

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

LESTER B. LYNCH v. BETH CABELL, WARDEN, SUSSEX II STATE PRISON
(Record Number 190048)

From

Circuit Court for the City of Norfolk; J. Migliozi, Judge.

Counsel

Edward A. Fiorella, Jr. (Fram and Fiorella, P.C.) for appellant.

Rosemary V. Bourne (Office of the Attorney General) for appellee.

Assignments of Error

1. The trial court erred in failing to consider the Petitioner's initial Post-Trial Brief in its ruling.
2. The trial court erred in considering only Attorney Anderson's hearing testimony in denying Petitioner's Writ of Habeas Corpus.
3. The trial court erred in holding that the Petitioner did not meet his burden of proving that the Commonwealth suppressed the statements at issue.
4. The trial court erred in interpreting *Strickler v. Greene*, 527 U.S. 263, 119 S. Ct. 1936 (1999) to require a Petitioner for Writ of Habeas Corpus to carry the burden to prove that the evidence was suppressed.

Assignment of Cross-Error

I. While the circuit court correctly decided that Lynch failed to demonstrate that exculpatory evidence was not disclosed, the circuit court erred in finding that Lynch was prejudiced and had satisfied the third element of a *Brady* violation.