

No. **26 - 5660**

FILED

MAY 14 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE SUPREME COURT
OF THE UNITED STATES

Michael T. Washington – PETITIONER

v.

State of Delaware – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE DELAWARE SUPREME COURT

PETITION FOR A WRIT OF CERTIORARI

Michael T. Washington
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Smyrna, DE 19977

RECEIVED

MAY 19 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Whether a state court violates the Supremacy Clause and Due Process when it disregards a federal district court's stay-and-remand order, requiring merits review of postconviction claims, and instead dismisses those claims as procedurally barred;
2. Whether structural error occurs when a state court permits conflicted postconviction counsel to represent a defendant, where counsel admits withholding the case file, investigative materials, and exculpatory evidence from the defendant;
3. Whether a state court violates Due Process when it re-characterizes filings such as a made pursuant to Rule 60(b) and a Request for Administrative Hearing as successive postconviction motions in order to dismiss them without merits review;
4. Whether a state court may deny a Motion for New Trial, made pursuant to Rule 33, solely on timing grounds without considering newly discovered evidence demonstrating actual innocence;
5. Whether a state court violates Due Process by refusing to allow a defendant to file a memorandum and appendix supporting postconviction claims, and then dismissing the filing as procedurally barred;
6. Whether a state court violates federal law by applying the wrong federal precedent to a motion for correction of illegal sentence, made pursuant to Rule 35(a), involving a new substantive retroactive rule announced by the United States Supreme Court and the Third Circuit; and
7. Whether repeated summary dismissals of postconviction filings – without individualized analysis – violates the Fourteenth Amendment's guarantee of meaningful judicial review.

LIST OF PARTIES

A list of 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.

Petitioner/Plaintiff/Appellant:	Michael T. Washington
Respondent:	State of Delaware, Attorney General of Delaware, Deputy Attorneys General who represented the State: Carolyn S. Hake, Esq., Orlando Bloom, Esq., and Andrew Vella, Esq.
Superior Court of Delaware:	Judge Ferris W. Wharton, who ruled in the case
Delaware Supreme Court:	Justices Karen L. Valihura, Seitz, Traynor, Legrow, and Griffiths, who issued the decision in Case No. 479, 2025
United States District Court for the District of Delaware:	Judge Colm F. Connolly, in Remand Order D.I. #64

Lower Courts Involved

United States District Court for the District of Delaware (Federal Court)
Delaware Supreme Court (Appellate Court)
Superior Court of Delaware (Trial Court)
(Counsel for Respondents)
Attorney General of the State of Delaware

Related Cases

Superior Court of Delaware, *State v. Washington*, Crim. I.D. No. 0909018475A/B
Supreme Court of Delaware, *Washington v. State*, I.D. No. 537, 2016
Supreme Court of Delaware, *Washington v. State*, I.D. No. 367, 2021
Supreme Court of Delaware, *Washington v. State*, I.D. No. 435, 2023
Supreme Court of Delaware, *Washington v. State*, I.D. No. 359, 2024
Supreme Court of Delaware, *Washington v. State*, I.D. No. 272, 2025
United States District Court for the District of Delaware, *Washington v. Emig, et al.*, Civil Action No. 17-601-CFC
United States Court of Appeals for the Third Circuit, *Washington v. Attorney General of the State of Delaware, and Warden, JTVCC*, I.D. No. 25-1011

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

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

OPINIONS BELOW

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A and Appendix B to the petition and is reported at *In re Washington*, 2026 Del. LEXIS 86 (Del. Feb. 24, 2026), and *In re Washington*, 2026 Del. LEXIS 86 (Del March 25, 2026).

This filing stems from the denial of an extraordinary writ, originally filed in the Delaware Supreme Court. Consequently, no lower courts weighed in on the matter.

JURISDICTION

[X] For cases from **state courts**:

The Delaware Supreme Court entered its final order on March 25, 2026. This Court has jurisdiction under 28 U.S.C. § 1257(A) because the judgment is final, rests on federal questions, and involves constitutional violations and federal remand orders. The petition is timely under Supreme Court Rule 13.

CONSTITUTIONAL PROVISIONS INVOLVED

Washington's petition for writ of certiorari to this Court implicates the following constitutional provisions:

1. The Supremacy Clause of the United States Constitution, Article VI, clause 2;
2. The right to counsel, as recognized within the Sixth Amendment to the United States Constitution;
3. The Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution; and
4. The Due Process Clause of the Fifth Amendment to the United States Constitution.

STATEMENT OF THE CASE

I. Background

Washington is serving a 64-year period of confinement from a state court conviction by the State of Delaware. Washington's conviction resulted from a jury trial in November of 2010 in the fatal shooting of Leighton Francis and Amin Guy on September 1, 2008. Francis and Guy were found dead in a black Lexus in the 500 block of East 10th Street in Wilmington, Delaware. A substantial amount of shell casings were recovered from the scene, indicating to police that an automatic or semi-automatic weapon had been used, but no gun was ever recovered.

Washington arose as a suspect in the crimes when, in the course of police investigation into the case, detectives generated statements from three men: Christopher Waterman, William Coleman, and Isaiah Fields. Each of these three men told detectives, at different times, that Washington had implicated himself in the shooting by describing it to them. Waterman implicated Washington by claiming that Washington had told him about the crime while they were in prison together. Fields went so far as to advise police that he had been with Washington at 930 Spruce Street, in Wilmington, when Washington's Mac-10 (automatic weapon) had suddenly gone off and sprayed gunfire inside the residence. Coleman tipped police off that they should speak to April Gardner after Washington had purportedly told Coleman that he was worried Gardner had witnessed the crime.

Substantial investigation ensued. Try as they might, the police could not recover a weapon matching the profile of that used in the crime. However, after following up on Fields' lead about the sprayed bullets inside 930 Spruce Street, ballistics examiner Carl Rone opined that the bullets and shell casings found in 930 Spruce Street and those found in and around the black Lexus all came from the same semi-automatic or automatic weapon. After all of this information was

collected and cross-referenced, Washington was eventually charged with two counts of Murder First Degree and various related offenses.

At trial, given the lack of any damning physical evidence, the State's case came down to witness credibility. As Coleman had forecasted when he advised police to speak to her, Gardner became the most important witness for the State. Gardner specifically testified to seeing Washington enter the right rear passenger seat of the black Lexus – the vehicle that Francis and Guy were found dead in – shortly prior to a great deal of gunshots erupting. Gardner also testified that Washington came to her house later the same day to apologize. Her testimony provided the basis of the State's case and ultimately convicted Washington.

At the close of trial, a Superior Court jury found Washington guilty of two counts each of Manslaughter (as lesser included offenses of Murder First Degree) and Possession of a Firearm During the Commission of a Felony. His conviction was then affirmed by the Delaware Supreme Court on October 14, 2011. *Washington v. State*, 31 A.3d 77 (Del. 2011).

II. First Postconviction Proceedings

Washington then sought postconviction relief in the Superior Court, claiming, *inter alia*, ineffective assistance of counsel implicating the Sixth Amendment and *Strickland v. Washington*, 466 U.S. 668 (1984), as well as prosecutorial misconduct. That motion, as was eventually amended with supplemental claims, was denied by the Superior Court on June 15, 2016. *State v. Washington*, I.D. No. 0909018475, 2016 Del. Super. LEXIS 486 (Del. Super. June 15, 2016). On appeal to the Delaware Supreme Court, the denial of Washington's request for postconviction relief was affirmed on April 28, 2017. *Washington v. State*, 164 A.3d 56 (Del. 2017). A federal petition for writ of *habeas corpus* in the United States District Court for the District of Delaware made pursuant to 28 U.S.C. § 2254 followed.

III. Federal District Court Stay-and-Remand

On August 20, 2019 (D.I. #64), the United States District Court for the District of Delaware stayed Washington's petition for writ of *habeas corpus* and remanded the case to the Delaware Superior Court for merits review to exhaust newly discovered evidence and constitutional claims. *See Washington v. Emig*, Civil Action No. 17-601-CFC; *see also* Appendix A. Under Article VI, clause 2 of the United States Constitution, the Supremacy Clause, this federal order was binding upon the Delaware state courts.

IV. State Court Proceedings Ignored the Federal Mandate

Washington then returned to the state courts, pursuing postconviction relief in light of new evidence that police had themselves identified a potential witness in the course of their investigation, yet did not interview him or provide his identity to the defense prior to trial. In the course of that litigation, Washington eventually learned that appointed counsel had withheld and would continue to withhold Washington's case file from Washington's review. *See* Appendix B. That file contained valuable exculpatory evidence about potential witnesses who police acknowledged as going uninvestigated within their reports, notes, investigative reports, and correspondence. *See id.* Further investigation into the withholding of information and documents revealed the identity of the witness, Michael Fields, who provided the Court with an affidavit which provided facts indicating Washington could not have committed the crimes at issue in this case. Consequently, Washington has consistently sought postconviction relief in the Delaware state courts based upon (i) newly discovered alibi evidence; (ii) a conflict of interest by appointed counsel; (iii) withheld case files and investigative materials; and (iv) misapplied federal law.

Despite the binding nature of the federal remand, the Superior Court then ignored the federal mandate and dismissed Washington's motion for postconviction relief as procedurally

barred without providing any substantive review. In similar fashion, the Superior Court then proceeded to re-characterize Washington's next petition, a motion made pursuant to Rule 60(b), as a third motion for postconviction relief and summarily dismissed it. The Court then similarly re-characterized Washington's Request for an Administrative Hearing as a fourth motion for postconviction relief and dismissed it. The Court then dismissed Washington's Motion for New Trial, made pursuant to Rule 33, solely on timing grounds. The Court refused to allow Washington to file a supporting memorandum and appendix, then dismissed the filing as a fifth motion for postconviction relief. *See* Appendices C-G. The Delaware Supreme Court affirmed all of these decisions on appeal.

Integral to the issue at hand is the fact that, throughout all of the state court proceedings following the remand order from the District Court for the District of Delaware, none of the new evidence of Washington's actual innocence was ever substantively considered. Rather, each of Washington's filings was treated as procedurally barred. All attempts to address that deficiency, as contained within Appendices C-G, were rebuffed on procedural grounds attributable to the rules governing postconviction motions in Delaware – Superior Court Rule of Criminal Procedure 61.

Seemingly out of meaningful options, Washington then sought an extraordinary writ from the Delaware Supreme Court made pursuant to Delaware Supreme Court Rule 43. Appendix H. In it, Washington outlined the aforementioned issue – that his new evidence had not been substantively considered – amongst others. *See id.* True to form with prior state court decisions in his case, Washington's petition was dismissed by the Delaware Supreme Court on February 24, 2026. Appendix I. Washington then sought re-argument on the issues presented, as well as re-hearing *en banc*. Appendix J. However, his requests were denied by the Delaware Supreme Court on March 25, 2026. Appendix K.

This petition followed.

REASONS FOR GRANTING THE WRIT

In light of the foregoing facts, at least five distinct, yet equally compelling reasons exist to grant Washington's request for writ of certiorari. Some of these reasons should be considered of particular import to this Court because they present grave federal issues of national importance.

I. A Violation of the Supremacy Clause Occurred

When the Delaware state courts ignored the remand order issued by the federal District Court for the District of Delaware by refusing to permit Washington to litigate the merits of his claims grounded in new evidence, those courts violated Article VI, clause 2 of the United States Constitution – the Supremacy Clause. This issue is foremost amongst those presenting federal questions of national importance because, under the Delaware state courts' interpretation, the state courts' dismissal of claims as procedurally barred where a federal court has ordered otherwise preempts the federal court's authority. This outcome directly contravenes the Supremacy Clause and becomes exponentially more glaring where the state court refuses to conduct any merits review. Lacking any other recourse on the issue, Washington's requested extraordinary writ in the Delaware Supreme Court should have remedied this issue. Barring that, it now falls to this Court to address the Delaware state courts' gross deviations from the clear direction of a federal court.

II. Structural Error Occurred

Additionally, structural error implicating Washington's Sixth Amendment right and warranting this Court's intervention occurred when Washington's own counsel withheld Washington's case file, as well as other supporting evidence, from Washington's review and inspection. *See* App. B. Worse, Washington's counsel has gone so far as to state that he will not provide Washington with the file unless ordered to do so. Consequently, Washington remains, to this day, unable to fully bolster his existing claims relating his innocence.

The practical impact of this error was two-fold. Initially, Washington was precluded from pursuing a viable trial defense by not being apprised of the existence of potential exculpatory witnesses. Then, under the Delaware state courts' interpretation of procedural rules, Washington lost out on the opportunity to litigate the merits of the claim. As a result, the Delaware state courts have relied upon Washington's former counsel's own continuing error to bar Washington from fully and appropriately stating a claim of actual innocence.

Stated differently, this was an impactful error. This type of error should be considered a structural one given how antithetical it was to the Sixth Amendment. Counsel prevented Washington from reviewing his case file to appropriately argue an ineffective assistance of counsel claim for not pursuing any interview of a known witness. These actions were so averse to Washington's interests that he could not reasonably be considered Washington's counsel at that point. This is grossly antithetical to the Sixth Amendment, and therefore should be considered structural. As such, it is a unique error, requiring automatic reversal given its significant impact on the reliability of the outcome of the proceeding. *See, e.g., Weaver v. Massachusetts*, 582 U.S. 286 (2017). However, the Delaware courts have flatly and consistently refused to address the merits of this issue and its relation to this Court's own precedent. Consequently, this Court's intervention is necessary.

III. Washington's Due Process Was Violated

This Court's intervention is also necessary to address the violation of Washington's federal constitutional right to due process by the state courts' repeated re-characterizations of Washington's filings to avoid any substantive review of the merits of Washington's claims. By repeatedly converting Washington's filings into "successive Rule 61 motions" to dismiss them, rather than address the merits of the argument, the state courts have continuously ignored

Washington's right to pursue a postconviction remedy for new evidence implicating his actual innocence. See Super. Ct. Crim. R. 61(d)(2). The criminal process in Delaware provides that opportunity to all prisoners, yet Delaware courts have systematically warped that legal procedure to exclude Washington. This is a systemic Due Process violation which should now be corrected by this Court.

IV. New Evidence Demonstrates Washington's Actual Innocence

As a direct consequence of the state court determinations complained of here, Washington's newly discovered alibi evidence has never been substantively reviewed by any court, state or federal. Washington's alibi evidence, provided by Michael Fields, is "so strong that a court cannot have confidence in the outcome of the trial." *Schlup v. Delo*, 513 U.S. 298, 316 (1995). However, try as he may, Washington has been consistently stymied in his efforts to have a court substantively consider the evidence without relying upon procedural grounds to dismiss the various motions Washington has filed. Therefore, after those multiple unsuccessful efforts to have the claims litigated, Washington resorted to the instant appealed-from petition for an extraordinary writ in the Delaware Supreme Court *via* Delaware Supreme Court Rule 43.

Washington sought extraordinary relief to have his claims, including those related to new evidence and actual innocence, considered in light of this Court's repeatedly-emphasized importance of actual innocence claims. See, e.g., *Schlup*, 513 U.S. 298 (1995); *McQuiggin v. Perkins*, 569 U.S. 392 (2013); *Bousley v. United States*, 523 U.S. 614 (1998). Nonetheless, he was again rebuffed by the Delaware Supreme Court and denied the duty owed to him by the Delaware state courts to consider the merits of Washington's claims. Their repeated reliance upon procedural rules to dismiss Washington's claims of actual innocence, in the face of a clear procedural mechanism provided to Delaware state prisoners for actual innocence petitions *via*

Superior Court Criminal Rule 61(d)(2), amounts to a gross miscarriage of justice which should be remedied by this Court by issuance of a writ of certiorari.

V. The State Court Determinations Conflict with Federal Precedent

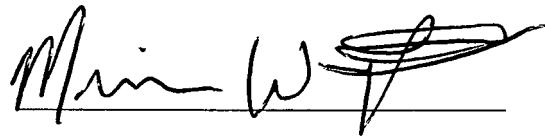
For all of these same reasons, the Delaware Supreme Court's summary dismissals and refusal to issuance an extraordinary writ in the instant case clearly conflicts with unambiguous federal standards. Those federal standards require individualized review where issues such as a federal remand order, a structural error, a constitutional violation, and/or newly discovered evidence is concerned. And, as was detailed throughout this filing, Washington has suffered from each of those errors throughout his criminal case proceedings.

Each of these interrelated issues provided a clear basis for the Delaware Supreme Court to issue the requested extraordinary writ. In failing to issue the writ, the Delaware Supreme Court has continued the long line of conflict between the state court decisions and federal authority on those issues. That conflict is now most appropriate for correction by this Court and provides a substantial reason for the issuance of a writ of certiorari to the Delaware Supreme Court with instructions to adhere to federal precedent and direct the Delaware Superior Court to consider the merits of Washington's claims, as was requested by Washington in his appealed-from petition for issuance of an extraordinary writ pursuant to Delaware Supreme Court Rule 43.

CONCLUSION

WHEREFORE, for the foregoing reasons, Washington's Petition for a Writ of Certiorari to the Delaware Supreme Court should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael T. Washington", written over a horizontal line.

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Dated: May 11, 2026