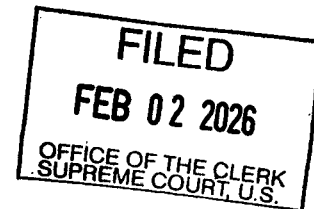


No. 25-7542



IN THE
SUPREME COURT OF THE UNITED STATES

VICTOR A. TAVARES — PETITIONER
(Your Name)

VS.

STATE OF RHODE ISLAND — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Victor A. Tavares
(Your Name)

PO Box 8273
(Address)

Cranston RI 02920
(City, State, Zip Code)

401-663-6988
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Does the Confrontation Clause of the Sixth Amendment prohibit prosecutors from introducing DNA evidence from a Co-Conspirator on prosecutor's witness list, who does not testify?

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

SU-2025-0005-CA (State v. Tavares, 2025RI LEXIS 107)

SU-2022-0152-CA (State v. Tavares, 312 A.3d 449)

No. 24-5200 (Victor Tavares v. Rhode Island)

SU-2019-0402-CA (State v. Tavares, 251 A.3d 895)

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Bruton v. United States, 391 U.S. 186

Melendez-Díaz v. Massachusetts, 557 U.S. 305

STATUTES AND RULES

RI Super CR of Crim P Rule 16(a) 7

RI Super CR of Crim P Rule 6(f)

Fourteenth Amendment

Fifth Amendment

Sixth Amendment

Article Six Section Two

OTHER

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A	RI Supreme Court Opinion SU-2025-0005-CA
APPENDIX B	RI Supreme Court Opinion SU-2022-0152-CA
APPENDIX C	Transcripts of hearing before Supreme Court for SU-2022-0152-CA
APPENDIX D	
APPENDIX E	
APPENDIX F	

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 _____ 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☐ is unpublished.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 A to the petition and is

- ☒ reported at State v. Tavares, 2025 RI LEXIS 107; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Rhode Island Supreme Court court appears at Appendix B to the petition and is

- ☒ reported at State v. Tavares, 251 A.3d 895; 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 _____.

☐ 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 Dec. 9, 2025.
A copy of that decision appears at Appendix A.

☐ 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), and Rule 10(c) of the Court Rules.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- Fourteenth Amendment
- Fifth Amendment
- Sixth Amendment
- Article Six Section Two

STATEMENT OF THE CASE

- In September of 2021 the Petitioner was found guilty of two counts of First Degree Sexual Assault and Conspiracy.
- Prior to trial the charges were dismissed against the co-defendant in the case, and he never testified.
- The case was previously adjudicated in favor of the State for the same facts and issues, by the same parties that resulted in a final and valid judgment.
- The State's Highest Court found that there was no "true bill", but there were transcripts and clerk notes that do not identify the foreman.
- The State's Highest Court did not find any judge that presided over the grand jury hearings.
- Petitioner was never arrested, processed or formally charged for First Degree Sexual Assault and Conspiracy.
- During the trial the State, admittedly, only called a fraction of the witnesses they disclosed during discovery.
- The State's Highest Court found that motion for new trial was untimely.
- The direct appeal was denied, along with the subsequent appeal for the denial of motion for new trial.

REASONS FOR GRANTING THE PETITION

1. This Is A Novel-Issue: The State Used DNA To Bolster The Allegations Of A Conspiracy To Replace Codefendant Testimony

In *Melendez-Diaz v. Massachusetts*, 557 US 305, this Honorable Court found that "[t]he Sixth Amendment does not permit the prosecution to prove its case *ex parte* out-of-court affidavits, and the admission of such evidence ... was error". Instead of an affidavit the State entered the codefendant's DNA as evidentiary proof of their alleged involvement in a conspiracy with the Petitioner. The Bruton Doctrine establishes that non-testimonial codefendant's statements are inadmissible. The Petitioner argues that the use of a codefendant's DNA is equal to, if not greater than, the use of a non-testimonial codefendant's statements or "ex-parte out-of-court affidavits (*Melendez-Diaz*)".

During trial the state had the codefendant under subpoena at to court to testify. The state then informed the court that they would not call the codefendant to testify, then rested its case. The Petitioner was deprived of the right to confront the codefendant about the alleged conspiracy and his alleged involvement. Thereby crippling the defense. Subsequently, the Petitioner was found guilty of all counts.

This petition should be granted because of the unique circumstances involved in this case. First, there was never a true-billed indictment. Second, the conspiracy count against the codefendant was dismissed. Third, the state used the codefendant's DNA as evidence of a conspiracy without having them testify. Due to the irrefutable nature of DNA evidence this Honorable Court ultimately should decide if it violates the Confrontation Clause when the DNA of a nontestimonial witness is introduced as evidence of a conspiracy.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Victor A. James

Date: February 2, 2026