

26-5535 ORIGINAL
No. _____

FILED
JUN 12 2026

IN THE
SUPREME COURT OF THE UNITED STATES

Dontay D. Martin — PETITIONER
(Your Name)

vs.

Brian English, Warden — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Seventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Dontay D. Martin, #149487
(Your Name)

Miami Correctional Facility 3038 West 850 South
(Address)

Bunker Hill, Indiana 46914
(City, State, Zip Code)

N/A - Incarcerated
(Phone Number)

QUESTION(S) PRESENTED

1. Whether a certificate of appealability should issue where the district court itself found that the state court unreasonably applied *Strickland v. Washington* by failing to conduct required cumulative prejudice review?
2. Whether the lower courts violated *Strickland v. Washington*, *Wiggins v. Smith*, and *Wong v. Belmontes* by denying relief after weighing counsel's errors separately and by failing to consider the total effect of omitted impeachment and exculpatory evidence against the whole record?
3. Whether Petitioner was denied his Sixth and Fourteenth Amendment right to effective assistance of counsel where counsel failed to impeach key eyewitnesses and a police officer with prior statements that directly supported the defense theory and undermined the state's proof that Petitioner fired the Glock?

LIST OF PARTIES

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is provided below. If a party is a corporation with a stock ticker symbol, that symbol is also included.

The parties to the proceeding are:

Dontay D. Martin,

Petitioner,

v.

Brian English, Warden

Respondent.

RELATED CASES

1. Indiana Court of Appeals, Direct Appeal: Martin v. State, No. 02A05-1303-CR-113, decision issued November 27, 2013.
2. Indiana Court of Appeals, Post Conviction Appeal: Martin v. State, No. 20A-PC-1447, memorandum decision issued April 14, 2021.
3. Indiana Supreme Court: Appellant's Petition To Transfer denied after the Indiana Court of Appeals affirmed the denial of post conviction relief.
4. United States District Court, Southern District of Indiana: Martin v. Reagle, No. 1:21-cv-02763-JPH-MG. Order denying petition for a writ of habeas corpus and denying certificate of appealability entered November 7, 2023.
5. United States Court of Appeals for the Seventh Circuit: Martin v. English, No. 23-3322, Order denying certificate of appealability filed February 2, 2024.
6. United States Court of Appeals for the Seventh Circuit: Order denying petition for panel rehearing and rehearing en banc entered March 16, 2024.

Opinions Below

The Order of the United States Court of Appeals for the Seventh Circuit denying a certificate of appealability is unpublished and is included in the Appendix.

The Order of the United States Court of Appeals for the Seventh Circuit denying panel rehearing and rehearing en banc is unpublished and is included in the Appendix.

The Order of the United States District Court for the Southern District of Indiana denying the petition for writ of habeas corpus and denying a certificate of appealability is unpublished and is included in the Appendix.

The Indiana Court of Appeals memorandum decision affirming denial of post conviction relief is unpublished and is included in the Appendix.

Jurisdiction

The Seventh Circuit denied a certificate of appealability on February 2, 2026. Petitioner timely sought rehearing and rehearing en banc. The Seventh Circuit denied rehearing

and rehearing en banc on March 16, 2024.

This Court has jurisdiction under 28 U.S.C. § 1254(1). Supreme Court Rule 13 provides that when a timely rehearing petition is filed, the time to file a petition for writ of certiorari runs from the denial of rehearing.

Constitutional And Statutory Provisions Involved

The Sixth Amendment provides:

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

The Fourteenth Amendment provides, in relevant part:

"No State shall... deprive any person of life, liberty, or property, without due process of law."

28 U.S.C. § 2254 (d) provides:

An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim adjudicated on the merits in State court unless the adjudication of the claim—

(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in state court proceedings.

28 U.S.C. § 2253(c)(2) provides:

A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

Statement Of The Case

A. Trial and Defense Theory

Petitioner Dontay D. Martin was convicted in Indiana state court of four counts of attempted murder and related offenses and sentenced to 170 years incarceration.

The State's theory was that Petitioner, seated in the back passenger side seat of Chappell's car, fired Chappell's Glock at a black Impala and an ambulance, while Traneilws Jackson fired a Ruger from the front passenger seat.

Petitioner's defense was that he did not fire any shots. He told police that Chappell fired, then handed him the Glock after the shooting, and Petitioner only touched the

Glock to throw it out the window. That explanation made two factual issues central:

1. whether shots came from the front passenger seat, where Jackson sat, or from the back passenger side seat, where Petitioner sat; and
2. whether Petitioner's blood was on the Glock in a location consistent with firing it, or instead in a location consistent with briefly touching or throwing it.

Trial counsel failed to present available impeachment and cross examination evidence on both points.

B. Counsel Failed To Impeach Shane Hedges

Shane Hedges was a disinterested eyewitness traveling near the ambulance. At trial, Hedges testified that he saw shots coming from both the front and back of Chappell's car.

But Hedges had given police a different and more favorable statement. When police specifically asked him where the shots appeared to be coming from, Hedges said the shots came from the right front passenger seat — where Jackson sat. He did not say anything about seeing shots from the back seat, where Petitioner sat.

Trial counsel did not impeach Hedges with that prior statement.

C. Counsel Failed To Impeach Stephanie Davis

Stephanie Davis was with Hedges and also appeared to be a neutral eyewitness. At trial, Davis testified that she saw gunfire from the front passenger window and back passenger window. She also suggested she was close enough to see sparks from both areas.

But Davis previously told police that she could not tell whether the shots came from the front seat or the back seat.

Trial counsel did not impeach Davis with that prior statement.

D. Counsel Failed To Impeach Officer Tara Nall

Officer Tara Nall collected Chappell's Glock. At trial, she testified that the red substance or suspected blood was on the top/slide of the gun and that she believed there was some down by the handle.

This was critical because the state argued that blood on the grip or handle showed petitioner fired the Glock rather than merely touching it to throw it out the window.

But Officer Noll's report stated that the red substance appeared to be blood at the top by the slide. Her report did not say anything about blood on the handle or grip.

Trial counsel did not impeach Officer Noll with that report, even though the location of the blood went directly to the only defense theory.

E. Counsel Failed To Cross Examine Dominic Loyall

Dominic Loyall was in the black Impala and was one of the shooting victims. At trial, she testified that she did not see the person who fired the shots. Trial counsel asked her no cross examination questions.

But before trial, Dominic told police that at the time of the shooting she saw a man hanging out of the front passenger window of Chappell's car. At the post conviction hearing, she testified that she saw someone hanging out the front passenger window and did not see anyone hanging out of the back window or shooting from the back seat area.

This evidence supported Petitioner's defense that shots were fired from the front passenger window and that Petitioner, seated in the back, did not fire.

F. State Post Conviction Proceedings

In post conviction proceedings, Petitioner argued that trial counsel was ineffective for failing to move to suppress DNA evidence, failing to impeach Hedges, Davis, and Officer Noll, failing to cross examine Dominic Loyall, failing to object to prosecutorial misconduct, and failing cumulatively.

The Indiana Court of Appeals rejected the claims. For Hedges and Davis, the court assumed deficient but found no prejudice. For Officer Noll, the court treated the discrepancy as "minuscule" and found no prejudice. For Dominic Loyall, the court held that her testimony would have been cumulative. For cumulative prejudice, the court stated that because Petitioner had not established errors, there could be no cumulative error.

G. Federal Habeas Proceedings

Petitioner sought federal habeas relief under 28 U.S.C. § 2254. In federal court, he narrowed his claims to ineffective assistance for failure to impeach or cross examine Hedges, Davis, Officer Noll, and Dominic Loyall, and cumulative prejudice.

The district court denied relief. But it made a crucial finding:

the Indiana Court of Appeals was wrong to refuse cumulative prejudice review on the ground that there were "no errors."

The district court recognized that the state court had rejected several claims on prejudice without deciding deficient performance. The district court held that the state court's failure to consider the combined effect of counsel's failures was an unreasonable application of Strickland.

The district court then conducted its own de novo cumulative prejudice analysis. It concluded that counsel's errors may have weakened Petitioner's ability to persuade the jury but held there was no substantial likelihood of a different result.

The district court denied a certificate of appealability.

The Seventh Circuit also denied a certificate of appealability, stating that Petitioner had not made a substantial showing of the denial of a constitutional right under 28 U.S.C. § 2253(c)(2). The Seventh Circuit later denied rehearing and rehearing en banc.

Reasons For Granting The Writ

1. The Court should Grant review because the lower courts denied a Certificate of Appealability even though the District Court Found an Unreasonable Application of

Strickland.

A certificate of appealability should issue when reasonable jurists could debate the district court's resolution of a constitutional claim or when the claim deserves encouragement to proceed further. *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Buck v. Davis*, 580 U.S. 100, 115 (2017).

This case met that standard.

The district court did not merely reject Petitioner's claim. It expressly found that the Indiana Court of Appeals unreasonably applied Strickland when it failed to conduct cumulative prejudice review. That finding alone demonstrates that reasonable jurists could debate the issue.

A federal district court's finding that a state court unreasonably applied clearly established Supreme Court precedent is not a minor ruling. It means the state court's decision crossed AEDPA's demanding threshold. Yet the district court still denied a COA, and the Seventh Circuit denied a COA in a one page Order.

That result conflicts with this Court's COA cases. Under Buck, courts must not collapse the COA inquiry into a final

merits determination. A COA inquiry asks only whether the constitutional claim is debatable among jurists of reason. Here, a reasonable jurist could debate prejudice because the district court itself held that the state court committed an unreasonable Strickland error.

The Seventh Circuit should have allowed the appeal to proceed. This Court should Grant certiorari to correct the improper denial of appellate review.

11. The Indiana Court of Appeals Unreasonably Applied Strickland by Refusing Cumulative Prejudice Review.

Strickland requires courts to ask whether counsel's errors, considered in light of the whole record, undermine confidence in the outcome, 466 U.S. at 694. This Court has repeatedly explained that prejudice requires review of the totality of the evidence. *Wiggins v. Smith*, 539 U.S. 510, 536-37 (2003); *Williams v. Taylor*, 529 U.S. 362, 397-98 (2000); *Wong v. Belmontes*, 558 U.S. 15, 26 (2009).

The Indiana Court of Appeals did not do that. It considered counsel's failures separately. It then rejected cumulative prejudice by saying there were "no errors." But that was internally inconsistent because the court had

assumed deficient performance or bypassed deficient performance and denied several claims on prejudice.

The district court correctly recognized this error. It held that the Indiana Court of Appeals' refusal to consider the combined effect of counsel's failures was an unreasonable application of Strickland.

That should have mattered. Once a state court unreasonably applies Strickland, federal habeas review of the claim proceeds without AEDPA deference. But the district court's later de novo analysis repeated the same basic mistake: it treated the state's evidence as overwhelming without giving proper effect to the combined value of the omitted defense evidence.

III. Counsel's Errors Were Prejudicial Because The Omitted Evidence Directly Supported The Only Defense Theory

This was not a case where counsel omitted marginal impeachment. The omitted evidence went directly to the central disputed issue: whether Petitioner fired the Glock.

The jury did not hear that Hedges originally identified the shots as coming from the front passenger seat. It did not

hear that Davis could not determine whether shots came from the front or back seat. It did not hear that Officer Noll's report placed the suspected blood at the top/slide of the Glock, not the handle or grip. It did not hear from Dominic Loyall that she saw someone hanging out of the front passenger window at the time of the shooting and did not see anyone shooting from the back seat area.

Together, this evidence supported a single coherent defense theory:

- Jackson was in the front passenger seat;
- eyewitnesses identified activity from the front passenger side;
- Dominic Loyall saw a man hanging out of the front passenger window;
- the blood evidence did not prove Petitioner fired the Glock;
- Petitioner's blood on the top/slide of the Glock was consistent with briefly handling or throwing it, not firing it;
- Petitioner's statement that he did not fire the Glock was corroborated by the omitted evidence.

The State's case relied heavily on accomplice testimony from Chappell and Jackson. Chappell had reason to shift

blame because it was his Glock used in the shooting. Jackson testified under a plea agreement. Chappell's earlier statements also undermined the state's theory: he previously told police he did not have a gun, identified Jackson as the shooter, said Jackson fired from the front passenger seat and said petitioner only "possibly" fired but that he could not say for sure.

A reasonable juror who heard all of this could have doubted whether Petitioner fired the Glock.

Strickland does not require proof that Petitioner would certainly have been acquitted. It requires only a reasonable probability sufficient to undermine confidence in the verdict. That standard was met.

IV. The lower courts failed to Apply This Court's Requirement that prejudice be Evaluated Against All The Evidence, Good and Bad.

This Court's cases require courts to consider all the evidence when evaluating Strickland prejudice. *Wiggins*, 539 U.S. at 536; *Wong*, 558 U.S. at 26.

The lower courts emphasized evidence favorable to the state: Chappell's testimony, Jackson's testimony, Petitioner's blood on the Glock, and shell casings from the Glock. But they did not properly weigh the evidence that undermined those same points.

First, the State's "front and back" theory depended partly on neutral eyewitnesses Hedges and Davis. But their prior statements were materially weaker than their trial testimony. Hedges identified the front passenger seat. Davis said she could not tell.

Second, the state used Officer Noll's testimony to argue that blood on the grip meant Petitioner fired the Glock. But her report did not place blood on the grip or handle. That omission mattered because the defense was not that Petitioner never touched the Glock. The defense was that he touched it only to throw it out.

Third, Dominic Loyall was not merely cumulative. She was a victim in the car being shot at. Her testimony that she saw a man hanging out of the front passenger window at the time of the shooting and did not see anyone shooting from the back seat would have corroborated the defense from the perspective of someone in the targeted vehicle.

Fourth, Chappell and Jackson were not neutral witnesses. They were accomplices or participants with powerful motives to minimize their own roles. The omitted impeachment evidence would have given jurors a reason to

credit Petitioner's statement over accomplice testimony.

By failing to weigh this evidence together, the lower courts did not apply Strickland as this Court requires.

V. This Case Is an Important Vehicle to Clarify that Cumulative Prejudice Review Is Required When Multiple Ineffective Assistance claims Fail on Prejudice.

This case cleanly presents an important federal question. The district court expressly found that the state court unreasonably applied Strickland by refusing cumulative prejudice review. There is no procedural confusion about whether the issue was raised; Petitioner raised cumulative prejudice in state post conviction proceedings, in his petition to transfer, in federal habeas and in the requests for appellate review.

The case also presents a strong factual record. The omitted evidence was not speculative. It came from police statements, an officer's written report and past conviction testimony.

The issue matters beyond this case. Ineffective assistance claims often involve multiple attorney failures. If courts may reject each omission separately and then deny cumulative review by saying no single

error was prejudicial, Strickland's prejudice inquiry becomes artificially narrow. That approach allows courts to miss the combined force of counsel's failures.

This Court should Grant certiorari to reaffirm that the Sixth Amendment requires a meaningful cumulative prejudice analysis.

CONCLUSION

Petitioner was sentenced to **170** years after a trial where counsel failed to present available impeachment and exculpatory evidence supporting the only defense: that Petitioner did not fire the Glock. The state court refused cumulative prejudice review. The district court recognized that this was an unreasonable application of Strickland, but still denied habeas relief and denied a certificate of appealability. The Seventh Circuit then denied appellate review.

At minimum, reasonable jurists could debate whether Petitioner was denied effective assistance of counsel and whether the combined effect of counsel's failures

undermines confidence in the verdict.

The petition for a writ of certiorari should be Granted.

Respectfully submitted,

Dontay D. Martin

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