

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C. 20543

Antoine D. DeGrate — PETITIONER
(Your Name)

LORIL DAVIS, DIRECTOR VS.

~~XXXXXXXXXXXXXXXXXXXX~~ — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the ^{5th} ~~XXXXXX~~ Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Antoine D. DeGrate
(Your Name)

Stiles Unit- 1913105
(Address)

3060 F.M. 3514, Beaumont, TX 77708
(City, State, Zip Code)

(409) 722-5255
(Phone Number)

QUESTION(S) PRESENTED

- ② WHETHER THE TRIAL COURT ABUSED ITS DISCRETION.
- ③ WHETHER ITS FACT FINDINGS ARE CLEARLY ERRONEOUS.
- ④ WHETHER IT ERRED IN FORMULATING OR APPLYING A LEGAL PRECEPT, IN WHICH CASE REVIEW IS PLENARY.
- ⑤ WHETHER ON APPEAL OR PETITION FOR REVIEW OF AN AGENCY ACTION, THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD AS A WHOLE TO SUPPORT THE ORDER OR DECISION OF THE COURT.
- ⑥ WHETHER THE AGENCY'S ACTION, FINDINGS AND CONCLUSIONS SHOULD BE HELD UNLAWFUL AND SET ASIDE FOR THE REASONS SET FORTH IN 5 U.S.C § 706 (2).
- ⑦ WHETHER THE "JUDICIAL DYNAMICS OF THE PREJUDICATIVE THOUGHT PROCESS" VIOLATED (THE UNIVERSAL DECLARATION OF HUMAN RIGHTS - ARTICLE 7), IN REGARDS TO INTEGRITY AND ETHICS.

THE PRIMARY ISSUE IS TO REVERSE THE DECISION OF THE LOWER COURTS AND TO REMAND THIS CASE BACK TO THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS. THE "VIDEO-SURVEILLANCE" TAPE WILL ASSIST THE TRIAL COURT IN EXONERATING AND ACQUITTING ME OF ALL CHARGES.

LIST OF PARTIES

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

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	4
STATEMENT OF THE CASE	5
REASONS FOR GRANTING THE WRIT	15
CONCLUSION.....	19

INDEX TO APPENDICES

APPENDIX A	- UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS; 6:14 CV-00216. 1/4/2017. DENIED.
APPENDIX B	- UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT <u>CAUSE # 17-50227</u> . 11/16/2017. DENIED COA.
APPENDIX C	- UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT <u>CAUSE # 17-50227</u> - MOTION FOR RECONSIDERATION WITH SUGGESTION REHEARING EN BANC. 12/15/2017. DENIED
APPENDIX D	
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>STRICKLAND</u> , 446 U.S. at 693	(17)
<u>HILL</u> , 474 U.S. at 59	(18)
<u>ARMSTEAD</u> , 37 F.3d at 204	(18)
<u>WILKERSON V. COLLINS</u> , 950 F.2d 1054, 1065 (5th Cir. 1992)	(18)
<u>ARMSTEAD V. SCOTT</u> , 37 F.3d 202, 204 (5th Cir. 1994)	(18)
<u>THOMPSON [V. CITY OF STARKVILLE]</u> , 901 F.2d 456 (5th Cir. 1990).	(16)

STATUTES AND RULES

FED. R. APP. (a)(8)	(17)
FED. R. APP. (a)(9)(A)	(17)
5 U.S.C. § 706(2)	(16)
SIXTH ADMENDMENT OF THE CONSTITUTION OF THE UNITED STATES	
FOURTEENTH ADMENDMENT OF THE CONSTITUTION OF THE UNITED STATES	
FED. R. APP. 28 (a)(9)(B)	(16)
FED. R. APP. 28 (a)(8)	(16)

OTHER

(UNIVERSAL DECLARATION OF HUMAN RIGHTS) - <u>ARTICLE 7</u>	(12), (16)
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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

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B to the petition and is

☒ reported at United States Court of Appeals (5th Cir.); or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

☒ reported at United States District Court for Western Dist. of Texas; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix N/A to the petition and is

☐ reported at N/A; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the N/A court appears at Appendix N/A to the petition and is

☐ reported at N/A; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

1.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was ~~NOVEMBER 14, 2017~~ NOVEMBER 14, 2017

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: ~~NOVEMBER 14, 2017~~, and a copy of the order denying rehearing appears at Appendix C. (*no mandate has received*)

~~NOVEMBER 14, 2017~~ An extension of time to file the petition for a writ of certiorari was granted to and including ~~NOVEMBER 14, 2017~~ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was ~~NOVEMBER 14, 2017~~ JANUARY 4, 2017
A copy of that decision appears at Appendix A.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

§ STATEMENT OF SUBJECT MATTER § AND SUPREME COURT JURISDICTION

I. JURISDICTION AND VENUE

THIS IS A CIVIL ACTION AUTHORIZED BY 28 U.S.C. 2254.
THE JUDGMENT ISSUED AS THE MANDATE IS DATED 11/16/2017.
(RULE 10. CONSIDERATIONS GOVERNING REVIEW ON CERTIORARI).

REVIEW ON A WRIT OF CERTIORARI IS NOT A MATTER OF RIGHT, BUT OF JUDICIAL DISCRETION. A PETITION FOR A WRIT OF CERTIORARI WILL BE GRANTED ONLY FOR COMPELLING REASONS. THE FOLLOWING, ALTHOUGH NEITHER CONTROLLING NOR FULLY MEASURING THE COURT'S DISCRETION, INDICATE THE CHARACTER OF THE COURT CONSIDERS:

(a) A UNITED STATES COURT OF APPEALS HAS ENTERED A DECISION IN CONFLICT WITH THE DECISION OF ANOTHER UNITED STATES COURT OF APPEALS ON THE SAME IMPORTANT MATTER; HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH A DECISION BY A STATE COURT OF LAST RESORT; OR "HAS SO FAR DEPARTED FROM THE ACCEPTED AND UNUSUAL COURSE OF JUDICIAL PROCEEDINGS," OR SANCTIONED SUCH A DEPARTURE BY A LOWER COURT, AS TO CALL FOR AN EXERCISE OF A, OR THIS COURT'S SUPERVISORY POWER;

(b) A STATE COURT OF LAST RESORT HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH THE DECISION OF ANOTHER STATE COURT OF LAST RESORT OR OF A UNITED STATES COURT OF APPEALS;

A PETITION FOR A WRIT OF CERTIORARI IS RARELY GRANTED WHEN THE ALLEGED ERROR CONSISTS OF ERRONEOUS FACTUAL FINDINGS OR THE MISAPPLICATION OF A PROPERLY STATED RULE OF LAW.

II. PRAYER FOR RELIEF

WHEREFORE, PETITIONER RESPECTFULLY PRAY THAT THE COURT GRANT THE WRIT OF CERTIORARI. PETITIONER IS ENTITLED TO RELIEF. EX PARTE HUERTA, 692 S.W. 2d 651 (TEX. CRIM. APP. 1985) EX PARTE RICH, 194 S.W. 3d. 508, 515, (TEX. CRIM. APP. 2006).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

ATTACHED ARE THE
CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED BELOW:

① THE CONSTITUTION OF THE UNITED STATES ADMENDMENT 14.

②. THE CONSTITUTION OF THE UNITED STATES ADMENDMENT 16.

③. THE CONSTITUTION OF THE UNITED STATES : THIS GENERAL ASSEMBLY PROCLAIMS, (UNIVERSAL DECLARATION OF Human RIGHTS - ARTICLE 7.)

STATEMENT OF THE CASE

ATTACHED: ARE THE ^vBACKGROUND AND
STATEMENT OF THE CASE."

§ BACKGROUND AND STATEMENT OF THE CASE §

ON FEBRUARY 6, 2013, I ANTOINE D. DEGRATE, (#1913105), PETITIONER, WAS ACCUSED OF INDECENCY WITH A CHILD, AGGRAVATED SEXUAL ASSAULT, AND EVADING ARREST. THESE CHARGES WERE UPGRADED WHEN I WAS INDICTED ON SEPTEMBER 11, 2013 TO ATTEMPTED AGGRAVATED SEXUAL ASSAULT OF A CHILD, INDECENCY OF A CHILD, AND FAILURE TO REGISTER AS A SEX OFFENDER. (HABITUAL).

I WILL NOW REQUEST THAT THE SUPREME COURT PANEL OF JUDGES OFFER ME THEIR FULL ATTENTION, AND A OPEN FAIR MIND AS I PRESENT TO YOU "ADDITIONAL INFORMATION" TO THE CONTENTS OF THIS CASE, AS FAR AS, ALLEGATIONS, AND PROCEDURAL MISCONDUCT, WHICH FORCED ME TO PLEAD GUILTY TO 45 YEARS AND 15 YEARS CONCURRENTLY. (HABITUAL).

§ ALLEGATIONS — NATURE OF CASE — (ADDITIONAL INFORMATION) (BACKGROUND HISTORY)

IN 2003, ON NOVEMBER 22nd, I WAS ACCUSED OF AGGRAVATED SEXUAL ASSAULT OF A CHILD, AND INDECENCY OF A CHILD, 15 YEARS OLD, NAMED DANIELLE JOHNSON. I PLEAD GUILTY TO THIS CHARGE AND RECIEVED 9 YEARS CONCURRENTLY. (ADDITIONAL INFORMATION). I WAS LED TO BELIEVE THAT THIS CHILD OF 15 YEARS OLD, WAS 18 YEARS OR OLDER BECAUSE OF THESE FACTS: SHE WORE A ELECTRONIC LEG MONITOR DEVICE ONLY ISSUED TO PAROLEES. SHE WAS ACTIVELY ON PAROLE DURING THIS TIME. I NEVER BEEN TO JUVENILE, AND I NEVER BEEN TO (TYC), SO I WAS MANIPULATED INTO BELIEVING SHE WAS OLDER THAN SHE ADMITTED AND AS A RESULT, WE ENGAGED INTO A CONSENSUAL SEXUAL RELATIONSHIP. IT WAS A TWO MONTH PERIOD WITEN HER AUNT APPROACHED ME IN A URGENT MANNER, AND EXPLAINED TO ME THAT DANIELLE WAS A TROUBLE MAKER AND THAT SHE KNOWS THAT HER NIECE LIED TO ME ABOUT HER AGE. SHE EXPLAINED FURTHER TO ME THAT DANIELLE JOHNSON HAS SENT TWO

OTHER MEN TO PRISON FOR THE SAME THING. I THEN TOLD HER AUNT TO NOT PERMIT HER TO VISIT ME OR ANYONE ELSE. WE BOTH AGREED TO THIS. ABOUT A MONTH AFTER THIS DISCUSSION I SAW HER WALKING HOME WITH TWO BOYS. I PULLED ALONG SIDE OF THEM AND OFFERED THEM A RIDE HOME. SHE GOT IN THE CAR AND SAID DONT WORRY ABOUT THEM. I ASKED WHERE WAS SHE GOING; SHE SAID TAKE HER TO HER SISTER HOUSE. I THEN EXPLAINED TO HER THAT I SPOKE WITH HER AUNT AND THAT I WILL NOT BE INVOLVED WITH HER IN ANY MANNER. SHE WAS PARANOID THAT I SPOKE WITH HER AUNT AND IMMEDIATELY REQUESTED TO BE DROPPED OFF. HER SISTER ASKED WHERE HAD SHE BEEN, AND SHE LIED AND SAID SHE WAS KIDNAPPED AND RAPED. A HOUR LATER I WAS ARRESTED. HER AUNT FOUND OUT THAT SHE HAD LIED ON ME, AND SPOKE WITH THE POLICE, DETECTIVES, AND THE DISTRICT ATTORNEY, TRYING TO GET THE CHARGES DROPPED AGAINST ME. AFTER CONSTANT INTERROGATION, SHE FINALLY ADMITTED TO LYING ABOUT BEING KIDNAPPED AND RAPED. THE CHARGES WERE DROPPED. IT WAS DISCOVERED LATER THAT SHE WAS A RUNAWAY WHO LEAVES HOME FOR ABOUT 2 AND 3 DAYS. ALSO SHE HAD SENT TWO OTHER MEN TO PRISON FOR THE SAME THING; AND THAT DURING THE COURSE OF THE INVESTIGATION, THE DNA TEST REVEALED SHE HAD TWO TYPES OF SEMEN FOUND IN HER PANTIES. NO TRACES OF THE SEMEN WAS CONNECTED TO ME. LATER I WAS RECHARGED FOR ADMITTING TO HAVING CONSENSUAL SEX WITH A MINOR, EVEN THOUGH THE CHARGES WERE DROPPED. SO, I PLEADED GUILTY TO LESSER CHARGES AND RECEIVED 9 YEARS (TDC) CONCURRENTLY. THIS IS HOW I BECAME LABELED AS A SEX-OFFENDER.

§ BACKGROUND HISTORY - PREJUDICED §
ADDITIONAL INFORMATION - CONTINUED)

IN 2012, I WAS RELEASED FROM PRISON, FROM THE TEXAS DEPT. OF CRIMINAL JUSTICE. I WAS FORCED TO DISCHARGE MY 9 YEAR SENTENCE BECAUSE A SEX CRIME IS CONSIDERED ONE OF THE LOWEST OF THE LOW CRIMES THAT A PERSON CAN COMMIT. IT MADE ME A TARGET. WITH THE LOVE AND SUPPORT FROM MY FAMILY, I WAS ACCOMPANIED TO THE POLICE DEPT. WHERE I HAD TO REGISTER AS A SEX-OFFENDER EVERY 90 DAYS. AFTER THE COMPLETION OF THESE VISITS I AM GIVEN A RECEIPT OF REGISTRATION. THIS CARD IS, AN CONTAINS THE DATE OF VISITS, AND IS SIGNED BY THE OFFICER ON DUTY.

THE CARD ALSO CONTAINS THE PROOF OF RESIDENCE, AND THE APPROVAL BY THE WACO POLICE DEPT., BY ITS SIGNATURE AND STAMP. I HAD TO NOTIFY THE CASE OFFICER OF MY EMPLOYMENT. I STARTED OFF WORKING AT TEMPORARY SERVICES, THEN EVENTUALLY FOUND SOME STABLE EMPLOYMENT FROM THE ASSISTANCE OF CHURCH MEMBERS. THESE CHURCH MEMBERS HELPED ME WITH WORK CLOTHES, SHOES, AND OTHER NEEDS. I WAS GIVEN MONEY TO RIDE THE CITY BUS TRANSPORTATION TO BE ABLE TO GO TO WORK. I NOTIFIED THE CASE OFFICER AT THE POLICE DEPT. OF MY NEW JOB AND SHE SAID SHE NEEDED THE INFORMATION FOR VERIFICATION. THIS IS WHERE THE TROUBLE STARTED. THE CASE OFFICER NOTIFIED MY SUPERVISOR AND EMPLOYERS THAT THEY HAVE A "SEX-OFFENDER EMPLOYED" AT THEIR COMPANY. I WORKED AT A CITRUS PLANT NAMED SANDERSON FARMS. I NEVER LIED ON MY APPLICATION. AFTER BEING NOTIFIED THAT A "SEX-OFFENDER" WAS EMPLOYED, I WAS DOUBLED WORKED AND GIVEN ME ALL THE HEAVY WORK LOAD INTENTIONALLY. AT FIRST, I WAS RECEIVING FAVORABLE POSITIONS BECAUSE OF MY EXPERIENCE AND COLLEGE EDUCATION. THIS CHANGED THE DYNAMICS OF MY WORK DETAILS AND JOB DESCRIPTION. THE EMPLOYEES WERE SOON ALERTED THAT A "SEX-OFFENDER" IS WORKING AMONGST THEM; AS A RESULT, DIDN'T NOBODY WANTED TO WORK WITH ME, WORK BESIDE ME, OR EVEN SIT BY ME DURING LUNCH BREAKS. THIS IS WHERE THE "DISCRIMINATION AND PREJUDICE" AROSE AGAINST ME. I STAYED FOCUSED AND CONTINUED TO WORK. I NEVER TOOK ANY MORE LUNCH BREAKS BECAUSE OF THIS. ONE SUPERVISOR TOLD ME TO TAKE A BREAK BECAUSE I WAS BEING WORKED TO HARD. HE TOLD ME HE UNDERSTOOD WHY I DIDN'T TAKE ANY BREAKS. IT DIDN'T TAKE LONG FOR THE WORD TO SPREAD THAT I WAS A "SEX-OFFENDER." A FEW OF MY CO-WORKERS ALSO RODE THE BUS THAT TOOK US BACK AND FORTH TO WORK. I KNEW MY PLACE, SO I ALWAYS RODE IN THE VERY BACK OF THE BUS. THIS CONTINUED FOR WEEKS AND MONTHS.

ON FEBRUARY 6, 2013, 6:38 AM, I WAS ON MY WAY TO WORK AS ALWAYS. I WAS ON THE BUS IN THE SEAT THAT I ALWAYS SIT IN, WHICH IS THE VERY BACK. A YOUNG FEMALE BY THE NAME, DANIELLA THOMAS CAME AND SAT WITH ME. I REMEMBER THIS FEMALE FROM THE DAY BEFORE HAVING A CONVERSATION WITH SOME BUS OCCUPANTS OR RIDERS TALKING ABOUT SHE LOST HER BUSS PASS. I OFFERED TO HELP.

I EXPLAINED TO HER THAT I DON'T HAVE ANY MONEY BUT I KNOW SOME CHURCH PEOPLE WHO WILL HELP HER LIKE THEY HELPED ME. AFTER SHE LEFT, THE BUS RIDERS TOLD ME THAT SHE HAD LOST HER BUS PASS BEFORE AND THAT SHE HAD LOST THIS BEFORE.

SO ON THE NEXT DAY, WHICH WAS FEBRUARY 16, 2013, 6:38 AM, SHE SAT WITH ME. I THEN PROCEEDED TO KEEP MY WORD WITH HER EVEN THOUGH I HAD MY DOUBTS. I GIVEN HER THE MONEY, BUT THEN I ASKED HER IF SHE WAS TELLING THE TRUTH, AND FURTHER QUESTIONED HER ABOUT WHO SHE WAS, AND THINGS IN THAT ORDER. I CAN TELL SHE WAS BEING BOTHERED BY MY QUESTIONING SO I EASED UP ON THE QUESTIONS. SHE THEN STOOD UP AND LEFT. SHE WENT AND TOLD THE BUS DRIVER THAT I TOLD TOO RAPE HER. THE BUS DRIVER ASKED ME WHAT HAPPENED! I THEN EXPLAINED TO HER DIDN'T NOTHING HAPPEN. I THEN TOLD DAWTELLA TO EXPLAIN TO THE BUS DRIVER THAT DIDN'T NOTHING HAPPENED. SHE JUST REMAINED QUIET. I TOLD THE BUS DRIVER TO LET ME OFF OF THE BUS AND I WILL FIND SOMEONE TO TAKE ME TO WORK. I THEN CALLED A CHURCH MEMBER OF MINE. I EXPLAINED TO HIM EVERYTHING AND HE SAID THE BUS HAS "VIDEO CAMERAS" AND I DON'T HAVE ANYTHING TO WORRY ABOUT.

I MADE IT TO WORK ON TIME AS ALWAYS, AND THIS FEMALE CO-WORKER OF MINE TOLD ME SHE KNEW THE GIRL AND HER MOTHER. SHE EXPLAINED TO ME THAT THE GIRL MOTHER WAS A FRIEND OF HERS AND THAT HER BELIEVED THAT SHE WAS LYING ABOUT WHAT HAPPENED. SHE WENT ON TELLING ME THAT THE GIRL WAS RIDING THE BUS TO GO TO "ALTERNATIVE SCHOOL" THIS IS A SCHOOL FOR BAD KIDS WHO IS KICKED OUT OF PUBLIC SCHOOL FOR FIGHTING AND GETTING IN TROUBLE. SHE SAID THAT THE GIRL DIDN'T MAKE IT TO SCHOOL SOME MORNINGS. ALSO, SHE TOLD ME THAT STUDENTS GET THERE BUS PASSES FREE. SO SHE LIED ABOUT THAT TOO. SHE ALSO SAID THAT DAWTELLA THOMAS KNEW THAT I WAS A "SEX-OFFENDER" SHE SAID, THEY ALL KNEW.

ON JUNE 18, 2013, I WAS ARRESTED AND CHARGED WITH INDECENCY WITH A CHILD, AND AGGRAVATED SEXUAL ASSAULT OF A CHILD UNDER 17 YEARS OLD. ABOUT A MONTH LATER I SPOKE WITH A COURT-APPOINTED ATTORNEY NAMED TOWATON STUBLEY, ESQ, WHO TOLD ME ABOUT WHAT I WAS BEING CHARGED WITH. HE SAID HE WOULD TALK TO ME AS SOON AS POSSIBLE.

I wrote him a letter and explained to him that I wanted him to gather all evidence in my favor, which included a "DNA" test, "video surveillance", and a polygraph test. He wrote me back and said he have received this letter. I wrote on September 24, 2013. SEE: 2013-1551-CI; 2013-1552-CI; 0:14-CV-00314-U.S. DIST COURT FOR THE WESTERN DISTRICT OF TEXAS.).

I didn't see my attorney Jonathan Strley, Esq., for about 5 months later. We had a legal visit which included the private investigator that he hired. The P.I. told me he had the video surveillance of the alleged crime. So we all looked at the footage on the video screen, and it showed that no crime was committed. They left and he told me he would see me soon. I saw him again about a few days later. He told me we were going to trial. I asked him did he believe we were going to win? He said no. I asked him why did we have to go to trial when he has the video surveillance and my request for a "poly-graph" test? He said the video tape will not be made known only if we go to trial. He also said that the person who does the "poly-graph" testing no longer worked for the county.

I explained to him who would try to rape a female on a city bus full of people. He knew it was a lie, and he had no intention of presenting the "video surveillance" to the court. He had this discriminatory attitude towards me like once a sex-offender, always a sex-offender. He had me in a trade agreement with the D.A.'s office, to offer me a plea-agreement. If the jury would of seen the "video surveillance", I would be found innocent of all charges. Exonerated.

We had a scheduled arraignment on February 19, 2013 to withdraw Jonathan Strley, Esq., to withdraw as my counsel. We both agreed that this was for the best. I knew how he felt about sex-crimes, and in his eyes I was a repeat sex-offender. He made me out to be the "lowest of the lowest" type of criminal and he felt I deserved to be locked up. Don't no lawyers want to represent these sort of criminals. And if it was up to them they would rather let someone else have this case.

I WAS IN THE 19TH DISTRICT COURT, JUDGE STROTHER PRESIDING, AND IN OPEN COURT I EXPLAINED TO THEM ABOUT THE "VIDEO SURVEILLANCE" AND THAT I WANTED A "POLYGRAPH TEST". THE SO CALLED VICTIMS MOTHER HEARD WHEN I SPOKE ABOUT THE "VIDEO SURVEILLANCE", AND SHE RAN OUT OF THE COURT ROOM. WHO WILL LEAVE THERE DAUGHTER IN A COURT ROOM ALONE? HER MOTHER NAME IS SHAMBRIKA THOMAS. THEY ASKED THE SO CALL VICTIM, DANIELLA THOMAS, TO SPEAK AGAINST ME ON THE STAND. SHE SAID SHE WAS HOPING THAT I GET ALOT OF TIME AND THAT I DESERVE ALL OF IT. THEN SHE ALSO RAN OUT OF THE COURT ROOM. EVERYBODY JUST LOOKED FOR SOME SORT OF REACTION, FROM THE JUDGE. WE ALL LOOKED IN DISBELIEF, THAT THE MOTHER AND THE ALLEGED VICTIM RAN OUT OF THE COURT ROOM. AFTER ALL OF THIS TOOK PLACE, I WAS STILL OFFERED A PLEA-BARGAIN OF 45 YEARS AND 15 YEARS CONCURRENTLY. THE COURT-APPOINTED ATTORNEY TOLD ME "I HAVE NO CHOICE BUT TO ACCEPT THE PLEA-BARGAIN OFFERED, OR WE WAS SET TO GO TO TRIAL THE NEXT DAY," WHICH WAS FEBRUARY 11, 2014. DURING THIS ARRAIGNMENT I "OBJECTED" TO EVERYTHING. SEE, THE COURTS REPORTER RECORD (19TH DISTRICT COURT-2013-1551-C1; 2013-1552-C1; JUDGE STROTHER - WACO DIST.). MY ATTORNEY JONATHON SIBLEY, ESQ; TYPED A BRIEF AND HAND DELIVERED IT TO THE DISTRICT ATTORNEY'S OFFICE AS A "MOTION TO WITHDRAW AS COUNSEL". IN THIS MOTION THE ATTORNEY JONATHON SIBLEY, ESQ, ADMITTED TO BEING A VERY INEFFECTIVE ATTORNEY. HE ALSO ADMITTED THAT HE DID NOT COMMUNICATE WITH ME, AND COULD NOT REPRESENT ME EFFECTIVELY. THIS IS ON RECORD AS (19TH DISTRICT COURT - JUDICIAL DISTRICT - MCLENNAN COUNTY COURTHOUSE; 2013-1551-C1). JUDGE STROTHER. I ENTERED THIS PROOF.

MY ATTORNEY, JONATHON SIBLEY, AND THE DISTRICT ATTORNEYS OFFICE, ABELINO REYNA, ALREADY ARRANGED TO HAVE ME INCARCERATED. I AM CONSIDERED A REPEAT SEX-OFFENDER, WHICH IS THE LOWEST OF THE LOW TYPE OF CRIMINAL; AND THAT I WAS SCUM WHO SHALL NOT BE SET FREE. WHY ELSE WOULD THEY IGNORE THE "VIDEO-SURVEILLANCE" EVIDENCE? WHY WOULD THEY IGNORE MY REQUEST FOR A POLYGRAPH TEST, AND DNA TESTING? THEY VIOLATED MY 14TH ADMENDMENT, AND 6TH ADMENDMENT, THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL.

MY FORMER ATTORNEY DID NOT ATTEMPT TO SHOW MY ACCOMPLISHMENTS WHEN I WAS RELEASED FROM PRISON. HE DID NOT OFFER TO INFORM THE D.A.'S OFFICE THAT I WORKED THE ENTIRE TIME I WAS FREE; NOR, DID HE BRING TO THERE ATTENTION THAT I ATTENDED COLLEGE AT TEXAS STATE TECHNICAL COLLEGE AND MAJORED IN COMPUTER MAINTENANCE TECHNOLOGY IN WACO, TEXAS; AND THAT I SIGNED A MAJOR SONG WRITING DEAL WITH BROADCAST MUSIC INC., LOCATED IN NEW YORK, NEW YORK (2006).

INSTEAD HE WANTED TO KEEP THAT "DISCRIMINATIVE, PRESUDATIVE," THOUGHT PROCESS IN THE MIND AND EYES OF THE LAW. THIS IS A VIOLATION OF "THE UNIVERSAL DECLARATION OF HUMAN RIGHTS," "ARTICLE 7," WHICH STATES: ALL ARE EQUAL BEFORE THE LAW AND ENTITLED WITHOUT ANY "DISCRIMINATION TO EQUAL PROTECTION" AGAINST ANY DISCRIMINATION IN VIOLATION OF THIS DECLARATION AND AGAINST ANY "INCITEMENT TO SUCH DISCRIMINATION"; CONCLUDING THAT, QUIT TREATING ME LIKE A "SEX-OFFENDER", AND TREAT ME LIKE A HUMAN BEING, CAUSE WHERE IS A SEX-OFFENDER'S "PROTECTION OF EQUAL TREATMENT?" DANIELLA THOMAS DID NOT USE HER RIGHTS AND THE LAW FOR HER PROTECTION; INSTEAD SHE MISPROPERLY, AND INTENTIONALLY USED IT FOR A WEAPON. I ADMIT, I USE TOO HAVE THE SAME NEGATIVE MIND SET TOWARDS SEX-OFFENDERS, UNTIL I BECAME A SEX-OFFENDER. NOW I SEE CLEARER. MY REASON FOR INCLUDING THIS "ADDITIONAL INFORMATION", IS TO SHOW YOU A "PATTERN IN THE JUDICIAL DYNAMICS OF PROCESS", WHEN IT COMES TO INTEGRITY, AND ETHICS.

I APPEALED TO THE COURT OF CRIMINAL APPEALS IN AUSTIN, TX, AS (WR-61,759-02; TRIAL COURT NO. 2013-1551-CIA; 2013-1552-CIA), ON 11.07.4/25/2014. RECEIVED. (ON 5/14/2014 I WAS ADVISED THAT THE COURT HAS DENIED WITHOUT WRITTEN ORDER THE APPLICATION FOR WRIT OF HABEAS CORPUS.)

I SUBMITTED MY 2254 APPLICATION TO THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS; AS CASE: 0:14 CV-00216.

DOCUMENT 5, (ANTHONY D. DEGRATE V. WILLIAM STEPHENS, DIRECTOR OF TEXAS DEPARTMENT OF CRIMINAL JUSTICE) - FILED 6/24/2014. JUDGE WALTERS, SMITH, ORDERED TO PROCEED IN FORMA PAUPERIS.

IN FEBRUARY 11, 2016, FILED, THE JUDGE SENT A ORDER DIRECTING RESPONDENT TO ANSWER PETITION. THE RESPONDENT

WILLIAM STEPHENS WAS IN DEFAULT. SEE, DOCUMENT 7 -- CASE 16-14-CV-00216. ON MAY 12, 2016, I WAS NOTIFIED FROM THE ASSISTANT ATTORNEY GENERAL GRETCHEN MERRANDA (ATTORNEY GENERAL'S OFFICE - CRIMINAL APPEALS DIVISION), THAT RESPONDENT IS NOW DIRECTOR OF TDCJ-ID, LORIE DAVIS, AND THAT RESPONDENT'S FIRST MOTION FOR EXTENSION OF TIME WITH BRIEF IN SUPPORT WHICH WAS ELECTRONICALLY FILED ON THIS DAY.

THE ASSISTANT ATTORNEY GENERAL ENCLOSED THE RESPONDENT'S ANSWER DATED JUNE 17, 2016. IN ITS CONCLUSION, THE RESPONDENT STATED "THE COURT CAN NOT GRANT HABEAS CORPUS RELIEF UNLESS IT DETERMINES THAT THE STATE COURT DETERMINATION WERE IN CONFLICT WITH CLEARLY ESTABLISHED FEDERAL LAW AS DETERMINED BY THE SUPREME COURT OR THAT "THEY WERE BASED ON AN UNREASONABLE DETERMINATION" OF THE FACTS IN LIGHT OF THE EVIDENCE". THE DIRECTOR REQUESTED THAT THE PETITION BE DENIED WITH RESJUDICE, AND THAT THE COURT DENY A CERTIFICATE OF APPEALABILITY. (CON).

I ENTERED A REPLY TO THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, AND FURTHER EXPLAINED ABOUT THE "VIDEO SUPERVISEMENT" AND THAT THE ATTORNEY GENERAL'S ASSISTANT "DID NOT" COMMENT OR "ACKNOWLEDGE" THE OTHER PETITION AND CHARGE I PLEADED TO UNDER THE INEFFECTIVENESS OF COUNSEL AS (2013-1552-CIA) - FAILURE TO REGISTER AS A SEX OFFENDER, IN WHICH I RECEIVED 15 YEARS. (EVIDENCE ENTERED AS PROOF).

A RECOMMENDATION WAS PRESENTED TO THE UNITED STATES DISTRICT COURTS BY THE MAGISTRATE JUDGE JEFFREY C. MANISKE ON JANUARY 4, 2017 AS (DOCUMENT 13 - CASE 16-14-CV-00216), WHICH STATED THAT ON PAGE 5, "THAT THE PETITIONER PLEADED GUILTY ON FEBRUARY 10, 2014 TO THE CHARGES CONTAINED IN THE INDICTMENT (ECF NO. 9-3 at 61-62)." (ITS CONFIRMATION WAS MADE ABOUT MY ADDITIONAL CHARGES. AS A RESULT, THE UNITED STATES MAGISTRATE JUDGE RECOMMENDED THAT "PETITIONER'S APPLICATION FOR WRIT OF HABEAS CORPUS BE DENIED." I MADE OBJECTIONS TO THIS RECOMMENDATION AND EXPLAINED TO THE COURT THAT THE ASSISTANT ATTORNEY GENERAL, ATTORNEY FOR LORIE DAVIS - DIRECTOR OF TDCJ-ID, "IGNORED" AND FAILED TO GIVE ME A RULING ON MY ADDITIONAL PETITION (2013-1552-CIA), EVENTUALLY I PROVIDED EVIDENCE, EXHIBITS, AND OTHER PROOF, TO FURTHER SUPPORT MY CLAIMS.

(13 0F 19)

I FURTHER OBJECTED ON THE GROUNDS THAT I DID NOT RECEIVE A RULING ON THE ORIGINAL PETITION AND THAT I AM ENTITLED TO A RULING ALSO ON THIS DUE ACTION ALSO. IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, UNITED STATES DISTRICT JUDGE STATED "PETITIONER OBJECTS ON THE GROUNDS THAT THE RESPONDENT'S BRIEF DID NOT STATE THAT PETITIONER WAS ALSO INDICTED AND SENTENCED TO 15 YEARS IMPRISONMENT FOR FAILING TO REGISTER AS A SEX-OFFENDER. ASSUMING SUCH AN OVERSIGHT WAS MADE, IT IS NOT MATERIAL HERE." (SEE, DOCUMENT 16 - PAGE 2 OF 3, FILED 2/13/17).

I WAS "IGNORED" AGAIN. HOW CAN THE JUDGE IGNORE, BUT YET ACKNOWLEDGE, AND THEN FAIL TO REBUT IN MY FAVOR THIS FINDING? AS A FINAL DECISION THE JUDGE ROBERT PITMAN SAID AS SUCH, "THIS COURT IS PERSUADED THAT THE MAGISTRATE'S FINDINGS SHALL BE ADOPTED". THE MAGISTRATES ARE ACCEPTED AND ADOPTED. FURTHER ORDERED THAT PETITIONER'S OBJECTIONS ARE OVERRULED. FINALLY THE PETITION WAS DENIED. THIS IS DATED ON FEBRUARY 13, 2017 (DOCUMENT 16). 6:14 CV-00216.

I APPEALED TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, AND REQUESTED THAT I BE GRANTED MY CERTIFICATE OF APPEALABILITY. THE ATTORNEY GENERAL ASSISTANT GRETCHEN MERENDA AND THE DIRECTOR OF TDCS-ID LORIE DAVIS, RESPONDED BY A ACKNOWLEDGEMENT AND APPEARANCE TO COURT ON APRIL 18, 2017. ON NOVEMBER 16, 2017 (DOCUMENT 19) CASE 6:14 CV-00216, AS APPEAL CAUSE NUMBER: 17-50227 A RULING WAS ENTERED BY THE PANEL OF JUDGES WHICH STATED "IN HIS COA BRIEF DEGRATE MAKES CONCLUSIONAL ASSERTIONS THAT PLEA COUNSEL WAS INEFFECTIVE, AND HE ARGUES FOR THE FIRST TIME ABOUT A SEPERATE CONVICTION AND SENTENCE FOR FAILING TO REGISTER AS A SEX-OFFENDER". I REPEATEDLY STATED THESE FACTS AND THE COURTS CONTINUES TO "IGNORE" MY ORIGINAL ACTION (2013-1552-CIA) AND THE FINDINGS WITH PROOF ENTERED TO THE COURTS AS ATTACHMENTS, EXHIBITS, AND OTHER ADDITIONAL EVIDENCE. THIS IS A PATTERN OF THE DISCRIMINATIVE, PREJUDICIAL ATTITUDE AND THOUGHT PROCESS TOWARDS ME, NAMELY, A REPEAT "SEX-OFFENDER". A MOTION FOR RECONSIDERATION WITH REHEARING EN BANC WAS ENTERED AS (DOCUMENT-00514275322), FILED ON 12/15/2017. THIS REQUEST WAS DENIED AND STATED ADDITIONAL PER CURIAM:

"THE MOTION FOR RECONSIDERATION IS DENIED AND NO MEMBER OF THIS PANEL NOR JUDGE IN REGULAR ACTIVE SERVICE ON THE COURT HAVING REQUESTED THAT THE COURT BE POLLED ON RE-HEARING EN BANC. (FED R. APP. P. AND 5TH CIR. R. 35) THE PETITION FOR RE-HEARING EN BANC IS DENIED. 12/15/2017."

THIS IS UNFAIR AND UNJUST TOWARDS ME, THAT I REQUESTED TO THE PANEL FOR RE-HEARING EN BANC AND WAS NOT ALLOWED THIS REQUEST, ONLY BECAUSE NO MEMBER OF THE PANEL OR NO JUDGE IN ACTIVE SERVICE HAVING REQUESTED THAT THE COURT BE POLLED ON RE-HEARING EN BANC.

REASONS FOR GRANTING THE PETITION

ATTACHED IS THE "REASONS FOR GRANTING
THE PETITION"

- ① SUMMARY OF THE ARGUMENT
- ② THE ARGUMENT

§ SUMMARY OF THE ARGUMENT §

FEDERAL RULE OF APPELLATE PROCEDURE 28(a)(8) PROVIDES THAT ARGUMENT PORTION OF THE BRIEF MUST BE PRECEDED BY A SUMMARY OF THE ARGUMENT, "WHICH MUST CONTAIN A SUCCINCT, CLEAR, AND ACCURATE STATEMENT OF THE ARGUMENTS MADE IN THE BODY OF THE BRIEF, AND WHICH MUST NOT MERELY REPEAT THE ARGUMENT HEADINGS."

(a) THE ARGUMENT PORTION IN APPELLANT'S BRIEF MUST ALSO CONTAIN A CONCISE STATEMENT OF THE STANDARD OF REVIEW APPLICABLE TO EACH ISSUE ON APPEAL, PURSUANT TO FED. R. APP. 28(a)(9)(B).

THIS PROVISION WAS ADDED TO RULE 28 IN 1993 AFTER SEVERAL CIRCUITS' EXPERIENCE WITH THE STANDARD OF REVIEW STATEMENTS WERE POSITIVE AND RESULTED IN ARGUMENTS THAT WERE "PROPERLY SHAPED IN LIGHT OF THE STANDARD". THE ARGUMENT SECTION WILL CONTAIN:

(b) THE STANDARD OF THE STATEMENT OR SCOPE OF REVIEW FOR "EACH ISSUE ON APPEAL", i.e., WHETHER THE TRIAL COURT ABUSED ITS DISCRETION, WHETHER ITS "FACT FINDINGS ARE CLEARLY ERRONEOUS", WHETHER IT ERRED IN FORMULATING OR APPLYING A LEGAL PRECEPT, IN WHICH CASE REVIEW IS PLENARY; WHETHER, ON APPEAL OR PETITION FOR REVIEW OF AN AGENCY ACTION, THERE IS "SUBSTANTIAL EVIDENCE" IN THE RECORD AS A WHOLE TO SUPPORT THE ORDER OR DECISION, OR WHETHER, THE AGENCY'S ACTION, FINDINGS AND CONCLUSIONS SHOULD BE HELD UNLAWFUL AND SET ASIDE FOR THE REASONS SET FORTH IN 5 U.S.C. § 706(2); AND WHETHER THE "JUDICIAL DYNAMICS OF A PREJUDICATIVE THOUGHT PROCESS" VIOLATED THE ARTICLE 7 - UNIVERSAL DECLARATION OF HUMAN RIGHTS, NAMELY, "SEX-OFFENDERS", TO BE MORE SPECIFIC ACCORDING TO THE RULE OF SPECIFICITY, UNDER THOMPSON [V. CITY OF STARKVILLE, 901 F.2d 456 5th. CIR. 1990].

THE ARGUMENT SECTION WILL SATISFY THE PANELS REQUIREMENT OF THE SUPREME COURT OF THE UNITED STATES, PETITION OF A WRIT OF CERTIORARI.

§ THE ARGUMENT §

§ FED. R. APP. (a)(8)

§ FED. R. APP. (a)(9)(A)

I ANTOINE D. DEGRATE # (1913105), PETITIONER, PRESENT TO THE PANEL OF THE SUPREME COURT OF THE UNITED STATES EACH ISSUE APPLICABLE ACCORDING TO THE "STANDARD OR SCOPE OF REVIEW" UNDER, THIS PROVISION, PURSUANT TO FED. R. APP. (a)(9)(A).

THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD AS A WHOLE TO SUPPORT MY FINDINGS THAT THE AGENCY'S ACTION SHOULD BE HELD UNLAWFUL AND SET ASIDE FOR THE REASONS SET FORTH IN 5 U.S.C. § 706 (2):

§ DISCUSSION §

THE OFTEN USED STANDARD TERM "CLEARLY ERRONEOUS" DERIVES FROM RULE 52 FEDERAL RULES OF CIVIL PROCEDURE WHICH PROVIDES THAT: FINDINGS OF FACT SHALL NOT BE SET ASIDE UNLESS CLEARLY ERRONEOUS, AND DUE REGARD SHALL BE GIVEN TO THE OPPORTUNITY OF THE TRIAL COURT TO JUDGE OF THE CREDIBILITY OF THE WITNESSES.

THE FIRST ISSUE ON APPEAL, i.e.; WHETHER THE TRIAL COURT ABUSED ITS DENIAL OF A CERTIFICATE OF APPEALABILITY TO BE GRANTED BY THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, DATED, 2/13/2017. JUDGE ROBERT PITMAN - 6:14 CV-00216 (DOCUMENT 16). THE JUDGE STATED THAT "PETITIONER OBJECTS ON THE GROUNDS THAT THE RESPONDENTS BRIEF DID NOT STATE THAT THE PETITIONER WAS ALSO INDICTED AND SENTENCED TO 15 YEARS IMPRISONMENT FOR FAILING TO REGISTER AS A SEX-OFFENDER. ASSUMING SUCH AN OVERSIGHT FOR THIS WAS MADE, IT IS NOT MATERIAL HERE". (SEE, DOCUMENT 16 - 6:14 CV-00216). I HAVE PROVIDED PROOF TO THE COURT OF CRIMINAL APPEALS, LOCATED IN AUSTIN, TX, AS (2013-1551-CIA; 2013-1552-CIA) DATED 4/25/14 - (WR-61, 759-02). THIS ADDITIONAL CHARGE "FAILURE TO REGISTER AS A SEX-OFFENDER", (2013-1552-CIA), IS KEY EVIDENCE WHICH I WILL PROVE THAT THE COURT-APPOINTED ATTORNEY JONATHAN SIBLEY, ESQ. "INEFFECTIVENESS" BECAUSE THERE WAS "CONCRETE EVIDENCE" IN THE MEMORANDUM (11.07) A "PHOTO COPY OF MY SEX-OFFENDER REGISTRATION CARD FROM THE WACO POLICE DEPT." I WAS STILL SENTENCED TO 15 YEARS PRISON EVEN THOUGH THIS EVIDENCE EXISTED.

MOREOVER, THE PETITIONER MAY NOT SIMPLY ALLEGE BUT MUST "AFFIRMATELY PROVE" PREJUDICE. STRICKLAND, 466 U.S. at 693. IN HILL, THE REQUIREMENT OF PREJUDICE WAS INTERPRETED TO MEAN IN THE GUILTY PLEA CONTEXT, "THAT THERE IS A REASONABLE PROBABILITY THAT, BUT FOR COUNSEL'S ERRORS HE WOULD HAVE NOT PLEADED GUILTY AND WOULD HAVE INSISTED ON GOING TO TRIAL." HILL, 474 U.S. at 59. "A MERE ALLEGATION OF PREJUDICE IS NOT SUFFICIENT TO SATISFY THE PREJUDICE PRONG OF THE "STRICKLAND TEST".

A PETITIONER MUST ESTABLISH THAT BUT FOR HIS COUNSEL'S ALLEGED ERRONEOUS ADVICE. HE WOULD HAVE NOT PLEADED GUILTY BUT WOULD HAVE INSTESTED GOING TO TRIAL." ARMSTEAD, 37 F.3d at 206.

WILKERSON V. COLLINS, 950 F.2d 1054, 1065 (5TH. CIR. 1992), AND EVERY EFFORT MUST BE MADE TO ELIMINATE THE "DISTORTING EFFECT OF HINDSIGHT." STRECKLAND, 466 U.S. at 689. FURTHER, "[W]ITH REGARD TO THE FIRST PRONG OF THE STRICKLAND / HILL TEST, IF A DEFENDANT IS REPRESENTED BY COUNSEL AND PLEADS GUILTY UPON THE ADVICE OF COUNSEL, THE VOLUNTARINESS OF THE PLEA DEPENDS ON WHETHER COUNSEL ADVICE WAS WITHIN RANGE OF COMPETENCE DEMANDED OF ATTORNEYS IN CRIMINAL CASES." ARMSTEAD V. SCOTT, 37 F.3d 202, 206 (5TH. CIR. 1994). AS A RESULT TO THIS, THE COURT-APPOINTED ATTORNEY, JONATHAN SIBLEY, ESQ, "ADMITTED" IN A BRIEF (MOTION TO WITHDRAW AS COUNSEL), THAT HE WAS INEFFECTIVE AS MY COUNSEL, AND UNABLE TO EFFECTIVELY COMMUNICATE WITH ME OR ADEQUATELY REPRESENT ME. DATED 2/10/14. (2013-1551-CIA; 2013-1552-CIA; CASE: 6:14 CV-00214 U.S. DIST.). I HAVE DEMONSTRATED GOOD CAUSE. THIS IS A CONSTITUTIONAL VIOLATION OF THE SIXTH ADMENDMENT. I AM ENTITLED TO EFFECTIVE ASSISTANCE OF

COUNSEL. THERE IS "CONCRETE AND SUBSTANTIAL EVIDENCE", THAT THE "VIDEO SURVEILLANCE" THAT CAN AND WILL EXONERATE ME AND ACQUITT ME OF THE CHARGES IS IN THE RECORD. SEE, COURT REPORTERS RECORD, 19TH JUDICIAL DISTRICT - MCLENNAN COUNTY COURTHOUSE, LOCATED IN WACO, TEXAS. JUDGE STROTHER 2013-1551-CI. ECF NO. 9-3 at 61-62. I MADE SEVERAL EFFORTS IN MY PETITIONS TO REQUEST FOR THE "VIDEO SURVEILLANCE" BUT IS CONSTANTLY IGNORED, IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS - 11.07) AND ALSO IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT IN MY REQUEST FOR CERTIFICATE OF APPEALABILITY REGARDING THE 2254 APPLICATION.

THIS IS UNCONSTITUTIONAL AND PROOF THAT THE COURTS VIOLATED THE (UNIVERSAL DECLARATION OF HUMAN RIGHTS) - ARTICLE 7. THE COURTS HAVE REPEATEDLY DEMONSTRATED THE "JUDICIAL DYNAMICS OF A PREJUDICATIVE THOUGHT PROCESS IN INTEGRITY, AND ETHICS. WHY THE COURTS IGNORES THIS "VIDEO - SURVEILLANCE EVIDENCE IS PROOF.

I SHOW CAUSE IN THIS REQUEST TO BE GRANTED THE "WRIT OF CERTIORARI" TO PROCEED IN THE SUPREME COURT OF THE UNITED STATES.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Antoine D. Delgado (pro se)

Date: February 4, 2018