03-7986

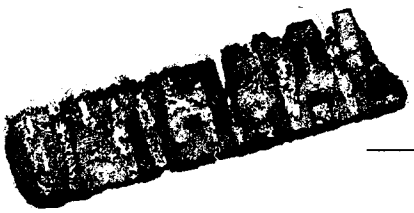
Supreme Court, U.S.
FILED
NOV 07 2003
OFFICE OF THE CLERK

NO._____

IN THE

SUPREME COURT OF THE UNITED STATES

IN-RE HOWARD G. GREEN -PETITIONER



VS.

JANIE COCKRELL - RESPONDENT(S)

ON ORIGINAL PETITION FOR A WRIT OF HABEAS CORPUS

UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT

ORIGINAL PETITION FOR A WRIT OF HABEAS CORPUS

HOWARD G. GREEN T.D.C.J.-ID#854056
(Your Name)

1200 fm. 655 RAMSEY 2 UNIT
(Address)

ROSHARON, TEXAS 77583
(city, State,Zip code)

0
(Phone Number)

QUESTION(S) PRESENTED

(1).Did the three Judge panel **"GATEKEEPING SYSTEM"** of the U.S. Court of Appeals 5th. cir. **"ERRONEOUS DENIED"** THE PETITIONER **"MOTION TO SEEK AUTHORIZATION TO FILE A SECOND OF SUCCESSIVE HABEAS PETITION"** pursuant to 28 U.S.C. 2244(b)(2), MISCARRIAGE OF JUSTICE AND ACTUAL INNOCENCE STANDARDS. The claim of **"ALTER"** STATEMENTS OF FACT TRIAL TRANSCRIPTS IS **"NEWLY DISCOVER EVIDENCE"** THAT **"omits exculpatory information'** of the petitioner innocence and cover up **constitution errors** that satisfy the requirements for authorization section 2244(b)(2)? see VOLUME A. & EXHIBITS

(2). Did the District Court Reporter commit a**"FEDRAL FELONY"** willyfully and unlawfully omitted a entire proceeding of the TRIAL COURT ABUSE IT"S DISCRETION when it inquire about the NUMERICAL DIVISION of the **JURY** before giving the instruction to continue their deliberation? see VOLUME A. & EXHIBIT pages 0102. and EXHIBIT A.(2)

(3). Did the District Court Reporter commit a**"FEDERAL FELONY"** willyfullly and unlawfully omitted officer MICHEL TAYLOR testimony where he stated that the**"EVIDENCE WAS LOST"** from the STATEMENT OF FACT TRIAL RECORD? see VOLIME A. EXHIBIT A. pages 29,30.

(4). Has the Petitioner**"DUE PROCESS"** been violated on appellate review when **'exculpatory information'** and **entire proceeding** was unlawfully omitted from the trial transcripts that deprived the Petitioner of a fair chance before the **"FACTFINDER"**and the **FACTFINDER"** was deprived of the ingredients necessary to make a fair decision? see VOLUME A. EXHIBIT A.

(5). At what **"LEVEL"** on appeal did the Petitioner become the **"VICTIM OF FUNDAMENTAL MISCARRIAGE OF JUSTICE"?**

(6). Did such alteration and omission in the STATEMENT OF FACT ON FEDERAL HABEAS review create a **"NEW LEVEL OF BRADY VIOLATION?**

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STATEMENT OF THE CASE

The Petitioner is unlawfully confined of his liberty by Janie Cockrell acting director of the TEXAS DEPARTMENT OF JUSTICE INSTITUTIONAL DIVISION at the Ramsey 2 Unit,1200 fm 655, Rosharon Texas, 77583 pursuant to a conviction in cause no.774479 for the 180th. District Court of Harris County, Texas/Houston, that resulted in a decision that is contrary to the constitution and involved an unreasonable application of law. The State presented at trial the Complanant who habitually used**"CRACK COCAINE"** alone with **"ALCOHOL"** for four days or more contemporaneous with the events in question there's **NO EYE WITNESS, NO EVIDENCE.** The Petitioner was found guity of the felony offense of aggravated robbery. The jury assessed punishment to twenty seven years imprisonment.

The Petitioner appeal the conviction in THE COURT OF APPEAL FOR THE FIRST DISTRICT OF TEXAS **"AFFIRMED"** conviction in an unpubished opinion **GREEN V. STATE** no.01-98-01283-cr. a copy of the slip opinion may be found at EXparte GREEN, at 99-103 Also, THE TEXAS COURT OF CRIMINAL APPEALS refused Petitioner's petition for discretionary review on November 8, 2000. Petitioner filed one state application for writ of habeas corpus on April 18,2001 THE TEXAS COURT OF CRIMINAL APPEALS **"DENIED"** it without written order on findings of trial court without a hearing. **EX PARTE GREEN.** Prtitioner filed with THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS on May 3,2001 a federal habeas corpus statues embodied on the antiterrorism and effective death penalty act of1996. FINAL JUDGMENT, MEMORANDUM AND ORDER signed JUNE 20,2002. The petition for writ of habeas corpus in cause no. CA-H-01-1682,U.S.D.S. **DENIED.** The MEMORANDUM ORDER estabilsh that there is **constitutional errors** that has been deem **procedural default** and **produral barred** from federal review also determine that the Petitioner may defeat the **procedural bar** by estabishing that He's **actually innocent** and **A FUNDAMENTAL MISCARRIAGE OF JUSTICE.**

On or about June 27,2002 the Petitioner file a notice Of appealtimely request for transcripts pursuant fed. r. app. proc. 10(b) and consider filing second or successive petition. Petitioner recieve institution from the United States Court of Appeal 5th. cir. to file a petition for Certificate of Appealability and the transcripts was release to prepare (C.O.A.). Petitioner review the transcripts which reveal that the STATEMENT OF FACT IS **"ALTER"** to cover up reversible constitutional error, Petitioner innocence and a **FEDERAL FELNOY** that has been comitted. Petitioner filed a MOTION FOR A STAY PENDING APPEAL,pursuant to fed. r. app. proc. 11(g), r.10(e), and r. 10(b).A MOTION TO SUPPLEMENT THE RECORD.both motion was docket and to be consider with C.O.A. Petitioner filed his motion for certificate of appealability and brief in support by October 30, 2002 in cause no. 02-20759. On or about Feburay 4, 2003 the C.O.A. **DENIED** and **MOTION DENIED.**

This claim of**"ALTER"** STATEMENT OF FACT IS**"NEWLY DISCOVERED EVIDENCE".** The Petitioner **seek exhaustion provisions of** 28 u.s.c.& 2254 on February27,2003 filed in The United States Court Appeals 5th. cir. A MOTION TO SEEK AUTHORIZATION TO FILE A SECOND OR SUCCESSIVE HABEAS CORPUS PETITION PURSUANT TO 2244(b)2. The Motion was **DENIED** on or about March 27,2003 by the United States of Appeals 5th. cir. The Petitioner continue to seek **exhaustion** of the claim pursuant to 28 u.s.c.&2254(b) by seeking review of the three JUDGE PANEL **"GATEKEEPING SYSTEM"** of the United States Court of Appeals 5th. cir. In this court THE SUPREME COURT OF THE UNITED STATES by filing a ORIGINAL PETITION FOR A WRIT OF HABEAS CORPUS.

REASONS FOR GRANTING THE PETITION

The Petitioner has produces evidence that this Court's failure to **GRANT** this writ would result in a **FUNDAMETAL MISCARRIAGE OF JUSTICE.** Petitioner has establish on appeal that He's **actually innocent** of the crime of which He's convicted. The original verbation STATEMENT OF FACTS of cause no. 774479 is required that will prove Petitioner is a **VICTIM OF A MISSCARRIAGE OF JUSTICE** and that His trial was not free of **constitutional errors** and for those reasons this is the appropriate case that the principles of comity and finality that in forms the concepts of cause and prejudice must yield to the imperative of correcting **FUNDAMENTAL UNJUST INCARCERATION.** Petitioner has **constitutional claims** in His first habeas Petition that needs to be revisit on the merits that has been deem PROCEDURALLY DEFAULT AND PROCEDURALLY BARRED that was determine by **ALTER** STATEMENT OF FACTS TRIAL RECORDS.

This **NEWLY DISCOVERED EVIDENCE** OF **ALTER** STATEMENT OF FACTS was discover during federal habeas proceeding denial of the habeas petition. Petitioner filed timely fed. rule app. proc. 10(b) transcripts release that reveal **altercation.** TO EXHAUST AVAILABLE REMEDIES AND DEFEAT THE PROCEDURE DEFAULT / BAR. Filed with the U.S. COURT OF APPEALS 5th. cir. A MOTION TO SEEK AUTHORIZATION TO FILE A SECOND OR SUCCESSIVE HABEAS pursuant to 28u.s.c 2244(b)2.**MISCARRIAGE OF JUSTICE AND ACTUAL INNOCENE STANDARDS.** Petitioner made the required **PRIMA FACIE** showing in the motion that should have been **GRANTED** but **DENIED.** The Petitioner now seek review in this Court of the THREE JUDGE PANEL **GATEKEEPING SYSTEM** by filing this ORIGINAL PETITION OF A WRIT OF HABEAS CORPUS in this Court to review the decision.

This writ should be **GRANTED** for further proceeding there has been a **FEDERAL FELONY** committed by the Court Reporter who **ALTER, MODIFY** and **OMITTED CRITICAL EXCULPATORY EVIDENCE** out the trial records to cover up a **FUNDAMENTAL MISCARRIAGE OF JUSTICE** were constitutional violation that has resulted in the conviction of Petitioner who is **ACTUALLY INNOCENCE.**

Petitioner pray that this Court order the district clerk to transmit the original STATEMENT OF FACTS transcripts compare and analysis the duplicate to the original that will prove a **FEDERAL FELONY** has occurred.

Petitioner **DUE PROCESS** has been violated on appeal. The withholding of **exculpatory evidence** by the state **DENIED** the Petitioner full panoply of protection afforded to the Petitioner by the constitution, This claim of **ALTER** STATEMENT OF FACTS if resolved by this Court will reveal beyond reasonable doubt that the state **modified** the transcripts to cover up the TRIAL COURT ABUSE IT'S DISCRETION and constitutional claim of INSUFFICIENT EVIDENCE presented in Petitioner federal habeas. This altercation creates a **NEW LEVEL** of BRADY VIOLATION THAT HAS NO **PRINCIPAL CASE LAW** and for the above reason this wirt should be **GRANTED.**

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-20146

U.S. COURT OF APPEALS
FILED
MAR 27 2003
CHARLES R. FULBRUGE III
CLERK

IN RE: HOWARD G. GREEN,

Movant.

Motion for an order authorizing
the United States District Court for the Southern
District of Texas to consider
a successive 28 U.S.C. § 2254 application

Before BARKSDALE, DeMOSS and BENAVIDES, Circuit Judges.

BY THE COURT:

Howard G. Green, Texas state prisoner # 854056, was convicted of aggravated robbery and sentenced to 27 years' imprisonment. Green is seeking permission to file a successive federal habeas petition. He asserts that he was denied due process because he was deprived of complete trial transcripts while attempting to appeal his conviction and sentence.

To obtain this court's authorization, Green is required to make a prima facie showing that his proposed successive federal habeas corpus application relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable or that his claims have a factual predicate that could not have been discovered

previously through the exercise of due diligence and that, if proved, would establish by clear and convincing evidence that no reasonable factfinder would have convicted him absent constitutional error. See 28 U.S.C. § 2244(b)(2), (b)(3)(C). Green has failed to make the required showing. Accordingly, his motion for authorization to file a successive § 2254 application is DENIED.