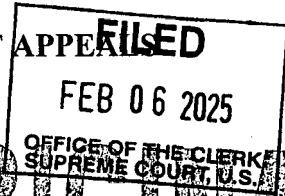


25-5458

IN THE UNITED STATES SUPREME COURT OF APPEALS

No.: 22-0467



ORIGINAL

ANDY J. McCauley, Jr.-PETITIONER

vs.

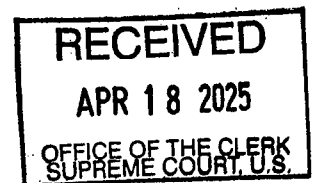
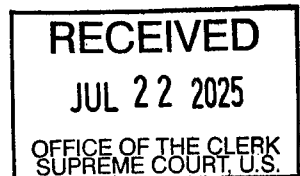
STATE OF WEST VIRGINIA / JONATHAN FRAME-SUPERINTENDENT
RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
THE WEST VIRGINIA SUPREME COURT OF APPEALS

PETITION FOR A WRIT OF CERTIORARI

Filed By:

Andy J. McCauley, Jr.
Mt. Olive Correctional Complex
1 Mountainside Way,
Mt. Olive, West Virginia 25185



QUESTION(S) PRESENTED

Question I). Did the trial court commit reversible error by denying Petitioner's Motion for Change of Venue?

Question II). Did the trial court commit reversible error when it "allowed the testimony of Brandy Eggeman and evidence that her K-9 Rock indicated to the presence of human remains in the bed of the green Dodge truck driven by Petitioner?

Question III). Did the trial court commit reversible error when it failed to direct a verdict in favor of the Petitioner at the close of the State's Case-in-Chief and the close of all of the evidence because the evidence was insufficient to find the Petitioner guilty of murder in the first degree and guilty of death of a child by custodian by child abuse?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page, however, they are also

briefly denoted below:

Petitioner:

Andy J. McCauley, Jr.
Mt. Olive Correctional Complex
One Mountainside Way,
Mt. Olive, West Virginia 25185

Respondent:

Jonathan Frame-Superintendent
Mt. Olive Correctional Complex
One Mountainside Way,
Mt. Olive, West Virginia 25185

AND

Mary Beth Niday, Esq.
Assistant Attorney General
West Virginia Office of Attorney General
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Charleston, West Virginia 25301

LIST OF PRIOR DECISIONS

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

STATE v. MCCAULEY, JR., WVSUPCT No. 22-0467

Submitted: October 9, 2024,

Filed: November 13, 2024,

AFFIRMED

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OPINION BELOW

The West Virginia Supreme Court of Appeals, (WVSCA) affirmed Petitioner's Circuit Court ruling, as Petitioner will state in his argument contained in this Petition.

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257 & 28 U.S.C. § 1254 First is State Court Decision,. The West Virginia Supreme Court of Appeals decided Petitioner's case on November 13, 2024.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution Amendment Ten (10) & Fourteen (14), and the West Virginia Constitution Article III, Section[s] Five (5), Ten (10) & Fourteen (14).

STATEMENT OF THE CASE

In the evening hours of May 8, 2019, Chantel Oakley called Morgan County 911 dispatch to report her (15) fifteen-year-old daughter R.C. a minor was missing. (Pursuant with Rule 40(e) Petitioner will use her initials.) Law enforcement responded to the residence of Ms. Oakley shared with Petitioner, who was her live-in-boyfriend at the time, as well as R.C., and R.C.'s two younger brothers.

R.C.'s decomposing and largely skeletonized body was found on May 16, 2019 dumped over the embankment of a mountainous road. In January of 2020, a Morgan County Grand Jury returned a (2) two-count felony indictment charging Petitioner with first degree murder and concealment of a deceased body. Jury selection began in Morgan County on Friday, April 16,

2021. The jury was ultimately discharged due to Petitioner being placed in quarantine after he was exposed to COVID-19. A second jury was selected from a new pool on September 17, 2021. Petitioner's trial began on September 27, 2021, with twelve regular jurors and four alternates.

During the pretrial proceedings, Petitioner filed a motion to exclude evidence related to a search conducted of the green Dodge truck he was observed driving according to witnesses on May 8, 2019 by a trained human remains detection dog and her handler. Petitioner argued that the evidence proffered did not meet the threshold set forth by Rule 702 of the West Virginia Rules of Evidence, as well as the precedent announced by the United States Supreme Court in *Daubert v. Merrell Dow Pharm*, 509 U.S. 579 (1993).

The trial court denied Petitioner's motions and proceeded to impose a sentence of life imprisonment without the possibility of parole on Petitioner's conviction of first degree murder, as recommended by the jury in *State v. McCauley*, Case No. 21-F-35, also to a period of (15) fifteen years to life imprisonment for his conviction of death of a child by custodian by child abuse, and a period of not less than (1) one, nor more than (5) five years imprisonment for his conviction of concealment of a deceased body. Each sentence was ordered to run consecutively to one another.

Petitioner appealed these convictions and sentences in the Supreme Court of Appeal in *State v. McCauley*, 2024 W. Va. LEXIS 488 November 13, 2024, Case No. 22-0467. The Court in its December 16, 2024 MANDATE (copy enclosed) denied relief and upheld, "The decision of the circuit court is affirmed."

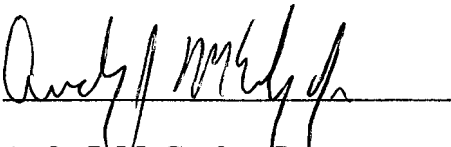
REASON FOR GRANTING THE PETITION

Petitioner met the burden for appeal. He demonstrated the court abused its discretion in denying his motion for a change of venue. He had effectively offered the existence of widespread media publicity. Petitioner was unable to receive a fair trial due to such widespread hostile sentiment within the community. Petitioner's strong arguments indicated the evidence of the trained human remains detection dog was without merit. Ms. Eggeman and her dog were not qualified. The state relied on a dog to convict and impose harsh sentences. No evidence supported the feeble, incredible, and implausible testimony of Ms. Eggeman as she relayed the dog's testimony to the jury.

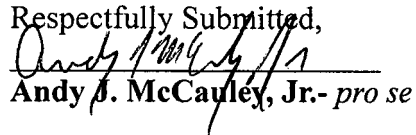
Petitioner's claim with respect to the lack of sufficiency of the evidence warrants reversal. There was no evidence admitted, except the dog's claim, through it's handler that supports each element of the charged offenses. The claim of lack of sufficient evidence requires relief be awarded in reversal of his convictions.

CONCLUSION

For the foregoing reasons, Petitioner humbly requests this Honorable Court grant him a Writ of Certiorari, and any other relief deemed just and proper. The Petitioner understands that this Court will act within the confines of justice.



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Respectfully Submitted,

Andy J. McCauley, Jr. *pro se*