24-6313

No.: _____

ORIGINAL

IN THE SUPREME COURT
OF THE UNITED STATES

Eric St. George,
PETITIONER

v.

Jason Lengerich, et al.,
RESPONDENTS.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE TENTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

Eric St. George, pro-se
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PO Box 999
Canon City, CO 81215-0999

QUESTION PRESENTED:

Does the admission of evidence that a criminal defendant possesses guns, weapons that are totally unrelated to the criminal allegation against him, not render his trial fundamentally unfair in violation of the Fourteenth Amendment notwithstanding the 'prior crimes' / 'propensity evidence' footnote in Estelle v. McGuire, 502 US @ 75, n.5?

Does the clearly established law in Dowling v. United States, 493 US 342, 352 (1990) against the introduction of evidence that fails the Due Process test of 'fundamental fairness' — evidence that violates 'fundamental conceptions of justice' — apply to weapons that are possessed by the defendant but "unrelated to [his] case?"

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows: Jason Lengerich (Warden of BVCF), and Philip Weiser (Atty. Gen. of Colo.) Respondents. Eric St. George Petitioner.

RELATED CASES

People of the State of Colorado v. Eric St. George, No. 16CR2509, Jefferson County District Court, Judgment entered 9 FEB 2018.

People of the State of Colorado v. Eric St. George, No. 18CA962, Colorado Court of Appeals, Judgment Affirmed 16 DEC 2021, Mandate issued 18 MAR 2022.

St. George v. Roark, No. 21-cv-868-LTB-GPG, District of Colorado Judgment Entered 4 AUG 2021

St. George v. Lengerich, et al., No. 22-cv-2312-WJM, District of Colorado, Judgment entered 11 AUG 2023

St. George v. Lengerich, et al., No. 23-1280, Tenth Circuit Court of Appeals, 2 JUL 2024

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[X] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is reported at Eric St. George v. BVCF, 2024 U.S.App.LEXIS 16066

The opinion of the United States district court appears at Appendix B to the petition and is not reported.

JURISDICTION

[X] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was 2 July 2024.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 26 August 2024, and a copy of the order denying rehearing appears at Appendix D.

The jurisdiction of this Court is invoked under 28 USC §1254(1)

INTRODUCTION

Possession of firearms is protected by the Second Amendment to the Constitution. More Americans make the decision every day to possess weapons, for any number of reasons, — hunting, sporting, self-defense. Our nation has more guns than citizens. Crime is on the rise, and more people will make the choice to possess guns as protection.

We live in an era of politicization of the criminal justice system, of weaponization of the Courts. Throughout the media, every American has been exposed to instances of the trial courts being used to target individuals with criminal charges, and convictions. The tactic of choice is to destroy the impartiality of the jury. This is because a jury is the safeguard against government over-reach; it is the hurdle. Our system is rendered worthless when a jury is biased by evidence that is fundamentally unfair. When a trial is weaponized, action is necessary, the unconstitutional conviction must be overturned.

Weapons are a subject that is emotionally charged and highly political. Americans have deep, viceral feelings about weapons, especially Arms. The most provocative form of gun must be the "Assault Rifle," the tool of choice for soldiers and law enforcement, also for school shooters and assasins alike. Naturally, members of the public are apt to make associations between these type of guns and those that keep and bear them. If pre-judgment is permitted to enter the courtroom, the Second Amendment is effectively eroded. Who would reasonably possess guns if that mere possession could be

later used in an unrelated matter to show guilt by association?

Policing in America is a highly contentious issue. The people alternately depend upon police and fear them. The motto of police is "to serve and protect," and police use force against citizens in effecting those goals. When everything goes right, police are lauded heroes. When it goes wrong, the risk to reputation regularly outweighs all else. A citizen may find himself a victim of excessive force and also charged with crimes intended to create a narrative that is publically acceptable. Police are the tip of the spear in every local judiciary, and proudly supported by the system. The singular citizen is overwhelmed by the sheer force of the machine confronting him. The intended purpose of the courtroom is to level the field, to ensure equality before the law. Without diligent oversight, the courtroom fails.

The matter presented here is one that demands the attention of the Supreme Court. The justices must settle the question whether the use of evidence of possession of guns that are unrelated to a criminal charge to prove the defendant's guilt violates clearly established law by rendering a trial fundamentally unfair.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FOURTEENTH AMENDMENT "...nor shall any State deprive any person of life, liberty, or property, without due process of law..."

SIXTH AMENDMENT "...the accused shall enjoy the right to a speedy and public trial, by an impartial jury..."

SECOND AMENDMENT "...the right of the people to keep and bear Arms, shall not be infringed."

STATEMENT OF THE CASE

This case centers on a police shooting incident that occurred on 31 July 2016 — the Petitioner's 39th birthday. The Lakewood Police responded to a 911 call placed to them by a woman who claimed that while "escorting," a conflict arose wherein she left and the man followed her outside, fired a gun into the air, and a second gunshot aimed at her. This was 9:45PM. Police were on scene before 10:15PM. Never once do police knock-and-announce at the front door. The police vehicles are hidden down the street and around the corner, out of sight. The police approach by stealth and surround the house. An illicit warrantless search is conducted through the windows in the back yard. Two-and-a-half hours after the escort had left, Mr. St. George's cell phone rings, voicemail answers. It is 12:17AM. A second, the caller claims to be a police officer and asks Mr. St. George to come outside. The Caller-ID reads: "blocked." He looks out the front door, sees no sign of police: no cars, red and blue lights, officers. There is no sound. A third, voicemail. A fourth, again the Caller-ID is "blocked" and the caller claims to be police. He says his "friends" are in the backyard, watching through the windows. Mr. St. George steps out onto the back patio, unarmed. One minute twenty-two seconds elapsed. No shouts or calls, no signs of police, or anyone. He steps back inside. A fifth call, voicemail. A sixth call, again Caller-ID blocked, again the caller claims to be police. "Come outside with nothing in your hands." "I have something in my hands." Mr. St. George is reported to be "upset," "unsettled," and "paranoid;" he did not believe he was speaking with police.

Mr. St. George steps out onto his back patio, this time armed

with a shotgun. No shouts or calls, no warnings, no visible signs of police. The LPD were there, hiding, lying in wait, with a plan to "grab" Mr. St. George — a plan that changed to shooting Mr. St. George after he'd armed himself. Nearly six minutes elapse with no additional phone calls, only silence. Mr. St. George began to walk the perimeter of his home, where he encounters LPD Devon Trimmer crouched and hiding behind a pickup truck, her gun drawn. She opened fire without a word, wounding Mr. St. George. Mr. St. George returned fire. (Ms. Trimmer will claim that Mr. St. George fired first, a claim that was controverted by forensic testimony that demonstrated that Mr. St. George was bleeding when he fired.) Mr. St. George fled, additional gunfire was exchanged. While fleeing, LPD's Jason Maines aimed a weapon at Mr. St. George; he never made a shout, call or warning. It drew fire from Mr. St. George. Once inside his home, Mr. St. George called 911, reporting the shootout and hailing an ambulance to address his wounds. Sixteen minutes later, he crawls hands-and-knees toward his front door. He discharges a pistol four times as warning against further attack, he's unaware so much time had passed. He opens his front door, falls outside into the breezeway, and surrenders to police that are in plain sight and shout orders to "drop the weapon." It was 1AM.

At trial the prosecution focused on Mr. St. George's character, the second paragraph of the Opening Statement was "You've already met the defendant, Eric St. George. On this night he was very different. He was not calm and soft-spoken. He was drinking, he was threatening, and he was violent." In their Closing the State

called Mr. St. George argumentative and evasive. Mr. St. George presented his Self-Defense, and in the second paragraph of his Opening Statement, he said:

> "I did use deadly force in defense against two people. This is absolutely true. I did use non-deadly force in defense of myself against a third. This, too, is absolutely true. I am not denying my use of force. The evidence will show that my use of force was authorized. It was completely legal. It was reasonable, and it was justified: albeit, incredibly unfortunate. A man's right to act in self-defense is a natural, essential, and inalienable right protected by the constitution of this state."

The only matter that was left to the jury to determine was whether Mr. St. George acted in self-defense, or did he not. Every other element of the charges foisted upon him was conceded.

On direct appeal and on Habeas Corpus, Mr. St. George presented four issues: (1) He was too intoxicated to waive Miranda when he was interrogated, (2) He was denied conflict-free counsel which required him to proceed pro-se, (3) evidence that a pair of AR-15s, a .308 Springfield rifle, and a Glock pistol were found in Mr. St. George's home was presented — these guns were "unrelated to the case;" and thus irrelevant, (4) The prosecution inflamed the jury's passions by drawing their attentions to the black memorial bands worn by police officers in memoriam of three fallen officers shot in the month preceding trial and asked the jury to imagine LPD's Trimmer and Maines dead just like those slain officers in the media.

This Petition concerns itself with the gun evidence. Lakewood Police searched Mr. St. George's home following the ambush and shoot-out. They found guns that were not fired. In addition to the guns fired — a Mossberg A500 shotgun, a Ruger LCP .380, and a Taurus

Curve .380 — Mr. St. George also owned a Smith & Wesson 9mm, a Beretta .22, a Ruger 10-22 .22 rifle, and a .22 caliber revolver. Found separate from any of Mr. St. George's guns, inside hard plastic gun cases and closed into a zippered storage bag, buried at the back of his master bedroom closet, were two AR-15 rifles, a Springfield .308 rifle, and a Glock 9mm. The AR-15s, the .308, and the Glock were owned by Troy Loftus, Mr. St. George's close friend. They were stored securely for Mr. Loftus because he was living in an RV at the time with his wife, and they felt the RV park was not sufficiently secure to store the weapons. These "Loftus Guns" were returned to Mr. Loftus in 2017 by the State, months ahead of the 2018 trial. The State confessed the Loftus Guns were "unrelated to the case." In trial, Mr. St. George objected to the admittance into evidence the Loftus Guns evidence. He did not object to the admittance of any of his own weapons, those he fired or those he did not fire on the night of the LPD ambush. The Court overruled the objection and allowed the evidence, warning: "...no argument that this person is a Second Amendment devotee and, as such, is guilty because he has guns." The State's first words in summation:

> "Two Lakewood police officers gunned down in the line of duty. How close were we to that headline on the morning of August 1st? All because of the defendant's unreasonable and dangerous decisions that he made that night. Decisions that came out of his need to control people, control things, his frustration when he could not. His access to too much alcohol and too many guns."

The jury had inferred the State's implications of the Loftus Guns evidence; Mr. St. George was to be believed a dangerous man and a gun criminal, and that the Loftus Guns were Mr. St. George's

guns in reality. The jury asked, "Have you ever had any prior firearm-related charges brought against you?" "Do you routinely hold or store firearms for friends, if so, why?" Mr. St. George was not permitted to answer the jury's questions. The answers were "no." Mr. St. George had no criminal history, but for traffic. He did not regularly store others' weapons. The terms "Assault Rifle" and "Sniper Rifle" were applied to the AR-15s and .308 Springfield, respectively. These terms were repeated throughout trial and then profusely in closing and rebuttal. The Loftus Guns evidence rendered the trial fundamentally unfair.

The Colorado Court of Appeals affirmed the conviction. They called the Loftus Guns part of Mr. St. George's "collection." They found that the guns, stored at the back of Mr. St. George's master bedroom closet, were probative of intent. The CCA denied the prejudicial effect that "assault rifles" and "sniper rifle" had biased the jury, a jury which lived in the same metropolitan community as the Columbine School Shooting and the Aurora Theater Massacre. The CCA ignored the CRE 404(b) consideration, and found the guns properly admitted as res gestae, despite the contemporary abolition of res gestae as a theory of evidence under state law. (See Rojas, 2022 COA 8)

Mr. St. George argued to the District of Colorado on Habeas Corpus that the Loftus Guns were irrelevant (they were "unrelated to the case"), they were character evidence that implied: a propensity to commit gun crimes (to "assault" and to "snipe," as assault rifles and sniper rifles are used to do), and that Mr. St.

George was a Second Amendment "gun nut." The State argued that Mr. St. George was guilty because he had "access to... too many guns," directly flouting the warning of the trial court. This resulted in a trial that was fundamentally unfair. Mr. St. George cited to the correct authorities, eg. Donnelly v. DeChristoforo, 416 US 637, 643 (1974); Dowling v. United States, 493 US 342, 352 (1990); and Le v. Mullin, 311 F.3d 1002, 1013 (10th Cir 2022). Mr. St. George had properly noted that there were no permissible inferences that could be drawn from the Loftus Guns evidence, and that no overwhelming evidence of guilt existed to overcome his self-defense theory.

The District of Colorado denied Mr. St. George his Writ of Habeas Corpus, and denied him a Certificate of Appealability (COA). The Order uses Dowling to consider the Loftus Guns evidence for fundamental fairness. The District Court found that no clearly established federal law prohibits admission of unrelated guns as evidence. It further found that the unrelated Loftus Guns were not unreasonable under the due-process test of fundamental fairness. That court agreed with the Colorado courts below that the theory that Mr. St. George selected his shotgun amid Mr. Loftus' AR-15 "Assault Rifles" or .308 Springfield "Sniper Rifle" buried at the back of his bedroom closet was plausible and relevant. Mr. St. George appealed.

The Tenth Circuit Court of Appeals denied a COA to Mr. St. George and dismissed him. Mr. St. George argued that the District Court had been objectively unreasonable in failing to find that the admission of the Loftus Guns evidence had infected his case with

fundamental unfairness. He once again demonstrated that Colorado state law never allowed the guns to be admitted into evidence: not as 404(b) evidence nor under a res gestae theory. The State's evidence law does not give rise to a habeas corpus claim, and Mr. St. George never argued that it did. He used the State evidence law matter as additional support that the trial had been rendered fundamentally unfair. Mr. St. George cited authorities Estelle v. McGuire 502 US 62, 67 (1991); Irwin v. Dowd, 366 US 717, 722 (1961); Dowling, 493 US @ 345-6; and the Tenth Circuit Le v. Mullin, 311 F.3d 1002, 1013 (10th Cir 2002). [cert. denied. 540 US 833 (2003)] The Le v. Mullin case cites Donnelly, and is a post-AEDPA case. The Tenth Circuit's denial focuses on Estelle. The Tenth's focus failed to consider that the clearly established law in Estelle flows from the fundamental fairness laws that preceded, eg. Dowling, Donnelly, and the like.

The Tenth Circuit never considered whether the admittance of the Loftus Guns into evidence against Mr. St. George rendered his trial to be fundamentally unfair — they only stated that the admission of the guns was not clearly established by Estelle that the guns rendered the trial fundamentally unfair. They wrote that they cannot "extract clearly established law from the general legal principles developed in factually distinct contexts," and cite Holland v. Allbaugh, 824 F.3d 1222, 1229 (10th Cir 2016).

Mr. St. George sought rehearing en banc. In his petition for rehearing, Mr. St. George argued that Estelle stands for the proposition that use of irrelevant evidence that implies to a jury the

forbidden inference of propensity is a due process violation that is reversible clearly established law which authorizes grant of the Writ where: (1) no permissible inferences exist for the jury to have drawn from the challeged evidence, (2) the evidence so infected the trial with fundamental unfairness as to render the conviction a violation of due process, and (3) there is no overwhelming proof of guilt present in the properly admitted evidence. Mr. St. George asked the Tenth Circuit to rehear his case en banc to compare his case to that of McKinney v. Rees, 993 F.2d 1378 (9th Cir 1993). Mr. St. George argued that McKinney very specifically had considered the use of irrelevant and unrelated weapons entered into evidence against a defendant in light of Estelle. The Ninth found the weapons to be in the narrow category of infractions that violate fundamental fairness. McKinney was decided following a remand from this Court, and this Court declined to grant certiorari to review.

The Tenth Circuit declined to rehear Mr. St. George's case en banc on 26 August 2024. Mr. St. George petitions this Court to review the decision to deny him a COA.

REASONS FOR GRANTING THE PETITION

The Tenth Circuit decision in Mr. St. George's case conflicts with Dowling, and by extension Estelle and McKinney.

Mr. St. George did not receive a fair trial. Had he received a fair trial, the jury would have acquitted him on all charges, not only on those in which they did so, reaching the compromise verdict that was made.

The Second Amendment guarantees the right to keep and to bear arms. District of Columbia v. Heller, 554 US 570 (2008). Possession of guns is a fundamental right and protected legal conduct. If the prosecutors are permitted to use the possession of weapons that are "unrelated to the case" as evidence of character, suggestive of a propensity to commit crimes; if a prosecutor can tell a jury to convict on the basis that a defendant has "access to... too many guns," then the Second Amendment has been eroded. What citizen would reasonably have weapons in his possession if that possession could be used against him as evidence implying he has a criminal character or a propensity to commit crimes? Possession of some types of weapons is highly emotionally charged, and known to inflame the passions of juries.

In Dowling v. US, 493 US 342, 352 (1990), the Court stated that "the category of [evidence] infractions that violate 'fundamental fairness' is a very narrow one." In Estelle, this Court noted the same, and determined that the admission of "battered child syndrome" was not in that category because it was relevant to show intent. The case had involved a father on trial for the death of his daughter. He had been convicted. The Ninth Circuit had granted him

habeas corpus relief citing that the battered child syndrome evidence had been improperly admitted. This Court granted certiorari, reversed and remanded. In addition to finding the challenged evidence probative of intent, this Court also wrote in a footnote: "Because we need not reach the issue, we express no opinion on whether a state law would violate the Due Process Clause if it permitted the use of 'prior crimes' evidence to show propensity to commit a charged crime." Estelle v. McGuire, 502 US 62, 75 n.5 (1991).

In the case of Michael McKinney, he was charged with the murder of his mother. In his trial, the court permitted the prosecution to present evidence that McKinney possessed a knife collection, and that he wore camouflage pants and had made a carving of "Death is His" in a door. None of the knives were the murder weapon. The knife collection was completely unrelated to the case. The prosecution argued the knives were presented to show opportunity. The knife collection evidence ran for many pages in the trial record and was presented twice in closing as particularly important "crucial" evidence. McKinney was convicted. The Ninth Circuit made a conditional grant of habeas corpus. This Court vacated the writ and remanded with instructions to consider the case "in light of Estelle v. McGuire." The Ninth once again affirmed the grant of the writ. McKinney v. Rees, 993 F.2d 1378, 1379 (9th Cir 1993)

The Ninth Circuit found that the knife collection evidence drew no permissible inferences from the jury. Instead "it served only to prey on the emotions of the jury, to lead them to mistrust McKinney, and to believe more easily that he was the type of son who would kill

his mother in her sleep without much apparent motive." They found that the state had lacked a "weighty" case against McKinney — the evidence against McKinney was not overwhelming as to guilt. The knife collection evidence was not relevant, it was not probative of any element of the charged crime of murder. The knife collection evidence was highly emotionally charged, it "painted a picture of a young man with a fascination with knives and with a commando life-style." The knife collection evidence tainted the trial "such that it is more than reasonably likely that the jury did not follow its instruction to weigh all the evidence carefully, but instead... convicted McKinney on the basis of his suspicious character..."

The Ninth Circuit noted that "drawing propensity inferences from 'other acts' evidence of character is impermissible under an historically grounded rule of Anglo-American jurisprudence." They relied on the clearly established law in Dowling to answer the question left open in Estelle, "When does the use of character evidence to show propensity constitute a violation of the Due Process Clause?" When there is a violation of a "fundamental conception of justice" and the "community's sense of fair play and decency." Presenting irrelevant evidence of possession of weapons to imply a bad character and propensity to commit a crime fits the narrow category of infractions that violate fundamental fairness.

In Mr. St. George's case, the only element of the crimes charged against him left to the jury was that of self-defense. This made any evidence against his character, or implication that he has a propensity for violence, or any evidence that would have inflamed the

jury's passions against him even more prejudicial. Indeed, the CCA made much ado about the fact that the jury had acquitted Mr. St. George on the attempted murder charge against the "escort" Emily Elliott, and on the first degree attempted murder charges against the Lakewood police that had ambushed him. The CCA stated that the jury had carefully weighed the evidence and had not been biased. In reality, the jury was overwhelmed by the outsized evidence that Ms. Elliott had been untruthful and her story was incredible. Owing to the confessions by the LPD that they never once knocked-and-announced, nor provided any warning before firing, and had hidden their vehicles and themselves; the guilty verdicts related to them can only be artifacts of prejudice caused by the Loftus Guns evidence in concert with sympathy for police created by black memorial bands and prosecutorial misconduct in closing.

The Loftus Guns evidence testimony was combined amid guns owned by Mr. St. George, confusing the matter. The evidence spans over pages and pages of the record. No limiting instructions were given by the Court. The jury made the inferences intentionally implied by the prosecution: (1) Mr. St. George is a dangerous man who is a gun criminal, and (2) he was the actual owner of the "assault rifles" and "sniper rifle," and the belonging-to-his-friend story a lie. The jury asked, "Have you ever had any prior firearm-related charges brought against you?" and "Do you routinely hold or store firearms for friends, if so, why?" The answer to both questions was "No." Mr. St. George was not permitted to answer. Mr. St. George has never owned assault rifles or sniper rifles.

The closing argument asked the jury to convict Mr. St. George because he had "access to... too many guns." The summation included repeated references to "assault" rifles and "sniper" rifles. Zero testimony had been presented to show that any deliberation over the Loftus Guns had occurred, they had been found in closed hard-sided gun cases, zippered into storage bags, and buried at the back of the master closet behind luggage. Zero testimony had been presented to show that any weapon was "more deadly" or otherwise better suited to any particular use. Such a line of questioning by the State if it had been pursued would have supported the defense theory of self-defense. A close quarters fight is indicative of self-defense, rifles are designed for long-range fire.

The Loftus Guns were not inextricably intertwined with the charges against Mr. St. George. They were "unrelated to the case" in the words of the prosecutor that later chose to introduce them into evidence. The only inference that the jury could have drawn, which we know that they did draw because of the questions that they asked, is that Mr. St. George is a man with a propensity and character of one who "assaults" and "snipes," and likely has had gun charges brought against him in the past. The prejudice caused by the Loftus Guns was not harmless, "Rightly or wrongly, many people view weapons especially guns, with fear and distrust." US v. Hitt, 981 F.2d 422, 424 (9th Cir 1992)

The introduction of the Loftus Guns evidence was more toxic in Mr. St. George's case owing to the introduction of the black memorial band testimony, and the repeated references to the memorial

bands in the first paragraph of the State's closing argument and the last words in the rebuttal closing before the Court gave the case to the jury. Throughout trial, police officers on the stand and in the gallery wore black memorial bands over their badges in memoriam of police officers shot in the line of duty. In the month preceding trial, sheriff's deputies Zackari Parrish, Heath Gumm, and Micah Flick were shot 31 DEC 2017, 24 JAN 2018, and 5 FEB 2018 respectively. Mr. St. George's trial was held 1 FEB 2018 through 9 FEB 2018. The killings occurred in the greater Denver Metro community and were highly publicized on TV, radio, print news, and on the internet. Deputy Parrish was ambushed and hit 11 times out of more than 300 shots fired from an AR-15 style rifle. The killings in the media and the black memorial bands worn by police were completely irrelevant to Mr. St. George's trial. Had the reference remained confined to Officer Brennan's uniform testimony, it might have been a harmless error. The repeated references in summation told the jury to seek retribution against Mr. St. George for the killings. Combined with the Loftus Guns evidence, the trial was rendered so completely and fundamentally unfair that it is shocking to believe that the CCA, District of Colorado, and the Tenth Circuit courts have refused to grant relief.

The Tenth Circuit was objectively unreasonable in its application of Estelle to Mr. St. George's case. The Estelle footnote declined to create a bright-line rule regarding all 'prior crime' evidence permitted to show propensity. Mr. St. George's conduct was not a "prior crime" but rather it was conduct protected by the

Second Amendment. The admittance of the Loftus Guns evidence fits into the narrow category of infractions that violates fundamental fairness. Nothing post-AEDPA challenges the clear establishment of law in Dowling.

CONCLUSION

Mr. St. George's trial was rendered fundamentally unfair. The law is clearly established via Dowling, which was cited in Estelle. McKinney v. Rees was reconsidered in light of Estelle, and the Writ granted. Dowling continues to be clearly established law post-AEDPA. The Loftus Guns evidence was probative of no element of the crimes charged against Mr. St. George. No permissible inferences could have been drawn by the jury. The State's case against Mr. St. George was threadbare and weak. There was no overwhelming evidence of guilt. Zero evidence was presented to rebut that he had acted in self-defense. He'd been ambushed in his own home by unknowns; inadequately identified Lakewood Police officers, without any announcement of presence and without any warning. This occurred in a context of the earlier robbery of money by the "escort" and legitimate fear of a home invasion. Mr. St. George's habeas corpus petition presented evidence that fit the narrow category of infractions that violate fundamental fairness. Legal possession of firearms is conduct protected by the Second Amendment. Use of weapons possession to inflame fear and passion in a jury erodes Second Amendment rights. The Loftus Guns evidence offended an historically grounded rule of Anglo-American jurisprudence.

This petition for Writ of Certiorari should be granted.