

VIRGINIA:

THE COURT OF APPEALS OF VIRGINIA

TERRENCE JEROME RICHARDSON,)	
)	
PETITIONER,)	
v.)	RECORD No. _____
)	
COMMONWEALTH OF VIRGINIA,)	
)	
RESPONDENT,)	

**PETITION FOR WRIT OF ACTUAL INNOCENCE
BASED ON NON-BIOLOGICAL EVIDENCE**

Pursuant to the provision of Chapter 19.3 (§§ 19.2-327.10 →19.2-327.14) of Title 19.2 of the Code of Virginia, I, TERRENCE JEROME RICHARDSON, hereby petition this Court for a Writ of Actual Innocence Based on Non-biological Evidence (the “Petition”).

In support of this Petition, I, TERRENCE RICHARDSON, state under oath that the following is true:

1. On March 8, 2000, I was convicted in the County of Sussex Circuit Court of involuntary manslaughter in violation of Va. Code Ann. § 18.2-36, a Class 5 felony, Case No. 98-314.¹
2. I am innocent of the crime to which I pled guilty - involuntary manslaughter amended from capital murder).
3. My claim of innocence is based upon the following evidence:
 - a. handwritten statement of an eyewitness, Miss Shannequia Gay (“Miss Gay”), who identified the perpetrator as man with dreads wearing a white t-shirt (I wore my hair in cornrows at the time);

¹ My co-defendant, Mr. Ferrone Claiborne, was convicted of accessory after the fact to involuntary manslaughter and has simultaneously filed a Petition for Writ of Actual Innocence Based on Non-biological Evidence (“Claiborne Petition”) and accordingly, the Claiborne Petition should be read simultaneously with my Petition.

- b. the photo array identification procedure conducted by state investigators with Miss Gay identifying a man named Leonard Newby as the “man with dreads”; and
 - c. 911 call to the Sussex County hotline identifying Leonard Newby as the perpetrator.
4. The evidence was previously unknown to either me or my attorney at the time the conviction became final in the Circuit Court, as further set forth in the affidavits of my counsel at the time, David E. Boone, and the Commonwealth’s Attorney, David Chappell.
5. This evidence became known or available to me on the following dates:
 - a. In November 2007, I became aware of the existence of the handwritten statement of Miss Shannequia Gay (“Gay Statement”);
 - b. In May 2020, I became aware of the photo identification procedure where Miss Gay identified Leonard Newby as the “man with dreads” (“Newby Photo Array”); and
 - c. In November 2020, I became aware of the 911 call identifying Leonard Newby as the perpetrator (“911 Tip”).
6. The circumstances under which the evidence was discovered are as follows:
 - a. I became aware of the existence of the Gay Statement in 2018 when my current counsel, Jarrett Adams, Esq. (“Mr. Adams”), conducted an investigation and discovered the document in five boxes of federal discovery that was sent to me and was kept in inmate storage. This file had been sent to me by my federal trial counsel, Mr. John B. Boatwright, III, before he passed away. I was not aware that the Gay Statement was never turned over until 2020.
 - b. As a result of an investigation of my counsel, Jarrett Adams, Esq. (“Mr.

Adams”), I became aware of Newby Photo Array in 2018; and

- c. Also as a result of an investigation by Mr. Adams, I became aware of the 911 Tip.

7. The evidence could not have been discovered or obtained by the exercise of diligence before the expiration of 21 days following entry of the final order of conviction.

8. The evidence upon which I based my claim is material and, when considered with all of the other evidence in the record, will prove that no rational trier of fact would have found me guilty or delinquent beyond a reasonable doubt of the charge(s) described above because had the evidence been available, my counsel would have never advised me to take a guilty plea.

9. In support of this Petition, I have attached the following documents:

A.	<i>Commonwealth v. Claiborne</i> , Sussex County Circuit Court, Case No. 98-313, <i>Commonwealth v. Richardson</i> , Sussex County Circuit Court, Case No. 98-314, October 15, 1998 State Court Preliminary Hearing Transcript (“Preliminary Hearing Tr.”)
B.	Letter from Jack Davis to David E. Boone, dated August 6, 1998 (“Davis Letter”)
C.	<i>Commonwealth v. Richardson</i> , Circuit Court of Sussex County, Case No. 98-314, December 8, 1999, Plea Transcript (“Richardson Plea Tr.”)
D.	<i>Commonwealth v. Richardson</i> , Circuit Court of Sussex County, Case No. 98-314, March 8, 2000 (“Sentencing Tr.”).
E.	Transcript of Verdict in <i>United States v. Richardson and Claiborne</i> , Crim. No. 3:00CR00383, dated June 13, 2001 (“Federal Verdict Tr.”)
F.	Transcript of Sentencing in <i>United States v. Richardson and Claiborne</i> , Crim. No. 3:00CR00383, dated September 27, 2001 (“Federal Sentencing Tr.”)
G.	Handwritten Statement of Shannequia Gay, April 25, 1998 (“Gay Statement”)
H.	Photo Line-Up Identification of Leonard Newby by Miss Gay, April 25, 1998 (“Newby Photo Array”)
I.	Message on State Police Answer Machine Identifying Leonard Newby, April 3, 1998 (“911 Tip”)
J.	Affidavit of David E. Boone, December 1, 2020 (“Boone Aff.”)
K.	Affidavit of David Chappell, December 16, 2020 (“Chappell Aff.”)

10. I understand that this Petition must contain all relevant allegations of facts that

are known to me at this time.

11. I understand that it must include all previous records, applications, petitions, and appeals and their dispositions related to this conviction, as well as a copy of any documents or evidence in support of the facts that I assert above.²

12. I understand that if this Petition is not complete, this Court may dismiss the Petition or return the Petition to me pending the completion of such form.

13. I understand that I am responsible for all statements contained in this Petition.

14. I understand that any knowingly or willfully made false statement shall be a ground for prosecution and conviction or perjury as provided for in Virginia Code § 18.2-434.

15. I am being represented attorneys on the filing of this Petition. My attorneys' names and addresses are:

Jarrett Adams, Esquire
The Law Offices of Jarrett Adams, PLLC
40 Fulton Street, Floor 23
New York, NY 10038
Telephone: (646) 880-9707
Facsimile: (646) 880-9707
Email: jadams@jarrettadamslaw.com
Counsel for Petitioner (Pro Hac Vice Pending)

Michael HuYoung, Esquire (VSB # 22095)
Barnes & Diehl, P.C.
6806 Paragon Place, Ste. 110
Richmond, VA 23230
Telephone: (804) 414-1602
Facsimile: (804) 762-9652
Email: mhuyoung@barnesfamilylaw.com
Local Counsel for Petitioner

WHEREFORE, I request that this Petition for a Writ of Actual Innocence Based on Nonbiological Evidence be granted.

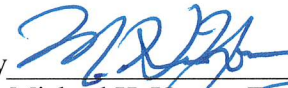
² As set forth more fully in the Brief in Support of the Petition for Writ of Actual Innocence Based on Nonbiological Evidence, I filed several petitions in federal court requesting relief following my conviction in *United States v. Richardson and Claiborne*, Crim. No. 3:00CR00383, which is related to my guilty plea in the Circuit Court of Sussex County, 98-313 only with respect to the fact that the federal case charged me with the same crime and as a result of my guilty plea in the state case, I was sentenced to life imprisonment based on enhanced sentencing in the federal case.

Respectfully Submitted,

Date

By  for Jarrett Adams, Esq.
Jarrett Adams, Esq., (NY LIC #5455712)
Pro Hac Vice Pending

Date

By 
Michael HuYoung, Esq., (VSB # 22095)
Local Counsel

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of April, 2021, I served by private process, a true copy of the foregoing Petition for a Writ of Actual Innocence Based on Nonbiological Evidence and attached Affidavit to Mark R. Herring, Attorney General of Virginia, Office of the Attorney General, 202 North Ninth Street, Richmond, Virginia 23219 and Vincent L. Robertson, Sr., Commonwealth's Attorney for Sussex County, 15080 Courthouse Road, Sussex, VA 23884.



Michael HuYoung, Esquire

VERIFICATION OATH OF TERRENCE JEROME RICHARDSON

I hereby swear or affirm that the foregoing is true and correct to the best of my knowledge, information and belief.

Terrence Richardson
TERRENCE JEROME RICHARDSON

Subscribed and sworn to before me

This 17th day of February, 2021

J. Thomas
Notary Public

My commission expires: 7/31/2024

