

FILED
SUPREME COURT
STATE OF WASHINGTON
5/12/2021 2:30 PM
BY SUSAN L. CARLSON
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Supreme Court No. 99757-8

No. 51156-4-I

In The Supreme Court of the State of Washington

State of Washington

respondent,

v.

Michael Smith

Petitioner.

Personal Restraint Petition

Petition For Review

Michael Smith
Pro Se

I, Michael Allen Smith, am requesting review of a Court of Appeals division II decision in the matter of the Personal Restraint Petition of Michael Allen Smith NO. 54156-4-II.

Did the Court of Appeals erroneously apply the one-year time bar test to this PRP when I clearly filed the PRP timely. This one-year time bar test shouldn't apply to me since I filed timely. The Court of Appeals cites *In re Pers. Restraint of Fero*, 190 Wn.2d 1, 15, 409 P.3d 214 (2018). Fero had filed untimely which differs from my timely filed PRP. The Court of Appeals states "Smith fails to demonstrate how or why his personal phone was unavailable before trial." I had no knowledge that Google Maps tracked my phone nor through due diligence could I have found this information. It wasn't until LaTanya and my residence was burglarized while my family was visiting me in prison, around September 2019, Deputy Baker provided LaTanya Mata with this knowledge when investigating the burglary. Since one of the items taken was my phone, Deputy Baker had LaTanya track the phone through Google Maps to locate the phone which resulted in a conviction of the burglar.

I have provided this exculpatory evidence from google location history from the night in question, November 17, 2017 in my PRP which clearly shows I was at home when H.K. claims she was attacked. This brings into question H.K.'s credibility. which this whole case is solely based on H.K.'s credibility.

RCW 7.36 (c) (3) "Material facts exist which have not been previously presented and heard, which in the interest of justice require vacation of the conviction, sentence, or other order entered in a criminal proceeding or civil proceeding instituted by the state or local government",

The Supreme Court has also recognized the actual innocence exemption in a challenge to a conviction. Weber, 175 Wn.2d at 256. The exculpatory evidence is "newly presented".

For the reasons discussed above, this Court should grant review and reverse the Court of Appeals

I raise for the first time in this petition for review Ineffective assistance of Counsel due to failure to investigate. State v. McCullum 98 Wn.2d 484 (1983) allowed constitutional grounds to be raised for the first time in McCullum's petition for review.

Aaron Ritchie Counsel for Michael Allen Smith failed to investigate H.K.'s allegation properly by failing to uncover GPS records which is relevant exculpatory evidence. State v. Estes 188 Wn.2d 450 February 14 (2017). Aaron Ritchie's performance was deficient by failing to present relevant exculpatory evidence. If a proper investigation was performed the crucial GPS information would have been discovered and presented during trial that proves I was at home when H.K. claims to be attacked.

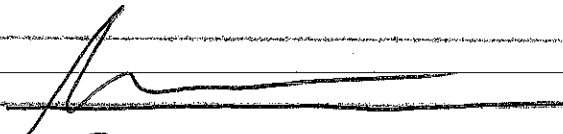
In the interest of Justice these matters raised in this petition for review must be addressed and the evidence discovered since trial, presented in my PRP, needs to be reviewed Justice demands this.

I Michael Allen Smith respectfully
submit this petition for review and ask
this court to grant review and reverse the
Court of Appeals

Dated this 12 day of May, 2021

Respectfully Submitted

Michael Allen Smith



Pro Se

INMATE

May 12, 2021 - 2:30 PM

Transmittal Information

Filed with Court: Supreme Court
Appellate Court Case Number: 54156-4
Appellate Court Case Title: Personal Restraint Petition of: Michael A. Smith
Superior Court Case Number: 18-1-01656-8

DOC filing of Smith Inmate DOC Number 414998

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The DOC Facility Name is Coyote Ridge Corrections Center.

The Inmate The Inmate/Filer's Last Name is Smith.

The Inmate DOC Number is 414998.

The CaseNumber is 541564.

The Comment is 1of1.

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