

No. 25-6780

ORIGINAL

US COA # 25-1434

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Henry Smith — PETITIONER
(Your Name)

vs.

Chris King — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeal for the Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Henry Smith mdoc #482999
(Your Name)

Mustkegon Corr. Facility
2400 South Sheridan road
(Address)

Mustkegon Michigan 49442
(City, State, Zip Code)

- NA -
(Phone Number)

QUESTION(S) PRESENTED

Question #1

In a Credibility Contest where the only direct evidence against Petitioner is testimony assuming Petitioner was the perpetrator because the witness thinks he saw Petitioner with a gun does Trial Counsel violate Petitioner's Sixth Amendment rights to the effective assistance of counsel, right to present a defense and right to confrontation by not introducing evidence that the same witness once said the witness never saw Petitioner with a gun?

Question #2

When the only evidence identifying a criminal defendant as the perpetrator is the testimony of a single witness, and where the memory of that witness is obviously impacted by medical trauma to the Frontal Lobes, which is an area of the brain associated with memory, and prolonged impairment of consciousness and where the all-important identification is unaccountably altered after the administration of medical drugs is the failure of Trial Counsel to consult an expert to ascertain possible effects of trauma and pharmaceuticals on the memory of the witness constitutionally ineffective?

Question #3

When the only evidence convicting a Petitioner is testimony that places the Petitioner 1 by name on the scene 2 alone with the victim are Petitioner's Sixth Amendment right to counsel and confrontation violated when counsel fails to investigate develop and present the contents of a police report that describes the shooter as being 1 unknown by the victim and 2 a third person that was present?

Questions Presented (cont.)

Question #4

In a Credibility Contest does Trial Counsel violate Petitioner's Sixth Amendment right to counsel by failing to object to the prosecution telling the Trier of Fact that the witness had been "consistent from within ten minutes of the crime happening" while failing to mention that this same prosecution impeached the same witness in a prior proceeding and the Trier of Fact adopts the prosecution's comments as true by stating that said witness had indeed been consistent?

Question #5

Are Petitioner's rights to equal protection and due process violated when Petitioner is denied certain procedures and protections, i.e. an evidentiary hearing to assess and determine the predicted credibility of a Newly Discovered Witness versus the witness that testified against Petitioner to ensure that a miscarriage of justice doesn't take place, when those procedures and protections were afforded to others that were/are similarly situated?

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:

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OTHER

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 to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

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

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ 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 October 16, 2025.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

☐ For cases from **state courts**:

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 1 Religious and Political Freedom

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition the Government for a redress of grievance.

Amendment 6 Rights of the Accused

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 the Assistance of Counsel for his defense.

Amendment 14 sec. 1

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.

STATEMENT OF THE CASE

Petitioners expectations, like those of any man not wholly pessimistic nor optimistic, are born from a long experience of a thing. Thus petitioner expects that this pleading like all others shall either ① never be read reviewed and/or heard or ② shall be mechanically denied using contrary and inconsistent rulings that are meant to secret Petitioner's case away. This is why Petitioner is in the process of finding a Social Media Manager to alert the American Tax Payer as to how their money is being spent concerning "Justice", because the average tax paying american does not know that the instant case is the norm and business as usual. Still Petitioner shall set out the facts of this case along with the contrary and inconsistent rulings of such as follows.

As an example of how absurd a Court can be, before returning to the beginning Petitioner turns this Court's attention to the facts that Petitioner requested the Evidentiary Hearing to rebut the lower court's factual determination for which Petitioner should have been entitled to pursuant to,

but said request to rebut the lower courts factual determinations were denied using . . . the lower courts factual determinations. So in reality there is no mechanism nor device to challenge the Kings in Black robes and ~~reference~~ reference just means, "I don't care what the police report, the affidavit, the transcripts or the law, says I going with what he said",

It would be nice to find a jurist that cared more for the Constitution than ingratiating colleagues.

Praying that this Court, the Highest Court in the Land, the literal heads of my Government are those long sought for jurist Petitioner sets out the Statement of the Case as follows...

A On December 6 2013 the victim Matthew Ridley was at or around the area of Meade in Detroit, Michigan. It was at this date and place that the victim was shot in the head and received a traumatic brain injury resulting in severe brain damage. The victim tells the first responding officer DPD officer Darryl Byrge that the shooter was someone the victim does not know and that the victim was with "an acquaintance". The victim doesn't name Henry Smith to the officers nor to Ike Fields who called 911. The police report of officer D. Byrge or it's contents are not known to exist before or at the time of trial

- Police report of officer D. Byrge
- Witness statement of Ike Fields

B After other officers arrive on the scene, including officer F. Person, the victim then changes his story and says that Henry Smith came to his house before they both walked to the house where the victim was shot. The victim also tells officers that Henry Smith lives in the same projects as the victim. Evidence of the victim saying that the shooter lived in the same projects as the victim was never presented at trial.

- Police report of W. Robinson

C After awaking from a coma, being heavily medicated and several brain surgeries the victim is shown a single photo of Henry Smith for the purpose of identification by officer F. Person and signs a witness statement wherein the victim changes the story yet again to say that Henry Smith and the victim were picked up from a friend's house and driven to a house where the victim was shot. The victim also states that Henry Smith lives somewhere on Van Dyke in Detroit MI not in the project housing in Hamtramck, MI. The contents of the victim's signed statement was not presented at trial for the purpose of impeachment

- Witness statement of Ridley
- Request for Warrant
- Medical records, Brainline.org article "What is Confabulation"

D At the preliminary examination the victim testifies under oath that the victim never saw Henry Smith with a gun before or after the victim was shot and that the victim is uncertain if anyone else was present. The victim was then impeached by the prosecuting attorney with an unsworn out-of-court statement. After impeaching its own witness, the court then accepted the prior inconsistent out-of-court statement for substantive value and bound Henry Smith over to stand trial. The victim's preliminary examination testimony was not presented at trial for the purpose of impeachment.

- Preliminary examination transcripts of 4-25-2014 page 26 27 and 37

E On the first day of the two and a half day trial counsel for the defense goes on the record the sole reason why Henry Smith elected to have a bench trial

"And I'm going to suggest to you that there are some technical and medical reasons which really prompted our joint agreement to have a bench trial in this matter for your consideration.

...
And I would submit that there is a theory of, I believe fairly common recognition and it's called confabulation."

The judge then clarifies his ability to "acknowledge" the medical condition of the victim

"Now whether that amounts to a medical condition known as confabulation, I'm not sure I'm qualified to address that".

After this exchange during opening statements defense counsel then fails to present absolutely any medical evidence although the State's key witness had damage to areas of the brain associated with memory and confabulation.

- Trial transcripts of 10-31-2014 page 12 13 and 14
- Affidavit in support of invalid waiver of jury trial claim

F During the trial the victim testified under oath that

1) The victim doesn't know nor ever told anyone where the alleged shooter lives as opposed to "he lives somewhere on Van Dyke with her". (inconsistency from signed witness statement not presented at trial)

2) Was driven as opposed to walked

3) It was cocaine that the victim and Henry Smith were involved in selling then changes the story mid-testimony to say it was heroine

4) Saw Henry Smith concealing a gun after the victim was shot as opposed to "I never saw him with a gun...". (inconsistency from preliminary examination testimony not presented at trial)

5) The victim and Henry Smith were the only people there as opposed to "an unknown person came from behind...". (inconsistency of the real shooter being an unknown third party other than Henry Smith [Police report of D Byrge] not presented at trial)

6) He was only assuming!
The fact that the victim was shown a single photo was not made known at trial nor was any medical evidence such as the victim's medical records

G The prosecuting attorney theorized that the victim and Henry Smith were driven to the crime scene by a woman that was in another city at the time therefore the prosecuting attorney chose not to have the phone tracking expert presented at trial.

• Amended witness list

H While testifying Henry Smith was asked why would the victim lie. Before Henry Smith could answer the court ordered the testimony to stop because it was hearsay. It should be noted that Henry Smith was attempting to disclose events that Henry Smith witnessed himself.

* Trial transcripts of 11-7-2014 page 20

* Affidavit of Bras

I When asked by the judge if trial counsel had any communication with the alibi witnesses trial counsel states

My only true and direct communication has been the assistance of my client as to where their identity, where he was and that he would see to their appearances

He obviously has "had" good telephone communication and so I think those lines are available to him

It should be noted that Henry Smith's attempts to secure the attendance of said alibi witnesses through telephone communication was used against Henry Smith during trial without objection from trial counsel

* Trial transcripts of 11-3-2014 page 16-17

J At the close of trial the prosecuting attorney argues that the State had satisfied its burden of proof because the victim had "been" consistent from within ten minutes of the crime happening. The prosecuting attorney argues this while failing to state that he himself had to impeach the same witness in order to push the case through.

* Trial transcripts of 11-7-2014 page 35 37 and 40

K Henry Smith was subsequently found guilty and sentenced. Mr. Smith attempts to appeal by requesting an attorney. Mr. Smith hears nothing for a year. During that year Mr. Smith receives legal mail for three different Henry Smith(s). Mr. Smith requests again and is forced to file a motion to enter claim of appeal which is eventually granted

L Only after requesting documents pertaining to the warrant does Henry Smith discover that the victim was shown only one photo and that the victim once said the shooter was someone the victim doesn't know personally.

- See points A and C
- Request for warrant
- D. Byrge Police report

M While talking with someone from the neighborhood Henry Smith discovers someone that witnessed an armed man not Mr. Smith fleeing the area at the same time. This is consistent with the police report of DPD officer D. Byrge

- Affidavit of B. Brantley
- D. Byrge Police report

N While reading the Detroit Free Press Mr. Smith discovers that DPD officer F. Persons has been charged with

- Obstruction of justice
- Neglect of duty
- Tampering with evidence

Officer Persons is the officer that simultaneously arrived on the scene precisely when the victim decided to change the story to incorporate Mr. Smith. Officer Persons also showed the victim a single photograph of Mr. Smith for the purpose of identification.

- See points B and C
- Detroit Free Press article
- Request for warrant

- During my appeal of right the Michigan Court of Appeals agrees with the prosecuting attorney in saying that the victim was indeed impeached with all of his versions of the assault although the officer Byrge police report, the victim's preliminary examination testimony, nor the victim's signed witness statement was used to test the victim's credibility
- People-v-Smith 2017 Mich App Lexis 155 @ *8
 - D. Byrge Police report
 - Preliminary Examination transcripts of 4-25-2014 page 26, 27
 - Signed witness statement of Matthew Ridley

- Also raised during the appeal of right is the fact that the victim has damage to areas of the brain which can cause the production of false memories. The MCOA stated that there is no evidence of this type of brain damage (frontal lobes). The victim was also medicated with drugs that can cause
- 1) hallucinations
 - 2) abnormal dreams
 - 3) seeing hearing and/or feeling things that are not there
 - 4) confusion about space time and identity

- No medical evidence to this effect was presented at trial
- People-v-Smith 2017 Mich App Lexis 155 @ *5
 - "What is Confabulation"
 - Medical records of Matthew Ridley (frontal lobes)
 - Drugs.com side effects

- During review of Mr. Smith's motion for relief from judgment the trial court opined that the prosecuting attorney was not in error for telling the trier of fact that the victim had been consistent from within ten minutes of the crime happening because the victim had been. Although the prosecuting attorney himself

impeached the victim. The judge reviewing the motion for relief from judgment also erroneously states, among other things, that neither the police report describing the real shooter as being someone other than Mr Smith nor the newly discovered witness would have changed the outcome at trial even though the victim admitted to only assuming and the evidence contained within the police report and the newly discovered witness' affidavit is not cumulative instead the pieces of evidences bolster one another.

- Trial court's 8-2-2021 denial of motion for relief from judgment

R In addition to the above cited facts accompanied by documentary proofs it is also important to note that although trial counsel did mention during opening statements that the victim's medical condition was an important factor, trial counsel at a hearing held on 9-26-2014 also committed fraud upon the court by stating that

"I was looking to see whether or not I could find anything in there where a doctor or a radiologist would say and come to court to testify that the part of the brain which stores memory which has recall, which has cognitive reception was destroyed injured or harmed with the injury.

And I have seen -- and it may be true that that happened but there's nothing in there that says that it did."

- Pretrial transcripts of 9-26-2014 page 13

Trial counsel's argument not only amounts to fraud upon the court but it concealed and suppressed important evidence favorable to the client, Mr Smith. The victim's medical records show damage to the frontal lobes. The frontal lobes are the key areas associated with the

production of false memories (Confabulation)

Attorney Robert Tomate's failure to correct all of the misrepresentations and misstatements of fact should amount to legal malpractice.

In addition to all the Government recorded and readily available histories aforementioned Petitioner has only filed one post conviction Motion for Relief from Judgment that has been denied numerous times by different judges for any and all reasons imaginable including reasons inconsistent and contrary to each other.

Likewise every request for any kind of Evidentiary Hearing has been denied in like manner.

REASONS FOR GRANTING THE PETITION

Ineffective Assistance of Counsel Failure to Cross-Examine

Petitioner was denied the Sixth Amendment right to the effective assistance of counsel right to counsel, right to present a defense and right to confrontation when Trial Counsel failed to cross-examine/impeach the State's sole eye-witness on the most important issue. That issue being whether or not the witness ever saw Petitioner with a gun.

see *Murray-v-Carrier* 477 US 478, 496 (1986)

... right to the effective assistance of counsel may be violated by even an isolated error of counsel if that error is sufficiently egregious and prejudicial.

It is because the victim didn't see who shot him that whether or not he saw the Petitioner with a gun is very material. Proof of its materiality is demonstrated by the prosecution impeaching the victim on this very matter and the judge citing the matter in the Trial Courts findings of fact.

Thus it can only be said that the adversarial testing was found lacking and that Trial Counsel provided Constitutionally inadequate representation in violation of the Sixth Amendment and *United States-v-Cronic* 466 US 648 when counsel failed to explore and present readily available prior inconsistent testimony that contradicted the testimony for which Petitioner was found guilty... namely, that Petitioner was allegedly on the scene with a gun, as opposed to never seeing Petitioner with a gun before or after the incident.

see Appendix P

It cannot be reasonably said that the failure to impeach with the prior inconsistent testimony was sound trial strategy because there is/was

"... no conceivable way this decision could help the defense". see *People-v-Laffer* 734 F3d 503, 513 (6th Cir 2013)

Although Trial Counsel spoke with the witness and asked questions immaterial to whether or not Petitioner was running around with a gun "... posing futile questions ... is not Constitutionally adequate cross-examination." see *Blackston-v-Rapelye* 780 F3d 340 (6th Cir 2015)

Petitioner was convicted because of testimony placing Petitioner on the scene with a gun. Trial Counsel was ineffective for not revealing to the trier of fact that the witness once testified under oath that Petitioner did not have a gun.

see *United States-v-Nixon* 418 US 683, 709 (US SC 1974)

"... The need to develop all relevant fact in the adversary system is both fundamental and comprehensive. The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts. The very integrity of the judicial system and PUBLIC CONFIDENCE in the system depend on full disclosure of all the facts..."

NOWHERE IN THE TRIAL TRANSCRIPT DOES TRIAL COUNSEL CONFRONT THE WITNESS OR PRESENT TO THE TRIER OF FACT THE INCONSISTENCIES FROM PRELIMINARY EXAMINATION. IF SO, PLEASE CITE THE PAGE.

Furthermore, Trial Counsel has NEVER claimed that the failure to impeach was strategic because ALL attempts at securing an Evidentiary Hearing have been mechanically denied. Even Petitioner's attempts to challenge Factual Determinations are denied using the same Factual Determinations for which Petitioner seeks to challenge and that is SCARY and needs to be exposed.

The lower court stating that the witness had been impeached with all versions of the events amounts to a decision that was based on an unreasonable determination of the facts in light of the evidence presented at trial 28 USC 2254(d) because it didn't happen.

The lower courts stating that the decision not to expose to the Trier of Fact that the witness once testified to never seeing Petitioner with a gun was reasonable trial strategy amounts to a decision that is contrary to clearly established Federal Law because there is no way that decision could have aided the defense.

Lastly, the Sixth Circuit Court of Appeals failed to perform a ministerial duty when it denied Petitioner the so called mandatory evidentiary hearing to rebut the lower courts factual determination on the issue by relying on the lower courts factual determination.

No one has ever tried to expose these types of things in the arena of political campaign/awareness, until now.

Ineffective Assistance of Counsel Failure to Call/Consult Expert or Present Medical Evidence

Since the victim is qualified to address and gauge the severity of his own Traumatic Brain Injury as it relates to memory loss but the Trier of Fact is not,

the spirit and nature of the adversarial process calls for the Defense's presentation of competent evidence and information relating to Traumatic Brain Injury as it sits with memory loss in order to combat the prosecution's "evidence" on Traumatic Brain Injury and memory loss.

The case of Bell-v-Miller 500 F35149 (2nd Cir 2007) is instructive due to it being materially indistinguishable as follows...

Regarding the victim's ability to diagnose the severity of his own injury the Federal Courts ruled that

"...It is likely that the State trial court would have permitted a medical expert to testify as to the effects of trauma, blood loss and anxiolytic and amnestic medications on the human brain as those topics are well beyond the ken of the typical juror." see Bell-v-Miller @ 156

Thus the Trier of Fact in the instant case and the victim were not qualified to address Confabulation/False Memories as it is "beyond their ken".

Concerning the victim's admission of his memory being "messed up" during cross-examination the Bell-v-Miller court ruled that,

"... True counsel cross-examined [the witness] in an effort to cast doubt on [the witness'] identification. But counsel's failure even to investigate the scientific implications of [the witness] trauma blood loss and sedation handicapped his cross-examination of those key prosecution witnesses." see Bell-v-Miller @ 156

Turning to whether or not the failure to seek an expert or present any medical evidence after declaring such in opening statements was reasonably strategic the Federal Courts in Bell-v-Miller reasoned that

"... The defense proceeded along two strategic lines: impeaching [the witness] and establishing an alibi. The first of these would have been prompted without any appreciable downside by the expert medical testimony on the impact that blood loss and pain killers had on [the witness'] memory." see Bell-v-Miller @157

The fact that the victim sustained damage to areas of the Brain that can cause Confabulation and False Memories was never presented at trial before the Trier of Fact.

To demonstrate what an expert would have testified to Petitioner has attached the article What is Confabulation along with pages of the victim's medical records which together show a link between Frontal Lobe damage sustained by the victim and the production of False Memories. No such evidence was produced at trial even though the evidence exist.

A lawyer who fails adequately to investigate and to introduce information that demonstrates his client's factual innocence or that raises sufficient doubt as to that question to undermine confidence in verdict renders deficient performance.

see Richey-v-Bradshaw 498 F3d 344, 362 (6th Cir 2007)

See Appendix Q

"Where the only evidence identifying a criminal defendant as the perpetrator is the testimony of a single witness and where the memory of that witness is obviously impacted by medical trauma and prolonged impairment of consciousness and where the all-important identification is unaccountably altered after the administration of medical drugs the failure of defense counsel to consider consulting an expert to ascertain the possible effects of trauma and pharmaceuticals on the memory of the witness is Constitutionally Ineffective".
See Bell-- Miller @157

Petitioner was denied his Sixth Amendment right to the effective assistance of counsel right to present a defense and right to confrontation when Trial Counsel failed to secure an Expert, present medical evidence or a learned treatise consistent with the defense's theory of Contabulation.

The lower courts stating that Petitioner does not show what an expert would say or that there is no evidence that the witness sustained damage to areas of the brain associated with memory amounts to a decision that is an unreasonable determination of the facts 28 USC 2254 d because of the attached medical records and article by an expert on the matter.

The lower courts stating that the decision not to call an expert in light of the facts of the case was reasonable trial strategy amounts to a decision that is contrary to clearly established Federal Law because there is no way that decision could have aided the defense. 28 USC 2254 e

Lastly the Sixth Circuit Court of Appeals failed to perform a ministerial duty when it denied Petitioner the so-called mandatory evidentiary hearing to rebut the lower courts factual determination on the issue by relying on the lower courts factual determinations.

No one has ever tried to expose these types of things in the arena of a political campaign/awareness, until now.

Ineffective Assistance of Counsel Failure to Present Evidence of an Alternate Suspect

The police report in question describes a situation where in there were three people present and therefore at the very least could have been developed and presented for impeachment through extrinsic evidence had the officer been called to testify or does this court hold that the officer would have testified to something other than what was in the officer's official report?

No matter who told the contents of the police report to the officer the contents itself are material as the contents of the police report are the opposite of the judges Findings of Fact i.e. "the victim knows who shot and they were the only people present" as opposed to "Three people present and shooter unknown by declarant".

"... Ineffective assistance of counsel where counsel failed to investigate a witness who would have supported the theory that another person shot the victim."
see *Poinexter-v-Boother* 301 Fed Appx 552, 527 (6th Cir 2008)

See also *Richey-v-Bradshaw* 498 F3d 344, 362 (6th Cir 2007) holding that

"... A lawyer who fails to adequately investigate and to introduce information that demonstrates his client's factual innocence or that raises sufficient doubt as to that question to undermine confidence in the verdict renders deficient performance."

In summation someone declared the contents of the police report and that someone and the contents of the report itself would have cast doubt on the credibility of the victim and raised a reasonable doubt as to Petitioner's guilt.

see Appendix R

The lower court stating that Trial Counsel made a reasonably strategic decision not to investigate develop and present evidence in a police report which is the opposite of the testimony for which Petitioner was found guilty amounts to a decision that is contrary to clearly established Federal Law because there is no way that Trial Counsel's decision could have aided the defense. 28 USC 2254c

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Ineffective Assistance of Counsel Failure to Object

Now as usual the previous court attempts to misrepresent the facts and further "muddy the water" so that the truth is ever so hard to see.

In reference to page seven of it's denial the Sixth Circuit Court of Appeals refuses to acknowledge that it is not just evidence produced at trial that tends to bolster or damn a persons credibility.

The prosecution's comment was that the victim had been "...consistent from within ten minutes of the crime happening".

The prosecution failed to mention that they themselves impeached this witness, their own witness, in order to push the case through.

Prejudice is proved by the Trier of Fact stating that the witness had been consistent i.e., The Trier of Fact believed the comment.

Therefore, Trial Counsel was ineffective for not objecting to the comments and the prosecution committed misconduct by and through the comment which violated Petitioner's Sixth Amendment right to counsel and right to a fair trial.

"...A lawyer who fails adequately to investigate and to introduce information that demonstrates his client's factual innocence or that raises sufficient doubt as to that question to undermine confidence in the verdict renders deficient performance"
see *Richey v. Bradshaw* 498 F3d 344, 362 (6th Cir. 2007)
see Appendix S

The lower court stating that the prosecutions comments were in reference to evidence presented at trial amounts to a decision that is an unreasonable determination of the facts because the comment was that the witness had been "consistent from within ten minutes of the crime happening", not at trial 28 USC 2254 d

The lower court reasoning that the comment was harmless is also a decision that is an unreasonable determination of the facts because the Trier of Facts believed and adopted the comments in the Findings of Facts. 28 USC 2254 e

No one has ever tried to expose these types of things in the arena of political campaign lawareness, until now.

Newly Discovered Witness/Miscarriage of Justice

The Sixth Circuit Court of Appeals stating on page 11 of its denial that Petitioners claim is noncognizable is not true.

In other cases similar to the instant case certain procedures and protections were employed, such as the testing of credibility to ensure that innocence does not suffer, that if not given to Petitioner shall amount to a violation of equal protection and due process. Petitioner's claim is therefore not "Free-standing" but involves Constitutional Violations and the Miscarriage of Justice standard/doctrine as well as a Newly Discovered Witness and not questions concerning the sufficiency of evidence.

Federal Law states that the lower courts should have "... assessed] how reasonable jurors would react to the overall, newly supplemented record".
see House-v-Bell 547 US 518, 538 (2006)

In this case the supplemented record is an affidavit, police report and prior testimony all contrary to testimony convicting Petitioner as well as medical evidence all not having been presented at trial.

Because this claim "... involves evidence the trial jury did not have before it...".
see House-v-Bell 547 US 518, 538 (2006)

Therefore this Court should remand for proceedings not inconsistent with the above cited Federal Case Law so that the lower courts can "make some credibility assessments" see House-v-Bell 547 US 518, 539 (2006) Because the lower court "did not clearly apply the predictive standard regarding whether reasonable jurors would have reasonable doubt". see House-v-Bell 547 US 518, 538 (2006)
see Appendix T

The lower court's decision that this issue is noncognizable when claims of Miscarriage of Justice and Newly Discovered Witness(es) are amounts to a decision that is an unreasonable application of clearly established federal law.
28 USC 2254 e

It should be noted that Petitioner had counsel appointed for the purpose of the evidentiary hearing, still no evidentiary hearing was held.

In Summation

Petitioner is now in possession of a mountain of evidence not presented at trial, police report, affidavit prior testimony, medical evidence, that is contrary to the evidence presented against Petitioner at trial.

Certainly when revealed, America shall agree with Petitioner that the Petition should be granted but that is only if alternate histories are not relied upon.

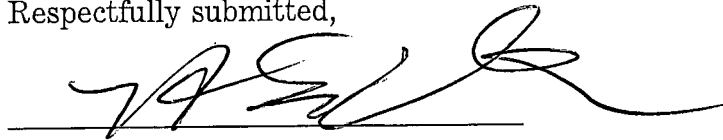
It is the position of Petitioner that AEDPA did not alter the well-established rule that a Petitioner is entitled to a Federal Court Evidentiary Hearing to present the rebuttal evidence. If the tone of this pleading is Irritation it's because Petitioner is but Petitioner isn't Ferocious only Energetic.

CONCLUSION

It is also the position of Petitioner that ...
no one cares, it's just business but still

The petition for a writ of certiorari should be granted. If for no other reason Appendix U ... which is the Most Important to Petitioner!

Respectfully submitted,



Date: 1-12-2026