00-5839

Supreme Court, U.S.
FILED
FEB 3 2000
OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

MICHAEL D. HARRIS — PETITIONER
(Your Name)

ORIGINAL

VS.

STATE OF MICHIGAN — RESPONDENT(S)

ON PETITION FOR A WRIT OF ~~CERTIORARI TO~~
HABEAS CORPUS TO

INGHAM COUNTY CIRCUIT COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF ~~CERTIORARI~~ HABEAS CORPUS

MICHAEL D. HARRIS
(Your Name)

2500 SOUTH SHERIDAN ROAD
(Address)

MUSKEGON HEIGHTS, MICHIGAN , 49444
(City, State, Zip Code)

NO PHONE
(Phone Number)

STATEMENT OF THE CASE

(A) THE PETITIONER WAS DENIED A PROMPT PRELIMINARY EXAMINATION, WITHOUT ANY VOLUNTARY WAIVER BY PETITIONER.

(B) THE PETITIONER WAS TRIED FOR SECOND DEGREE MUDER, AND WAS ~~N~~ ACCUSED, BEFORE THE JURY, OF CRIMINAL SEXUAL CONDUCT, AND BREAKING AND ENTERING. WITHOUT CHARGES

(C) THE PETITIONER IS CLAIMING A MISCARRAGE OF JUSTICE ACTIUAL INNOCENCE, IN WHICH NEW EVIDENCE, AND A DNA TEST COULD HAVE VINDICATED THE PETITIONER

(D) THE PETITIONER WAS DENIED THE RIGHT TO REPRESENT HIMSELF ON HIS APPEAL OF RIGHT

(E) THE PETITIONER WAS DENIED THE RIGHT TO CONFRONT AND CROSS EXAMINE A PROSECUTION EXPERT WITNESS

REASONS FOR GRANTING THE PETITION

(A) THE PETITIONER WAS ACCUSED WITH BREAKING AND ENTERING AS WELL AS CRIMINAL SEXUAL CONDUCT AND WAS NEVER CHARGED WITH THE CRIME WHICH VIOLATED FEDERAL DUE PROCESS

B) MCR 6.508 (D) AND 6 502 (G) DOES NOT APPLY TO THE PETITOINER BECAUSE IT WAS NOT REGULAR XXXX FOLLOWED RULES DURING THE TIME OF HIS CONVICTION AND APPEAL OF RIGHT

C) PETITIONER HAD A SIXTH AMENDMENT RIGHT TO REPRESENT SELF ON APPEAL.

D) PETITIONER HAD A RIGHT TO A TIMELY PRELIMINARY EXAMINATION

E) PETITIONER WAS DENIED THE SIXTH AMENDMENT RIGHT TO CROSS EXAMINE PROSECUTION EXPERT, WHO'M DESTROYED PHYSICAL EVIDENCE

F) MCR 6 502 (G) (2) DOES NOT ALLOW PETITIONER THE RIGHT TO APPEAL TO ANY COURT AND FEDERAL HABEAS CORPUS SHOULD BE GRANTED BY THIS COURT

H) THE U S COURT OF APPEALS HAS DENIED THE PETITIONER PERMISSION TO FILE SUCCESSIVE HABEAS PETITION IN THE U S DISTRICT COURT.

I) DNA TEST SHOULD BE GRANTED AND A NEW TRIAL GRANTED ON GROUNDS OF A MISCARRAGE OF JUSTICE.

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED - LN
99 AUG 13 AM 11:39
RONALD C. WESTON, SR., CLERK
U.S. DISTRICT COURT
WESTERN DISTRICT MICH.
BY
COPY

MICHAEL D. HARRIS, Petitioner,	)	Case No. 1:99-cv-512
v.	)	Honorable David W. McKeague
MARY BURGHUIS, Respondent.	)	**ORDER**

This is a habeas corpus action brought by a state prisoner pursuant to 28 U.S.C. § 2254. This matter is before the court upon petitioner's "Motion for Immediate Peremptory Relief" (docket # 4). The court has reviewed the motion and finds it to be without merit, as this court has no jurisdiction to entertain this action unless and until leave to proceed has been granted by the Court of Appeals. Accordingly, the motion is DISMISSED.

IT IS SO ORDERED.

Dated: August 12, 1999

David W. McKeague
David W. McKeague
United States District Judge

Certified as a True Copy
Ronald C. Weston, Sr., Clerk
By _____
Deputy Clerk
U.S. District Court
Western Dist. of Michigan
Date AUG 13 1999

QUESTION(S) PRESENTED

(A) WHERE PROSECUTOR ABUSED THE SECOND DEGREE MURDER STATUTE, MCL 750.317, BY USING A UNDERLYING OFFENSE OF FIRST DEGREE CRIMINAL SEXUAL CONDUCT WITHIN THE SECOND DEGREE MURDER STATUTE, WITHOUT CHARGING THE PETITIONER WITH CRIMINAL SEXUAL CONDUCT, DID A FEDERAL DUE PROCESS VIOLATION, AND JURISDICTIONAL DEFECT TAKE PLACE?

APPELLANT ANSWERS "YES"
RESPONDENT/APPELLEE ANSWERS "NO"

(B) WHERE THE APPELLANT FILED, IN THE TRIAL COURT, MOTIONS TO REPRESENT HIMSELF ON APPEAL WHILE HIS APPEAL WAS STILL PENDING, AND THE TRIAL COURT IGNORED THE MOTIONS DURING THE APPELLANT'S APPEAL OF RIGHT, DID THE LOWER COURT VIOLATE THE PETITIONER'S SIXTH AMENDMENT RIGHT TO SELF REPRESENTATION?

APPELLANT SAY'S "YES"
APPELLEE SAY'S "NO"

(C) WHERE APPELLANT NEVER WAIVED HIS RIGHT TO A PRELIMINARY EXAMINATION WITHIN THE 12 DAY PERIOD, DID A FEDERAL DUE PROCESS VIOLATION OCCURE, AS WELL AS A JURISDICTIONAL DEFECT?

APPELLANT SAY'S "YES"
APPELLEE SAY'S "NO"

(D) WHERE APPELLANT WAS DENIED HIS SIXTH AMENDMENT RIGHT TO CONFRONT PROSECUTION EXPERT, AND RIGHT TO CONFRONT EXPERT WITH HIS OWN FORENSIC TEST, SHOULD NEW TRIAL BE GRANTED?
APPELLANT SAY'S "YES"
APPELLEE SAY'S "NO"

(E) WHERE DNA COULD HAVE HELPED TO VINDICATE THE PETITIONER, AND PROVE POLICE PERJURY, SHOULD LOWER COURT HAVE GRANTED DNA TESTING MOTION?

APPELLANT SAY'S YES"
APPELLEE SAY'S "NO"

ADDITIONAL STATEMENT OF QUESTION PRESENTED

(F) WHERE THE PETITIONER WAS BEING TRIED FOR SECOND DEGREE MURDER, AND WITHIN THE SAME TRIAL, THE PROSECUTION ACCUSED THE PETITIONER OF BREAKING AND ENTERING, SHOULD THE PETITIONER BEEN ENTITLED TO BE CHARGED WITH THE CRIMINAL ALLEGATION AGAINST HIM, AS A SIXTH AMENDMENT RIGHT?.

APPELLANT SAY'S "YES"

APPELLEE SAY'S "NO"

(G) WHERE THE TRIAL COURT HAS APPLIED MICHIGAN COURT RULE 6.502 (G), (2), AND 6.508 (D) TO THE PETITIONER, AND THE RULES WENT INTO AFFECT IN 1989, AND 1995, AFTER THE PETITIONER'S 1983 CONVICTIONS, DID THIS RULE VIOLATE ROGERS V. HOWES, 144 F.3d 990-995, U.S. CT OF APPEALS SIXTH CIRCUIT?

APPELLANT SAY'S "YES"

APPELLEE SAY'S "NO"