

IN THE SUPREME COURT OF THE UNITED STATES
THOMAS W. SPINDLE,)
PETITIONER,)
V.) CASE NO. 08-9175
THE U.S. EXECUTIVE BRANCH, et al.,)
RESPONDENTS.)

REQUEST FOR REHEARING

COMES NOW, Thomas W. Spindle, pro se litigant of the above titled case to seek "Request for Rehearing" of his "Petition for Writ of Certiorari to the Third Circuit" under Supreme Court Rules 12.2, 20.1, 39.1 and 44.1. The original petition was denied on 20 April, 2009 without opinion [see Appendix].

GROUND(S) FOR REVIEW

Petitioner, a U.S. Army Prisoner, was convicted and sentenced to life-long imprisonment on 26 June 1982 for circumstantial murder based upon the Reconstructed Account(s) of a self-proclaimed "eye witness" whom had clear motives to lie and mislead the U.S. Army Criminal Investigations Detachment (CID) homicide investigators and the U.S. Army Judge Advocate General (JAG) prosecutors. Private Joseph H. Courtney, Junior, the "eye-witness" had provided five various renditions of the alleged events on 5 February 1982 plus four recantations stating that he did not read but coercively signed all of the pretyped confessions placed before him. Courtney, though CID, had also implicated another fellow soldier from Petitioner's military unit whom had received a

similar conviction but could not have been physically present [based upon the CID lab report]. Petitioner, established by the Record, found the victim's body on 6 February 1982 and has already presented his 'Declaration of Actual Innocence' before this very Court.

I. This Court to remove a
Petitioner was [wrongfully] barred from presenting a Brady violation by the lower courts although the relevant material evidence (i.e. unidentified but readable fingerprints lifted off the victim's body, foreign epidermal tissues found beneath several fingernails, numerous but undisclosed fingerprints found throughout the crime scene, two matching adult human bite marks) proved that he, his co-accused and their "chief accuser" could not have had a physical nexus to the violent murder. The chief accuser's best friend had a "coincidental palm print" upon the wall above the victim's partial clad corpse.

This Court in Bell, declared that he was entitled to proceed with his petition for federal habeas relief based upon federal constitutional claims that were procedurally barred by the state - where (1) the central forensic proof connecting him to the crime had been called into question; and (2) Bell had put forth substantial evidence pointing to a different suspect. House v. Bell, (2006, U.S.) 126 S. Ct. 2064, 165 L. Ed. 2d 1, 2006 Lex 1x 4675). Brady v. Maryland, 373 U.S. 83, S. Ct. 1194, 10 L. Ed. 2d 215 (1963).

The U.S. Army CID and JAG had clear and irrefutable obligations to disclose favorable evidence proving Petitioner, his Co-Accused and their chief accuser could not have been

physically involved. U.S. v. Agurs, 427 U.S. 97, 107-11 (1976). See also McMillian v. Johnson, 88 F. 3d 1554, 1568-69 (11th Cir.); Benn v. Lambert, 283 F. 3d 1040, 1054-60 (9th Cir. 2002). Alaska v. Osborne, 521 F. 3d 1118-1122 (9th Cir. 2008).

It is within the power of this Court to remove a misapplied procedural bar that no lower court may lift and resolve.

II

Military Prisoners have no redress under Section 2254 or Section 2255 but are held to the AEDPA through the PLRA of 1995, specifically 28 U.S.C. § 1915(e)(2)(B), which requires prompt dismissal(s) of Section 2241 under Section 2244(a) for direct failures to file Certificates of Appealability within the one-year statute of limitations afforded to state and federal prisoners.

Congress, in their attempts to limit frivolous Section 1983 lawsuits and Federal Tort Claims, had originally constructed the AEDPA of 1996. See 42 U.S.C. § 1983, 28 U.S.C. §§ 1346(b), 2671 et. sq. and 28 U.S.C. § 2244(d)(1)(A).

It was not the original intent of our Forefathers to bar redress of grievances by adding time bars outside the scope Section 2241(c)(1) protections.

WHEREFORE, he prays to have this Honorable Court review this matter.

III

The Uniform Code of Military Justice (UCMJ) is required to have procedural rules that are uniform insofar as practicable and the Geneva Conventions Common Article Three

requires [prisoners] to be tried by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. [case and quotes omitted].

Military Judges, nor Convening Authorities whom have the power to overrule them, fall within Article III of the United States Constitution which grants Office under Section 451.

The issue before this Court is clear and indisputable under rightful tenure to address or resolve constitutional infractions.

IV

The Petitioner, Thomas W. Spindle, is [f]actually innocent of all charges and there can be no greater evil than to ignore the plea(s) of wrongfully incarcerated men. His DNA Codis number is FAI 00261 but Petitioner apparently has no legal right to complain that he is not allowed to compare his DNA against the crime scene evidence. The very crux of truth is unquestionable: There is no way that Thomas W. Spindle could have been arrested, charged and convicted of murder without Courtney's false implications to spare his best friend, Joseph Hanson, because only Clifford B. Hubbard is more innocent than the Petitioner himself.

How much more clarity is required?

In Closing

Petitioner has a worldwide website under the Innocent In Prison Project, International Organization where this document shall appear. He states, under Rule 44, that the petition has been submitted in good faith and not for delay

Supreme Court of the United States
Office of the Clerk

and is as brief as plausible. He is not a properly qualified attorney but is being held to the equivalent standard.

There can be no greater abuse of the writ than to so callously ignore repetitive attempts to obtain Redress. If such exceptional circumstances warrant the exercise of the Court's discretionary powers for proof that adequate relief will never be obtained ... this very case proves it.

WHEREFORE, he prays to have his request for review granted or, most certainly, the Petitioner will start Section 2241 Number Six.

Dear Mr. Spindle:

Respectfully submitted,

/s/ *Thomas W. Spindle*

Thomas W. Spindle

04439-000/B-Unit-R

FCI Fairton, P.O. Box 420

Fairton, NJ 08320

Executed on 22 May, 2009

William K. Suter
William K. Suter, Clerk

Melissa Smith 5/20/09

