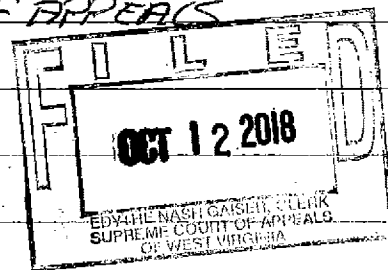


IN THE WEST VIRGINIA SUPREME COURT OF APPEALS

NO. 18-0271

EDWARD JESSE DREYFUSE,

PETITIONER,



IN RE: APPLICATION TO PRESENT COMPLAINT TO THE GRAND JURY

PETITIONER'S REPLY BRIEF

comes now, Edward Jesse Dreyfuse, Pro-se, in presenting a Petitioner's Reply Brief pursuant to this Honorable Court's ORDER issued on September 26, 2018 in the instant action.

INTRODUCTION

This is a case involving the intentional criminalized prosecutorial misconduct being committed by Christopher Chiles, then a Cabell County prosecuting attorney, where he did in fact commit the felony offense of subornation of perjury pursuant to W.V.A. CODE § 61-5-1 (b), by his producing the perjured testimony of Ryan Bentley violative of W.V.A. CODE § 61-5-1 (a), before a session of the Cabell County Grand Jury considering a felony murder indictment.

CERTIFICATE OF SERVICE

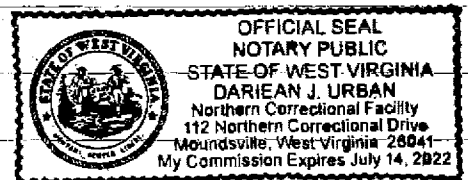
I, Edward Jesse Dreyfuss Affirm I have served Clerk Gaiser of the W.V.A. Supreme Court of Appeals, and W.V.A. A.A.G. Zachary Vigilanco a Petitioner's Reply Brief, Table of Contents, Table of Authorities and the instant service certificate by U.S. mail on the below NOTARIZED date.

[Signature]
AFFIRANT PETITIONER

Sword Taken Affirmed before me on 10/09/2018
Darlean Urban

NOTARY PUBLIC
my commission expires 07/14/2022

This Document was mailed on 10/9/2018 -
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however, this response was mailed
before the Deadlined Date of
~~Sept~~ October 10, 2018



(A)

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Now there stands an apparent imposition for your Petitioner to in fact argue the case at issue before this Honorable Court and thereby erasing the Constitutional Due Process of the Grand Jury Proceedings and the Role in which it functions so as to determine if Probable Cause exists to indict a Public Official for committing felony offenses, specifically the criminalized Prosecutorial misconduct of Christopher Chiles suborning the perjured testimony of Ryan Bentley before a Grand Jury, so that your Petitioner may be afforded the Constitutional Right to present such complaint before the Grand Jury pursuant to W. VA. Constitution, Article III § 17.

MEMORANDUM OF LAW AND SUPPORTING ARGUMENT

The W. VA. Constitution guarantees that the Courts of this State shall be open, and every Person, for an injury done to him in his person, Property or Reputation, shall have remedy by due course of Law and Justice shall be administered without sale, denial or delay, W. VA. CONST. ART. 3 § 17.

STATEX.REI. MILLE V. SMITH, 165, W.VA. 745 (1981) 541.

PT. 1 holds that "By application to the Circuit Judge, whose duty is to insure access to the Grand Jury, any person may go to the Grand Jury to present a complaint to it."

The circuit court judge whose duty is to insure access to the Grand Jury MUST guarantee that the Grand Jury is open to "any person" seeking to redress wrongs by laying a complaint before it, the mandatory language is clear, the circuit court judge must insure access to the Grand Jury as "any person" may go to the Grand Jury to present a complaint to it; there are no exemptions or any included languages that a circuit court judge "may", "might", "could", "would", or if it determines probable cause may exist; it is a constitutional guarantee that the Grand Jury is to be open to "any person" seeking to redress wrongs by laying a complaint before it under the provisions of W.VA. CONST. ART. III § 17 as the courts of this state shall be open... and every person shall have remedy by due course of law...

There are no immunities afforded to a Judge, Prosecuting Attorney, or any other persons from being indicted or prosecuted for the commission of criminal offenses, especially for the criminalized prosecutorial misconduct as was committed by the subornation of perjured testimony before a Grand Jury and then again as later described by Attorney Vigilante himself in his response detailing the same criminalized prosecutorial misconduct by the subornation of perjury during the trial proceedings.

Such is the case at hand where the subornation of perjured testimony before a Grand Jury and also the trial court, which is a felony criminal offense in W.Va. which is comprised of the states knowing use of perjured testimony and fraud upon the court being perpetrated by a prosecuting attorney intentionally producing false, fabricated evidence of testimony of material matters describing injuries inflicted, which resulted in the death by murder of a person, in which the prosecuting attorney knew was impossible and untrue, as the prosecutor and all investigating police officers had possession of the alleged victim's medical records,

and The lead Detective, Rob Stannet was in fact present at the autopsy examination where it was determined that the victim never suffered any multiple facial fractures or a major skull fracture.

The allegations contained within the Petitioner's application to present a complaint to the Grand Jury are neither frivolous or abusive as proffered by Attorney Vigilance, as they are factually supported by the state's own records, specifically the autopsy report of Dr. Allen Mock, W. Va. Chief Medical Examiner in case no: WV. 2012-1497 and the medical records of Mr. Otis Clay Jr, from St. Mary's medical center and the official reports of lead Detective Rob Stannet who obtained Mr. Clay's medical records from St. Mary's medical center on 5/18/2012, and then witnessed and participated in Mr. Clay's autopsy examination on 5/21/2012, case no: WV 2012-1497, where it was determined and recorded that Mr. Clay never received or suffered any type of multiple facial fractures or a major skull fracture, 48 days prior to the Grand Jury proceedings at issue!

The Autopsy Report of Case No. WV 2012-1497 clearly states that Mr. Clay's face was without injury, his mouth, including lips were without injury, on the left occipital scalp there was a 1 inch linear laceration, The conclusive findings of Mr. Clay's Autopsy Report state Mr. Clay's injuries include: a laceration of the scalp, fracture of the right distal femur and open fracture of the left elbow, Again and significantly it was determined Mr. Clay never suffered or sustained any type of multiple facial fractures or major skull fracture during the autopsy examination performed on 5/2/2012, in the presence of Rob Stennet, The lead Detective of Criminal Case No: 12-F-232 - As The Record of The Autopsy Report clearly states.

There is absolutely no denying that Detective Stennet, The lead investigator of Criminal Case No: 12-F-232, after reviewing Mr. Clay's medical records on 5/1/2012 and then participating in Mr. Clay's autopsy examination on 5/2/2012, did immediately then and there after inform his colleague Ryan Bentley and also Christopher Chiles and Sean Hammers

OF THE LABELL COUNTY PROSECUTING ATTORNEY'S OFFICE THAT MR. ORIS CLAY JR HAD NEVER SUFFERED OR RECEIVED ANY MULTIPLE FACIAL FRACTURES OR MAJOR SKULL FRACTURE OR ANY FORM OF AN OPEN BRAIN INJURY OR SUBDURAL HEMATOMA.

IT IS ALSO CLEAR BY THE STATES RECORD THAT THE LABELL COUNTY PROSECUTING ATTORNEY'S OFFICE DID IN FACT HAVE IN ITS POSSESSION 48 DAY PRIOR TO THE GRAND JURY PROCEEDINGS OF CRIMINAL CASE NO: 12-F-232 ALL OF THE MEDICAL DOCUMENTATION, INCLUDING THE DEATH SUMMARY REPORT BY DR. DENNING OF MR. CLAY'S DEATH.

FURTHER, ATTORNEY VIGLIANCO IN HIS OWN WORDS AND CITATIONS OF THE TRIAL TRANSCRIPTED TESTIMONY WAS DETAILED AND IDENTIFIED A SECONDARY CRIMINALIZED PROSECUTORIAL MISCONDUCT CHARGE OF SUBORNATION OF PERJURY BEING COMMITTED BY CHRISTOPHER CHILES DURING THE CRIMINAL TRIAL OF CASE NO: 12-F-232, WHERE ATTORNEY VIGLIANCO PROVIDED THAT "ONE WITNESS TESTIFIED THAT THE PETITIONER STUCK MR. CLAY IN THE HEAD REMARKING THAT THE PETITIONER BEAT CLAY'S BRAINS OUT, I SEEN HIM BUSTING HIS HEAD AND EVERYTHING, I CLEANED UP HIS BRAINS AND BLOOD, I DID!"

Again, Christopher Chiles, The Labell County Prosecuting Attorney knew this testimony was false and perjured as did the witness who provided the perjured testimony, however, Christopher Chiles not only failed to correct the perjured testimony of material matters of injuries described resulting in the death of Mr. Clay, Christopher Chiles went on to intentionally have the witness identify a baseball bat as what beat Mr. Clay's brains out.

Attorney Vigilanco explains that Ryan Bentley's testimony of Mr. Clay's suffering multiple facial fractures and a major skull fracture were not material matters of injuries resulting in Mr. Clay's death, Attorney Vigilanco went on to state that even a willful misrepresentation by Ryan Bentley with respect to the skull fracture would concern an immaterial matter and would not constitute perjury, this is mendacious as the testimony by Ryan Bentley of multiple facial fractures and a major skull fracture being inflicted upon Mr. Clay and resulting in his death are the material matters of injuries allegedly inflicted causing Mr. Clay's death, by murder.

OUR STATUTE DEFINES PERJURY AS FOLLOWS:

W. VA. CODES 61-5-1 (b), ANY PERSON WHO INDUCES OR PROCURES ANOTHER TO TESTIFY FALSELY REGARDING A MATERIAL MATTER IN A TRIAL OF ANY PERSON... OR BEFORE ANY GRAND JURY WHICH IS CONSIDERING A FELONY INDICTMENT, SHALL BE GUILTY OF THE FELONY OFFENSE OF SUBORNATION OF PERJURY.

THE STATUTE SETTING FORTH THE SUFFICIENT ALLEGATION IN AN INDICTMENT FOR PERJURY AND SUBORNATION OF PERJURY IS AS FOLLOWS: IN AN INDICTMENT

OR ACCUSATION OF PERJURY OR SUBORNATION OF PERJURY, PURSUANT TO W. VA. CODES 62-2-4,

IT SHALL BE SUFFICIENT TO STATE THE SUBSTANCE OF THE OFFENSE CHARGED AGAINST THE ACCUSED, AND IN WHAT COURT BY WHOM THE OATH WAS ADMINISTERED WHICH IS CHARGED TO HAVE BEEN FALSELY TAKEN, AND TO MAKE AN AVERMENT

THAT SUCH COURT OR PERSON HAD COMPETENT AUTHORITY TO ADMINISTER THE SAME, TOGETHER WITH THE PROPER AVERMENTS TO FALSIFY THE MATTER WHEREIN THE PERJURY IS ASSIGNED, WITHOUT SETTING FORTH ANY PART OF THE RECORD OR PROCEEDING AT LAW OR EQUITY, OR THE COMMISSION OR AUTHORITY OF THE COURT OR PERSON BEFORE WHOM THE PERJURY WAS COMMITTED, BUT HEREIN SHALL BE CONSTRUED TO ALLOW, WITHOUT THE CONSENT OF THE ACCUSED, A PART ONLY OF THE RECORD, PROCEEDING OR WRITING TO BE GIVEN IN EVIDENCE ON THE TRIAL OF SUCH INDICTMENT OR ACCUSATION. "

IN THE CASE AT ISSUE, THE INDICTMENTS AS HAVE BEEN PROVIDED IN THE INSTANT ACTION HAVE BEEN AVERRED DIRECTLY, POSITIVELY AND WITH CERTAINTY AND NOT BY WAY OF INFERENCE OR ARGUMENT, THE ELEMENTS OF PERJURY AND ITS SUBORDINATION TO BE CHARGED IN THE ALLEGATION ARE A JUDICIAL PROCEEDING AND COURSE OF JUSTICE, A DEFENDANT HAVING BEEN SWORN TO GIVE EVIDENCE THEREIN, HIS TESTIMONY, ITS FAISITY, AND ITS MATERIALITY.

IT IS ONLY FOR THE GRAND JURY TO DECIDE THE REASONABLE PROBABILITY OF THE CHARGES AS PRESENTED, AND BY ALLOWING A CIRCUIT COURT JUDGE OR AN ASSISTANT ATTORNEY GENERAL TO MAKE A PRE-DETERMINATION OF THE MATTER AND EVIDENCE TO BE PRESENTED TO THE GRAND JURY IS TO SUBSTITUTE THE ROLE AND INTEGRITY OF THE GRAND JURY'S PROCEDURE OF PROCESS FOR THAT OF THE COURT'S AND OF THE W.VA. ATTORNEY GENERAL'S, CONSTITUTIONALLY, IT IS ONLY FOR THE GRAND JUROR'S TO DETERMINE IF THE PETITIONER'S ALLEGATIONS BEING PRESENTED AGAINST CHRISTOPHER CHILES AND RYAN BENTLEY ARE UNFOUNDED, MALICIOUS OR FRIVOLOUS, OR IF SUCH ALLEGATIONS ARE IN FACT SUPPORTIVE OF PROBABLE CAUSE THAT A CRIMINAL OFFENSE HAS BEEN COMMITTED AND THAT AN INDICTMENT FOR SUCH IS WARRANTED.

Both, The United States Supreme Court And The
W.V.A. Supreme Court of Appeals have stated That
The function of The Grand Jury is not to
determine The truth of The Charges Against
The Defendant but to determine whether
There is sufficient Probable Cause to require
A Defendant to stand Trial. SEE STATE EX. REL.
BINSON V. MAYNARD, 181, W.V.A. 662, (1989).

"If The Grand Jury is to be a meaningful institution,
it's integrity must be maintained as an
independent body, free from ALL outside
interference AND prosecutorial control
or Direction, This can only be insured
by vigilance over The Administration
of Justice, which is The Duty of
The Courts." see STATE EX. REL. MILLER V. SMITH,
168 W.V.A. 745 (1981).


Clearly, The Duty of The Courts over The Administration
of Justice is meant to insure That The
Grand Jury must be maintained as an independent
body, free from ALL outside interferences
and to insure That "Any Person" by
Application to The Circuit Court Judge whose
duty is to insure Access to The Grand Jury
is Afforded Such Right.

The Administration of Justice by The Circuit Court over The Grand Jury is not a provision for The Circuit Court to pre-determine The facts, evidence or The substance of The offenses that a private person wishes to present by complaint to The Grand Jury.

CONCLUSION

Attorney Ungliano's request that Judge Ferguson's decision to deny The petitioner's application to present complaint to The Grand Jury should be affirmed by This High Court should be Denied and that This Honorable Supreme Court Reaffirm its holding in 541. Pt. 1 of State ex. rel. Miller v. Smith 168 W. VA. 745, (1981) "By Application to The Circuit Judge, whose Duty is to insure access to The Grand Jury, any person may go to The Grand Jury to present a complaint to it, W. VA. CONST. ACT 3 § 17.

Petitioner seeks a Reversal of Judge Ferguson's
Decision to Deny The Application to present
complaint to The Grand Jury and
that such be Remanded back to
The Cabell County Circuit Court for
Hearing and provision of scheduling
The Petitioner to present a complaint
to The Grand Jury Respectfully.


Petitioner / Pro se

Sworn to, Dated, Affirmed before me on 10/09/2018
Darrian Urban

NOTARY PUBLIC

My Commission Expires 07, 14, 2022

