn't follow for months after hearing that was denied. Once relief was denied on post conviction, petitioner filed for leave to appeal without property and was transfered from MRDCC in Baltimore to JCI after being at MRDCC over one year. This transfer thus interfered with the preparation of the leave to appeal, which got denied. Petitioner stayed at JCI from approx. mid 2012 to 2016 then transfered to NBCI in cumberland to a super max administrative segregation status.

This made properly preparing an appeal challenging. In 2018 petitioner was transfered back to kansas Mar. 20, 2018. April 1, 2018 petitioner was transfered from EDCF-RDU to EDCF-central, and back to EDCF-RDU on April 2, 2018. Then transfered on July 5, 2018 to Lansing CF-central, then to EDCF-central July 30, 2019 and once again to LCF Sept. 14, 2020 and back to EDCF Sept. 29, 2020. In 2023 petitioner was again transfered to HCF in kansas and stayed only (4) days and sent back to EDCF. After years of petitioner writing grievances about falsified documents by KDOC staff and retaliation, an official investigation was started by KDOC head quarters. (   ) During this time layed out with all the transfers, legal property was caught in a cycle called 'the circuit', where your property never get to you on purpose for trouble prisoners. Trouble could mean prisoners who file grievances and lawsuites like in the petitioners case.

Petitioner has had to file late or request an excuse due to mail not being received in time enough to comply to court orders. Petitioner has established a relentless non stop insatiable pursuit for freedom and justice and would never miss a filing date unless forced to by interference by DOC staff. Exhibits are presented to show that "Due to a significant amount of misconduct Mr Blakes chances at parole was negatively effected." (Appx G2) This was because of an proven plot to hurt the petitioner. initiated by DPSCS in Maryland (Appx G 1-12) Despite the record and exhibits presented, DPSCS nor the courts have done anything to correct what has been done, Leaving this extraordinary writ as the only means to undue this manifest injustice. Exhibits presented to support all claims.

REASONS FOR GRANTING THE PETITION

* See Attatched

REASON FOR GRANTING WRIT

This Honorable Courts recent ruling granting a new trial for death row prisoner in Glossip v. Oklahoma made it very clear that it is prosecutorial misconduct and reversable error for the state to allow false evidence to go before the jury and go uncorrected. In petitioner's case, prosecution presented blood evidence to the jury that was said to have been positivily identified as belonging to the victim. Blood found on the washing machine in the basement of a house frequented by the petitioner was identified as belonging to the victim of a homicide found in a alley and was used as linkage evidence to the house petitioner frequented. The lab report for this blood was with held in violation of Brady and through the due dilligence of the petitioner, the report was released in November of 2009, over two years after petitioner's trial.

The released report reveals the blood identified at trial as belonging to the victim, was not, but "non human in origin". Its obvious why thats a problem. The jury was given the impression the state had scientific undisputable evidence of the presence of the victims blood, which was not true. Though the petitioner didnt possess the actual report at trial, the state did, making this gross mis interpretation and mis representation of vital scientific evidence intentional and unexcusable. (see Trial TR. Vol. 3 pg. 126 lines 11-14, pg. 134 lines 7-14, pg 138 lines 9-23, and Vol. 5 pg 37 lines 1-12. all places state said blood on washing machine belonged to the victim)

A conviction secured by the use of false evidence must fall under the "Due Process Clause", where the state although not soliciting the false evidence, allows it to go uncorrected when it appears. (Giglio v. United States, 405 U.S. 150); see also (Maryland Attorney rules of professional conduct 3.3 (a)(1) Candor toward tribunal; 3.4 (a) fairness to opposing party and counsel; 3.8 (d) special responsibilities of prosecutor; 8.1 (b) failure to respond to lawful demand for information; 8.4 (c) dishonesty, fraud, deceit, or misrepresentation; 8.4 (d) conduct that is prejudicial to administration of justice; 8.4 (a) violating rules of professional conduct.

Petitioner also claims as a result of these actions of prosecutorial misconduct, not only was his trial made unconstitutionally unfair, but every appeal and petition there after suffered the same ill effect as the trial due to the record concerning the misrepresented evidence was never corrected even with undisputable evidence making this extraordinary writ appropriat relief for the extraordinary circumstances surrounding this gross misconduct.

The state presented Detective Merrick as expert witness and a witness in its case in chief which violates this courts ruling in Garcia, concerning witnesses testimony having duel capasity. During Merricks testimony he stated he conducted a video recorded interview of a suspect to an unrelated crime, known only the court as "Bloody Eyes."

This name of a suspect in custody for a unrelated crime, being allowed to be identified at petitioners trial by a nick name, and not his government name, amounts to having a witness for the state testify annonomously behind a black curtain. Worst is this unidentifiable witness was not in discovery, his statement or video-recorded interview. So not only was Brady violated, but Crawford as well because though this witnesses statement went to the jury, the actual declarant was never in court. The statement of this out of court declarant should have never went before the court and jury, without previous examination of this witness. The petitioner knew nothing about this witness until being ambushed with the information through testimony of detective Merrick.

To add insult to injury, while this witness, Merrick testified, the judge interfered, questioning the witness bolstering the states case, instead of reprimanding the state for the unethical means in which was used to circumvent the hearsay rule. But what makes this act the ultimate despicable act is, the witness "Bloody Eyes" do not exist. The state allowed its witness detective Merrick to present a ficticious character to the jury. Merrick stated, the witness Bloody Eyes, was Death Row Records infamous owner, Suge Marion Knights, nephew and sent to Baltimore on behalf of the Bloods in California. This went to the jury in a murder trial where the states case and

Motive was said to be gang related. The witness Merrick testified as a expert on gangs, qualified by trial judge over objection, which bolstered his credibility. So when he testifies in the case in chief, any unsubstantiated claim he made was given an unordinary weigh of truth even though it was unproven speculation.

This fiasco went on, the presenting a ficticious character to the jury and the assistant states attorney allowed it to go on uncorrected. The state knew he had not ever interviewed a "Bloody Eyes," or done any pre trial trial prep with "Bloody Eyes", like he would have, and done with all his other witnesses. It was the states duty to correct the false testimony of Merrick, but instead of doing so, the prosecutor reitterated the lie in closing, refering to "Bloody Eyes" when he stated "What did he tell you. Who did he say, He said it was Don Poppa who was coming." Refering to what detective Merrick earlier testified to. Merrick stated during the "video recorded interview", "Bloody Eyes" claimed petitioner was sent to Baltimore as a hitman for the gangs, to organize. This was said to the jury of a murder trial even though it was never proven or even spoken by any other witness besides the ficticious character, created by detective Merrick and illegally used by the State.

Petitioner has for over 18 years been trying to get the state to produce this tape. The video taped statement is "work product" and subjected to discovery rules, but never produced for the petitioner. Petitioner through counsel contacted Suge knight who vehemently denies any knowledge of this case and he has no nephew by the name "Bloody Eyes", making the States scam exposed. They can not produce a video recorded interview OR any record of it ever existing. The fact this evidence was used if it did exist was reversable error because of the Brady and Crawford, but because this was the creation of the imagination of a over zelous detective who collaborated with assistant States attorney Brian fish to get this conviction by any means neccessary, even by breaking the law, reversal is neccassary.

Not only was State and federal criminal law broken by this unethical act, but the definition at trial the judge gave for conspiracy was two or more coming together in furtherance of a criminal act, even if by the meeting of the minds and no actual sit down, a plot happened, its conspiracy. This is a violation of 42 U.S.C. §1985, a conspiracy must be shown to "deprive the plaintiff of equal protection or equal privileges and immunities; an act in furtherance of the conspiracy; and an injury or deprivation resulting from the conspiracy. (Griffin v. Breckenridge, 403 U.S. 88, 102-03 (1971)" Every person who having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having the power to prevent or aid in preventing the commission of the same, neglects or refuse to do, if such wrongful act be committed, shall be liable to the party injured" 42 U.S.C §1985.

To interfere with the course of justice is obstruction of justice. Fed. R. Crim. P § 1512 (c) (1) whoever corruptly; (1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the objects integrity, or availability for use in an official proceeding, shall be fined under this title or imprisoned not more than 20 years, or both. Prosecutor altered and concealed the record, corruptly, with the intent to impair the lab reports integrity and the DNA reports availability, for use in an official proceeding, making ASA Brian Fish guilty of violating Fed. R. Crim. P. § 1512 (c)(1) and him and Merrick guilty of violation of 42 U.S.C § 1985 Conspiracy to violate civil rights. What the State did was fraud on the court in violation of Rule 60(b)(6) by the removal of the courts and jurors ability to properly function through the intentional perjury and misrepresentation of vital evidence

A prosecutors duty in a criminal prosecution is to seek justice, although the prosecutor should "prosecute with earnestness and vigor," he may not use improper methods calculated to produce wrongful convictions. (See Berger v. United States, 295 U.S. 78, 88 (1935); (Purvis v. State, 27 Md. App. 713, 343 A.2d 898 (1975) reversed on the same grounds; (Dorsey v. State, 276, Md. 638, 659, 350 A.2d 665, 678. (1976) which held "the court was unable to declare the errors didn't effect the verdict." Md. Rule 19-303.3 (a)(1) states "No attorney shall knowingly make false statements or fail to correct false statements of material fact or law previously made to a tribunal.

The duty of candor stems from the proposition that every court has the right to rely upon an attorney to assist it in ascertaining the truth of the cases before it. The state Violated Md Rule 19-308.4 (d) when they engaged in conduct that is prejudicial to the administration of justice, and disbarment is generally the appropriet sanction for intentionally dishonest conduct. In Atty. Griev. Comm. of Md. v. Cassilly, 476 Md. 309 misc docket Ag No. 31 Sept. Term 2020, the States attorney was disbarred for knowingly making false statements of facts to the Court concerning the content of the evidence. The courts made it clear as far back as Mooney v. Holohan, 294 U.S. 103, 112 (1935), that deliberate deception of a court and jurors by the presentation of known false evidence is incompatible with rudimentary demands of justice. (See American Bar Association project of standards of criminal justice, prosecution function, and defense functions § 3.11 (a), ALI, Model Penal Code § 241.7 (1), pp. 175 (1962). The petitioner, pursuant to 28 U.S.C. § 2403 (b), certified to the State attorney General the fact that the constitutionality of Maryland Rule 4-331 is drawn into question with this petition serving as notification. The time limit in which a petitioner has to file adds an additional burden that CP§ 8-301 does not have, which should make it unconstitutional.

In Regalado v. United States, 334 Fd. 3d. 520 (6th cir. 2003) citing United States v. Frady, 456 U.S. 152, 167-68 (1982) claims ruled procedurally barred can be heard under § 2255 if "cause and actual prejudice to excuse his failure to raise claim previously." Martinez v. Ryan, 132 S.CT. 1309 (2012) holds that "an inadequet assistance of counsel establishes cause for procedural default on a claim of ineffective assistance of counsel" (Martinez, 132 S.CT. at 1315). Under the cause and prejudice exception, a § 2255 movant can avoid application of the procedural bar default by showing cause for not raising the claim of error on direct appeal and actual prejudice from the alleged error. (see Jones v. United States, 153 F.3d 1305, 1307 (11th cir. 1998). Petitioner claims ineffective assistance of counsel for post conviction counsel not complying with Md. Rule 4-331 requirement to file for a new trial under newly discovered evidence. Prejudice shown is petitioner has been derived appellate relief because of Md Rule 4-331.

Post attorney when asked about her knowledge of Md. Rule 4-331, she replied, she knew nothing about the rule or its requirement to file for a new trial. This is ineffective assistance of counsel. (see AppxD1;D4;B2) (AppxD5 is post conviction counsel acknowledging she got the issues sent from petitioner. She chose not to file for new trial. AppxB2 is courts opinion denying actual innocence for failure to adhere to Md Rule 4-331)

The courts in Strickland defined the prejudice prong as follows "we believe that a defendant need not show that counsels deficient conduct more likely than not altered the out come of the case. The defendant must show that there is a reasonable probability that but for counsels unprofessional errors, the results of the proceeding would have been different. A reasonable probability is a probability sufficient to determine confidence in the outcome (466 U.S. at 493-94)

Had post attorney presented the courts with a petition for a new trial pursuant to Md. Rule 4-331 then 8-301 would apply. CP § 8-301 state petitioner could file for a new trial by writ of actual innocence if the claims of newly discovered that: (1)(i) if the conviction resulted from a trial, creates a substantial or significant possibility that the results may have been different, as that standard has been judicially determined; or (2) could not have been discovered in time to move for a new trial under MD. Rule 4-331. If the excusable circumstances are considered, the petitioner satisfies these requirements, which also states, a request for hearing must be made, then a hearing SHALL be held pursuant to § 8-301 (e)(1)(b).

Once exceptional circumstances were presented, enough to satisfy the requirement, petitioner should have recieved a hearing. (Appx. B1) Applicable law in support of hearing was presented. Schlup v. Delo, the blue print to the requirements, shows that the claims being presented are not only material using the Carrier standard, but is a Constitutional claim. Even if not, it still acts as a gate way through which a habeas petitioner must pass to have his otherwise barred Constitutional claim considered on its merits. As in Schlup, petitioner alleges that constitutional error deprived his jury of critical evidence establishing his innocence. "To be credible, such a claim requires petitioner to support his allegations of constitutional error with new reliable evidence whether it be exculpitory scientific evidence, trustworthy eye witness accounts, or critical physical evidance that was not presented at trial. (Quoting Carrier, 477 U.S. at 496)

Schlups claim of innocence would not provide a basis for relief in and of itself. Relief would be dependant upon Schlups later ability to demonstrate the merits of his substantive claims under Strickland v. Washington and Brady v. Maryland. The Carrier standard ensures petitioner a meaningful avenue by which to avoid a manifest injustice. In assessing the adequecy of petitioners claim, the emphasis on "actual innocence", allows the reviewing tribunal the ability to consider the probative force of relevent evidence that was either excluded or unavailable at trial." The court must make its determination concerning the petitioners innocence in light of all the evidence, including that alleged to have been illegally admitted, misrepresented lab report of blood found, but with due regard to any unreliability of it, and evidence tenably claimed to have been wrongfully excluded or have become available only after trial." (Schlup v. Delo 513 U.S. at 327-28)

The Carrier standard does not require absolute certainty about the petitioners guilt or innocence. (547 U.S. at 538) The petitioners burden at the gateway stage is merely to demonstrate that more likely than not any reasonable juror would have reasonable doubt. (547 U.S. at 538). State v. Luckett says the court will uphold courts findings unless they are shown to be clearly erroneous. (413 md. 360, 375 n. 3, 993 A.2d 25, 33 n. 3 (2010). The lower courts ruling disregards this Honorable courts ruling in Schlup and Carrier, makes the ruling erroneous. Also, ruling by the lower court was based on a inaccurate statement of facts. If the statement of facts, which have been clearly established through out many proceedings and petitions, is misinterpreted by the courts, than its not possible to rule on the issues fairly, also making the ruling erroneous. In appx. B2, The Court of Special appeals states in opinion "Evidence at trial establishes that the victim was murdered in the basement of 1921 Division street and that Mr Blake was present at time the incident unfolded. That evidence was based largely on the testimony of two eye witnesses. The fact that Mr Blakes blood was not found in the basement a month after the murder, and that the blood found on the washing machine was not of human origin, does not suggest that Mr Blake is innocent of the crimes for which he was convicted".

The inaccurate portions, mistaken as established statement of facts are as followed; (1) The courts did not distinguish the difference in a "eye witness", and two co-defendants. The "eye witnesses" the courts were refering to were two co defendants charged in this case. In Montgomery v. State, 17 Md. App. 119, 300 A.2d 218 (1973) and Jeandell v. State, 34 md. App. 108, 110, 366 A.2d 77 (1976), both makes it clear that a co defendant can not coobosate a co defendant. There must be clear independant evidence rather scientific, physical, or a eye witness not charged in the crime, to cooborate a co defendant, in order to have the testimony of a co defendant used as trustworthy evidence. The trial court and appellate court allowed one co-defendant to coobrate the other in violation of established rule making the ruling erroneous.; (2) also the court stated as part of its ruling, "Mr Blakes blood was not found in the basement." This was never a question or issue raised on appeal. Detective Fata, a disgraced, arrested, tried, and convicted fired homicide detective, told lab tec John French that it was no need to print the crime scene and the state at trial argued, the petitioners prints would not be at the scene a month after the crime. also stating, because petitioners prints or any physical evidence at all linking him to a crime, doesn't mean petitioner didn't committ the crime.

The Court of Special appeals misconscrued this information using it to determine petitioner had not met the burden of proof needed for actual innocence, but nowhere was petitioners blood at the scene ever a issue. So to deny the actual innocence based on petitioners blood in any capasity, is erroneous. Then ~~the~~ when the court stated that the blood on the washing machine not being human in origin, does not suggest that Mr Blake is innocent of the crimes in which he was convicted. This is not the correct standard used to judge actual innocence. As stated earlier, the Carrier standard does not require absolute certainty about the petitioners guilt or innocence.

(547 U.S. at 538), but to demonstrate that more likely-than not any reasonable juror would have reasonable doubt (547 U.S. at 538). The petitioner has done that by showing the blood presented to the jury as possitivily belonging to the victim, said to have been found on the washing machine in the basement of the house the petitioner frequented, was "non human in origin."

This is material because the victim was found in an alley not the house. The blood said to belong to the victim, found in house, is the only physical or scientific evidence linking this victim in any way to the petitioner. This misinterpretation of vital evidence was enough to satisfy the "gate way requirement." By the court ruling the way they did, denying relief, they disregarded this Honorable Courts ruling in Schlup and Carrier, requiring relief. The rulings in Sawyer and Herrera presented to the lower court also required the court to order the hearing perscribed by law. Petitioner asserted that a life sentence for a innocent man is the same level of "intolerable event" as a innocent man being executed (Schlup 513 U.S. at 314). In Beauclair v. State, 308 Kan., 284, 419 P.3d, 1180 (2018), the Supreme Court in its reversal held that his assertion of actual innocence entitled him to a evidentiary hearing to determine its credibility, specifically whether it established manifest injustice or exceptional circumstances.

In Nichols v. State, 43, 123 (Kan. App. July 9, 2021 (2018) which was over turned because the courts concluded, the district court should have conducted a evidentiary hearing on Nichols claim of actual innocence, the issues presented were that the conviction was a product of falsified, tainted, and unreliable evidence, as well as perjured testimony and prosecutorial error, and that he was actually innocent of the charges in which he was convicted. These are the petitioners claims as well, except unlike Nichols, the petitioner has established special circumstances which qualifies as exception to Md. Rule 4-331's one year limit for new trial. (See Sawyer v. Whitley) The intolerable act of a innocent man being executed and the standard established in Sawyer v. Whitley, 505 U.S. 333, 112 S.Ct. 2514, 120 L.Ed.2d 269 (1992) is what the Schlup court granted certiorari for and in the same scence, the petitioner relies on Schlup to provide adequet protection from the serious miscarriage of justice that would accure from a innocent man serving life. (use Sawyer at 513 U.S. at 301). The lower courts ruling on petitioners actual innocence is contrary to law established by this Honorable Courts ruling in Carrier, which made it clear that when evidence exists to show a violation of Brady relief is required, at the least a evidentiary hearing is required.

The with held and misrepresented evidence took away petitioners ability to establish reasonable doubt. The court relied on the misrepresented evidence which makes the ruling erroneous. for the purpose of habeas corpus review of a state courts decision, petitioner must show by clear and convincing evidence an erroneous factual finding by the state court (28 U.S.C. § 2254 (e)(1); Moore v. Mitchell, 708 F.3d 760, 775 (5th cir 2013); Mitzel v. Tate, 267 F.3d 524, 530 (6th cir. 2001)" The courts task is to look to the evidence the jury heard at trial, augmented by the evidence linked to the constitutional violations, and then make a probalistic determination about what a reasonable, properly instructed jury would do." (Bell, 2013 W.L. 1283861 at *12 citing United States v. Bell, 547 U.S. 518, 538, 126 S.CT. 2064, 165 L.Ed. 2d. 1 (2006) "The courts function is not to make an independant factual determination about what likely occured, but rather assess the likely impact of the evidence on reasonable jurors." id. (cited and Quoted in Keith v. Wainwright, 1:18 cv 634 (N.D. Ohio Sept. 24, 2021) See also Beauclair v. State, 419 P.3d. 1180 Kan Sup. Court No. 112,556 June 22, 2018)

The court of Special appeals in determining whether petitioner has met the burden according to ruling in Schlup, should have merely decided if the jury could have ruled different as a result of the misrepresented and with held evidence would have been proper. Whether if the jury would have known that the blood presented to the jury as belonging to the victim, was not the victims, but non human in origin, would this have changed the verdict. Whether if the state had followed discovery rules providing the petitioner with Lab reports and DNA report used at trial would have made a difference. It is established law that guilt must be determined beyond a reasonable doubt. What makes the withheld DNA report material is because it excludes petitioner as a contributor to all sources collected, but it also identifies the true perpetrator as "Unknown Male 1." If petitioner had this withheld report, a alternate suspect could have been presented to the jury by the defense, establishing reasonable doubt. (Brady v. U.S.)

Petitioner presents evidence that brings into question the procedural ruling, and a jurist of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right. (Rouse v. Lee, 252 F.3d 676, 684 (4th cir. 2001) Quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000). In response to petitioners Actual Innocence petition, respondent falsely states "Blakes trial counsel, Laye, received the DNA evidence mid trial" (Response brief Court of Special Appeals of Maryland Sept. term 2020 No. 1499 Blake v. State of Maryland, Appelle brief pg 8) This acknowledges the state violated Brady and discovery rules by not supplying discovery, Lab & DNA reports, as a result of petitioner's pre-trial motion for discovery. It also is false, because at post conviction hearing, testifying for the state, trial attorney testified that he did not receive any DNA or lab results for alleged victims blood on washing machine. (Post TR. pg 41 lines 19-25, pg 42 lines 1-7 and pg 32 lines 17-21)

This petition involves rulings in conflict with that of another State court of appeals on the same important matter and strays so far from established precidence as to call for an exercise of this courts supervisory power. The ends of justice is the reason for granting this petition to correct this manifest injustice, due to the incorrect application and interpretation of law. Rule 60(b) States "On motion and just terms the court may relieve a party or its legal representative from final judgement, order or proceeding for the following reasons;

1. Mistake, inadvertence, surprise, or excusable neglect;
2. Newly discovered evidence that with reasonable dilligence could not have been discovered in time to move for new trial under rule 59 (b);
3. fraud, whether previously called intrincic or extrincic, misrepresentation, or misconduct by an opposing party;
4. The judgement is void
5. The judgement have been satisfied, released, or discharged.

All of the above applies to petitioner's claims and petition except 5. Even with the courts ruling Md 4-331 was not adhered to, there is the Md Rule 4-331 exception in sub section (c) where it allows capitol cases and when the newly discovered evidence is DNA, to be raised after the one year time limit, which applies to the petitioner's newly discovered blood report and DNA report. The court of appeals set forth a bifurcated test for weighing the impact of newly discovered evidence. first, a court should determine whether the evidence is material to the out come of the case, and second, if so, whether there is a substantial or significant possibility that the verdict of the trier of facts would have been effected.

With holding of these vital reports exculpitory to the defense amounts to a substantive due process violation. Review can not be procedurally barred because it effects a substantive due process right. (Roger v. Gibson, 173 F. 3d. 1278, 1289 (10th cir 1999) Substantive due process such may be broadly defined as the constitutional guarantee that no person shall be arbitrarily deprived of his life, liberty, or property; the essence of substantive due process is protected from arbitrary and unreasonable actions. (Babineaux v. Judiciary Comm., La., 341 So. 2d 396, 400). When rule providing for relief from void judgement is applicable, relief is not discretionary matter, but is manditory. (Orner v. Shalala, 30 F. 3d 1307 (Colo. 1994)

Judgements entered where courts lacked subject matter or personal jurisdiction, or that were other wise entered in violation of due process of law, must be set aside. (Jaffe and Asher v. Van Brunt, S.D.N.Y. 1994, 158 F.R.D. 278). A void judgement grounds no rights, forms no defense to actions taken there under, and is vulnerable to any manner of collateral attack. No stature of limitations or repose runs on its holdings, the matters thought to be settled thereby are not res judicata, and years later, when the memories may have grown dim and rights long been regarded as vested, any disgruntled litigant may reopen the old wound and once more probe its depths. And its then as if trial and adjudication had never been. (10/13/58 Fritts v. Krugh, Supreme Court of Michigan, 92 N.W. 2d 604, 354 Mich. 97) Res judicata will not be applied to void judgement. (Allcock v. Allcock, 437 N.E. 2d. 392 (Ill. App. 3 Dist. 1982)

The Supreme Court has ruled "Regulations and practices that unjustifiably obstruct the ability of professional representation or other aspects of the right to access to the courts are invalid. (Procunier v. Martinez, 416 U.S. 396, 419, 94 S. Ct. 1800 (1974) This applies to the with holding of vital DNA & lab reports, misrepresentation of these same with held reports, then objecting to petitioner getting a hearing on the merits. By withholding the DNA report that Identifies the true perpetrator as "Unknown Male 1", amounts to the state never disclosing the existance of another suspect in violation of established law (Bloodsworth v. State, 307 Md. 164 (1987). Denial of actual innocence is to be reviewed for an abuse of discretion. (State v. Hunt, 443 Md. 238, 248 (2015). the burden is on the state under chapman to demonstrate beyond a reasonable doubt that the error did not effect the trials out come, in light of the entire record. (Chapman v. California, 356 U.S. 18, 87 S. Ct. 824, 17 L. Ed. 2d 705 (1967). This determins whether the error was harmless or it préjudiced the defendants due process rights to a fair trial.

The fraud on the court and all the proven claims in this petition, renders All the conclusions, decisions, and opinions of every proceeding entertaining a verdict in connection with this case, amounts to "coram nonjudice", because of participation in the fraudulent proceedings, and failure to exercise its jurisdiction and discretion to cure this extraordinary manifest injustice (see Mooney v. Holohan, 294 U.S. 103 (1935); see also 46 AM. Jur. 2d, Judgements § 31, p. 393-94, Quoting in Re M.K.D., 21 Kan. App. 2d 541 (1995)

No aspects of petitioners verdict or sentence and the negative rulings to follow are the product of justice. Just to analyze the verdicts show how unfair petitioners trial was and due to the issues discused The petitioner was found not guilty of first degree murder and all weapons charges In connection to the murder, but guilty of conspiracy to to commit first degree murder and second degree murder. This issue is raised as a attack to the States response of the actual innocence petition. When the court misinterpreted the issue from the finding of non human blood to petitioners blood not being found, the states defense of the true presented issue was, the reason why petitioners DNA or any linkage evidence connecting the petitioner to the crime was not found was because petitioner had not stabbed the victim. (Brief for the Appellee Sept. Term 2020 No. 1499).

With this fact being known by the state and the court, but yet they allow a guilty verdict for second degree murder which personal physical participation must happen and is required to convict. If petitioner didnt posses or use any of the weapons used to kill the victim and the States theory was petitioner gave the order, than the second degree conviction is inconsistant and cannot stand. Also, the element that separates second degree murder from first degree is premeditation, a planning of some sort. The same thing required to conspire. When the jury found petitioner not guilty of first degree murder, it became not possible to conspire with anyone, also making the conspiracy to committ first degree murder inconsistant. Inconsistant verdicts can no longer stand in maryland. (see Price v. maryland (2007) The trial judge at petitioners trial instructed the jury that they could only convict of conspiracy to commit first degree murder if they found premeditation, deliberation, and intentional. (See Trial Tr.

Sentencing pg 73 lines 9-12). The courts did not exercise its descretion to correct this despite its instructions and the trial attorneys mild objection of sorts was shot down by the judge with an explaination that totally abuses his discretion. The trial judge states "at some point it was a conspiracy" as if he could justify the not guilty verdict for first degree to further justify the guilty verdict for conspiracy to commit first degree. Trial counsel questioned the second degree conviction as opposed to first degree making it clear that the jury found no premeditation.

The Supreme Court Rule 183 (c) (3) states trial error must be corrected by direct appeal unless petitioner raises trial error effecting his Constitutional rights and there ~~were~~ were exceptional circumstances excusing the petitioners failure to raise the issue in his direct appeal. The exceptional circumstances, indescretions committed by the State against petitioner, ie., with held DNA & Lab reports and the misrepresentation of said reports, and ineffective assistance of counsel. This is clearly shown by Appx D1 correspondance from Direct appeal counsel appointed by the State, that falsely states, in response of petitioner presenting him with Brady and the other appellate issues deemed waived at post conviction, that "The points you raised in those materials would be more appropriately Raised in what is called a post-conviction petition." This is not just bad legal advise, but a violation of Bar associations ethics because this seasoned trial attorney gave advise he knew was not true. Its a fact all trial issues, especially Brady Related to evidence not available at trial is a direct appeal's issue as well as Crawford. The only issue petitioner raised that was appropriet for post-conviction was ineffective assistance of counsel under Maryland law.

Md. Rule 8-131 (a) & 4-325 (e) allows a court to take a cognizance view of plain error despite waiver, also under ~~[illegible]~~ 7-106 (b) (i) (ii) the special circumstance doctrine, when waiver was not done intelligently and knowingly. Bombard v. Washington, 424 U.S. 934 (1976) allowing post conviction challenge even though trial counsel could have but did not pursue issue at trial. (United States v. Valentine, 820 F.2d 565 (2nd Cir. 1987)

In the landmark decision in Marbury v. Madisen, the Supreme Court laid down some lofty language stating; the very essance of civil liberty certainly consists in the right of every individual to claim the protection of the law, when ever he receives an injury. One of the first duties of government is to afford that protection. The government of the United States has been emphatically termed as a government of law, and not of man. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right. Can it be imagined that the law furnishes to the injured person no remedy? It is not believed that any person what so ever would attempt to maintain such a proposition. (Marbury v. Madison, 5 U.S. 137, 163, 165 (1803) The Supreme Court in the 1963 case of Brady v. Maryland established that the state with holding exculpitory evidence while prosecuting someone for a crime is a violation of the 14th amend. of the U.S. Constitution.

"While lawyers representing private parties may-indeed, must do everything ethically permissable to advance their clients interests, lawyers representing the government in criminal cases serve truth and justice first. The prosecutions job isn't just to win, but to win fairly, staying well with in the rules" (United States v. Kojayan, 8 F.3d 1315 (9th cir. 1993)" The function of the prosecution under the federal Constitution is not to tack as many skins of victims as possible to the wall, it's function is to vindicate the right of people as expressed in the law and give those accused of a crime a fair trial" (Donnelly v. De Christoforo, 416 U.S. 637, 648-49, 94 S.CT. 1868, 40 L.Ed. 2d 431, 440 (1974) (Douglass, J., dissenting)

a decision contrary to clearly established federal law, when the state court applies a rule differently than the Supreme Court on essentially the same facts are both, reasons for reversal and remand. (see Carey v. Musladin, 549 U.S. 70, 74 (2006); and (Bell v. Cone, 535 U.S, 685, 694 (2002). The actions of the state "so infected the trial with unfairness as to make the resulting conviction a denial of due process. (Darden v. Wainwright, 477 U.S. 168, 181 (1986); (Donnelly v. De Christoforo, 416 U.S. at 647-48) says petitioner must show specific instances of "egregious misconduct" (see also United States v. Thomas, 377 F.3d 232, 244 (2nd cir. 2004); (Pyle v. Kansas, 317 U.S. 213 (1942); (Folkes v.

Nelson, 34 F. 4th 258 (4th cir. 2022) Reversed and remanded for ineffective assistance of counsel.

The anti-terrorism and Effective Death Penalty Act of 1996 sec. (B)(i) provides, a second or successive petition shall dismiss unless factual predicate for claim could not have been discovered previously through due dilligence, and (ii) 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 fact finder would have found the appellant guilty of the underlying offense. Along with the issues presented that applies under the just mentioned law, there was no way for the petitioner to know his attorney, did not ~~know~~ about Md. Rule 4-331 and its requirements. This excuses petitioner from not raising ineffective against post attorney until it was known, well after post conviction was over. Petitioner gave post attorney same issue given to direct appeal counsel but trial strategy applies, giving the attorneys the ability to choose whatever strategy they want regardless of clients wishes. This is how post attorney was answered by post judge when attacking trial attorneys decision to not object during trial.

Ann. Code M. 3-704 (b) states "if it appears to the judge that a person is detained without legal warrent or authority, SHALL release or discharge the person immediately. The petitioner is imprisoned as the result of manifest injustice explained within this petition. The states proven transgressions

Makes relief the only appropriate means to correct this Manifest injustice because the Ends of Justice demands this Extraordinary Writ be granted In THE Interest of Justice.

Relief Requested

1. A hearing on the merits
2. Reverse and Remand convictions
3. Vacate Sentence and Convictions
4. Any and all other relief this court deem fair and just
5. Order review by Conviction Integrity Unit
6. Grant mandamus Relief
7. Order successive Habeas corpus in U.S District Court
8. Order Post conviction hearing to be reopened.
9. Order a resentencing hearing

CONCLUSION

This void judgement can be challenged at any time in any court and is void even before reversal. (Old Wayne Mut. L. Assoc. v. McDonough, 204 U.S. 8, 27 S.CT. 236 (1907)

For these reasons, the petition for an Extraordinary writ should be granted.

Respectfully Submitted,

Shaidon Blake Y64906
LCC
10930 Lawrence Rd.
Sumner, Illinois 62466

Shaidon Blake

3-26-2

CONCLUSION

The petition for a writ of mandamus should be granted.

Respectfully submitted,

Shaidon Blake Y64906

Shaidon Blake

Date: 3-26-25