

IN THE SUPREME COURT OF THE UNITED STATES

25 - 6634 ORIGINAL

No. SCPA No. 417 EAL 2024/PA Sup. Ct. 2455 EDA 2023

Supreme Court, U.S.
FILED

AUG 26 2025

OFFICE OF THE CLERK

Joseph D. Reaves,

Petitioner

vs.

Commonwealth of Pennsylvania

Respondents

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPERIOR COURT
OF PENNSYLVANIA

PETITION FOR WRIT OF CERTIORARI

JOSEPH REAVES

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QUESTION PRESENTED

1. Does the Due Process Clause of the Constitution's Fourteenth Amendment entitle an Petitioner in a PCRA Petition, Notice of Appeal and Allowance of Appeal where the state court's failed to address and correct improper denial of a claims for an evidentiary hearing, withdrawal guilty plea, new trial, invoke insanity defense, competency hearing and sanity commission, and subsequent resentencing based on Defendant true military psychiatric medical history based on newly discovered evidence of clear and convincing evidence in the nature of military law mandates and defendant psychiatric diagnosis of Military PTSD and Schizophrenia. The clear materiality of the newly discovered evidence goes to the : (1) Trial or verdict; (2) Withdrawal of Guilty Plea; (3)
2. Whether the State Government erred in fact or law deny PCRA petition due to 1988 diagnosis was available?
3. Whether Petitioner raised incompetency for the first time in 2023 before the PCRA Court ?
4. Whether the State Court are benefiting from Federal concealment, error, crimes and evidence deprivation?
5. Whether the State Court refusal to review Petitioner Petitions liberally as a Pro se litigant.

LIST OF PARTIES

The parties involved in this case are located in the caption above Commonwealth of Pennsylvania and Joseph Reaves.

RELATED CASES

- *Com. v. Reaves*, No. 417 EAL 2024, (Petition for Allowance of Appeal)
- *Com. v. Reaves*, 329 A.3d 629 (2024)
- *Com v. Reaves*, No. 433 EDA 2014, unpublished memorandum *4 (Pa. Sup. Filed December 23, 2014)

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PETITION FOR WRIT OF CERTIORARI

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

OPINION BELOW

The opinion of the highest state court to review the merits appears at Appendix B to the petition and is unpublished

The opinion of the Superior Court of Pennsylvania to review the merits appears at Appendix C to the petition and is reported at *Commonwealth v. Reaves*, 329 A. 3d 629 (2024) and is an unpublished Disposition.

The opinion of the Post Conviction Relief Act Court appears at Appendix D to the petition and is unpublished

JURISDICTION

The date on which the highest state court decided my case was May 28, 2025. A copy of that decision appears at Appendix B.

A timely petition for Extension of Time to file a Reconsideration Motion was denied on 27th of June 2025, at Appendix A.

The jurisdiction of this Court is invoke under 28 U. S. C. § 1257(a).

Under the Pullman-Swint, Standard, 456 U. S. 273 (1982), this Court under the Federal Rule of Civil Procedure 52 (a) has jurisdiction to review issues of fact and law, and held the Pennsylvania Supreme and Superior Courts, according to Rule 52 (a) broadly requires that findings of fact of a lower court may not be set aside unless clearly erroneous.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

14TH

The Fourteenth Amendment to the United States Constitution, which has been held to incorporate the Fifth, Sixth, and Eighth Amendments, provides:

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.

The right to testify in own behalf.

The right to present witnesses and evidence material to his or her defense.

5TH

The Fifth Amendment to the United States Constitution provides, in pertinent part:

No person shall be..., nor deprived of life, liberty, or property, without due process of law....

The Due Process Clause of the Fifth Amendment (applying to the Federal Government is mirrored in the Fourteenth Amendment ensuring the process of law at the state level as well)

6TH

The Sixth Amendment to the United States Constitution provides, pertinent part:

In all criminal prosecutions, the accused shall enjoy the rights ... to have the Assistance of Counsel for his defense.

The right to a speedy and public trial.

The right to an impartial jury.

The right to have compulsory process for obtaining witnesses.

The right to testify on one's own behalf.

The right to present witnesses and evidence material to one's own defense.

The right to confront witnesses.

The right to be informed of the nature and cause of the accusation.

8TH

The Eighth Amendment to the United States Constitution provides:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

STATUTORY

10 U. S. C. § 1074 a

10 U. S. C. § 1201

18 U. S. C. § 308

18 U. S. C. § 315

28 U. S. C. § 1257

28 U. S. C. § 1732

42 Pa. C. S. §723

42 Pa. C. S. § 9545 (b)(1)(ii)

42 Pa. C. S. A. §9781

50 P. S. §7301 et al.

STATEMENT OF THE CASE:

On July 28, 1988 the Common Pleas Court of Philadelphia County, Pennsylvania sentenced the Defendant to 22 ½ -90 years. The Defense Counsel: (1) objected to the hearing; (2) complained of factors not in the reports (Presentencing, psychiatric, drug & alcohol); (3) request a first Continuance that was denied; (4) file Sentencing Modification Motion, denied (Aug. 22, 1988); did not call any witness for the defendant; (5) at the Sentencing hearing the (a) Judge; (b) District Attorney M. Clarke; and (c) Defense Counsel all stated that there is “NOTHING” in the Defendant Background that explain his crime.

The Defense Counsel raised: (1) ulcer hospitalization (2x); (2) suicide (2x) and emotional problem in the military. Though the Defense Counsel raised the military issues and the State Government has based its whole case and position on the fact that he raised this issue or claim in 1988 and Military PTSD or Mental Illness was address. Defense Counsel did raise, wait, objection to factors that go into presentencing reports. The Defense Counsel never substantiated the arguments or raised claim with evidence and this is a violation of the 6th Amendment and 14th , *Porter v. McCollum.*

Defendant did testify at sentencing stating he build “nuclear” weapons in the military thus giving the State Notice of his indoctrination, federal mandate regulatory adherence he is under , how he has been holding things ever since the Army, wife’s nervous break downs, tied down in the Army psychiatric ward in Fort Riley, Kansas, twice.

Defendant diagnosed with PTSD by Veterans Affairs Veteran Center on Nov. 10, 2010 in less than 60 days he submitted that evidence to the PCRA Court. Again, the Defendant a nuclear specialist can only address his mental health issues with a DoD Component. The PCRA Court dismiss his claim of newly discovered evidence in 2012, Superior 2013 and the same in 2023 and 2024. Reason. Defendant failed to meet burden of newly discovered exception, PTSD diagnosis was available in 1988.

State Government decision and analysis are contrary to the evidence in the Administrative Record. How so? The Record Raise that in the Due Diligence of Defendant filing SF 180, FOIA for his medical and personnel record, 2/13/87, NRPC Response, lent record to VA 3/09/87 pre-crime. Via SF 180, 1988 Common Pleas Court Probation Department, Joseph Valentine requested records from NRPC signed by Defendant (Due Diligence II). National Personnel Record Center, response NA Form 13072, "No Psyche, No Medical Records." The Records that the Commonwealth request from the Federal Government in 1988 response was "None."

In 2001 on numerous occasion the Department of Veterans Administration request the Defendant Records from NRPC, stating, "Please Search", "Search Again" and identified the period of record that were missing were (a) 1981-1983, and (b) 1981-1984. NRPC reply, No 1981-1984 records.

On 2007, the Defendant Requested (Due Diligence III) multiple records medical, quarantine, etc.. NRPC on June 25, 2007 sent him May 2-5, 1983 duodenal ulcer clinical Records. On 2009, FOIA request (Due Diligence IV) by Defendant the United States Army sent Hepatitis Outbreak record, only footnote # 7 meantion his

Battalion was in the Quarantine of July 1982, 1st BN 30th Field Artillery. Lastly, on 2011 the United States Health Command via FOIA request (Due Diligence V) by the Defendant sent him the official Report, describing every element, hospitalization, contaminated areas, study, results and comparative of causes of the Hepatitis Outbreak. The 2011 records constitute as a military stressor.

It is impossible to be diagnosed with PTSD without a verified in-service stressor. This stressor did not come available and as indicated by the date 1982 which falls into the time-line of the records that were not in the NRPC and VA files at all in 1987 until 2011 when the Defendant submitted them. The State Government are making evidentiary and law errors.

Lastly, the claims of Military PTSD and incompetency were never raised by the Defendant and Petitioner in this case. Today August 26, 2025, I write this Request to the Highest Court in the Land on the shoulder's of my father William Frank Reaves Senior, who was buried in Washington Crossing National Cemetery this day on August 26, 2021. I do not want any favor from the this Court other than what I've ask of the Federal Court, if the law says "must" or "will" please follow it.

1. Statement of Facts:

ADMINISTRATIVE RECORD:

Reproduce Record ("RR")

A.

(RR. EXHIBITS:); (RR.EXH.)

(RR. TRIAL RECORD SENSITIVE:); (RR.TRS.)

(RR. TRIAL COURT OPINION AND ORDER:); (RR.TCOAO.)

(RR. ORIGINAL RECORD CERTIFIED:); (RR.ORC.)

(RR. TRIAL COURT RECORD:); (RR. TCR.)

(RR. PRELIMINARY HEARING:); (RR.PH.)

(RR. GUILTY PLEA:); (RR.GP.)

(RR. SENTENCING:); (RR.S.)

(RR. FINELY LETTER:); (RR.FL.)

(RR. FORM :); (RR.FORM.)

B.

SUPERIOR COURT APPELLANT BRIEF FOR NOTICE OF APPEAL.

C.

SUPREME COURT PETITION FOR ALLOWANCE OF APPEAL

(Note: The Petitioner does not have the Administrative Record of Superior Court and Supreme Court of Pennsylvania he has to quote the Brief filed)

STATEMENT OF FACT CHRONOLOGICALLY:

1. DD Form 214, William Frank Reaves, Senior 1952-1956 Air Force Veteran
Honorable Discharged, Defendant's Father. (TCR P. 947)
2. DD Form 214, William Frank Reaves, Junior, 1979-1988 United States Army,
Honorable Discharged, Defendant Brother. (TCR P. 949-950)
3. Defendant 1981-1986 United States Army, Honorable Discharge 1981-1984,
Other than Honorable 1986.
4. United Army Entrance Examination, 15 July 1981, SF 88 (TCR P. 804-805)
5. Security Clearance via AR 50-5, DA Form 873 (TCR P. 401-402)
6. DA Form 8031, Personnel Reliability Program, 1982-1985 (administrative
terminated)(TCR P. 404)
7. DA Form 2-1, Personnel Records, (1981-1986) Schooling, Duty Assignment,
Overseas MOS, (TCR P. 788-792)
8. July 1982, Hepatitis A Outbreak, reference in footnote # 7, 1st BN 30th Field
Artillery, (2009 made available by U. S. Army Surgeon General)

9. July 1982, 05 Hepatitis A Outbreak, Grafnerwoehr (FTX), 1st BN 30th Field Artillery, Last Report, (Complete Report by Walter Reed, CDC, (2011 made available U. S. Army Health Command)
10. Hospitalization, (1st) Duodenal Ulcer confirmed by x-ray, May 2-5, 1983, (2007 June 25, made available by National Personnel Record Center)
11. SF 93, 8 November 1983, Medical History, "depression and excessive worries; stomach trouble, ear problem and gallbladder, Hospitalization, Flak Hospital with Dr. Thomason, 3-5 May, on antacid medication,)(TCR P. 116-117)
12. SF 600, 9 November 1983, PRP Interview, Alcohol on the weekends, HRECs lost and found in downtown Augsburg, Germany. S.M. states he returned them in late May 1983(TCR P. 777-778)
13. SF 600, 11 June 1984, Stomach complaint (TCR P. 118)
14. SF 600, 05 September 1984 Stomach complaint, prescribed Mylanta. (TCR P. 119;776)
15. DA Form 5181-R, Feb. 6, 1986, Complaint Stomach (TCR P. 120)
16. DA Form 2627, June 5, 1986, Misconduct, cannibus use, positive urine. (TCR P. 121)
17. SF 93, 15 July 1986, Headaches, Back and Knee pain, Stomach, Depression and excessive worry, treated for mental disorder 1983 Flak Army Hospital. (TCR P. 122-123)

18.DA Form 5181-R, 30 July 1986 Ulcer, (TCR P. 124)

19.DA FORM 3647, (TCR P. 129)

20.SF 513, 4 Aug. 1986 Consult to Physician, (TCR P. 127;129)

21.DA Form 4700 Ulcer, 2nd Clinical 4 Aug. 1986 Endoscopy confirmed Ulcer
(TCR P. 126)

22.SF 513, 26 August 1986, Toe surgery, Prescribed Acetaminophen with
codeine, Side Effect "drunk" and tingling feeling. (TCR P. 781)

23.Discharged November 10, 1986. TCR P.

24.SF 180, NRPC Request for Military Records by Defendant, "Medical,
Personnel, etc.) 2/13/1987 (TCR P. 773)

25.NA Form 13045, 3/10/87 Record loan or lent to VA contact VA Phila. (TCR P.
772)

26.SA, February 1987 (TCR P. 62-64)

27.Offense November 13, 1987, Alcohol & Cocaine

28.Arrest/Turned Himself into Officer of the Court, Attorney Dennis Eisman,
Nov. 20, 1987

29.Preliminary Hearing, Dec. 10, 1987.Dennis Eisman, (TCR P. 107)

30.I [REDACTED]

31.Trial (Guilty Plea) April 4, 1988 (GP P. 1-26)

32. Lisa G Rotfeld, Attorney 1988 (EXHIBIT P. 95-97)

33. 5-11-88, RULE 1100 (TCR P. 59)

34. SF 180, signed by Defendant, FOIA REQUEST, Common Pleas Court, Probation Department Joseph Valentine request for Records from NRPC, Court Martial, Drug & Alcohol, etc... 1988 (TCR P. 770)

35. NRPC Reply: NA Form 13072, 5/13/88 "No Psych, No Medical, " (TCR P. 772)

36. Mental Health and Drug & Alcohol Examination Ordered: 7/20/88 (EXHIBIT P. 71)

37. 7-20-88, GUIFRY HOSPTIAL CAT-SCAN (TCR P. 56)

38. CAT-SCAN, 7/27/88 Negative, (Stamp VA)(TCR P. 65)

39. Sentencing Hearing, July 28, 1988

40. Reconsideration Motion Denied, August 22, 1988(TCR P. 91)

41. 1991 Post Conviction Hearing Act Petition

42. 1991-1993 Attorney Appointed McNaughten

43. 1995 Diagnosed Emotional Stress, May 17, 1995, Urticaria, Sinequan Dr. Eisner, MD (TCR P. 68-69)

44. 2000 NA Form 13044, 8/10/00 , Discharge documents lent to VA request, Wife psychiatric records (TCR P. 131-132)

45. 2000 NA Form 13044, 11/27/00 wife psychiatric records (TCR P.

46. 2001 VA Form 21-6789, 01/09/01, "SMR's Incomplete missing 1981-1983. Any chance of obtain same? Please try" Request to NRPC (TCR P. 851)

47. DEPARTMENT OF VETERANS AFFAIRS, 3/10/01 (TCR P. 772)

48. VETERANS AFFAIR TO NARA, 4/24/01, VA Request NRPC "Please Search, 10-06-81 To 09-19-84 (TCR P. 768)

49. 2007 June 25, NRPC sent Defendant Army Clinical Records, May 2-5, 1983)(The original medical record needed to answer your inquiry is not currently in our files)(TCR P. 81-95)

50. VA denial PTSD, 4/17/2008, absence of a verified in-service stressor and PTSD diagnosis (TCR P. 151)

51. 2008 VA Form 21-0781, PTSD Form , JUNE 01, 2008 (TCR P. 796-799)

52. 2009 United States Army Surgeon General sent Defendant Hepatitis A Quarantine reference in a footnote, #7, Kirkpatrick, 1st BN 30th Field Artillery, July 1982, April 01, 2009, YOUR INQUIRY, FOIA (TCR P. 97-109)

53. 2010 PTSD Diagnosis dated Nov. 10, 2010 by (VETERANS AFFAIRS) (DOD COMPONENT) Veteran Center Therapist T. Alan Schweizer submitted to PCRA Court less than 60 days, on Nov. 20, 2010 (TCR P. 74-75); (TCR P. 108-109))

54. 2010 PCRA Petition Filed Nov. 23, 2010, (TCR P. 10-29)

55. 2010 Medical Text by A National Center for PTSD Fact Sheet by Claudia Baker, MSW, MPH and Cessie Alfonso, LCSW titled, " PTSD and Criminal Behavior" highlighting: (TCR P. 70-73)

- a. *State v. Gregory* 40 Md.App. 297 (1978). War Veteran crimes at time literally or symbolically recreate important aspects of a trauma.
- b. *People v. Wood*, 129 Ill App.3d 39 (1984) the traumatic stressor can be linked to specific crimes is that environmental conditions similar to those existing at the time of the trauma.
- c. *State v. Head*, 385 So.2d 230 (1980), 444 U.S. 1008. 100 S. Ct. 654, 62 L. Ed.2d 637, vacated the judgment and remanded the case for further consideration. (That traumatic stressors can be linked to specific crimes is that life events immediately preceding the offense can realistically or symbolically force the individual to face unresolved conflicts related to the trauma . This creates a disturbed psychological state in which otherwise unlikely behaviors emerge.

56. 2011, FOIA REQUEST United States Army Health Command sent defendant Official Report by Walter Reed Research of Outbreak Hepatitis in July 1982 on December 9, 2011.(TCR P. 216-272)

57. 2012 STATE CORRECTION INSTITUTION GRATERFORD RUTGER'S TRAUMA STUDY (TCR P. 283)

58. 2013 PCRA Court Dismissed

59. 2013 Superior Court Affirmed PCRA dismissal

60. 2019 PCRA Petition file with Evidence, Administrative Record had no evidence accident, active duty, etc...

61. 2019, March 20, 2019 Court of Federal Claims, *Reaves v. United States*, 16-141 C, Default Order by Court submitted (TCR P. 344)

62. 2019-2021 Evidence Submitted to cure Defect:

- a. Clear and Convincing Evidence in the nature of Army Law and Regulations submitted:
- b. AR 635-40 (COAD): (TCR P. 698)
- c. Appx. B, ¶(TCR P. 719-20)
- d. Appx. B, ¶(TCR P. 720)
- e. AR 635-200, 1-35b ¶(TCR P. 735)
- f. *Boyle v. United States*, (TCR P. 726-746)
- g. DA Form 3822-R, (TCR P. 810)
- h. CHART # 16, (TCR P. 806-812)
- i. AR 604-5 (Indoctrination)(Foreign Agents) :
- j. ¶ 9-203 (a)(1)(3) (TCR P. 475) Debriefing; cannot communicate classified information with unauthorized personnel, punishment under Espionage Act and other criminal statutes, cannot communicate with other agency.

k. AR 380-5 (Espionage Act)(30 years or Death in 1980's)

l. AR 50-5

63. 2022 *Reaves v. United States*, 2021-2306, (CAFC) decided Feb. 10, 2022

submitted to PCRA Court on 20 Feb. 2022 (TCR P. 528-538)(Moreover, the Claims Court did not explain why, if Mr. Reaves had been erroneously denied a medical discharge in 1983, his later request discharge in 1986, which would not have occurred but for Army's error, should function as a waiver of his claim)(TCR P. 537)

64. Court of Federal Claims, *Reaves v. United States*, Note & Testimony, March 09, 2023 (TCR P. 813-849)

65. 2023 PCRA Court Order Evidentiary Hearing, than dismissed PCRA Petition

66. 2024 Notice Appeal Superior Court

67. 2025 Allowance of Appeal Supreme Court

68. 2025 August 21, 2025 Writ of Certiorari United States Supreme Court.

2. Procedural History:

Upon finally learning of the condition, Petitioner submitted a PCRA Petition in 2010 the State Superior Court affirmed the PCRA Court dismissal based on emotional problems claim raised by Defense Counsel, (SEE: Appendix B)

In 2019 Petitioner filed another PCRA Petition in 2023 the PCRA Court dismiss based on the same grounds in 1988 emotional problems claim raised by Defense Counsel and diagnosis of Military PTSD could have been obtain in 1988.

The Appellate Court affirmed the PCRA Court dismissal of 2023 based on the same rubber stamp decision.

The Petitioner appeal to the Supreme Court of Pennsylvania under Allowance of Appeal and the Court affirmed the Superior Court decision on May 28, 2025

Petitioner filed a Petition for Writ of Certiorari in the United States Supreme Court seeking certiorari to the Pennsylvania Supreme Court denial of Allowance of Appeal of May 28, 2025

This petition is timely filed within ninety (90) days of the May 28, 2025 Order.

3. DECISION BELOW:

- POST CONVICTION RELIEF ACT PETITION DECISION: Appendix C
- NOTICE OF APPEAL DECISION: Appendix B
- ALLOWANCE OF APPEAL: Appendix A

HOW THE FEDERAL QUESTIONS WERE RAISED AND DECIDED BELOW

Presentation to State Post-Conviction Court. In Pennsylvania, Fifth, Sixth, and Eighth Amendment rights are incorporated into the Fourteenth Amendment and applied against the States were raised by Petitioner's filing of a pro se Post Conviction Relief Act Petition.

The Petitioner raised violations of the Constitutional Amendment in PCRA Petition, (SEE: TCR Page 333-334 United States Constitution, etc....)(Fifth, Sixth, Eighth and Fourteenth); (SEE: TCR Pages 595-640, 907 Response, August 01, 2023)

The PCRA Court Decision on the Constitutional Claim? Dismissed.

Presentation to the State Superior Court Appellate Review as a right. In the state court of appeals, the Superior Court of Pennsylvania, the federal issues were raised in the Petitioner's Notice of Appeal. The Petitioner raised the Constitutional Violation in the Notice of Appeal, (SEE: APPELLANT BRIEF FOR NOTICE OF APPEAL, Page iv.); (Pages 2, 15, 16 of Brief)(Federal Amendment: 1st, 5th, 6th, 7th, 8th, and 14th). In the Notice of Appeal the Petitioner highlighted his assertion that the newly discovered material facts

The Superior Court Decision on the Constitutional Claim? Affirmed PCRA Court dismissal.

Presentation to the State Supreme Court. The Petitioner raised the Constitutional Violations in the Allowance of Appeal (Fifth, Sixth, Eighth and Fourteenth). The federal issues and claim of newly discovered evidence material to

the sentencing, guilty plea, verdict, competency, and sanity were then presented to the Pennsylvania Supreme Court upon the Allowance of Appeal. In addition to the federal issues, the Allowance of Appeal pointed out errors in the Superior Court own case law:

The Supreme Court Decision on the Constitutional Claim? Affirmed Superior Court.

Importantly, discussion of all the underlying federal constitutional claims were evaded rather than directly addressed throughout the entire state court proceedings. Petitioner had (1) presented information documenting the discovery of military medical evidence, (2), (3) Clear and Convincing evidence of law (1981-1986)

REASONS FOR GRANTING THE PETITION

- I. THE PCRA COURT SHOULD HAVE HELD AN EVIDENTIARY HEARING NEWLY DISCOVERED EVIDENCE; COMPETENCY (FIRST TIME RAISED), APPOINTMENT OF COUNSEL AND EXPERT WITNESS
- II. THE SUPERIOR AND SUPREME COURT SHOULD HAVE REVERSE AND REMAND WITH INSTRUCTION
- III. THE APPLICATION OF THE FEDERAL MATERIALITY STANDARD; CONNECTION BETWEEN THE MATERIALITY STANDARD AND SENTENCING, TRIAL, GUILTY PLEA, VERDICT, AND INCOMPETENCY STAND TRIAL?

SENTENCING:

This Court has repeatedly set forth the materiality standard that is to be applied by courts: In *United States v. Bagley*, 473 U. S. 667, 682 ... (1985)(opinion of Blackmun, J.), we explained that evidence is “material” ... when there is a reasonable probability that, had the evidence been discovered, the result of the proceeding would have been different. In other words, favorable evidence is subject to constitutionally mandated disclosure when it “could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict.” *Kyles v. Whitley*, 514 U. S. 419, 435 ... (1995) accord, *Banks v. Dretke*, 540 U.S. 668, 698-699 ... (2004); *Strickler v. Greene*, 527 U.S. 263,290 (1999).

Cone v. Bell, 556 U. S. 449, 469-470 (2009)(emphasis by bold print added)(discussing materiality within the context of required disclosure because whether facts are material determines whether a state has a constitutional obligation to disclose them to the defense.)

The materiality standard is a critical component, i.e., whether the facts provide a basis for a reasonable probability that the result of a proceeding would have been different. Importantly, the Cone Court openly acknowledged the connection between the materiality standard and the sentencing determination: Evidence that is material to guilt will often be material for sentencing purposes as well, *Cone, supra*, 556 U. S., at 473, and see, especially, page 475 (Court discussing direct applicability of newly discovered material evidence to sentencing determination)

REASON FOR GRANTING THE WRIT:

A. VIOLATION OF THE 5TH AMENDMENT FEDERAL CONSTITUION:

Stuart v. United States, 108 Fed. Cl. 458 (2013) Sgt. Stuart's Medical Examination Form 2173 Dated January 1, 2006

Defendant maintain that Plaintiff's claim should be denied because *Plaintiff cannot prove that he was unfit for active duty at the time of discharge*. This argument ignores the fact that it is Defendant, not Plaintiff, that is the cause of the dearth of evidence. To deny Plaintiff's claim for lack of proof that he was unfit at the time of discharge *would reward Defendant for failing to perform and document required medical evaluations and would unfairly impose an impossible evidentiary burden on Plaintiff. Defendant admittedly failed to create the only documentation that could have addressed Plaintiff's fitness for duty and met that evidentiary burden.*

Defendant, relying on personnel performance records and ignoring its failure to document Plaintiff's medical condition following the IED incidents, asserts that

because Sgt. Stuart was able to perform his duties effectively, he did not meet the criteria for referral to a Medical Examination Board at the time that he was discharged from active duty. Def's Reply 5-8. However, these personnel performance evaluations do not constitute sufficient evidence of Plaintiff's medical condition here. In short, these performance reviews cannot pass as a substitute for the medical evaluations Defendant failed to do. *The Army prevented Plaintiff from proving whether he was fit for active duty at the time of his discharge by failing to provide the required medical evaluations and documentation both at the time Plaintiff's vehicle was hit by the IED, and again at the time of his redeployment.*

The Court will not speculate that Plaintiff met retention standards when he was discharged merely because the *Army's failure to follow its procedures resulted in a lack of evidence to the contrary. See Ferrell, 23 Cl. Ct. at 570 (rejecting the Air Force argument that a former serviceman should be presumed fit at time of discharge when the Air Forces violated its regulations by not placing the service member on a medical hold and not convening a Medical Examination Board). The Ferrell Court rejected the Government's argument that the absence of a disability in the plaintiff's medical records showed that he was not disabled () when discharged stating:*

Based on an anemic record, the Air Force retreats into a presumption of fitness, and a presumption of correctness of the Physical Evaluation Board's unexplained finding. Yet it is the agency's own procedural errors which put plaintiff into a position of having to overcome this presumption. That the failure to convene an MEB after a period of convalescence was prejudicial is in fact conceded by the first

AFBCMR report: "Since there was no Medical Evaluation Board, no official determination could be made concerning his qualifications for duty or whether or not referral to a Physical Evaluation Board was appropriate."

Id. Similarly, the "anemic record" in this case does not support a presumption that Plaintiff was fit for duty at the time of his discharge or provide a sufficient factual predicate for this Court to accept Defendant's determination of Plaintiff's fitness for duty.

B. MR. REAVES: That evidence we're deprived of because of the defendant's behavior. (P 38: 5-19)(TCR P. 823)

C. MR. REAVES: And then like the regulation says in AR 600-33, I think it's 1-3, it talks about the evidence will be used for the medical – the Army disability system, the Army – and other federal agencies. This is where the information would have been used. (P 53:14-25)(TCR P. 827)

D. VIOLATION OF THE 14TH AMENDMENT FEDERAL CONSTITUTION:

1. STATUTES HREC's Pennsylvania:

a. *Fauceglia v. Harry*, 409 Pa. 155, 185 A.2d 598 (1962)(

b. UNIFORM BUSINESS RECORD AS EVIDENCE ACT of May 4, 1939, P. L. 42, No. 35, §§ 1-4, 28 P.S. 91 a-d

c. FEDERAL OFFICIAL RECORD ACT of May 24, 1951 P. L. 393, §§ 1-8, 28 P. S. §§ 121-128

d. 28 U.S.C.A. § 1732

e. *Masterson v Pennsylvania R. Co.*, 182 F. 2d 793 (1950)(United States Court of Appeals, Third Circuit)

f. DUE PROCESS: EXPERT WITNESS CASE: CREDENTIAL DEPRIVATION
:FAILED EXPERT WITNESS DETERMINATION AT ALL DATES: 1983-
1986)(*Federal Government, Chart # 16, Rust v. United States* (dereliction of duty);
United States v. Rust,

2. HREC's and PEB evaluation, diagnoses: RELEVANCY TO PENNSYLVANIA CRIME STATUTE:
 - a. 42 Pa. C.S. § 9545(b)(1)(ii) "newly discovered facts"
 - b. 50 P. S. § 7301 et al, (Mental Health Procedure Act)
 - c. 18 Pa. C. S. § 315 Affirmative Defense Insanity (exculpatory evidence fed. gov.)
 - d. 18 Pa. C. S. § 308
 - e. 42 Pa. C. S. A. § 9701 et al, Sentencing and mitigation
 - f. Pa. Rules Criminal Procedure §§ 1401-1409
 - g. Pa. Rules Criminal Procedure § 591
 - h. Pa. Rules Criminal Procedure § 702 (A);(D)
 - i. Commonwealth v. Chew, 266 A. 3d 600 (2021)No. 2358 EDA 2020.

REASON GRANT WRIT: The federal Government errors, crimes, concealment deprived the Petitioner of Material and favorable exculpatory evidence in 1987-88 toward the verdict and guilt. The deprivation of credential evidence of competency, danger self or other, understand proceeding from diagnostic and disability compensation deprived defendant of insanity defense in 1988. The Petitioner was never given notice of the federal government violation, errors, crimes and spoliation. The State Government is not honoring the Federal 5th Amendment protections.

VIOLATION: *Stuart v. US, Boyle v. US, Reaves v. US, US ex rel. Accardi v. Shaughnessy, Sawyer v. US, Farnsworth v. US,*

E. VIOLATION OF THE 6TH AMENDMENT FEDERAL CONSTITUTION:

I. STATE: 6th Amendment violation of the Federal Constitution

- a. Defense Counsel failure to call witness;
- b. Wife; Mother; Brother (On November 20, 1987; December 16, 1987, April 4, 1988; July 28, 1988 concerning Petitioner incompetency under MHPA); Obtain expert witness; do pretrial investigation;
- c. Defense Counsel failure to substantiate argument and claims of military suicide, emotional problems, mental illness with evidence
- d. File direct appeal of incompetent Defendant paid by Lisa Rothel

REASON GRANT WRIT: Violated: *Strickland v. Washington, Porter v. McCollum*

F. VIOLATION OF THE 8TH AMENDMENT FEDERAL CONSTITUTION:

G. Reaves case is an extreme injustice and miscarriage of injustice with all the burdens of proof and evidence he is required to make bricks without straw, at the Federal and State level.

H. Petitioner deprived of expert witness evaluation, examination, forms and evidence in reference to his competency, danger to self or others, understand the proceedings when Federal mandates and State mandates require these expert witness determinations.

I. VIOLATION OF PRO SE LIBERAL PLEADING : State Government is not review Petitioner case liberal pleading:

REASON GRANT WRIT: *Haines v. Kerner,*

II. STATE: 14th Amendment violation of the Federal Constitution

III. STATE: 50 P. S. § 7301 et al.

a. November 13, 1987, November 20, 1987, December 16, 1987, April 04, 1988, July 28, 1988, competent stand trial and insane at time of offense

b. Defendant would have been appointed Counsel and Expert witness on the above dates. These are also failed determination expert witnesses.

c. July 20, 1988:

I. Mental Health Evaluation; Drug & Alcohol and Presentence Reports (inadequate and does not have any probative value, not based on Petitioner Background psychiatric history, trauma, etc...)

MILITARY INCOMPETENCY 1986

T3's

Can a soldier who took T3's with codeine complained of side effects of feeling "drunk" be considered incompetent to stand trial if he committed a crime while under the influence of this prescribed medication by a doctor?

Competency to stand trial is a legal standard, not a medical one, meaning a judge ultimately decides if a defendant meets the criteria. The standard, set by the Supreme Court in *Dusky v. United States*, requires a defendant to have:

- A sufficient present ability to consult with their lawyer with a reasonable degree of rational understanding.
- A rational as well as factual understanding of the proceedings against them.

Tylenol 3 and competency

Tylenol #3, containing acetaminophen and codeine, is an opioid pain reliever with potential side effects including drowsiness, dizziness, and mental confusion, according to GoodRx. These effects can be amplified by alcohol and other medications that cause drowsiness.

While feeling “drunk” from prescribed medication like Tylenol #3 could potentially impact a soldier’s ability to rationally understand and participate in court proceedings, it does not automatically render them incompetent to stand trial. The key is whether the medication’s effects are severe enough to prevent the soldier from meeting the Dusky standard.

Legal Consideration

- **Involuntary intoxication:** If the soldier took the medication as prescribed and experienced an unexpected reaction that rendered them incapable of understanding the nature of their actions, this could be a potential defense.
- **Assessment of Competency:** A court would likely order a forensic evaluation by a qualified mental health professional (psychologist or psychiatrist) to assess the soldier’s mental state and ability to participate in their defense. The evaluation would consider factors like the severity of the “drunk” feeling, its duration, and its impact on the soldier’s cognitive and communicative abilities.

MR. REAVES: That evidence we’re deprived of because of the defendant’s behavior. (P 38: 5-19)(TCR P. 823)

MR. REAVES: And then like the regulation says in AR 600-33, I think it’s 1-3, it talks about the evidence will be used for the medical – the Army disability system, the Army – and other federal agencies. This is where the information would have been used. But Your Honor, then also the Army Board for Correction of Military

Records, they even said – they said that the records were – SF -600 was in here that talks about the records were missing, lost, and destroyed. So they weren't aware also. It's just that we fully (P 53:14-25)(TCR P. 827

DA Form 3822-R

The Federal Government DOJ representative just committed fraud on the Court. How so?

MS. ACEVEDO: Before he discharged in November of 1986, he was given a mental competency study, and that's documented in the record at page 347 and 433. And he was determined to quote/unquote have the mental capacity to understand and participate in the proceedings, and he was found to be quote/unquote mentally responsible. (P 56:1-25)(TCR P. 827)

MS. ACEVEDO: The Board looks at under 10 U. S. C. § 1201 what was his condition when he was discharged on November 10, 1986. And there's no evidence in the record – in fact, the day before, there's evidence at page 433 again, that he was mentally competent when he was discharged. (P 59: 1-19)(TCR P. 828)

THE COURT: No Competency to Stand Trial Court Martial for Misconduct.

DA Form 3822-R, does not have a date or reason for the Mental Status Report.

Russel v. United States, 183 Ct. Cl. 802 (1968)(Footnote # 3, None of the diagnoses relating to the plaintiff's mental state, made by the Armed Services personnel, were made by qualified psychiatrist.);(Footnote #4, During the trial a qualified psychiatrist testified that the failure to state the reason a psychiatric evaluation

was requested should have aborted the request. He stated he would not have conducted the examination until the reason for it was supplied because such information is vital to properly orient such an examination.)

MILITARY MENTAL ILLNESS:

PTSD:

SUPERIOR COURT:

Here, Reaves diagnosis of PTSD cannot be deemed newly discovered because the diagnosis was available in 1988 at the time of sentencing. See Henry. Additionally, at sentencing, counsel brought to the court's attention Reaves' emotional problems while in the Army. N. T. Sentencing Hearing, 7/28/88, at 8-9. Accordingly, Reaves fails to establish the new discovered evidence exception Page 4.

PTSD:

PCRA COURT: (1) Application of the newly discovered evidence to Petitioner case 1988 PTSD Diagnosis was available, Defense Counsel raised emotional stress during sentencing; (2) Judicial Opinion is not newly discovered evidence; (3) Incompetency claim never addressed by PCRA Court, Superior or Supreme.

**HAD THE NEWLY DISCOVERED BEEN AVAILABLE IN 1987-1988
DEFENSE WOULD HAVE SEEK:** (1) Insanity Defense (§315;§308); (2) Appointment of Expert Witness and Counsel under 50 P.S §7301 MentalHealth Procedure Act; (3) Competency determination; (4) Competency Hearing; (5) Sanity Commission

CONSTITUTIONAL VIOLATIONS AT TRIAL:

1. *State v. Gregory* (Re-creation of Trauma by Defendant Reaves) 40 Md.App. 297 (1978)
 - a. The offense of 11/13/1987 is symbolic of his Military Trauma of 1982 Quarantine in Grafnerwoehr Germany. ("ample evidence exists of unsanitary practices by this battalion during the July FTX at Grafnerwoehr. (TCR P.273); The unit was restricted to three areas of he reservation prior to it departure. (TCR P. 238); Combat Unit, (TCR P. 273); Battalion training at Grafnerwoehr several time a year (TCR P. 224); Water Buffalo (TCR P. 868); Convoy (TCR P. 872) During the actual Quarantine it was announce that one of the sources of the outbreak was the water and the food. The Petitioner squad the "M5" had the duty of filling up the Water Buffalo for A-Company.
 - b. Numbness (Convoy back from Quarantine to Augsburg 1982)
 - c. VA Form 21-0781 (2008) (Tank-,
 - d. Incarcerated or restricted: SCI-Graterford 8/1/88 until Feb.. 11, 2014, drinking contaminated water just like Quarantine July 1982, living with all men like his combat unit in 1982, thus re-creating his trauma (8th Amendment violation) SEE: *Jones v. Owens*, E.D. Pa. 3d Cir. 1990 LEXIS 77, Civil Action, No. 89-9178 (Defendant Commissioner aware of water contamination at SCI-Graterford 1989)

- e. AR 604-5, 9-201 d (Foreign Agent) Indoctrination
- f. Victim Statement (Transcript, Dec. 16, 1987)(After hours begging given water. P. 18); (Green Army jacket, P. 20); (Beer P. 9); (Tied up P. 20); (Claim adjustor, P. 4); (Cocaine, P. 9); (Highway bumpy, P. 21)
- g. Other: (Back bedroom, P. 18); (Struggle landing, P. 18);(basement, P. 9)
- h. ABLE ARCHER 1983 (November 1983)(Throat dropped to stomach)

2. *People v. Wood*, 129 Ill.App.3d 29 (1984): PCC II, Trolley, Number # 11, 56th Woodland is less than 30 steps from Petitioner home, sound just like M 109 Howitzer. (TCR P. 904)

3. *State v. Heads*, 385 So.2d 230 (1980), 444 U. S. 1008, 100 S. Ct. 654, 62 L. Ed.2d 637, vacated the judgment and remanded the case for further consideration.

4. May 1985 Wife Nervous Breakdown in Fort Riley, Kansas when she was hospitalized in the Irwin Army Hospital twice tied down in the Psychiatric Ward (SEE: AR/RR P)(NA Form 13072); (AR/RR P)(Soldier Reaves Sworn statement 2009 to the Army Board for the Correction of Military Records detailing the horror);(N & T, 7/28/1988)(AR/RR P ") Victim tied up.

5. Childhood trauma

6. Defendant/Petitioner re-created trauma of being Quarantine during Hepatitis Outbreak that happen during Combat Field Training Exercise or Simulating

War Drills that take place three times a years at 30 days interval annually.

Defendant re-created trauma by being housed in SCI-Graterford State Prison for 27 years that had EPA contaminated water.

- Miscarriage of Justice Case: *Com. v. Reaves*, 329 A.3d 629 (2024)
- *Kay v. Shinseki, Kisor v. Wilkie*, (Military PTSD cannot be diagnosed with a verified in-service stressor which became available in 2011 officially, after 2010 diagnosis)

IV. OTHER FEDERAL CONSTITUTIONAL RIGHTS IMPLICATED IN THIS CASE OF WHICH THE COURT SHOULD TAKE NOTICE.

The State Utterly Refused to Comply with *Haines v. Kerner*, 404 U. S. 519 (1972) and Instead Read Petitioner's Pro se Post Conviction Relief Act in A Manner that Undermined His Constitutional Right to Due Process and Equal Protect, His Right of Access to Court, Submit evidence, Witnesses on his behalf, expert witnesses, rebut state government witnesses, direct appeal, effective counsel, assistance of counsel, and His Right to Seek Relief Based on Newly Discovered Material Facts.

In *Conley v. Gibson*, 355 U. S. 41 (1957), this Court articulated a basic tenet or due process of law as rejecting hyper-technical reading of pleading requirements for pro se litigants seeking relief within judicial system.

In *Haines v. Kerner*, 404 U. S. 519 (1972), this Court (1) held that prisoner pro se pleadings are to be held to less stringent standards than formal pleadings by lawyers, see 404 U. S., at 520 and (2) articulated an approach asking whether, from

a review of the pleadings, "We cannot say with assurance that under the allegations of the Pro se complaint, which we hold to less stringent standards than formal pleadings drafted by lawyers, 'it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief.'" *Haines v. Kerner*, 404 U. S. , 520-21, citing *Conley*, 355 U. S., at 45-46 and *Dioguardi v. Durning*, 139 F.2d 774 (2nd Cir., 1944).

CONSTITUTION VIOLATION 14TH AMENDMENT: FEDERAL UPON THE STATE!

BRADY

FEDERAL CONCEALMENT IMPACT THE STATE GOVERNMENT

If the Army conceal psychiatric evidence of a soldier in 1986, he commits a crime in Pennsylvania 1987 and the Army does not become available until 2009, is this a Brady violation under the *Brady* rule, *Bagley*?

This situation presents a potential Brady violation under the Brady Rule, as clarified by *United States v. Bagley*.

Here's why:

- **Favorable Evidence:** The suppressed psychiatric evidence of the soldier, if it suggests mental health issues that could have impacted his culpability or sentencing, would be considered favorable to the accused (exculpatory or impeaching)

- **Suppression by the State:** Even though the Army initially concealed the evidence, the prosecution has a duty to disclose all material, favorable information in their possession, regardless of whether it's requested, or even if it was unknown to the individual prosecutor, as established in *Kyles v. Whitley*. The fact that it didn't become available until 2009 (Footnote # 7); 2011 CDC Report suggests it was suppressed from the defense during the original trial.
- **Prejudice:** the late disclosure, 22/24 years after the crime and after the initial trial, could have severely prejudice the soldier's defense, especially if the psychiatric evidence could have led to a different outcome regarding guilt or punishment.

Materiality

The central issue is whether the psychiatric evidence was “material” to the case. Evidence is considered material if there is a reasonable probability that disclosing it would have altered the outcome of the trial regarding guilt or punishment. If the evidence could have supported a defense or affected sentencing, it would likely be considered material. The significant delay in disclosure could strengthen the argument for its materiality.

Brady v. Maryland: Mandates the disclosure of material, exculpatory evidence by prosecutors.

United States v. Bagley: Clarified that the prosecution must disclose all material favorable information regardless of whether the defense request it.

Kyles v. Whitley: Stressed the importance of evaluating suppressed evidence's cumulative effect and extended the prosecution's disclosure duty to evidence known by others acting on the government's behalf.

Next Steps

If this situation occurred, the soldier would likely need to pursue legal options such as a post-conviction relief act or habeas corpus petition, to seek a new trial or other relief based on the delay disclosure. This would require demonstrating that the suppressed evidence was favorable and material to the defense and that its late disclosure caused prejudice.

In order for the scenario described to be a *Brady* violation, It must meet three conditions:

- 1. Favorable Evidence:** The psychiatric evidence must have been favorable to the soldier, either because it was exculpatory (suggesting his innocence) or because it could have been used to impeach a witness (cast doubt on their credibility)
- 2. Suppression:** The Army (or the prosecution, as *Brady* applies to the prosecution's duty to disclose evidence in the possession of the government) must have suppressed the evidence, either willfully or inadvertently.

3. **Prejudice:** The suppression of the evidence must have resulted in prejudice to the soldier. This means there's a reasonable probability that, had the evidence been disclosed, the outcome of the trial (either the finding of guilt or the punishment) would have been different.

Applying these conditions to Reaves scenario

- **Favorable Evidence:** If the psychiatric evidence revealed a mental condition that could have been used as a defense or to argue for a lesser sentence (e. g., relating to diminished capacity or extreme emotional disturbance), then it would be considered favorable.
- **Suppression:** The Army's concealment of the evidence from 1986 until 2009/2011 could be considered suppression, regardless of whether it was intentional or accidental, especially if the soldier was unaware of its existence.
- **Prejudice:** This is the key question: If the evidence was material, meaning its disclosure in 1987 could have reasonably changed the outcome of the criminal proceedings (the finding of guilt or the sentence), then prejudice would be established. However, quoting the Supreme Court in *Bagley*, the question is “whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence.”

In Summary, the specific psychiatric evidence and its potential impact on the criminal trial would need to be evaluated to determine whether the Army's failure to disclose it until 2009/2011 constituted a *Brady* violation under *Bagley*.

REASON GRANT WRIT: The State Government is violating the Petitioner Federal rights to present evidence in his own defense, dispute the Commonwealth evidence, new evidence, exculpatory evidence spoliated and Army mandates of examination that warranted diagnosis of schizophrenia after spoliation or as the Federal Government hold that the 1981-1984 HRECs are inadvertently administrately lost. The Federal Government never notified Petitioner of the errors, crimes, and PEB mandates yet. The deprivation of counsel to present witnesses at trial and sentencing address incompetency, sanity and military psychiatric history, trauma prejudice the Petitioner to include counsel failure to obtain expert witnesses for Trial and sentencing to dispute the State. Trial Counsel and PCRA counsel failures to obtain substantiated Military Psychiatric evidence raised at Sentencing. State put on notice Petitioner nuclear specialist unable to communicate under AR 604-5, ¶ 201 (e)(f)(g) and AR 604-5, ¶ 204 (a)(1)(3) person and agency trying to illicit information from him. (Incompetent) can only communicate with DoD Component 2010 and 2014. Federal Concealment constitute *Brady* violation and was evidence toward trial strategy *Bagley*. Petitioner incompetent 1986 (T3's addiction) and at time of offense (fining for codeine).

VIOLATION: *Porter v. McCollum*, *Droe v. Missouri*, *Cooper v. Okl*, *Brady v. United States*, *United States, v. Bagley*,

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Joseph Reaves (Pro se Petitioner)

OCTOBER 21, 2025