

25-5509

No. \_\_\_\_\_

IN THE

SUPREME COURT OF THE UNITED STATES

PARNELL R. MAY

(Your Name)

— PETITIONER

ORIGINAL

FILED

MAY 22 2025

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

VS.

Dexter Payne

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Eighth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

PARNELL R. MAY - Pro Se

(Your Name)

P.O. Box 970

(Address)

MARIANNA, ARKANSAS 72360

(City, State, Zip Code)

ADC #153557

(Phone Number)

QUESTION(S) PRESENTED

- ① Whether the Lower Courts, clearly erred and/or Abused its discretion by denying Petitioner's, motion for Leave to amend his first habeas Petition, which did raise a proper subject of relief, *Foman Vs. Davis*, 371 U.S. 178 (1962), *Perry Vs. Me-Ritt Sys. Prot. Bd.*, 137 S.Ct. 1975 (2017).
- ② Whether the Court of Appeals for the Eighth Circuit should have granted the motion for Remand of the Appellant's habeas Corpus Petition, back to district Court to Assess the new evidence of appellant's actual innocence claim, *Amrine Vs. Bowersox*, 128 F.3d. 1222 (8th Cir. 1997), *Schlup Vs. Delo* 513 U.S. 298 (1997).
- ③ Whether the Lower Courts either did cast a blind eye toward innocence, or overlooked or misapprehended, Parvell Mays claim, which did present new reliable evidence of his actual innocence that ~~was not~~ available at trial, *Heckler Vs. Collins*, 506 U.S. 390 (1993), *Warden Vs. Thompson*, 545 U.S. 794 (2005).
- ④ Whether the District Court and Court of Appeals dismissed the Petition without hearing on the new reliable evidence, precluded Parvell Mays's Allegation of new evidence of his Actual Innocence, from a proper development of the issue, *McCleskey Vs. Zant*, 499 U.S. 467 (1991).

## 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:

## RELATED CASES

- ① State Vs. May, CR-2017-169<sup>I</sup>: 6th Judicial District, 1st Division Pulaski County Circuit Court.
- ② May Vs. State, CR-18-996: Arkansas Court of Appeals, "appealed the Mistrial"
- ③ State Vs. May, CR-2017-169<sup>II</sup>: "second Trial" after 2018 Mistrial
- ④ May Vs. State, CR-22-221: Arkansas Supreme Court, "direct appeal to conviction"
- ⑤ May Vs. Payne, 4:23-CV-00350-JM: Federal Habeas Corpus Petition, filed in the United States District Court for the Eastern District of Arkansas, Central Division, "dismissed."
- ⑥ May Vs. Payne, CV-25-1057: U.S. 8th Circuit Court of Appeals, "Motion for Remand, denied."
- ⑦ May Vs. Payne, CV-25-1353: U.S. 8th Circuit Court of Appeals, "Appeal dismissed."

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- 13<sup>th</sup> Amendment to the United States Constitution
- 14<sup>th</sup> Amendment to the United States Constitution
- 28 U.S.C. § 1254 (2)

... Please see Next Page for CONTINUANCE ...

CONTINUANCE,...

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IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from federal courts:

The opinion of the United States court of appeals appears at Appendix A.15 to the petition and is

☐ reported at "outright denied"; 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 Dp.16 to the petition and is

☒ reported at May V. Payne No. 4:23-350-JM-JTK, 2024 WL 5274854 (E.D. Ark. Dec 3 2024); 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 \_\_\_\_\_ 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 \_\_\_\_\_ 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.

## JURISDICTION

☒ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was JUNE 4<sup>th</sup> 2025 see Appendix A 3-5 see also Appendix A 1-2

☐ 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: JUNE 4 2025, and a copy of the order denying rehearing appears at Appendix A p 3-4.

☒ An extension of time to file the petition for a writ of certiorari was granted to and including 60 days 7/22/2025 (date) on JULY 22 2025 (date) in Application No. A. extension granted by U.S. Supreme Court Clerk see Appendix A p. 5, under Rule 12.5 of the U.S. Supreme Court Rules.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1). Also,...

MR. May invokes the U.S. Supreme Court Rule 12.4, where two or more judgments are sought to be reviewed on this writ of certiorari to the same court and involving identical or closely related questions, where a single petition for a writ of certiorari covering all judgments suffices. For the 8<sup>th</sup> Circuit Court of Appeals cases, #25-1057 and #25-1353, both were finally decided on the date of JUNE 4<sup>th</sup> 2025 see Appendix A pages 3-5

☐ For cases from state courts:

The date on which the highest state court decided my case was \_\_\_\_\_.  
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).

I Prannell R. May declare under the Penalty of Perjury by the Federal Law that the aforementioned Jurisdictional Statement are true and correct,  
signature: Prannell R. May-Prose date: August 1<sup>st</sup> 2025

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Amendment 14, to the United States Constitution, which provides: "Section I. All persons born, or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make, or enforce any law which shall abridge the privileges, or immunities of citizens of the United States, 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.

Section 5. The Congress shall have power to enforce, by appropriate Legislation, the provision of this Article.

This case, also involves Amendment 6, to the United States Constitution, which provides: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State, and district wherein, the crime, shall have been committed, which district shall have been previously ascertained by Law, and to be informed of the nature and cause of the accusation, to be, confronted with the witnesses, against him, to have compulsory process, for obtaining witnesses, in his favor, and to have assistance of counsel, for his defense.

This case, also involves Amendment 13, to the United States Constitution, which provides: "Section I. Neither slavery, nor involuntary servitude, except as a punishment, for a crime, whereof, the party, shall have been duly convicted, shall exist, within the United States, or any place, subject to their jurisdiction. Section 2. Congress shall have power to enforce this article by appropriate Legislation.

This case, also involves Amendment 8, to the United States Constitution which provides: Excessive bail shall, (Please see, Appendix H)

## STATEMENT OF THE CASE

Barrell R. May / Mr. May, the Petitioner, was wrongfully charged with a homicide offense, in December 2016, for the death of Anna M. Mireles / Ms. Mireles. Mr. May discovered, material exculpatory evidence, of another cause of Ms. Mireles death, contained within her Emergency Room Medical Records - Medical Records,... Mr. May decided, to proceed Pro se, in his defense, after learning that, the Court appointed Public defenders, were cooperating with the State Prosecutors, to, prevent, Mr. May, from, revealing the medical facts, of another cause of Ms. Mireles death that was not related to any degree of homicide. However, Mr. May was wrongfully convicted of Capital Murder, on October 8<sup>th</sup>, at his October 6<sup>th</sup> 2021, jury trial. He directly appealed to the Arkansas Supreme Court, and around December 2022, the Arkansas Supreme Court affirmed the conviction,... during, this time Mr. May discovered additional New Reliable Evidence of his actual innocence, of the cause of death element of Capital murder, then filed his first federal habeas corpus Petition, with copies, of the New Reliable evidence of his actual innocence, as well as strongly asserted the underlying facts of the claim of his ACTUAL INNOCENCE, in light of such New Reliable evidence, where Mr. May's conviction was the result of Constitutional errors, that had occurred at his October 6<sup>th</sup> 2021 jury trial. Mr. May timely filed his first federal habeas Petition, on April 13<sup>th</sup> 2023, actually raising factual predicate, of his New evidence, 3 months after judgment of his direct appeal in State Court, as well as he did strongly assert, the underlying facts, about, the probative force of his factual-actual innocence claim, in light of such New Reliable evidence, in which, such evidence, was not available, at Mr. May's trial, and could not have been discovered earlier by due diligence.

Without holding any kind of hearing nor, any evidentiary hearing, ...  
On January 7<sup>th</sup> 2025, the U.S. district Court entered its judgment, by order,  
adopting the magistrate judge's proposed findings and recommendations,  
where, specifically, the U.S. district Court, cast a blind eye toward Parnell  
May's actual innocence, by outright overlooked all the facts that he had asser-  
ted and presented, new reliable evidence, of his actual innocence, that was not AVA-  
ilable at his trial, because it could not have been discovered of such evidence,  
before his trial, nor, during his trial, through the exercise of due diligence,  
see (Appendix C, p. 1-10). The U.S. district court, did not, address, nor note  
any legal and/or factual reason, for its, determination of the facts,  
and/or, how it came to the conclusion, in its findings and recommend-  
ations, specifically about, Parnell May's claim that his conviction was  
the result of several constitutional violations, at his October 6<sup>th</sup> trial,  
whereas, he was actually innocent, in light of newly reliable evidence,  
that was not ascertainable at trial, and could not be ascertainable, by  
the exercise of due diligence. see (Appendix C, p. 10), and (Appendix B, p. 1-2)  
On April 18<sup>th</sup> 2025, the Eighth Circuit Court of Appeals for the United States,  
flatout dismissed, Parnell May's appeal, without explaining, or noting any  
legal and/or factual reason, for its decision, nor did the Eighth Circuit  
Court, address, explain and note any legal and/or factual reasons, explain-  
ing how it came to the conclusion, of denying his motion for remanding  
his case back to the U.S. district court, so the U.S. district court, can assess  
the new reliable evidence, of actual innocence, for denying his motion  
for certificate of appealability, which raised a claim, of a constitutional  
violation that resulted in his conviction, where he was actually innocent  
in light of such new reliable evidence, unavailable at his trial, conseque-  
ntially, flatout dismissed his appeal, see (Appendix A, p. 15) (Appendix C, p. 1-10).

See May Vs. Payne, 4:23-cv-00350-JM-JTK (E.D. Ark 2024) (Doc#2) (Doc#3) (Doc#3, p. 90-94) (Doc#27) (Doc#31) (Doc#30 p. 3-7). Before the United States district court / U.S. district court, entered its final judgment, to Mr. May's first federal Habeas Petition, ... Mr. May, filed a motion for leave to Amend his first habeas Petition, which would have done, ... No more than, state A more properly clear assertion of the actual Innocence claim for recovery, under the miscarriage of justice, exception, under the Schlup standard, (Doc#27) (Doc#37) id. Mr. May, alleged that, the New reliable evidence of his actual Innocence, which was the Advance Scientific Knowledge about C.P.R. causing rib fractures and Liver Laceration, and not be involved, with causing the death, officially published in the Turkish Journal of Emergency Medicine, see (Appendix F, pages 1-5). The State Prosecutors used the Medical Examiner, for the Arkansas State Crime Laboratory, Dr. Stephen A. Erickson / Dr. Erickson, as, its expert witness and main evidence to prove beyond a reasonable doubt the cause of death element of Capital murder, against Mr. May, ... where, at the October 6<sup>th</sup> 2021 jury trial, Dr. Erickson, had incorrectly determined and concluded, that, "14 out of 24 ribs are fractured, she not able to ventilate", ... "Bleeding was a big part of this, but she couldn't ventilate, her ribs were fractured", see Trial transcript record, pages (0617-0618), (0607), ... Dr. Erickson, testified that blood loss was a major part of why she (Ms. Mieder) died, id, but, the findings documented in the Autopsy Report by Dr. Erickson, mainly, where it showed, that, it was 60ml of blood loss, collected in the left chest cavity, 100ml blood loss, collected in the right chest cavity, and 800ml blood loss, collected in the abdomen cavity, the 14 bilateral rib fractures, and, 50% right liver laceration, did -

- makes such Alleged cause of her death, to be, clearly inconsistent with his testimony, See May vs. Payne, 4:23-cv-00350-JM-JIK (E.D. Ark. 2024) (Doc #30, p.131)

Dr. Erickson, made and gave his forensic testimony, about the cause of Ms. Mirder's death, which was discovered by the record evidence, to actually be, seriously flawed forensic, Scientific testimony, because, Dr. Erickson, testified, that, C.P.R. causes some blood flow, even in a person who is recently dead, and, about an empirical factor, regarding the amount of blood flow, through a person's Liver organ, per, certain amount of, heart rates, per minute, which showed that, there would have been, far much more bloodless, in the Liver organ area, in addition, besides, that 800ml of bloodless, that was collected in the abdomen cavity at autopsy examination, ... for the fact, that, that 800ml bloodless, was determined and concluded, by, Dr. Erickson's opinion, to be, "a major part of why she (Ms. Mirder) died", combined to what he also stated during cross examination of his forensic testimony of, the cause of, Ms. Mirder's death, that, "C.P.R. was 20 to 30 percent, as efficient, as a Normal heart beat", ... which beats at a Normal heart rate of 75 beats, per minute, whereby, such rate of Normal heart beats, per minute, it would cause about 1.2 Liters of blood, to flow through a person's Liver organ, per minute, ... see Trial transcript Record pages (0562-0573) (01123).

The basic and appropriate, mathematical operation for calculating, the Numerical factors, that were stated by Dr. Erickson, showed that, ... 20 to 30 percent, of 1.2 Liters of blood flow, per minute, would be approximately 240ml to 360ml of blood flow, per minute, regarding the fact, that, C.P.R. is 20, to 30 percent, as efficient as a Normal heart beat, based on such, as Dr. Erickson, had testified, the mathematical results, is very troubling,

Dr. Erickson, conceded to the fact, that, Approximately 60 minutes of C.P.R. was Administered to Mrs. Mirder, on December 4<sup>th</sup> 2016, by different Applicators of C.P.R. and in different Locations, of those 60 minutes of C.P.R. see Trial transcript Record pages (0531-0535). Mr. May's New reliable evidence, showed that, "After 60 minutes of Not responding to C.P.R." that, at the autopsy examination it was 700ml of blood collected from the abdomen cavity, as well as it was 8 bilateral ribfractures, found see (Appendix F, page 1-2). Mr. May's New reliable evidence, showed that C.P.R. "chest compression Application can VARY depending on condition of the applicator[s] and the location[s] and this condition can alter the degree of complication" see (Appendix F, page 3). Mr. May's New reliable evidence, basically has shown by such medical scientific knowledge / scientific evidence, that, After 60 minutes of Not responding to C.P.R., that, at the autopsy examination, that, 700ml of blood loss, to, 1 liter of blood loss, would collect in the abdomen cavity from a Liver Laceration, see (Appendix F, pages 1-3), however, None of those ribfractures, the Liver Laceration, nor any of the internal blood loss aspirated from the body cavities, of the 26 years old female, nor, the 65 years old male truck driver, were involved in causing their deaths, see (Appendix F, pages 1-3). Mr. May's New reliable evidence, showed that, "C.P.R. done correctly can still cause organ injuries or fatal complications" see (Appendix F, page 4). At Mr. May's October 6<sup>th</sup> 2021 jury trial, Dr. Erickson, testified, that, it takes, 1.2 liters of blood loss to cause a person's death, see Trial transcript Record pages (0604-0605), and that, such cause of her death, was those 14 bilateral ribfractures, the 50% Liver Laceration, and that blood loss WAS A MAJOR part of why she died. (0607) id.

However though such conclusion of the cause of Ms. Mizeles death, did seriously conflict, against the New reliable evidence, of Mr. Mays actual innocence of causing Ms. Mizeles death, as well as, Dr. Erickson's opinion, of the issue about bloodloss being a major part of why she died, was seriously contradicted by Dr. Erickson's own statements during cross-examination of his forensic testimony of the cause of Ms. Mizeles death, specifically concerning, the bloodloss being a major part of causing her death. The medical records of Ms. Mizeles, contained exculpatory medical data facts, of 14 minutes of heart rates, ranging from 125 beats, upto, 158 beats per minute, in variations, see Appendix G pages 6-9. It showed, that, there would/should have been, additional blood leakage, at the time C.P.R. was being administered, which would/should have added, to the internal bloodloss, that, was "supposed" to be, "a major part of why she (Ms. Mizeles) died"... remember Dr. Erickson, concluded that, the 800ml of bloodloss, collected in the abdomen cavity, of Ms. Mizeles "happened to her while she was alive", and **"WAS A MAJOR PART of why she died"**, see Trial transcript record pages (0539-0541)(0607)(0617-0618); therefore, that, Liver laceration bled out the 800ml of bloodloss into the abdomen cavity, and remember Dr. Erickson testified, that **"C.P.R. does causes some bloodflow even in a person recently dead"**, and that, "C.P.R. was 20 to 30 percent as efficient as a normal heart beat",... beating at a normal heart rate, ... where a normal heart rate was 75 beats, per minute, .... which would cause approximately 1.2 Liters of blood to flow through a person's Liver organ, per minute, accordingly, ... basically 75 C.P.R. chest-compressions, are 20 to 30 percent as efficient as, 75 Normal heart-beats, in other words, 240ml to 360ml's, 20 to 30 Percent, of →

→ 1.2 Liters, ... therefore, those C.P.R. chest compressions administered to Ms. Mireles, at the hospital, as noted in her medical records, of such heartbeats created by such C.P.R. chest compressions, reasonably would have caused at the very least, 240 ml, to 360 ml, of blood, to flow, to Ms. Mireles. Liver organ, per each of those minutes, as noted in her medical records, see (Appendix G, pages 6-9) ... 50% of her Liver organ was laceration, ... for hypothetical demonstration, let's say, it was, 80 ml of blood leakage per minute, per each of those minutes, as noted in Ms. Mireles medical records, ... which would/shall result, to be, about 1120 ml of blood loss, by the time those C.P.R. chest compressions, had stopped, see (Appendix G pages 6-9), and that, such 1120 ml of blood loss, would have added, in addition to that 800 ml of blood loss, in the abdominal cavity, which was "alleged" by Dr. Erickson, to be, "a major part of why she died." Consequently, Dr. Erickson, seriously contradicted his own conclusion of the cause of Anna M. Mireles' death, accordingly, his forensic testimony of the cause of her death, was actually seriously flawed, and, that was just counting the 30 minutes of C.P.R. efforts at the hospital, ... there was another 30 minutes, of C.P.R. efforts at the scene at the residence, which meant, another 1120 ml of blood loss, ... that is, if it were true that, that 50% Liver Laceration had existed before the start of those 60 minutes of C.P.R. efforts, as Dr. Erickson had testified about, in the affirmative, ... accordingly, Mr. Mays' New reliable evidence, strongly supports such issue aforementioned. Mr. Mays' New reliable evidence, clearly eliminates/takes away those 4 bilateral rib fractures, the 50% Liver Laceration, the 60 ml blood loss, the 100 ml blood loss, and the 800 ml blood loss, from the equation of the cause of Ms. Mireles' death, ... thus leaving the exterior injuries, which were not sufficient to, ...

...collectively cause Ms. Mireles death, by such exterior injuries as such was established by Dr. Erickson's testimony, where the Prosecution asked Dr. Erickson, at the trial, "if it wasn't for that Liver Laceration, and being there with the 800 milliliters of blood loss, would Anna (Ms. Mireles) most likely have lived?" Dr. Erickson, answered to such questions was, "I don't know",... then he began to ramble off about, her bleeding was extensive, and his speculations about the bleeding in the skin, see Trial transcript record pages (0646-0653). The new reliable evidence of Parvelli May's actual innocence, would have, clearly convinced any reasonable trier of facts, that Mr. May's action/conduct, of assault did not cause/create, those 14 bilateral rib fractures, nor the 50% liver laceration, where, that the 60ml, the 100ml, and the 800ml of blood loss, being the results of such aforementioned injuries, accordingly, none of them had any incremental effects on the cause of Ms. Mireles death, because they never existed, before the start of those 60 minutes of C.P.R.,... in fact, it was the C.P.R. that, did create/cause, those 14 bilateral rib fractures, the 50% liver laceration, which did produce, the blood leakage, of the 60ml in the left chest cavity, the 100ml in the right chest cavity, and the 800ml in the abdominal cavity, during the 60 minutes of those C.P.R. chest compression efforts, and Mr. May's new reliable evidence, shows that, it was a highly probability, that 60 minutes of C.P.R. did create such resuscitation complications, ... which were wrongly used by the State Prosecutors, for evidence of the cause of Anna M. Mireles death, Mr. May, strongly and thoroughly asserted, of such underlying facts, of his actual innocence, in his first habeas corpus Petition and in his proposed Amended habeas corpus petition, before the U.S. district court entered its judgment.

gment, denying his motion to amend, motion for evidentiary, and dismissing his federal habeas corpus petition, specifically where Mr. May has strongly contended and asserted that, "but for a constitutional error, that did result in the conviction of him (Pennell May) who was actually innocent of causing the death of Anna Mireles, in light of his new reliable evidence, that was not available at his trial, and was not ascertainable through the exercise of reasonable diligence, before the date, and during Mr. May's trial. The U.S. district court, clearly erred, in its findings about Mr. May's new reliable evidence, of his ~~factual~~/actual innocence, of the cause of death element of Capital murder, while on the contrary there never was a murder, there never was a homicide, because, Ms. Mireles' death was not by the manner of homicide... her medical records did contain material exculpatory evidence of another cause of her death, and the other cause of death, was actually corroborated by Dr. Erickson's testimony about such cause of death, ... however, such exculpatory evidence, was wrongly excluded at trial. Accordingly Mr. May's case is seriously extraordinary, but, the U.S. district court, clearly erred, by finding that, "He does not rely on NEW EVIDENCE, that was UNAVAILABLE at trial, and could not have been discovered earlier through the exercise of due diligence whereas, ... Mr. May does rely on new reliable evidence, which is the medical scientific knowledge about C.P.R. causing rib fractures, liver laceration, and internal bleeding, as in Mr. May's case, and officially published in the Turkish Journal of Emergency Medicine, see (Appendix F, pages 1-3). Accordingly such new evidence was not available before, Mr. May's October 6<sup>th</sup> 2021 jury trial, because Mr. May did not have any assistance of counsel, before such trial.

The record will reflect that Mr. May proceeded Pro se, ever since, the beginning of the year 2021, where at a pre-trial hearing the State and trial court told Mr. May that, "any stand by counsel appointed by the court will not give legal advice during the trial or otherwise help prepare his defense", see Pre-trial transcript Record pages (043-045) (050) Mr. May was also, incarcerated at the Pulaski County Jail, and was indigent, without any outside family and/or friend support, therefore, he could not get anyone to access a personal computer, and go online, and google search for any such medical information, as the Turkish Journal of Emergency Medicine, nor, any medical information about C.P.R. causing resuscitation complications until after he was convicted and was in prison, where another inmate who had illegal possession of a smartphone, owed Mr. May a favor, and google searched for medical information of C.P.R. causing rib fractures and liver lacerations... and about 3 months later Mr. May filed his first habeas corpus Petition, in U.S. district court, where he did, present the factual predicate of the claim of such new evidence, as well, as demonstratively showed, the underlying facts of his actual innocence, in light of such new reliable evidence... whereas, the U.S. district court, clearly erred in its finding of the facts, based upon its legal conclusions, and its credibility determinations regarding, an actual innocence claim under the Schlup standard, thus the U.S. district court, abused its discretion, by denying Mr. May's Motion for leave to amend his first habeas petition, which did strongly assert such strong underlying facts, which was a very proper subject of relief... consequently, the U.S. district court, dismissed Mr. May's first habeas corpus Petition, which is merely abuse of its discretion, and inconsistent with the spirit of the Federal Rules.

## REASONS FOR GRANTING THE PETITION

### A Conflicts with Decisions of Other Courts

The decision of the U.S. Eighth Circuit Court of Appeals, held that, "habeas Petitioner (AS Parnell May convicted for 'allegedly' murder of another person) was entitled to Remand, so that, he could present Allegedly Newly discovered evidence of actual innocence, which if credited, and found to have been Newly discovered, may entitle him to present otherwise procedurally-barred constitutional claims,"... Amrine v. Bowersox, 128 F.3d. 1222, 1226-27, (8th Cir. 1997). "...evidence in question, which consisted of, 'id.,...the medical scientific knowledge about G.P.R. causing rib fractures, Liver Laceration and producing internal blood loss, as in Mr. May's case, a officially published in the Turkish Journal of Emergency Medicine, which eliminated such injuries as being mentioned, to be, significant/sufficient contributing factors of the cause of death, of the alleged victim Ms. Mercedes, thus eliminating Multiple blunt force injuries to be the cause of her death,' related to basis of district court's ruling against (Mr. May) on his actual innocence claim, in that, by denying relief, district court, flat out decided by, finding that Mr. May, 'does not rely on new evidence, that was, UNAVAILABLE at trial, and could not have been discovered earlier, through the exercise of due diligence', Amrine, 128 F.3d, at 1230, ... Amrine held that, 'Federal court must make its own determination of whether probative force of newly presented evidence in connection with evidence of guilt adduced at trial, is, sufficient to warrant consideration of otherwise barred claims, Amrine 128 F.3d, at 1227, see also, Schlup v. Delo, 513 U.S. 298, 330-32 (1995). The Eighth Circuit, held that, 'A Remand under Schlup is AVAILABLE NOT AS AN OPPORTUNITY to bolster claims, OR, to seek to find New evidence, but rather AS, AN OPPORTUNITY for a petitioner (AS Parnell May) aggrieved by an allegedly defective trial and having inexcusably defaulted the AVAILABLE remedies, to, ...

... Raise such a strong doubt to his guilt, that, in hindsight, we cannot have confidence in the trial's outcome unless it was indeed free of harmless errors." *Amrine*, 128 F.3d at 1229, see also, *Schlup*, 513 U.S. at 314-16. The Eighth Circuit held in *Amrine*, that, "... A remand is appropriate to consider the new reliable evidence in the context of his claim of actual innocence." *Amrine*, 128 F.3d at 1229, "he has presented new evidence before his appeal was briefed that related directly to a key issue decided against him," the cause of death element of capital murder, *id.*, *In re Winship*, 397 U.S. 358, 361-64 (1970), "... Mr. May, has made a sufficient showing to require (an evidentiary hearing since, if credited, his evidence could establish actual innocence." *Amrine*, 128 F.3d at 1229, see *Bannister Vs. Delo*, 100 F.3d 610-617, (8th Cir. 1996). Mr. May's newly discovered evidence warrants remand for hearing on otherwise procedurally-barred constitutional claims, where, "evidence is newly discovered, only if it was not available at trial and could not have been discovered earlier through exercise of due diligence." *Amrine*, 128 F.3d at 1230, where, the medical scientific knowledge of resuscitation complications, officially published in the *Turkish Journal of Emergency Medicine*, "was not ascertainable through the exercise of reasonable diligence, before the date, and during Mr. May's trial," *Ex Parte Robbins*, 478 S.W.3d 678, 693, (Tex. Crim. App. 2014), because such newly discovered evidence was available online and Mr. May was incarcerated indigent, and without any assistance of counsel, because, Mr. May chose to represent himself, ... however, he could not obtain access to a computer with Wi-Fi internet access, so as to go online and google search for such medical scientific knowledge as resuscitation complications, as officially published in the *Turkish Journal of Emergency Medicine*, *Timerson Vs. Kelley*, 350 F.Supp.3d 741, 747 (E.D.Ark. 2016), "was diligent," *id.*

The district court also denied Mr. May's motion for leave to amend his first habeas Petition, raising the claim of his discovered new evidence and dismissed his first habeas Petition, and the district court specifically concluded, by its decision, that "... He does not rely on new evidence," see May Vs. Payne, No. 4:23-cv-350-JM-JTK 2024, WL 5294854, at \*5 (E.D. Ark. Dec 3 2024), ... but the district court failed to discuss Mr. May's newly presented evidence, in any detail. emphasized that Mr. May, had not rely on new evidence, that was unavailable at trial, and could not have been discovered earlier through the exercise of due diligence, May 2024 WL 5294854, at \*5, see Warden Vs. Thompson, 545 U.S. - 794, 807-14 (2005), ... "it does not explain how the result it reaches squares with" the assess of the probative force, in any detail, id, Schlup 513 - U.S. at 332, as well as the reliability and availability of Mr. May's newly presented evidence, in accordance with Schlup 513 U.S. at 314-29, see Perry Vs. Merit Sys. Prot. Bd., 137 S. Ct. 1975, 1993-94 (2017). The district court failed to "squarely address an issue," id, of Mr. May's newly presented evidence of his actual innocence, in his first federal habeas corpus Petition, May, 2024 WL 5294854, at \*5. Every lower court keeps contending, that, "Mr. May claims that injuries from the resuscitation efforts caused Anna Mipeles death, ... that is not true, ... Mr. May is showing medical proof that No blunt physical injury or injuries of such caused her death, ... the lower courts are deliberately overlooking and casting a blind eye toward Mr. May's actual innocence, Herrera Vs. Collins, 506 U.S. 390, 404 (1993), the lower courts are playing a game of deliberately mis-constructing what Mr. May is actually claiming and showing medical proof in support of such claim, id.

However... Dr. Erickson stated in his forensic testimony at trial that, "She (Anna Mindeles) died of multiple blunt force injuries," and that... these injuries were inflicted by another individual, that make it, a homicide" see Trial transcript record pages (0508-0509).

Dr. Erickson, stated in his forensic testimony that, "... her (Anna Mindeles) Liver split from the repeated blows," see Trial transcript record page (0537-0538). "... And that, the Liver injury was caused by a large punch that would fold a person in half," see Trial transcript record page (0641).

Dr. Erickson, stated in his forensic testimony, that "she had multiple rib fractures,"... And that, "the Rib and Liver injuries were not from resuscitation efforts," see Trial transcript record pages (0538-0540). ... Dr. Erickson stated in his forensic testimony, that Anna Mindeles, "... suffered all of the blunt force injuries, and the liver damage, specifically, ... and broken ribs while she was alive" and that "everything that happened to her (Anna Mindeles) while her heart was beating and beating enough that it could bleed into these areas to a significant amount,"... see Trial transcript record pages (0540-0541).

Dr. Erickson, stated in his forensic testimony, that, "... blood loss was a major part of why she (Anna Mindeles) died." And that, "those rib fractures made it hard for her to ventilate," see Trial transcript record pages (0538-0541) (0607) (0617-0618). Accordingly, the aforementioned were the linchpin of the State Prosecutors main evidence to prove beyond a reasonable doubt the cause of death element of capital murder, against Mr. May, ... because without those 14 rib fractures, 50% liver laceration, and total 960ml internal blood loss, as documented

The United States Court of Appeals for the Eighth Circuit has entered a decision in conflict with the decision of its own United States Court of Appeals Eighth Circuit on the same important matter, where it was held in *Amrine vs. Bowersox*, 128 F.3d, 1222, 1227 (8th Cir. 1997), that "Habeas Petitioner (as Parvelli May) wrongfully convicted of capital murder and sentenced to life in prison without parole) was entitled to remand so that he could present allegedly newly discovered evidence of actual innocence which, if credited and found to have been newly discovered, might entitle him to present otherwise procedurally-barred constitutional claims which consisted of (New evidence of medical "Scientific Knowledge" about C.P.R. causing Rib fractures Liver Laceration and producing internal blood loss that was not involved in causing the death of the alleged victim that was) related to basis of district court's ruling against Petitioner on his actual innocence claim. The district court, in denying relief to Mr. May, decided he didn't rely on new evidence, that was unavailable at trial and could not have been discovered earlier through the exercise of due diligence, *id.*, see *May vs. Payne* 1:23-cv-00350-JM (E.D. Ark. 2024) (Doc #39, p.10) see (Appendix C p.10) which was clearly inconsistent with the fact of the newly reliable evidence that he did present to the district court, which was the medical "Scientific Knowledge" of C.P.R. causing Rib fractures Liver Laceration, and internal blood loss that was not involved in the cause of Anna Mizeles death, as officially published in the Turkish Journal of Emergency Medicine, see (Appendix F, pages 1-5) see *Ex Parte Robbins*, 478 S.W.3d, 911. He did motion for leave to amend his first habeas Petition, so as to clarify, his claim under Schlup standard Parvelli May was actually innocent of committing any degree homicide, based upon such new exculpatory evidence, miscarriage of justice, ... where as the district court denied such motion, and...

...dismissed Mr. May's first habeas Petition, based upon, a naked reason, that, "He does not rely on new evidence, that, was unavailable at trial, and could not have been discovered earlier, through the exercise of due diligence, see (Appendix C, p. 10), consequently, the district court, cast a blind eye toward innocence or overlooked or misapprehended, Mr. May's new reliable evidence as presented in the record, HERRERA vs. COLLINS, 506 U.S. 390, 404 (1993), Fed. Rules of Appellate Procedure, Rule 40 (a)(2). After filing Notice of Appeal, filed Motion for Remand, again presenting such new reliable evidence of actual innocence to the 8th Circuit Court, again, in order to obtain review under Schlup of his otherwise barred constitutional claims." Amrine, 128 F.3d, at 1226-27, .... Mr. May, "has presented new evidence, before his Appeal was briefed, that relates directly to a key issue decided against him in the district court", Amrine, 128 F.3d, at 1229, "A remand is appropriate to consider (Mr. May's) additional evidence in the context of his claim of actual innocence, see Schlup, 513 U.S. at 330-32, Boyle, 64 F.3d, at 352, see also Amrine, 128 F.3d, at 1229. The United States Court of Appeals for the Eighth Circuit, held that, "the United States Supreme Court found that, the new evidence, cast doubt on his involvement, and that, if the evidence were true, it would affect a conscientious juror's decision on whether his guilt had been established beyond a reasonable doubt, Schlup, 513 U.S. at 330-32, .... The case was remanded for consideration by, ... the district court, of Petitioner's new evidence under the standard the Court had adopted with opportunity for review of his barred constitutional claims, if his gateway claim were established," see Amrine, 128 F.3d, at 1227-28. Accordingly, the U.S. Court of Appeals for the Eighth Circuit denied Mr. May's motion to remand prevented him, to present his new evidence of actual innocence to the district court, ... that was filed before his Appeal was briefed, that did relate directly to a key issue, decided against him in the district court ->

see *Amrine*, 128 F.3d, at 1229, "To force Mr. May, unnecessarily to present his case in separate filings, would be a needless procedural complication," *Simmons Vs Lockhart*, 856 F.2d, 1144, 1145 (8th Cir, 1988).

"A Remand will simply allow consideration of all the possibly relevant evidence at one time as required by *Schlup*, 513 U.S., at 326-28, and by reasons of equity and judicial economy, see, e.g., *Bowman*, 85 F.3d, at 1342, *Murray*, 34 F.3d, 1373. The district court which is already familiar with the whole context of this habeas case will have the opportunity, on remand, to assess, the credibility, reliability, and the probative force, of the new evidence," *Amrine*, 128 F.3d, at 1230,

The U.S. Court of Appeals for the Eighth Circuit, in the habeas case of *Amrine* where, "The motion to remand is granted and the case is remanded for limited purpose to the district court for proceedings consistent with this opinion," *Amrine*, 128 F.3d, at 1230, "... while on the contrary, the same U.S. Court of Appeals for the Eighth Circuit, in Mr. May's habeas case, denied his motion to remand his first habeas corpus Petition, "A Remand is not appropriate if the Petitioner only makes bare allegations that he can develop evidence of actual innocence," *After a Remand*, see, e.g., *Weeks Vs Bowersox*, 119 F.3d, 1342, 1352-1353 (8th Cir, 1997) (en banc), *Bannister*, 100 F.3d, at 617, *Bottle*, 64 F.3d, at 354, see also, *Amrine*, 128 F.3d, at 1229, where as, Mr. May, had strongly asserted that he has new reliable evidence of his actual innocence, basically, "before (Mr. May's) appeal was filed," *Amrine*, 128 F.3d, at 1226, and, Mr. May, filed his motion to remand his first habeas Petition "before" the filing of his appeal brief, "that relates directly to a key issue decided against him in the district court," *Amrine*, 128 F.3d, at 1229. Accordingly, the Eighth Circuit Court of Appeals, should have granted Mr. May's Motion to Remand, in accordance with, *Amrine Vs Bowersox*, 128 F.3d, 1222-1230.

Before any brief for appeal was ever filed with the Eighth Circuit Court of Appeals in regard of Parvell Mays habeas Petition, ... After Notice of appeal was filed, about 11 days later, Parvell May separately filed on January 28<sup>th</sup> 2025, a Motion for Remand, in accordance with *Amrine vs. Bowers*, 128 F.3d. 1222-30 (8th Cir. 1997), see *May vs. Payne* CV-25-1057, Docket Text: #5479896 (25-1057), ... No brief for appeal was filed at that time, as the record will legally show as legal proof, ... however though, the Eighth Circuit Court of Appeals, without explaining reasonable justifying reason for its conclusion to just outright deny Mr. Mays's Motion for Remand, his habeas Petition, which strongly asserted of the discovery of new reliable evidence, that was UNAVAILABLE at his trial, ... and dismissed his habeas Petition, without a noted, comprehensive, reasonable justifiable, reason, of how it came to such conclusion, that clearly conflicted with its own precedent decision, as held in *Amrine*, that, ... "he has presented new evidence before his appeal is briefed that relates directly to a key issue" see *Amrine*, 128 F.3d, at 1229, ... The district court would have to properly assess the new evidence, that he has presented, to evaluate and consider the probative force, and reliability, of Mr. Mays's new evidence, therefore a remand is appropriate to consider Mr. Mays's new evidence in the context of his claim of actual innocence, see *Schlup*, 513 U.S. at 330-32, see also *Amrine*, 128 F.3d, at 1229, ... Mr. May did "present adequate reasons, for not making the allegation earlier," *McCleskey vs. Zant*, 499 U.S. 467, 482 (1991) and the "adequate reason for not making the allegation, appears/reflect in the record, was because of the "external impediment" of such U.S. district courts "government interference", that did prevent Parvell May from raising the claim," to not properly appear/reflect on record, *McCleskey*, 499 U.S. at 482, 483, accordingly, *Perry*, 137 S.Ct., 1993-94, *Warden vs. Thompson*, 545 U.S. at 807.

The Eighth Circuit U.S. Court of Appeals decision in Mr. May's case, is in clear conflict with the decisions, of the Eighth Circuit U.S. Court of Appeals, in the case of Amrine Vs. Bowersox, 128 F.3d. 1222 (8th Cir. 1997), as demonstrated above. Mr. May, advances new reliable exculpatory evidence, which is, "relevant scientific evidence, that was not available to be offered, at Mr. May's trial, which, such relevant scientific evidence, clearly contradicts scientific evidence relied on by the State, at trial Ex Parte Robbins, 478 S.W. 3d, at 693, as Mr. May's new reliable evidence the Turkish Journal of Emergency Medicine (Appendix P. 1-5) was clearly "scientific knowledge," as this United States Supreme Court defined, "scientific knowledge," when explaining what constitutes admissible "scientific knowledge," testimony from expert witnesses, Ex Parte Robbins, 478 S.W. 3d, at 691.

The lower courts in Mr. May's case failed to assess the probative force, of Mr. May's newly presented evidence, Amrine, 128 F.3d, at 1227, Schlup, 513 U.S., at 330-32, the lower courts, denied Mr. May's motion for leave to amend his first habeas Petition in federal court, and the lower courts dismissed Mr. May's first habeas Petition in federal court, without ever holding any evidentiary hearing on Mr. May's newly discovered reliable evidence of his actual innocence claim, where a Constitutional violation did result in the conviction of Barrell May who was actually innocent in light of such new evidence, Ex Parte Henderson, 384 S.W. 3d. 833, 834, (Tex. Crim. App. 2012), Schlup, 513 U.S., at 327, see also, Keeney Vs. Tamayo-Reyes, 504 U.S. 7, 11-12, (1992). The Eighth Circuit Court of Appeals did not note its reason, for, legally and factual findings, in denying Mr. May's motions, for remand, certificate of appealability, nor how it reached its conclusion, to deny and dismiss, such a claim of new reliable evidence of his actual innocence, which is seriously very troublingly, Perry, 137 S.Ct. 1193.

The district court, in Mr. May's case, denied his motion for Leave to Amend Petition in *Foman vs. Davis*, 371 U.S. 178, 182 (1962), "The Amendment would have done, no more than state (an actual innocence claim under Schlup standard for recovery)" id. The Federal Rules of Civil Procedure, Rule 15(a), declares that leave to amend, shall be freely given when justice so requires, "this mandate is to be heeded," see generally, 3 Moore, Federal Practice, (2d ed. 1948), 15.08, 15.10. see *Foman*, 371 U.S., at 182. The lower courts, in Mr. May's case, clearly erred in the denial of Mr. May's motion for leave to amend his first habeas Petition, which proposed to present new reliable evidence of his actual innocence, to the district court in order to obtain review under Schlup of his otherwise barred Constitutional claims, where "the underlying facts, relied upon" by Mr. May, is "a proper subject of relief, he ought to be, afforded an opportunity to test his claims on the merits," see *Foman*, 371 U.S., at 182. "In the absence of any full, apparent or factually justifying reason, such as, the U.S. district court's factual determination, of, the credibility, reliability, availability and probative force, of Mr. May's New evidence of his actual innocence where, "the leave sought should, as the rules require, be freely given," of course, the grant or denial of an opportunity to amend is within the discretion of the district court, but outright or plain refusal to grant the leave to amend without any detailed determination after assessment of the credibility, reliability, availability and probative force of Mr. May's New evidence, justifying such reason appearing for such denial, is not an exercise of discretion, it is merely abuse of that discretion, and inconsistent with the spirit of the Federal Rules" *Foman*, 371 U.S., at 182, see also *Schlup*, 513 U.S., at 330-32. Accordingly, the lower courts erred in denying and outright dismissed Mr. May's habeas Petition, without any justifying reason appearing for such dismissal, is not an exercise of discretion, it is merely abuse of that discretion," see *Foman*, 371 U.S., at 181, 182.

For that matter, the decisions of the U.S. district and Eighth Circuit Courts in Parnell May's habeas case, conflicted with the decisions of this United States Supreme Court as decided in *Foman v. Davis*, 371 U.S. 178-182, (1962). Where this Court had decided accordingly that, "... The Court of Appeals, (erred in the outright dismissal of Mr. May's habeas Petition) without any justifying reason appearing for the denial of a proper subject of relief under Schlup standard, where Parnell May, was actually innocent of committing any degree homicide based upon Newly Reliable exculpatory evidence miscarriage of justice" *id.* "As appears from the Record, his motion for remand would have done no more than raise a claim, that a Constitutional error has probably resulted in the conviction of Parnell May who was actually innocent, in light of new reliable evidence, that was not available at trial, and could not, have been discovered earlier, through the exercise of due diligence" *Amrine*, 28 F.3d, at 1229-30, and the Eighth Circuit should have granted, his motion for remand, which was filed before any brief" *id.* "when justice so requires, this mandate is to be heeded". *Foman*, 371 U.S. 182, "... And where, "the underlying facts or circumstances, relied upon, by (Parnell May) (which was actually), "a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits" *Foman*, 371 U.S., at 182, "... "the leave sought should, as the rules require be freely given." *id.* "... whereas, the denial of his motion for remand, filed before he filed any brief for his appeal, where he did present new reliable evidence of his actual innocence, is not an exercise of discretion, it is merely abuse of that discretion, and inconsistent with the spirit of the Federal Rules" see *Foman*, 371 U.S., at 182, accordingly the decision of the lower courts in Parnell May's case, conflicted with this Court's

The Lower Courts denied such, due process of Law, to Mr. May

In case law authority of *Schlup v. Delo*, 513 U.S. 298 (1995), it was held that, "A Petitioner, as Parnell May, CAN obtain review, of procedurally defaulted claims, if he Produces reliable new evidence not available at trial which demonstrates that it is more likely than not, that, with this evidence, no reasonable juror would have convicted him, *Schlup*, 513 U.S. at 326-28. If a Petitioner as Parnell May, presents sufficient evidence of actual innocence, he should be allowed through this gateway permitting him to argue the merits, of his underlying constitutional claims. *id.*, *Schlup*, 513 U.S. at 314-16. "In deciding whether a Petitioner (as Parnell May) has made such necessary showing of innocence, a federal court MUST make its own determination of whether the Probative force of the newly presented evidence in connection with the evidence of guilt adduced at trial." *Schlup*, 513 U.S. at 330-32, which was the State Prosecutors, expert witness, Dr. Erickson's, flawed forensic testimony, of the cause of Anna M. Miles death, *Hinton v. Alabama*, 571 U.S. 263, 276 (2014), is sufficient, to warrant consideration, of Mr. May's otherwise barred claims, *Schlup*, 513 U.S. at 330-32, *Bannister v. Delo*, 100 F. 3d. 610, 617 (8th Cir. 1996). The underlying reason for an actual innocence gateway is that the quintessential miscarriage of justice is the fundamentally unjust incarceration of a person, as Parnell May, who is actually innocent, *Schlup*, 513 U.S. at 321, 324-26, however, Mr. May does not seek relief on the basis that he is actually innocent, but rather, on the basis of an unconstitutional trial, ... he raises actual innocence as a means to avoid a procedural bar to consideration of his constitutional claims, so his gateway claims, can be properly considered, under *Schlup*. "In order to pass through the actual innocence gateway, as *Schlup* did, Mr. May must support his claim ->

→ of innocence with reliable, new evidence, just as Mr. May had, did so, which was exculpatory scientific knowledge/exculpatory scientific evidence. Ex Parte Robbins, 478 S.W. 3d, at 691 (Tex. Crim. App. 2014), the Turkish Journal of Emergency Medicine (Appendix E, page 1-5), which was "Not presented at trial," Schlup, 513 U.S., at 322-24, where such evidence did call into question the veracity/credibility of the State Prosecutor's expert witness Dr. Erickson's forensic testimony which was flawed at trial, Hinton, 571 U.S., at 276, Schlup, 513 U.S., at 328-30, "the habeas court may itself have to make credibility assessments," Id., Schlup 513 U.S., at 328-32, Bannister, 100 F. 3d, at 616, Battle v. Dada, 64 F. 3d, 347, 352 (8th Cir. 1995), whereby such due process, "An actual Innocence Inquiry is necessarily fact intensive, and the district court may be the appropriate forum, to consider, whether the new evidence is reliable, and what 'reasonable trier of fact are likely to do,' Schlup, 513 U.S., at 330, "...A petitioner, as Pannell May did, meet the standard, even if 'the trial record contained sufficient evidence to support the jury's verdict,' because the district court MUST consider the probative force" of the new evidence together with what was produced at trial," Schlup, 513 U.S., at 330-32, accordingly Mr. May has come forward with new evidence, the medical scientific knowledge/scientific evidence, published in the Turkish Journal of Emergency Medicine, Not previously available, which directly medical scientifically contradicts the State's expert witness's used for its evidence, that relates directly to a key issue decided against (Pannell May) at trial, Amrine, 128 F. 3d, at 1229, which was the essential element of the criminal charge of Capital Murder, In re Winship, 397 U.S. 358, 361-64 (1970), therefore the lower courts, denied to Mr. May, the right to enjoy such due process of law.

The lower courts' decisions in Mr. May's case, also conflicted with the decision, of this United States Supreme Court, where this Court decided in, Herrera Vs. Collins, 506 U.S. 390, 404 (1993), that... "This is not to say that our habeas jurisprudence cast a blind eye toward innocence (as the lower courts had done, against Parnell May's actual innocence claim, *id.*...". We have held that, a petitioner (as Parnell May) otherwise subject to defenses of abusive or successive use of the writ, may have his federal constitutional claims, considered, on the merits, if he makes a proper showing of actual innocence (where Parnell May, did, do such). This rule, or fundamental miscarriage of justice exception, is grounded, in the equitable discretion of habeas courts, to see that federal constitutional errors do not result in the incarceration of innocent persons (as Parnell May), *id.* Accordingly, the Eighth Circuit Court of Appeals' decision, also conflicted with the Tenth Circuit Court of Appeals' decision, which, was the same decision, as this United States Supreme Court's decision, see, Sellers Vs. Ward, 135 F.3d. 1333, 1338 (10th Cir. 1998). Parnell May did state, with clear particularity, each point of law, especially with very clear particularity, each point of facts, that, Parnell May, believed, the court had overlooked or misapprehended, as Parnell May strongly supported by legal case laws, and copies of medical documentary evidence, copies of official trial transcript records of testimonies, that was exculpatory in Parnell May's favor, in accordance with, Federal Rules of Appellate Procedure, Rule 40, (a)(2), where, the district courts in Parnell May's case did, "cast a blind eye toward innocence", by either, "overlooked or misapprehended", Parnell May's claim of discovering new reliable evidence.

of his Actual Innocence, which was, actually, an "external impediment" that, actually occurred by such, "government interference", that did, prevent Parnell May, from, "constructing or raising", his claim of New Reliable evidence, of his Actual Innocence, so as to have his otherwise Federal Constitutional Error claims reviewed on the merits, Accordingly see, *McCleskey Vs Zant*, 499 U.S. 476, 497 (1991), *Schlup Vs Delo*, - 513 U.S. 298, 314-32 (1995), which also, was the Eighth Circuit Court of Appeals' decision, conflicting with, the decisions, of this United States Supreme Court's decisions, in *McCleskey*, 499 U.S., at 497, and *Schlup*, 513 U.S., 314-32, *Foman*, 371 U.S., 182, *Hinton*, 571 U.S., at 276, and *In re Winship*, 397 U.S., 361-64, accordingly, the Eighth Circuit, flatout denied, Parnell May's motion for remand, and dismissed his entire habeas corpus petition, without, explaining its legal reasons or any factual reasons, for, its decision, to deny Parnell May's motion, for Remand and outright, dismissed his Appeal, to his habeas Corpus, which did assert, that, a Constitutional violation, resulted in the conviction of Parnell May, who was actually innocent, in light of the New reliable evidence, that, was not, available at his trial, and could not have been discovered earlier, through the exercise of due diligence, *Amrine*, 128- F.3d, at 1230, where, the Eighth Circuit, either "overlooked or misapprehended", or "cast a blind eye toward innocence", against Parnell May, in accordance with, *Sellers Vs. Ward*, 135 F.3d, 1333, 1338 (10th Cir 1998), *Herrera Vs. Collins*, 506 U.S. 390, 404 (1993), and Federal Rules of Appellate Procedure, Rule 40, (a)(2), which denied Parnell May, to enjoy, such due process of law.

Accordingly, ...  
The Lower Courts, prohibits, to Mr. May the fair opportunity to present his  
New evidence of his actual innocence to litigate of such claim on the merits,  
see BANISTER VS. DAVIS, 509 U.S. 504, 507 (2000) as the record will reflect.

### B. Importance of the Questions Presented

This case presents many fundamental questions of the interpretation of the following United States Supreme Court decisions, in Schlup, 513 U.S. at 34-32, McCluskey, 506 U.S. at 182-17, and Forman, 371 U.S. at 182, and Herrera, 506 U.S. at 404, plus fundamental questions of the interpretation of the Federal Court's decision in Amrine vs. Bowersox, 128 F.3d. 1222, 1226-30, (8th Cir. 1997). Accordingly, each of the questions presented is of very great public importance, because it affects a person, as Parnell May's right of due process of law, right to enjoy a fair trial, by an impartial jury in a criminal court of law, in the State of Arkansas, which is a State, within the United States, where, in a federal habeas corpus proceeding, a United States Court of Appeals, has entered a decision, in conflict, with the decision of both its own prior decision, as well as, the United States Court of Appeals for the Eighth Circuit, has decided such important questions of federal law, that, conflicts with relevant decisions of this United States Supreme Court. Accordingly, such matter seriously requires this Court's guidance on the questions, because it is of seriously great importance, to a person, as Parnell May's constitutional rights, because it affects a person, as Parnell May who is a United States citizen, who has the right to enjoy fair due process of law, in a criminal court of law, by an impartial jury, while on the contrary, a constitutional violation did result in the conviction of Parnell May, who was actually innocent, in light of the new reliable evidence that was not available at trial and could not have been discovered earlier through the exercise of due diligence, Amrine, 128 F.3d. at 1230, see also, Schlup, 513 U.S. at 324-27.

Basically, the United States Court of Appeals for the Eighth Circuit has decided, an important fundamental question of federal law, that conflicted with very relevant decision of this United States Supreme Court's decision in *Schlup Vs. Delo*, 513 U.S. 298, (1995), where it held that this Court has "consistently reaffirmed the existence and importance of the exception for fundamental miscarriage of justice, see *Sawyer* 505 U.S., at 339-340, 112 S.Ct., at 2518-2519, *McCleskey*, 499 U.S., at 494-495, 111 S.Ct., at 1470-1471, *Dugger Vs. Adams*, 489 U.S. 401, 414, 109 S.Ct. 1211, 1219, 103 L.Ed. 2d 435 (1989). To ensure that the fundamental miscarriage of justice exception would remain "rare" and would only be applied in the "extraordinary case" (as it should be in *Parrell May's* case) while at the same time ensuring that the exception would extend relief to those who were truly deserving (as *Parrell May*) this Court explicitly tied the miscarriage of justice exception to the Petitioner's innocence (as *Parrell May*). In *Kuhlmann*, for example, Justice Powell concluded that a prisoner (as *Parrell May*) retains an overriding "interest in obtaining his release from custody if he is innocent of the charge (Capital Murder), for which he was incarcerated," see *Schlup*, 513 U.S., at 321. "In an extraordinary case, (as *Parrell May's* case) where a constitutional violation has probably resulted in the conviction of (*Parrell May*) who is actually innocent, *Schlup*, 513 U.S., at 321, "in light of the new evidence that was not available at the time of trial, and could not have been discovered earlier, through the exercise of due diligence," *Amrine*, 128 F.3d, at 1230, *Schlup*, 513 U.S., at 328-30, "A federal habeas court may (and should have granted) the writ even in the absence of a showing of cause for procedural default," see *Carrier*, 477 U.S., at 496, 106 S.Ct., at 2649, see also *Smith Vs. Murray*, 477 U.S., at 537, 106 S.Ct., at 2668, quoting *Carrier*, 477 U.S., at 496, 106 S.Ct., at 2649." *Schlup*, 513 U.S., at 326.

Parnell May did produce, "New reliable evidence", to support his assertion of constitutional error, which was medical "exculpatory scientific evidence" Schlup, 513 U.S., at 324, which was the medical "scientific knowledge" about the C.P.R. causing Rib fractures, Liver Laceration, and internal bloodless, and not be involved with causing the death of the alleged victim of homicide, as such issue is not officially published in the Turkish Journal of Emergency Medicine (Appendix F, pages 1-5), by such clear and convincing medical "exculpatory scientific evidence", see Ex Parte Henderson, 384 S.W. 3d. 833, 833-834 (Tex. Crim. App. 2012), Ex Parte Robbins, 478 S.W. 3d. 678, 681-691 (Tex. Crim. App. 2014), "that was not presented at trial", Schlup 513 U.S., at 324, where that, Parnell May's capital murder conviction was the result of a constitutional violation, against him at his October 6th 2021 jury trial, where he was actually innocent of the cause of death element of Capital murder, based upon the beyond a reasonable doubt standard, applicable to criminal trials, and/or with the need to express criminal laws in terms ordinary persons can comprehend, "In light of such New reliable evidence," accordingly, such issue was, "a fundamental miscarriage of justice," against Parnell May, Schlup, 513 U.S., 320-332, In re Winship, 397 U.S. 358, 361-64, 370-71, 90 S.Ct. 1068 (1970), Burage Vs. United States, 571 U.S. 204, 218 (2014), Amrine, 128 F.3d, at 1230, had such evidence been available at Parnell May's trial, it is clear and convincing evidence, and/or, more likely than not, that no reasonable juror, properly instructed by the trial court would have found Parnell May guilty beyond a reasonable doubt of the cause of death element of Capital murder, because the Rib fractures, the Liver Laceration, and the internal bloodless, was not a major cause of the alleged victim Anna Miesler death, as the State Prosecutors, expert witnesses, the Medical Examiner, Dr. Erickson, had, de-

termined and concluded by his forensic testimony of the cause of Anna Mireles death which was seriously flawed. *Melendez-Diaz Vs. Massachusetts*, 557 U.S. 305, 38-19 (2009), *Hinton Vs. Alabama*, 571 U.S. 263, 276 (2014), while on the contrary, there was material exculpatory evidence, of another cause of Anna Mireles death, that was not related to any degree homicide, whereas such, relevant exculpatory evidence, was, excluded, at Paerell May's October 6<sup>th</sup> 2021 jury trial, in accordance with *Chambers Vs. Mississippi*, 410 U.S. 264, 302-03 (1973), the exclusion of such, "competent reliable evidence," *Crane Vs. Kentucky*, 476 U.S. 683, 690 (1986), which was Anna Mireles Medical Emergency Room Records, that contained, exculpatory, medical data facts, and exculpatory, medical information, of another cause of her death, "when such evidence is central to the defendant (as Paerell May's) claim of innocence" *Crane*, 476 U.S. at 690, "...accordingly such 'exclusion of this kind of exculpatory evidence did deprive a defendant (as Paerell May) of the basic right to have the Prosecutor's case encounter and survive, the crucible of meaningful adversarial testing,'" *Crane*, 476 U.S. at 690-91, "the trial court's exclusion of (Paerell May's) evidence of Anna Mireles Medical Emergency Room Records, which contained exculpatory evidence of another cause of her death, not related to homicide, did UNSURP (Paerell May's) federal due process and fair trial rights, in essence deprived him of his Constitutional Right to present a defense" *Cudjo Vs. Myers*, 698 F.3d. 752, 759 (9<sup>th</sup> Cir. 2012). "The Court admitted, that such a violation would require reversal." *Id.* The flawed forensic testimony of Anna Mireles cause of death was Unconstitutional. *Hinton*, 571 U.S. at 276.

The Lower Courts, in Parnell May's habeas Corpus case, has decided an important question of Federal Law, that conflicts with relevant decisions of this United States Supreme Court's decision, where it was held in *Foman Vs. Davis*, 371 U.S., at 182 (1962), that "Rule 15(a) declares that Leave to Amend 'shall be freely given when justice so Requires', this mandate is to be heeded"; *Id.*, see Federal Practice (2d ed. 1948), 15.02, 15.10. If the underlying facts or circumstances relied upon by a Petitioner (as Parnell May) may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits. In the absence of any specified determination of the availability, reliability, and probative force of Parnell May's New evidence where the fundamental miscarriage of justice exception, applied in Parnell May's case, because a Constitutional violation has probably resulted in Parnell May's conviction, who is actually innocent in light of the New Reliable evidence that was not presented at trial, "the Leave Sought should, as the Federal Rules of Civil Procedure, Rule 15(a) require, be freely given"; see *Foman Vs. Davis*, 371 U.S., at 181-82, see also *Schlup Vs. Delo*, 513 U.S., 321-32, Accordingly the district court in Parnell May's case, denied to him, the opportunity to Amend his first habeas Corpus Petition, without, specifying any justifying reason concerning the availability, reliability and probative force of his Proposed New evidence, "appearing for the devil" which was not exercise of discretion, because, "it is, it was merely abuse of that discretion and inconsistent with the spirit of the Federal Rules of Civil Procedure, Rule 15(a)(2), see *Foman Vs. Davis*, 371 U.S., at 182, where the issue of a miscarriage of justice, against Parnell May was strongly asserted by Ma May, in his claim, the Leave to Amend, should have been freely given where justice so required, *Id.*

The district court should have, just, granted, Mr. May's motion for Leave to Amend his initial federal habeas petition, where, "Justice so requires this mandate to be heeded," Federal Rules of Civil Procedure, Rule 15<sup>(a)</sup>(2), Foman, 371 U.S., at 182, because, Mr. May did assert, that, he was actually innocent, of the Criminal offense conviction, that, was the result, of a fundamental miscarriage of justice, in light of new reliable exculpatory evidence, as the record, will reflect, the proposed Amended Application for the initial habeas petition of, Mr. May's claim, noted, where he did rely upon, "A proper subject of relief, he ought, to be afforded an opportunity to test his claims on the merits," Foman, 371 U.S., at 182, Accordingly, "the Leave should as the Rules require, ... be freely given," id. While on the contrary, the district court's denial of Mr. May's motion for Leave to Amend his initial federal habeas petition, "without any justifying reason appearing for the denial, is not an exercise of discretion, it is merely abuse of that discretion, and inconsistent with the spirit of the Federal Rules," see Foman, 371 U.S., at 182, therefore, this United States Supreme Court, should, grant, Mr. May's, Petition for a Writ of Certiorari, because, it is, very probable, that, the lower courts, did "cast, 'a blind eye toward innocence'" Against Parvell May's claim in his initial habeas corpus petition, as well, as his motion for Leave to Amend his initial habeas corpus petition, HERRERA, 506 U.S., at 404, or either the lower courts, "overlooked or misapprehended," Federal Rules of Appellate Procedure, Rule 40, (b)(1)(A)(B), the asserted claim of Mr. May's, documentary presentation, of his discovery of his new reliable evidence of his actual innocence that was unavailable at trial, that could not have been discovered earlier by due diligence, Amirine, 128 F.3d, at 230, accordingly.

The U.S. Eighth Circuit Court should have granted Mr. May's motion for Remand in accordance with its own precedent decision, established by the case-law, authority of *Amrine*, 128 F.3d, at 1229-30, where the record will reflect that Mr. May did present "New evidence, before his Appeal (was) briefed, that relates directly to a key issue decided against him in the district court," *Amrine*, 128 F.3d, at 1229, where, "A remand would simply give him an opportunity to present this evidence to the forum best suited to undertake the evidentiary balancing inherent in any actual innocence claim," *id.* It is very probable, that the U.S. Eighth Circuit Court, did cast "a blind eye toward innocence," *Herrera*, 506 U.S., at 404, because, the U.S. Eighth Circuit Court, did, "...", "outright refused to grant," *Foman*, 371 U.S., at 182, his motion for remand, "without any justifying reason appearing (in the record explaining how it came to such conclusion) for the denial which was (not an exercise of discretion, (but) merely (the) abuse of that discretion, which was inconsistent," with, what was held, in *Amrine vs. Bowersox*, 128 F.3d, 1222 (8th Cir. 1997), as, the U.S. Eighth Circuit Court of Appeals had decided, accordingly, it was a denial against Parnell May, to enjoy that same due process of law, established by such case law authority, *Foman*, 371 U.S., at 182, "... therefore, this United States Supreme Court should grant Mr. May's Petition for a Writ of Certiorari, and provide its guidance, in such fundamental question, of the interpretation, of the Federal Court's own decision, in *Amrine vs. Bowersox*, 128 F.3d, 1222 (8th Cir. 1997) that, relates directly to a key issue, that was decided against Parnell May, *Amrine*, 128 F.3d, at 1229, *Warden vs. Thompson*, 545 U.S., at 807-14, *Perry*, 137 S.Ct., at 1993-94, accordingly.

In accordance with Warden Vs. Thompson, 545 U.S. at 807-14, and Perry, 137 S. Ct. at 1993-94, the lower courts failure "squarely address the issue," id. ....

The U.S. district court and Eighth Circuit Court, deliberately "cast a blind eye toward innocence," Against Parnell May, Sellers Vs. Ward, 135 F.3d 1333, 1338 (10th Cir. 1998) HERRERA Vs. Collins, 506 U.S. 390, 404 (1993), without even considering Parnell May's New evidence to determine whether his evidence was new and reliable, ... Amrine Vs. Bowers, 128 F.3d at 1222-30, the record shows, that the U.S. district Court and Eighth Circuit Court, did not explain its reason, for its findings of the facts regarding, the probative force, reliability, and availability of his New reliable evidence, nor, did it, note, any reason explaining, how it came to such conclusion, about Parnell May's New reliable evidence of his actual innocence. In the Name of Justice by due process of Law, Parnell May is actually innocent, of Capital murder in light of New reliable evidence, that was UNAVAILABLE, at his trial, where he was wrongfully convicted, in an unfair jury trial, where several constitutional violations, did occur, against Parnell May, in a criminal court of Law, in the State of Arkansas, which is a state, within the United States, and the U.S. district court and Eighth Circuit Court of Appeals, deliberately outright, "cast a blind eye toward innocence," Sellers Vs. Ward, 135 F.3d at 1338 (quoting HERRERA, 506 U.S. at 404), against Parnell May, by denying to consider his claim of such, "fundamental miscarriage of Justice," actual innocence, and new reliable evidence under Schup Vs. Delo, 513 U.S. 298, 314-332 (1995), and the lower courts, "outright dismissal of Parnell May's habeas claim of new reliable evidence of his actual innocence," "without any reasonable justifying reason, appearing for such dismissal," is merely abuse of that discretion, Foman, 371 U.S. at 182.

The U.S. District Court, and Eighth Circuit Court of Appeals in Parnell May's case, dismissed Parnell May's habeas corpus petition without any hearing on the New Reliable evidence of Parnell May's Actual Innocence, which clearly conflicted with the decision of this very United States Supreme Court, where it was decided, in the case law, Authority of McCleskey, 499 U.S., at 482, "The District Court and Court of Appeals, dismissed the Petition without hearing on the New Reliable evidence, that was not available at this trial, and could not be discovered earlier, through the exercise of due diligence." We Reversed and Remanded, Reasoning that the dismissal, precluded a proper development of the issue," McCleskey, 499 U.S., at 482, Amrine, 128 F.3d, at 230. Accordingly, the New Reliable evidence of Parnell May's Actual Innocence claim, would have shifted the burden to the U.S. district court, to properly assess, and determine "whether such evidence was New and reliable" and of its probative force," Amrine, 128 F.3d, at 1228. Accordingly, "the dismissal of Parnell May's habeas Petition, without any hearing on the New evidence, and without any justifying reason, appearing for such dismissal, Foman, 37 U.S., at 182, did deny, the opportunity to test his claims on the merits," id, which did result from a preclude of "A proper development of the issue," of his New Reliable evidence of his Actual Innocence, that was not available at this trial," Amrine, 128 F.3d, at 1230, McCleskey, 499 U.S., at 482. Accordingly, "he (Parnell May) must be given the opportunity, to develop these matters in a hearing," id, ... therefore, this United States Supreme Court should grant Parnell May's, Petition for a Writ of Certiorari, regarding All of the aforementioned, assertions of facts and case law authorities, in, a combined argument for Justice, where Parnell May, is actually innocent, and wrongfully convicted and incarcerated, for a false murder case.

Mr. May, hopes that, the rule of Law, still exist, and is Absolutely heeded Respectfully, and followed, by, all the Justices of this Court, whereas, there is - was the abuse, of Arbitrary exercise of Judicial Authority, that was based on, A bias purpose, to hide the truth, using the Judicial branch of government, to mold due process of Law, to conform, to unfair, and/or Corrupt Personnel views, against Mr. May, by turning a blind eye to the evidence of his innocence against the United States Constitution, in which, the Lower Courts, has, denied equitable opportunity, to Parnell May, Aggrieved by such a fundamental miscarriage of justice, inflicted against him, at his jury trial where he was actually innocent of committing capital murder, in light of the New reliable evidence, that was discovered, after he was wrongfully convicted, and, the U.S. district Court, and Eighth Circuit Court, both, did not, consider, nor determine, the reliability, the availability, probative force, nor did, the U.S. district Court, and Eighth Circuit Court of Appeals, explain, how it came to its conclusion, in its findings of Parnell May's, New reliable evidence, of his actual innocence claim, Schlup, 513 U.S. at 321-332, the District Court, and Eighth Circuit Court, outright decided to deny and dismiss Parnell May's claim of such constitutional errors, that did result into his conviction, whereas, he was actually innocent in light of such New reliable evidence, that was not available at his trial, the U.S. district Court, and Eighth Circuit Court, did not, <sup>explain</sup> about how it had come to such factual reasons for its decision, to dismiss Parnell May's, claim of New reliable evidence of his actual innocence of committing capital murder, thus, denying such due process against him, accordingly, Foman, 371 U.S. at 182, Perry, 137 S. Ct. at 1993-94.

In the State of Arkansas, its Criminal Justice "Buddy System", is Already Unfair. Parnell May being poor and, being actually innocent of committing a murder, and being a Black Man, in the State of Arkansas, seeking to prove that the State Prosecutors, did have the cause of death, medically incorrect, and also, they used, "junk scientific evidence," Ex Parte Robbins, 478 S.W. 3d at 697, to mislead the jury, into believing that he was guilty of homicide... however though, he does have some faults, in this matter, ... but homicide, clearly is not one of his faults, clearly simply for the fact, that ANNA-MIRLES death was not by the manner of homicide, based upon real direct Medical Scientific evidence. ~~where~~ Parnell May, is challenging the State of Arkansas, with such medical scientific evidence, in his very possession, wrongfully condemned for life in prison, desperately seeking justice, for being wrongfully convicted, ... At a trial, that was tainted with fundamental constitutional violations against Parnell May, it appears, to be impossible to get any Court in the United States, to afford Parnell May, a U.S. citizen, ... "the opportunity to test his claim on the merits," Foman, 371 U.S. at 182, ... By the grace of Almighty God, move this United States Supreme Court, to give much attention, and grant this Petition for a Writ of Certiorari, to afford the opportunity, for the truth, of Parnell May's actual innocence, to prevail, by fair due process, through uncorrupted none-bias rule of law, by the grace of Almighty God, compel this United States Supreme Court, to grant this Petition, and allow the Truth, and Justice, to prevail, "AS AN additional safeguard against compelling an innocent man to suffer an unconstitutional loss of liberty," McCleskey, 499 U.S. at 115, Amen.

Because of, "the fact-intensive nature of the inquiry," Schlup, 513 U.S., at 332, this Court should reverse the Lower Courts' decisions, and Remand Parnell May's habeas Petition, all the way back to the Lower Courts, with instructions to Allow Parnell May to Amend his habeas Corpus Petition to assert such "proper Subject of Relief," Roman, 371 U.S., at 182, so the underlying facts, i.e., of the "Scientific knowledge," which is, "the New Reliable evidence," of Parnell May's actual innocence, "that was not available at his trial, and could not have been discovered earlier, by the exercise of due diligence," Amrine, 128 F.3d, at 1230, Ex Parte Robbins, 478 S.W. 3d, at 691, to finally be properly assessed, by the federal habeas Court, under Schlup standard, in an evidentiary hearing concerning such "fundamental miscarriage of justice," Keeney, 504 U.S. at 11.

**"CONCLUSION"**

Wherefore, in accordance with all case law authorities, aforementioned, Parnell May prays that this Court grant his request for such relief, aforementioned, and any other relief that he is entitled to receive, ... therefore accordingly, ...  
... The petition for a writ of certiorari should be granted.

Respectfully submitted,

Parnell R. May - PRASE

Date: May 23<sup>rd</sup> 2025