

RECEIVED

DEC 16 2024

S.C. SUPREME COURT

IN THE SUPREME COURT OF SOUTH CAROLINA

CARMEN RICE, #308637

CASE NO. 2017-CP-40-06361

VS

STATE OF SOUTH CAROLINA

PETITION FOR A WRIT OF CERTIORARI

Comes now, Carmen Rice files this Petition for a Writ of Certiorari and Petitioner herein would get out the following matters in support thereof:

QUESTION PRESENTED:

Whether the PCR Judge Jefferson was biased in denying Petitioner's, Carmen Rice motion for a new trial based on Newly Discovered Evidence, [*highly material' exculpatory evidence*], when she stated in court transcript quote "I KNOW YOUR ATTORNEY DISCLOSED THOSE STATEMENTS TO YOU?"

Whether Carmen Rice due process rights were violated at her original trial by the combined failure of both the prosecution and defense to disclose [*highly material exculpatory evidence*] to her and the jury even if neither party acted intentionally to withhold it?

Whether the state key witness Iris Bryant knowingly lied, and if the false testimony supported argument by state prosecutors to the court significantly impacted the jury understanding of the evidence and their final verdict?

Whether the jury's decision would have been different if the exculpatory evidence had been presented to them in court?

Did Carmen Rice not have a constitutional right that guarantee her a fair legal process, including the right to access all relevant evidence during her original trial?

Does the Brady v. Maryland rule not require prosecutors to disclose exculpatory evidence to the defense and to the court jury?

Was Carmen Rice Sixth Amendment Rights to effective assistance of counsel violated at her trial court by her defense counsel because they neglected to disclose the exculpatory evidence?

Why did Carmen Rice defense counsels and state prosecutors combine violate Carmen Rice Due Process Rights under the Fourteenth Amendment by not disclosing the exculpatory evidence when they had factual evidence that she was Actually Innocence?

Did the defense counsel's performance fall below an objective standard of reasonableness, and did this deficient performance prejudice the defendant to the extent that the outcome of the trial was unreliable or fundamentally unfair due to the fact that they neglected to disclose the exculpatory evidence to Camen Rice and the jury during trial?

Why didn't Richland County police investigators fail to use evidence properly after taking the exculpatory evidence from Nathaniel Hallman ensuring that all persons involved in the crime get charged?

Why didn't the defense counsel subpoena Nathaniel Hallman, Troy Stevenson, Melody Bright, and others in the statements? Why didn't the defense counsel subpoena Iris Bryant cousin Nikka/Tika and requested an initial DNA, Forensic on her when she was Iris Bryant accomplice the night of the crime and the shooter?

Why did defense trial counsels fail to correct and or challenge the state prosecutors key witness Iris Bryant when they knew she was giving a false testimony about Carmen Rice being her accomplice the night of the crime?

Why would state prosecutors at original trial give a plea deal "accessory of fact" to their main witness, Iris Bryant, when they had [*highly material exculpatory evidence*] that she was the one who premeditated the murder/robbery with her cousin Nikka/Tika?

Why would state prosecutors totally disregard Iris Bryant's cousin, Nikka/Tika, by not arresting, DNA forensic testing and charging her for premeditated murder/robbery?

Why did the state prosecutors use false testimony at trial and committed perjury throughout the trial when they had the exculpatory evidence that detailed the crime scene and the persons that committed the crime?

Why didn't the defense trial attorneys and the state prosecutors enter the exculpatory evidence into court so the jury could make a conscious decision after having all the facts?

STATEMENT OF FACTS:

*In **Napue v Illinois, 360 U.S. 264 (1959)**, the Supreme Court reiterated that a conviction obtained through use of false testimony, known to be such by representative of the State, is a denial of due process. Carmen Rice is seeking the Supreme Court to grant her a Writ of Certiorari based on Newly Discovered [*highly material 'exculpatory evidence*] that existed at her original trial that her defense trial counsels, nor the state prosecutors never disclosed to her nor the court jury. "**Brady v Maryland** which established the "**Brady Rule**" stating that the prosecution must disclose any exculpatory evidence to the defense, regardless of whether the defense request it; this means that even if the defense counsel doesn't disclose exculpatory evidence, the prosecution still has a duty to do so to ensure a **FAIR TRIAL**. The Constitution says that if a defendant is convicted without knowledge of exculpatory evidence, they may be granted a new trial. In Carmen Rice case the*

withheld evidence is highly material and demonstrates clear prosecutorial misconduct and ineffective assistance of counsel.

Carmen Rice case is a claim of ineffective assistance of counsel, prosecutorial/police misconduct. *Carmen Rice defendant's legal representation fell below the expected standard of competence and diligence. Her defense attorney's performance was deficient; The deficient performance deprived the defendant of her constitutional right to a fair trial; The deficient performance led directly to negative outcomes in the case. (Strickland v. Washington, 466 U.S. 668 (1984) The significance of the undisclosed evidence is crucial.*

It was a serious ethical breach by the defense counsels and the state prosecutors because the "material" could and would have reasonably affected the outcome of the case and trial whereby *Carmen Rice would never have been wrongfully convicted for the past 21 years.* While the primary responsibility to disclose exculpatory evidence lies with the prosecution, defense counsel also has an ethical obligation to diligently investigate and present all relevant evidence, including exculpatory information, to the court. (Strickland v Washington) 21 years later after been wrongfully convicted, she discovered the [*highly material 'exculpatory evidence'*] in September 2022, never knowing such evidence existed. This [*exculpatory evidence*] show and proves in detailed that she is *Actually Innocence of all charges.* She was illegally arrested by Richland County police department in November 2003 and wrongfully convicted in April 2005.

A Brady Rule violation occurred in Carmen Rice case in that the prosecutor had a fiduciary obligation to disclose all evidence to the court jury. But they neglected to do so. Especially any evidence that could: Negate the defendant's guilt; Reduce the defendant 's potential sentence; Impeach the credibility of a witness. There key witness Iris Bryant premeditated the crime with her cousin, Nikki/Tika *and the [exculpatory evidence] affidavit detailed it all.* The [*exculpatory evidence*] by Nathaniel Hallman details the entire crime events, it would have cast doubt on Iris Bryant false testimony and lies and discredit her story. The [*exculpatory evidence*] showed prosecutorial and police misconduct because they suppressed it from the court jury. There was clear proof in the statements that Iris Bryant's cousin, Nikka/Tika was the accomplice with her the night of the crime.

But instead, an unfair trial occurred because the state prosecutors supported and concocted false testimonies from their main witness Iris Bryant and coerced others jailhouse convicts or those who was pending charges to write a statement saying that Carmen Rice said that she committed the crime. **United States ex rel. Hough v Maroney** *Stated that a trial based on false or suppressed evidence is "no trial at all".*

This [highly material' exculpatory evidence] was take under oath by Nathaniel Hallman in July 2003, It was put in Carmen Rice case file in October 2004 and Carmen Rice was wrongfully convicted in April 2005. Carmen Rice is a victim of egregious miscarriage of justice and is Actually Innocence of this crime that she has served for the past 21 years. If the court had been aware of the "exculpatory evidence" (evidence that tends to prove a defendant's innocence), the jury would likely have reached a different verdict, meaning they would have found Carmen Rice not guilty, as the new

evidence would have cast significant doubt on their guilt. The Constitution requires disclosure- when there is a reasonable probability that effective use of the evidence will result in an acquittal.
United States v. Bagley.

Carmen Rice has never had the first bite at the apple for a PCR hearing. On July 17, 2023 Judge Deadra Jefferson was very rude and denied her PCR. Carmen Rice attorney Timothy L. Griffith was ineffective in failing to make those arguments regarding the Newly Discover Evidence [exculpatory evidence]. Carmen Rice has been wrongfully imprisoned for over 21 years for a crime that the state prosecutors and her defense counsels knew she never committed. The Carmen Rice case is an issue of ineffective assistance of counsel, police and prosecutorial misconduct and above all egregious miscarriage of justice. The Richland County police investigators had received [exculpatory evidence] in July 2003 detailing who killed Bernard Brennan, victim, the night of October 2001. I will attach a copy of [exculpatory evidence that detailed the crime].

Iris Bryant and her cousin should have been prosecutors and sentenced in October 2001 because Richland County police department took DNA and forensics from the crime scene. Iris Bryant and her cousin Nikki/Tika both had a long history of criminal activities therefore it was very easy for them to match the DNA, forensic since they were already in the system and the [exculpatory evidence detailed the crime scene]. Why didn't Richland County and prosecutors Luptons and Meadows charge Iris Bryant and her cousin with murder and arm robbery? But instead, the police department in collusion with the state prosecutors chose to prosecute a single working mother who has never been in any trouble. No criminal record, not even a speeding ticket.

The court transcript noted in February 2002 the Richland County police department stated that they heard Iris Bryant was involved in the murder of the victim, but they stated they didn't have her last name which was a lie. I have attached documents where Richland County police department and state prosecutors have known Iris Bryant since 1998. Richland county police department and state prosecutors have been giving Iris Bryant immunity since 1998. (see attachments) Iris Bryant with her cousin murder and rob an innocent man and the state prosecutors sentence Iris to "accessory after the fact to murder and deleted the robbery charged."

The [exculpatory evidence, Nathaniel Hallman and Lamont Bostick detailed that Iris split the money up with her cousin and her boyfriend]. Lamont Bostick stated in his statement that Iris Bryant asked him prior to the crime if she would help her rob the victim and that she drops Visine in their drinks and they fall to sleep, quote." Iris served less than six months for this premeditated crime and her cousin Nikki/Tika was never questioned, never arrested nor tested for DNA, forensic. No charge whatsoever!

This case reopens because Nathaniel Hallman wanted to get a deal on a criminal charge. Statements are detailed and clear about everyone involved. There was no reason for Richland County police investigators and state prosecutors to wrongfully convict Carmen Rice. They had no evidence to justify charging her for a crime they knew she didn't do. No physical evidence linked Carmen Rice to the killing and robbing. Prosecutors stated that she sat in the back seat. DNA forensic was found in the back seat. Prosecutors did two DNA forensic on Carmen Rice two times and their was no match. But they never did a DNA forensic comparison on Nikka/Tika, Iris cousin who was Iris accomplice the night of the crime. The state prosecutors told the jury that Carmen

Rice sat in the back seat and shot the victim. That was a lie. The exculpatory evidence was clear that Iris Bryant's cousin was the shooter.

ARGUMENT:

Section 1. Carmen Rice never knew anything about the [exculpatory evidence] until September 2022. [This is why it is Newly Discovered Evidence] She had no idea that such detailed information existed. *Exculpatory evidence plays a pivotal role in ensuring the fairness of trials and upholding justice. It can prevent the wrongful conviction of an innocent person, thereby upholding the liberty of the defendant.* Her defense attorneys never disclosed it to her nor to the court jury who was also abused and misled by false testimony offered at trial. The outcome would have been different without a reasonable doubt had the jury known about the exculpatory evidence. This information has been in her case file since October 2004.

LEGAL ERROR:

Section 2. Carmen Rice was denied a fair trial due to both the defense trial attorneys and the state *prosecutors failing to disclose highly material" exculpatory evidence" to her and the court juror.* The government violated Carmen Rice Due Process rights when it obtains a conviction by presenting false testimony. The prosecuting authorities committed perjury. The United States Supreme Court the Sixth and Fifth Amendments of the United States Constitution are relevant to wrongful convictions in **Giglio v. United States** stated that deliberate deception of a court and juror by the presentation of known false evidence is incompatible with rudimentary demands of justice, the same result obtains when the state, although not soliciting false evidence, allows it to go uncorrected when it appears. Under the present facts, the state allowed to go uncorrected false information about its relationship with one of its witnesses (Iris Bryant). Although it had entered into a plea agreement with this witness, the State, in its opening argument, told the jury that no such agreement existed. Furthermore, there was testimony that no deal existed between the State and the witness. **(Washington v State)**

The U.S. Constitution protects the right to due process of law, and states that no person shall be deprived of life, liberty, or property without due process of the [exculpatory evidence] which was not known at the time of the trial to Carmen Rice, nor the court jury is material to the case's outcome. One significant aspect of this process, especially relevant in criminal law, is the concept of "actual innocence." Therefore the [exculpatory evidence] that is the newly discovered evidence meets the legal criteria for a new trial and or exoneration. The court transcript shows that the only thing linking Carmen Rice to the murder is the state main witness Iris Bryant who premeditated the robbery and murder with her cousin Nikki/Tika.

If both the defense counsel and the state prosecutor fail to provide exculpatory evidence to the court jury, this is a serious legal issue, as it violates the defendant's, Carmen Rice, due process rights under the "Brady rule," which requires the prosecution to disclose all evidence that could be favorable to the accused, regardless of whether the defense requests it; however, the responsibility primarily falls on the prosecution, defense counsel also has an ethical obligation to diligently investigate and present all relevant evidence, including exculpatory information, to the court. A prosecutor's duty is, must be steadfast both in convicting the guilty and in acquitting the

innocent. Unfortunately, both defense trial attorneys and state prosecutors violated Carmen Rice constitutional rights.

PUBLIC POLICY:

Section 3

Wrongful conviction occurs when a factually innocent person is convicted of a crime they did not commit. It is a symptom of a broken criminal legal system that must be fixed. Exculpatory evidence that Carmen Rice nor the court jury was never disclosed to by the defense counsels as well as the state prosecutor. Reviewing evidence presented in a case allows for critical evaluation of its reliability, validity, and relevance, ensuring that decisions are based on solid, accurate information. Wrongful convictions can affect the public's confidence in the system. Wrongful convictions undermine the public's confidence in the justice system and lead to questions about its fairness. Wrongful convictions have a lasting impact on the family members and children of those who are wrongfully convicted, they all now become victims from such miscarriage of justice as well directly impacts the victim of the crime and increases societal distrust in the criminal justice system.

Conclusion:

21 years have passed since Carmen Rice have been wrongfully convicted. Carmen Rice is humbly asking the Supreme court to grant her Writ of Certiorari due to the Newly Discovered Evidence that was never disclosed to her from her defense trial counsels nor the court jury at her original trial. She recently discovered the exculpatory evidence in September 2022. Look at the facts of her case, look at the [*EXCULPATORY EVIDENCE*] (attach below) that was never disclosed to her or the court jury. **Note:** *If the court had been made aware of the [exculpatory evidence] the outcome without a reasonable doubt would have been a not guilty verdict by the jury.* Look at how the state prosecutors and the police investigators had detailed facts of the persons that committed the crime, and they debilitate lied to the court jury with false testimony. Not only did their key witness Iris Bryant commit perjury, but the state prosecutors did as well. "A prosecutor's duty is, must be steadfast both in convicting the guilty and in acquitting the innocent.

"The prosecutor is the servant of the law, which has the twofold aim that 'guilt shall not escape, or innocence suffer. Is it not a law of fact when a prosecutor uses perjured testimony to convict a criminal defendant, that criminal defendant rights to due process of law under the Fourteenth Amendment to the U.S. Constitution has been violated. The police investigators and the state prosecutors had the facts of the case in the [exculpatory evidence]. Why convict an innocent person?

The state prosecutors told the jury that they did not know their main witness Iris Bryant and made no plea deal with her. That was a LIE to the court. Perjury again by the state prosecutors. Calls into question the value of all the testimony given by the lying witness. False testimony cases always present a violation of a legal duty and the corruption of the trial process. As a result, they demand relief. (**Washington v. State, 324 S.C.232**) Carmen Rice seeks EXONERATION without another day wrongfully imprisoned. 21 years imprisonment for a crime she never committed.

Look at the ineffective assistance of counsel by her defense counsels who had an obligation and fiduciary duty to disclosed all factual material to their client and the court; look at how Carmen defense counsel never subpoena Nathaneil Hallman, Lamont Bostick, and others in the [exculpatory evidence] that known about the murder; look at how the defense attorney had neglected to subpoena Iris Bryant cousin, Nikka/Tika, who was the shooter and requested the court to do an DNA, forensic; look at the misconduct of the state prosecutors how they deliberately ignored the evidence of this case just to give their CI's(confidant informative) immunity; look at how Carmen defense trial counsels never challenge the prosecutors false testimony of Iris Bryant and others jailhouse convicts that they coerced to write statements on Carmen; Carmen Rice case is issues of miscarriage of justice, ineffective assistance of counsel, prosecutorial and police misconduct. No one can replace the lifetime taken from anyone, but we can CORRECT this egregious injustice and EXONERATE this innocent woman.

The U.S. Supreme Court held that when evidence, bearing on the credibility of a witness, is withheld from the defendant, irrespective of the good or bad faith of the prosecution, then there may be a violation of Due Process, requiring the granting of a new trial, if the undisclosed exculpatory evidence has any reasonable likelihood of [having] affected the judgement of the jury. It certainly would have without a reasonable of a doubt exonerated Carmen Rice at trial.

In Bousley v. United States the Supreme Court said that actual innocence is factual innocence, not legal insufficiency. This calls into question the value of all the testimony given by the lying witness. False testimony cases always present a violation of a legal duty and the corruption of the trial process. As a result, they demand relief. Carmen Rice is seeking relief of the wrongful imprisonment, 21 years later. The [exculpatory evidence] by Nathaneil Hallman is detailed and clear about who, what, where and when, the persons that committed the crime in October 2001. Carmen Rice is Actual Innocence...without a reasonable doubt.

We ask the Supreme Court to grant Carmen Rice PETITION WRIT OF CERTIORARI.

Case Laws

1. 2021 Justin Jamal Lewis
vs.
S.C
2. 2023 Mack vs. State
3. 2023 Derick Fishburne vs. S.C