

IN THE SUPREME COURT OF THE UNITED STATES

DARYL COOK,

Petitioner

v.

TOM MCGINLEY, ET AL.,

Respondents.

: NO. 24-7191

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PETITION FOR REHEARING OF JUNE 16, 2025 ORDER

Petitioner, pro se, an incarcerated pauper, who proceeded in forma pauperis in the above-captioned matter, hereby petition this Honorable Court for a rehearing of the above-said Order denying Petitioner's petition for a writ of certiorari.

QUESTIONS PRESENTED

I. WAS PETITIONER DENIED A FAIR TRIAL IN VIOLATION OF HIS DUE PROCESS RIGHTS UNDER THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION, WHEN THE JUDGE ASKED THE JURY FOREPERSON HOW ABOUT THIRD DEGREE AND HE RESPONDED ACCORDING TO THE TRIAL TRANSCRIPT, "~~was~~ with innocence, yes, not guilty, not guilty, right," AND THE JUDGE STILL SENT THE JURY BACK TO DELIBERATE AGAIN ON THE THIRD DEGREE MURDER CHARGE INSTEAD OF HIM DECLARING A [§]MANIFEST NECESSITY MISTRIAL OR FIRST POLL THE JURY BECAUSE THE FOREPERSON "ACTUALLY" SAID "NOT GUILTY OF ALL CHARGES" AND LOOKED AT THE REST OF THE JURORS AND SAID "NOT GUILTY, RIGHT," AND THEN THE JUDGE "ACTUALLY" SAID, "~~was~~ YOU CAN'T DO THAT, YOU MUST BE CONFUSED, YOU NEED TO GO BACK AND THINK SOME MORE"?

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SOME MORE," EVEN THOUGH THE FOREPERSON TOLD THE JUDGE THAT THE JURY WAS ^{HOPELESSLY} "DEADLOCKED" BEFORE THE JUDGE ASKED HIM HOW ABOUT THIRD DEGREE AND THE JURY WAS HUNG AT PETITIONER'S FIRST TRIAL ALSO?

II. WAS PETITIONER DENIED EFFECTIVE ASSISTANCE OF TRIAL COUNSEL AT TRIAL AND DENIED COUNSEL AT SENTENCING TO FILE POST-SENTENCE MOTIONS, AND SUBJECTED TO DOUBLE JEOPARDY, IN VIOLATION OF HIS RIGHT TO A FAIR TRIAL, EFFECTIVE ASSISTANCE OF COUNSEL, NOT TO BE PLACED TWICE IN JEOPARDY, AND HIS RIGHT TO DUE PROCESS, AS REQUIRED BY THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND LAWS OF THE UNITED STATES, WHEN THE JURY FOREPERSON TOLD THE TRIAL JUDGE THAT THE JURY WAS "DEADLOCKED" AND WHEN THE JUDGE ASKED HIM "DOES THE JURY REQUIRE ANY ADDITIONAL CLARIFICATION OR CLARIFYING INSTRUCTIONS," THE FOREPERSON RESPONDED "NO," THE JUDGE STILL SENT THE JURY BACK TO DELIBERATE AGAIN AFTER THE JUDGE ASKED THE FOREPERSON, "HOW ABOUT THIRD DEGREE" AND ACCORDING TO THE ^{TRIAL} TRANSCRIPT, THE FOREPERSON RESPONDED AND SAID, "WITH INNOCENCE, YES, NOT GUILTY, NOT GUILTY, RIGHT," AND WHEN THEY CAME BACK INTO THE COURT-ROOM, THIS TIME THEY SAID GUILTY AND TRIAL COUNSEL DID NOT REQUEST A MISTRIAL OR THAT THE JURY BE POLLED WHEN THE JUDGE DID NOT DECLARE A MISTRIAL OR POLL

THE JURY BEFORE THE JUDGE SENT THE JURY BACK TO DELIBERATE AGAIN AFTER THE FOREPERSON SAID NOT GUILTY TO THIRD DEGREE MURDER, AND TRIAL COUNSEL AND THE PROSECUTOR DID NOT SPEAK UP AT SENTENCING AND BRING TO THE JUDGE ATTENTION THAT THE FOREPERSON DID SAY NOT GUILTY OF ALL CHARGES WHEN THE JUDGE DENIED SAME AND TOLD PETITIONER HE MUST HAVE BEEN IN ANOTHER COURTROOM, EVEN THOUGH THE FOREPERSON HAD "ACTUALLY" SAID NOT GUILTY OF ALL CHARGES AND LOOKED AT THE REST OF THE JURORS AND SAID NOT GUILTY, RIGHT, AND THEN THE JUDGE SAID "YOU CAN'T DO THAT, YOU MUST BE CONFUSED, YOU NEED TO GO BACK AND THINK SOME MORE, THUS, PETITIONER WAS SENTENCED WITHOUT BEING APPOINTED NEW COUNSEL TO FILE POST-SENTENCE MOTIONS AS THE TRIAL COURT JUDGE SAID ON RECORD HE WOULD APPOINT TO DO?.

REASONS WHY PETITION FOR REHEARING SHOULD BE GRANTED

Despite the fact that a trial court's reason for declaring a mistrial on the basis that the jury was unable to reach a verdict has long been considered the "classic basis" establishing a manifest necessity to declare a mistrial, here, the trial court failed or refused to do so and trial counsel failed and refused to do so when Petitioner asked him to. See Trial Transcript of July 13, 2010 at Page 5-6, 7, n. 3-7 and Page 14, attached. See also Blueford v. Arkansas, 566 US 599 (2012).

THUS, Petitioner was prejudiced as a result of the actions of his trial counsel, the prosecutor, and the trial judge described above because he may have not been found guilty of all charges, especially third degree murder if they did not fail or refused to act as described above in the Questions presented herein. See Stow v. Murashige, 389 F.3d 880, 2004 U.S. App. LEXIS 2417; United States v. Cronin, 466 U.S. 648; Strickland v. Washington, 466 U.S. 668.

WHEREFORE, petitioner pray for a rehearing and that he be granted appropriate relief because he believe the state and Federal Courts' decisions was unreasonable in light of the facts herein and the fact that he did not default on the issues herein. See Petitioner's Response to the Commonwealth's Response to Petitioner's Habeas Petition.

Date: July 11, 2025

Respectfully submitted,
Daryl Cook
DARYL COOK, prose

SUPREME COURT OF THE UNITED STATES

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DECLARATION

I, Daryl Cook, do hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746, that I deposited my attached Petition for Rehearing of June 16, 2025 Order in the institution's internal mail system on July 11, 2025, the last day for filing, and that first-class postage has been prepaid. See Attached Petition for Rehearing, and Cash slips (indicating the date Petitioner deposited his Petition for Rehearing in the institution's internal mail system). See also Letter of October 7, 2025, ~~at the~~ Enclosed.

Executed: October 19, 2025

By: Daryl Cook
DARYL COOK
Pro Se Petitioner

**Additional material
from this filing is
available in the
Clerk's Office.**